Chapter 27 HOUSING[1]

ARTICLE I. IN GENERAL

Secs. 27-1—27-15. Reserved.

ARTICLE II. HOUSING CODE[2]

Sec. 27-16. Declaration of policy.

The council declares the purpose of this article is to protect, preserve and promote the physical and mental health of the people, investigate and control communicable diseases, regulate privately and publicly owned dwellings for the purpose of sanitation and public health, and protect the safety of the people and promote the general welfare by legislation which shall be applicable to all dwellings now in existence or hereafter constructed which:

(1) Provides for the establishment of minimum standards for basic equipment and facilities for light, ventilation, heating, and insect, rodent, vermin, and pest control, for safety from fire, for the use and location and amount of space for human occupancy, and for safe and sanitary maintenance;

(2) Determines the responsibilities of owners, operators and occupants of dwellings; and

(3) Provides for the administration and enforcement thereof.

(Ord. No. 997-95, § 1, 12-4-95; Ord. No. 500, § 1, 9-17-07)

---

[1]Cross reference(s)—Buildings and building regulations, Ch. 10; community development, Ch. 12; fire prevention and protection, Ch. 22; health and sanitation, Ch. 24; boarding homes, § 26-31 et seq.; lodging, Ch. 33; mobile homes and trailers, Ch. 35; pest control, Ch. 40; solid waste, Ch. 48; subdivision of land, Ch. 50; swimming pools, Ch. 51; utilities, Ch. 56; vegetation, Ch. 57; zoning, Ch. 59.

State law reference(s)—Housing, C.R.S. 1973, 29-4-101 et seq.

[2]Editor's note(s)—Ord. No. 997-95, § 1, adopted Dec. 4, 1995, amended this article in its entirety, in effect repealing former §§ 27-16—27-30, 27-32 and adding similar new provisions as herein set out. Formerly, such provisions derived from §§ 631.1-1, 631.1-2, 631.1-4—631.1-25, 631.2—631.13 of the 1950 Code as amended by Ord. No. 399-85, § 1, adopted July 22, 1985; Ord. No. 644-86, § 5, adopted Sept. 29, 1986; and Ord. No. 303-93, § 1(a), adopted Apr. 26, 1993.

Case law annotation(s)—Housing code was not unconstitutional on grounds that it denied due process, that it was retrospective in nature or that it delegated legislative power to the executive branch of government. *Apple v. Denver,* 154 Col. 166, 390 P. 2d 91 (1964).

State law reference(s)—Housing act, C.R.S. 1973, 24-32-701 et seq.

Sec. 27-17. Legislative finding.

The council finds that there exist in the city numerous dwellings which are substandard in one (1) or more important features of structure, equipment, sanitation, maintenance or occupancy. Such conditions adversely affect the physical and mental health of the people, the control of communicable diseases, the safety of the people and the general welfare and therefore require the establishment and enforcement of minimum housing standards.

(Ord. No. 997-95, § 1, 12-4-95)

Sec. 27-18. Definitions.

The following words and phrases, when used in this article, have the meanings respectively ascribed to them:

(1) *Approved* means constructed, installed and maintained in accordance with this article and rules and regulations adopted and promulgated in pursuance thereof.

(2) *Basement* means the portion of a dwelling between floor and ceiling that is partly below and partly above grade, the floor of which is less than four (4) feet below the average grade of the adjoining ground.

(2.5) *Board* means the board of public health and environment.

(3) *Cellar* means the portion of a dwelling between floor and ceiling that is below or partly below grade, the floor of which is more than four (4) feet below the average grade of the adjoining ground.

(3.5) *Clean and sanitary* means a condition free of visible dirt, debris, clutter, rubbish, trash, waste and free from other substances, contaminants, materials, or environmental conditions harmful to human health.

(4) *Dwelling* means any building that contains one or more dwelling units or rooming units used, intended, or designed to be built, used, rented, leased, let, sublet, or hired out to be occupied, or that is occupied for living purposes, and includes rooming houses but excludes temporary housing.

(5) *Dwelling unit* means a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation and includes single rooming units.

(6) *Electrical convenience outlet* means a point on the electrical wiring system equipped with one (1) or more receptacles intended to receive attachment plugs from which electrical current is taken to supply electrical equipment.

(7) *Extermination* means the control and elimination of insects, rodents, vermin or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; or by poisoning, spraying, fumigating, trapping or similar means.

(8) *Garbage* means the animal and vegetable waste resulting from the handling, preparation, cooking or consumption of food.

(9) *Habitable room* means a room designed to be used for living, sleeping, eating or cooking, excluding bathrooms, toilet compartments, closets, halls and storage places.

(10) *Hotel* means any dwelling, or that part of any dwelling, containing one (1) or more rooming units in which space is let to three (3) or more persons who are transients or permanent guests occupy a rooming unit.

(11) *Infestation* means the presence, within or around a dwelling, of insects, rodents, vermin or other pests of such kind or in such numbers to cause a hazard to human health.

(11.5) *Manager* means, unless the context otherwise requires, the manager of the department of public health and environment or the manager's representative.

(12) *Multiple dwelling* means any dwelling containing more than two (2) dwelling units.

(13) *Occupant* means any natural person living, sleeping, cooking or eating in, or having actual possession of, a dwelling unit or rooming unit.

(14) *Operator* means any person, whether the owner or not, who manages or controls any dwelling, or part thereof, in which a person or persons other than an owner occupy a dwelling unit or rooming unit.

(15) *Owner*, as used in this article, means any person who alone or with others:

(a) Has record legal or equitable title to any dwelling or dwelling unit, with or without accompanying actual possession thereof;

(b) Acts as the agent or manager for the person who holds the record legal or equitable title to any dwelling, dwelling unit in a multiple dwelling structure, or common area or utilities servicing a single unit dwelling or dwelling unit in multiple dwelling structure, or acts as an agent or manager for any group of such owners;

(c) Is the personal representative, trustee, or fiduciary of an estate, trust, other entity which holds record legal or equitable title to any single unit dwelling or dwelling unit in a multiple unit structure, or common area or utilities servicing a single unit dwelling or dwelling unit in multiple dwelling structure; or

(d) Controls access to any service, facility, equipment, or utility that is required under this article and which is servicing any single unit dwelling or dwelling unit in multiple dwelling structure.

(16) *Person* means a natural person for purposes of the occupancy standards hereof, and for all other purposes it has the meaning set forth in subsection 1-2(12) of the Code.

(17) *Rooming house* means any dwelling, or that part of any dwelling, containing one (1) or more rooming units in which three (3) or more persons who are permanent guests occupy a rooming unit.

(18) *Rooming unit* means any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but no part of which is exclusively or occasionally appropriated to cookery.

(19) *Rubbish* means combustible and noncombustible waste materials, household and yard debris and ashes.

(20) *Supplied* means paid for, furnished, provided by, or under the control of the owner or operator.

(21) *Temporary housing* means any tent, trailer coach, or other structure used for human shelter that is designed to be transportable and that is not attached to the ground, to another structure, or to any utilities system.

(Ord. No. 997-95, § 1, 12-4-95; Ord. No. 1110-96, § 1, 12-16-96; Ord. No. 500, § 2, 9-17-07; Ord. No. 427-18, § 16, 6-11-18)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

Sec. 27-19. Minimum standards for basic equipment and facilities.

It is unlawful for any person to occupy and for any owner or operator of a dwelling or dwelling unit to allow any person to occupy any dwelling unit that does not comply with the minimum standards for basic equipment and facilities, which includes kitchens, bathrooms, rubbish and garbage storage and disposal, and water heating facilities. The board shall adopt and the manager shall promulgate rules and regulations that establish minimum standards for basic equipment and facilities applicable to all dwellings and dwelling units as necessary to protect public health and the safety of the people and promote the general welfare.

(Ord. No. 997-95, § 1, 12-4-95; Ord. No. 500, § 3, 9-17-07)

Sec. 27-20. Minimum standards for light, ventilation, heating, and insect and rodent control.

It is unlawful for any person to occupy and for any owner or operator of a dwelling or dwelling unit to allow any person to occupy any dwelling or dwelling unit that does not comply with the minimum standards set by the manager for light; ventilation; heating; and insect, rodent, vermin, and pest control. The board shall adopt and the manager shall promulgate rules and regulations that establish minimum standards for light; ventilation; heating; and insect, rodent, vermin, and pest control applicable to all dwellings and dwelling units as necessary to protect public health and the safety of the people and promote the general welfare.

(Ord. No. 997-95, § 1, 12-4-95; Ord. No. 500, § 4, 9-17-07)

Sec. 27-20.5. Supplied facilities.

Every piece of equipment, utility, and amenity connected or attached to or supplying a dwelling or dwelling unit shall be constructed, installed, and maintained so that they function safely and properly.

(Ord. No. 997-95, § 1, 12-4-95; Ord. No. 500, § 5, 9-17-07)

Sec. 27-21. Requirements for maintenance of safe and sanitary dwellings and dwelling units.

It is unlawful for any person to occupy and for any owner or operator of a dwelling or dwelling unit to allow any person to occupy any dwelling or dwelling unit that is not maintained in a safe and sanitary manner. The board shall adopt and the manager promulgate rules and regulations that establish safety and sanitary standards applicable to all dwellings and dwelling units as necessary to protect public health and the safety of the people and promote the general welfare.

(Ord. No. 997-95, § 1, 12-4-95; Ord. No. 500, § 6, 9-17-07)

Sec. 27-21.5. Disconnecting required utility services prohibited.

It is unlawful for an owner, operator, manager, or other person in charge or control of any service, facility, equipment, or utility that is required by this article to take any action or fail to take any action that results in such service, facility, equipment, or utility being removed from, shut off, or disconnected from any occupied dwelling or dwelling unit.

(Ord. No. 997-95, § 1, 12-4-95; Ord. No. 500, § 7, 9-17-07)

Sec. 27-22. Minimum space, use and location requirements.

(1) It is unlawful for any person to occupy and for any owner or operator of a dwelling or dwelling unit to allow any person to occupy any dwelling or dwelling unit that does not comply with the minimum requirements for space, use, and location. The board shall adopt and the manager shall promulgate rules and regulations that establish minimum standards for space, use, and location applicable to all dwellings and dwelling units as necessary to protect public health and the safety of the people and promote the general welfare.

(Ord. No. 997-95, § 1, 12-4-95; Ord. No. 500, § 8, 9-17-07)

Sec. 27-23. Responsibilities of owners and occupants.

(1) Every owner and every operator of a dwelling containing two (2) or more dwelling units shall maintain the shared or public areas of the dwelling and premises thereof in a clean and sanitary condition. If, however, the manager determines that the unclean or unsanitary condition was caused in whole or part by an act or omission of an occupant, the manager may issue a notice of violation to the owner, operator, occupant, or all of them.

(2) Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof which he occupies and controls. If, however, the, manager determines that the unclean or unsanitary condition was caused in whole or part by the act or omission of an owner or operator, the manager may issue a notice of violation to the owner, operator, occupant or all of them.

(3) Every occupant of a dwelling or dwelling unit shall dispose of all his rubbish in a clean and sanitary manner by placing it in the rubbish containers required by the rules and regulations adopted and promulgated pursuant to this chapter and consistent with rules and regulations of the manager of the department of transportation and infrastructure.

(4) Every occupant of a dwelling or dwelling unit shall dispose of all garbage and other organic waste that might provide food for insects and rodents, in a clean and sanitary manner, by placing it in the garbage disposal facilities or garbage storage containers required by the rules and regulations adopted and promulgated pursuant to this chapter and consistent with solid waste rules and regulations.

(5) Every occupant of a dwelling unit shall keep all plumbing therein in a clean and sanitary condition and is responsible for the exercise of reasonable care in the proper use and operation thereof.

(6) Extermination.

   (a) Every occupant of a dwelling or dwelling unit shall maintain the dwelling unit free from all insects, rodents, vermin, and other pests; provided, however, that every owner and every operator shall maintain any screen, fence, or other structural element necessary to keep insects, rodents, vermin, and other pests from entering the dwelling. Every occupant of such a dwelling unit is responsible for the extermination of any insects, rodents, vermin, and other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one (1) dwelling unit is responsible for such extermination whenever the dwelling unit is the unit primarily infested.

   (b) Every owner and every operator of a dwelling containing two (2) or more dwelling units shall maintain it and the premises free from all rodents, insects, vermin, and other pests. Further, whenever infestation exists in two (2) or more of the dwelling units in any dwelling, or in the shared or public parts of any such dwelling, extermination thereof is the responsibility of every owner and every operator.

(c) Notwithstanding subparagraphs 6(a) and 6(b), the manager may issue a notice of violation to the owner and to the operator of any dwelling or dwelling unit, occupant of any dwelling unit, or each of them, ordering extermination of any insects, rodents, vermin, and other pests as necessary to protect public health and safety.

(d) Every owner and every operator of a rooming house shall maintain it and the premises free from all rodents, insects, vermin, and other pests and is responsible for exterminating them.

(7) No person shall occupy or allow or let to another for occupancy any dwelling unit that is not authorized or permitted under the zoning laws of the city as set forth in chapter 59.

(Ord. No. 997-95, § 1, 12-4-95; Ord. No. 500, § 9, 9-17-07; Ord. No. 39-20, § 56, 2-3-20)

Sec. 27-24. Rooming houses.

It is unlawful for any person to operate a rooming house, and for the owner or operator of a rooming house to allow any person to occupy any rooming unit, except in compliance with all the applicable provisions of this article and the minimum standards for rooming houses. The board of shall adopt and the manager shall promulgate rules and regulations that establish minimum standards for rooming houses applicable to all rooming houses, including standards for sinks, bathrooms, water supply, water and sewer connections, privacy, rubbish storage, garbage disposal, heating, and ingress and egress, as necessary to protect public health and safety of the people and promote general welfare.

(Ord. No. 997-95, § 1, 12-4-95; Ord. No. 500, § 10, 9-17-07)

Sec. 27-25. Rules and regulations.

The board shall adopt and the manager shall promulgate rules and regulations to establish minimum standards as indicated in the article and the board and manager are hereby authorized to adopt and promulgate other rules and regulations as determined necessary for the proper and effective enforcement of the provisions of this article. It shall be unlawful for any person to violate a rule or regulation adopted by the board pursuant to this section.

(Ord. No. 997-95, § 1, 12-4-95; Ord. No. 1110-96, § 1, 12-16-96; Ord. No. 500, § 11, 9-17-07; Ord. No. 516-15, § 14, 8-17-15)

Cross reference(s)—Rules and regulations generally, § 2-91 et seq.

Sec. 27-26. Inspections.

(1) For the purpose of determining compliance with the provisions of this article, the manager or an authorized representative is hereby authorized and directed to make inspections to determine the condition, use, and occupancy of dwellings, dwelling units, rooming units, and the premises upon which the same are located. For the purpose of making such inspections the manager or an authorized representative is hereby authorized to request entry to examine, inspect and survey all dwellings, dwelling units, rooming units and premises upon which the same are located, at all reasonable times.

(2) If the owner, occupant or operator in charge of a dwelling, dwelling unit, rooming unit and premises upon which the same are located subject to the provisions of this article and the rules and regulations adopted and promulgated in connection herewith, refuses or restricts entry and free access to every part of the structure or premises wherein inspection is sought, the manager or an authorized representative may seek from the county court a warrant for inspection and order that such owner, occupant or operator be required

to permit an inspection at a reasonable time without interference, restriction or obstruction. The county court shall have jurisdiction and authority to issue warrants for inspection and order the owner, occupant or operator to allow entry and free access into all buildings, dwellings, dwelling units, rooming units and the premises upon which the same are located. The court shall have full power, jurisdiction and authority to enforce all orders issued under the provisions of this article.

(3) It is unlawful for any person to violate the provisions of any warrant for inspection and order issued under the provisions of this article.

(4) It is unlawful for any person, owner, operator or occupant to refuse to allow or permit the manager or an authorized representative free access to any building, dwelling, dwelling unit, rooming unit and premises upon which the same are located when the manager or an authorized representative is acting in compliance with a warrant for inspection and order issued by the county court and where the manager or an authorized representative is conducting an inspection, examination and survey in accordance with the provisions of this article or any rule and regulation adopted and promulgated in accordance with the provisions of this article.

(Ord. No. 997-95, § 1, 12-4-95; Ord. No. 500, § 12, 9-17-07)

Sec. 27-27. Enforcement.

(1) *Notice of violations*. Except in those instances to which section 27-28 is applicable, whenever the manager determines that there has been a violation of any provision of this article or any rule or regulation adopted and promulgated pursuant thereto, the manager shall give notice of the alleged violation to the person or persons the manager determines to be responsible for the alleged violation and may order such person or persons to take corrective action for the alleged violation. The notice must:

(a) Be in writing;

(b) Particularize the violations alleged to exist or to have been committed;

(c) Provide a reasonable time, based on the nature of the violation and threat to the human health, to correct the violations;

(d) Be issued and addressed to and, subject to subsection 27-27(2), served upon the owner or operator or both of the dwelling or dwelling unit or if the notice is directed to an occupant of a dwelling or dwelling unit, served upon that occupant.

(2) *Service of notice*. Notices must be served upon the person to whom the notice is issued, and unless it is recorded under section 27-29, it may be served by any of the means listed in subsection 27-27(2)(a)—(c).

(a) Personal delivery.

(b) U.S. mail, postage prepaid.

(c) Nationally recognized overnight courier with all fees prepaid.

(2.5) *Service of notice to be recorded*. Notices may not be recorded under section 27-29 unless the notice was first served by one of the following means:

(a) Personal delivery acknowledged in a writing signed by the person to whom the notice was issued, or if issued to the owner, by a person representing to be the operator or an authorized agent of the owner.

(b) In accordance with the rules of civil procedure for the court of record.

(c) Registered or certified mail, return receipt requested and postage prepaid.

(d) If, however, a notice to be recorded cannot be served in accordance with subsection 27-27(2.5)(a)—(c) because one (1) or more persons to whom the notice is addressed cannot be found or served after

diligent effort to effect service, service may be made upon such person by posting a notice in a conspicuous place in or about the dwelling affected by the notice, in which event the manager shall include in the record a statement as to why such posting was necessary.

(3) *Appeal*. Appeals from a notice or order issued under this section shall be taken in accordance with article 1 of chapter 24 D.M.R.C.

(Ord. No. 997-95, § 1, 12-4-95; Ord. No. 1110-96, § 1, 12-16-96; Ord. No. 500, § 13, 9-17-07)

Case law annotation(s)—Failure to address a notice as provided in subsection (1)(d) does not allow proper indexing of the notice under section 27-29(1). Absent a proper addressing—indexing there is no constructive notice of the violation. *Aropahoe Land Title, Inc. v. Contract Financing, Ltd.,* 28 Colo. App. 393, 472 P. 2d 754 (Colo. App., Div. 1, 1970).

A hearing resulting in an adverse order authorizes filing of a complaint on the ordinance violation in the county court. The county court trial is an original trial on the merits of the existence of violations and sentencing therefore with trial de novo to the superior court and right of appeal thereafter. *Douglas v. Municipal Court,* 157 Colo. 358, 377 P. 2d 738 (1963).

Sec. 27-28. Designation of unfit dwellings.

(1) *Designation*. Whenever the manager finds any dwelling, or dwelling unit, or rooming unit, regardless of whether it is occupied, that does not conform to the standards established by this article, or does not conform with the rules and regulations adopted and promulgated under it, and that by reason of the nonconformity presents an imminent hazard to public health, or to the physical or mental health of current or future occupants, the manager may, without prior notice or hearing, designate this dwelling, dwelling unit, rooming house, or rooming unit as unfit for human habitation.

(2) *Placarding; order to vacate*. Any dwelling, dwelling unit or rooming unit designated as unfit for human habitation by the manager will be appropriately placarded as such and must be vacated by the occupants within the time specified in the placard. The placard constitutes an order directing vacating, and may serve as an order prohibiting access for any period of time as determined appropriate by the manager based on the nature of the hazard presented.

(3) *Correction of defects*. No dwelling, dwelling unit or rooming unit which has been designated as unfit for human habitation and placarded as such shall again be used for human habitation until written approval is secured from and the placarding removed by the manager. The manager shall remove the placard whenever the defects upon which the designation and placarding action were based have been eliminated and the dwelling, dwelling unit or rooming unit conforms to the standards established by this article and the provisions of the rules and regulations adopted and promulgated hereunder.

(4) *Unlawful to deface placard*. It is unlawful for any person to deface, move, remove or obscure any placard affixed under the provisions of this article.

(5) *Appeals.* Any person aggrieved by the designation of any dwelling, dwelling unit or rooming unit as unfit for human habitation who believes the designation to be factually or legally contrary to the ordinances of the city, or the policies and regulations of the department of public health and environment, may appeal the same to the board in accordance with article 1, chapter 24, D.R.M.C. The placarding of any dwelling, dwelling unit or rooming unit under the provisions hereof commences operation of the period of time in which an appeal must be perfected.

(6) *Modifications under special circumstances*. Whenever there are practical difficulties involved in carrying out the provisions of this article, the manager may grant modifications for individual cases, provided he shall first notify the owner of the building, structure or utility and then find that a special individual reason makes the

strict letter of the article impractical, that the modification is in conformity with the intent and purpose of this article and that such modification does not lessen any health or safety, fire protection requirements, or any degree of structural integrity. The details of any action granting modifications will be sent to the owner and entered in the files of the department of public health and environment.

(Ord. No. 997-95, § 1, 12-4-95; Ord. No. 1110-96, § 1, 12-16-96; Ord. No. 500, § 14, 9-17-07; Ord. No. 427-18, § 16, 6-11-18)

Sec. 27-28.5. Compliance with order.

It is unlawful to fail or refuse to comply with an order issued by the manager under this article.

(Ord. No. 500, § 15, 9-17-07)

Sec. 27-29. Recording of notice with clerk.

(1) When the manager determines that there is a violation of this article that [is] consistent with department policies and procedures warrants recording based on the nature of or circumstances concerning the violation, the manager may record the notice of violation in the real property records of the clerk and recorder.

(2) When the condition upon which the notice was based has been corrected, the manager shall record a release of the notice of violation.

(Ord. No. 997-95, § 1, 12-4-95; Ord. No. 500, § 16, 9-17-07)

Sec. 27-30. Emergency proceedings in court of record.

(1) If any owner or operator does not comply with an order of the manager, or if an emergency to public health exists, the manager may take whatever action as necessary to alleviate or eliminate the imminent hazard to public health, including without limitation, causing the demolition of any dwelling or part thereof concerned. Or, if any owner or operator does not comply with an order of the manager and causes or permits any such dwelling or part thereof concerned to remain vacant for a period of one (1) year, and the zoning administrator finds that such dwelling or part thereof cannot reasonably be utilized for any use by right lawful in the district in which the same is located, the zoning administration may join with the manager in causing the demolition of the dwelling or part thereof concerned. Or, if any owner or operator does not comply with an order of the manager and causes or permits any dwelling or part thereof concerned to remain vacant, and the chief of the fire department finds that such dwelling or part thereof constitutes a fire hazard, the chief of the fire department may join with the manager in causing the demolition of the dwelling or part thereof concerned and join in any other action determined necessary to alleviate or eliminate the imminent hazard to public health that requires assistance of the fire department.

(2) The manager, zoning administrator, or chief of the fire department must file an appropriate proceeding against the owner of the dwelling in district court in and for the city under these provisions before actual demolition commences. The city is entitled to recover costs arising out of the proceedings, including attorney's fees, and costs of demolition.

(3) The costs enumerated above, if not otherwise paid by the defendants or collected upon execution in the manner provided by law, shall constitute a lien against the property. In this event, the manager shall certify a statement thereof to the manager of finance, who shall record a notice of such lien with the clerk and recorder. The manager of finance shall assess and charge the same against the property involved, and collect the same due, plus interest thereon, in the manner as are delinquent real property taxes. If the lien remains

unsatisfied, the manager of finance shall sell the property involved in the manner prescribed for sales of property for delinquent property taxes. The lien created hereby shall be superior and prior to all other liens, regardless of their dates of recordation, except liens for general taxes and special assessments. In addition to the remedies set forth herein, an action or other process provided by law may be maintained by the city to recover or collect any amounts, including interest, owing under this provision.

(Ord. No. 997-95, § 1, 12-4-95; Ord. No. 1110-96, § 1, 12-16-96; Ord. No. 464-98, § 2, 7-6-98; Ord. No. 500, § 17, 9-17-07; Ord. No. 775-07, § 71, 12-26-07)

Sec. 27-31. Notice of vacating buildings.

(1) The owner of a building containing four (4) or more units or any hotel, motel or other structure containing four (4) or more rooms rented separately for residential occupancy, who intends to vacate the building for the purpose of remodeling, demolition, changing the use of the building or for any other purpose shall, at least thirty (30) days prior to the intended date for the vacation, give written notice of the intent to vacate the building to all tenants; post the notice on each entrance to the affected building; and file a copy of this notice with the city clerk.

(2) Subsection (1) of this section does not apply where the building is ordered vacated by a federal, state or city agency.

(3) The provisions of this section do not replace the requirements of subsection 59-26(h) requiring a 90-day notice of the conversion of a building to condominium ownership.

(Ord. No. 997-95, § 1, 12-4-95; Ord. No. 500, § 18, 9-17-07)

Cross reference(s)—Hotels and rooming houses, § 33-16 et seq.

Secs. 27-32—27-44. Reserved.

ARTICLE III. PRESERVATION OF AFFORDABLE HOUSING[3]

Sec. 27-45. Intent.

The intent of this article is to protect the availability of publicly assisted affordable housing for low and moderate income households by: providing for notice to the city and tenants when transitions from current assistance programs and/or affordable housing uses are planned; providing purchase opportunities for the city to attempt to preserve the affordable housing while respecting ownership interests of building owners; and ensuring long-term affordability in future projects that the city assists with public financing designed to create or preserve affordable housing.

(Ord. No. 757-00, § 1, 9-25-00; Ord. No. 291-05, § 14, 5-2-05)

Sec. 27-46. Definitions.

The following words and phrases, as used in this article III, have the following meanings:

[3]Editor's note(s)—See Editor's note at chapter 12, article V.

(a) *Affordability restrictions.* Restrictions placed upon a property that (i) limit the use and/or occupancy of all or part of the units on the property to households with incomes below a certain level or (ii) limit the rent that can be charged for such units to below-market rates. Affordability restrictions may be imposed by deed restriction, covenant, contract, or other manner.

(b) *Affordable housing.* The term "affordable housing," "affordable rental housing" or "housing affordable to rental households" means that the rent is structured so that the targeted tenant population pays no more than thirty (30) percent of their gross household income for rent and utilities. The targeted tenant populations referred to in this section include households up to eighty (80) percent of AMI.

(c) *AMI* or *area median income.* The median household income within the City and County of Denver, as determined by the Department of Housing and Urban Development and published annually by the Colorado Housing and Finance Authority.

(d) *City subsidy.* Locally controlled public funds administered by the HOST, or another city agency, allocated for the purpose of creating or preserving affordable rental housing. City subsidies may be provided to developers through direct financial assistance such as low interest or deferred loans, grants, equity gap investments, credit enhancements or loan guarantees, or other mechanisms.

(e) *City subsidy projects.* Privately owned properties that include five (5) or more units receiving funding from or through a city subsidy.

(f) *Federal financial assistance.* Financial assistance received from or as a result of federal programs that aim to support creation, preservation or rehabilitation of affordable housing or long-term affordability of housing, including project-based rental subsidies under Section 8 of the United States Housing Act, and assistance provided under or as a result of Section 221(d)(3), Section 236, section 202, section 101, and Sections 514, 515 and 521 of the National Housing Act or Section 42 of the Internal Revenue Code.

(g) *Federal preservation project.* A rental housing project that has affordability restrictions in place on five (5) or more rental units as a result of having received federal financial assistance. An updated list of all known federal preservation projects will be maintained by HOST and will be made available upon request. Omission from such list shall not affect the applicability of this ordinance to a federal preservation project.

(h) *HOST.* The Department of Housing Stability of the City and County of Denver.

(i) *HUD.* The United States Department of Housing and Urban Development.

(j) *Local financial assistance.* Financial assistance received from or through a state or local public entity to support creation or preservation of affordable housing, including city subsidies, subsidies from the Denver Urban Renewal Authority, the State of Colorado or the Colorado Housing and Finance Authority ("CHFA"), bond financing issued by the City and County of Denver or the Colorado Housing and Finance Authority, and projects that utilized low income housing tax credits (LIHTC) administered by CHFA.

(k) *Local preservation project.* A rental housing project that has affordability restrictions in place on five (5) or more rental units as a result of having received local financial assistance. An updated list of all known local preservation projects will be maintained by HOST and will be made available upon request. Omission from such list shall not affect the applicability of this ordinance to a local preservation project.

(l) *Long-term affordability restrictions.* A local preservation project or a federal preservation project that is subject to affordability restrictions for a minimum of ninety-nine (99) years in a form satisfactory to HOST.

(m) *Opt out.* An owner's (i) non-renewal of an available option to extend any contract under which federal financial assistance was provided for the project or (ii) prepayment of a federally-subsidized loan or mortgage if such prepayment results in termination of federal affordability restrictions.

(Ord. No. 757-00, § 1, 9-25-00; Ord. No. 291-05, § 14, 5-2-05; Ord. No. 571-15, § 1, 9-14-15; Ord. No. 1089-18, § 1, 10-22-18; Ord. No. 47-20, § 1, 3-16-20)

Sec. 27-47. Federal preservation projects—Notice and purchase opportunities.

(a) Owners of federal preservation projects must provide the city and each building tenant with the following notices:

(1) One (1) year's advance notice of expiration of (i) a contract under which federal financial assistance was provided, and (ii) any affordability restrictions;

(2) One (1) year's advance notice of owner's intent to "opt out"; and

(3) Ninety (90) days' advance notice of its intent to pursue a sale of such federal preservation project.

(b) Notices required by subsection (a) above shall specify:

(1) Whether the owner or intended buyer intends to withdraw the property from the federal financial assistance program;

(2) Whether the owner or intended buyer is involved in negotiations with HUD regarding an extension of affordability restrictions; and

(3) For a sale, the intended date of sale or transfer.

(c) Owners of federal preservation projects who have decided to "opt out" or sell the federal preservation project must consent to reasonable inspection of the property and inspection of the owner reports on file with HUD, the State of Colorado, or the city. These inspections are designed to facilitate the city's ability to assess the fair market value of the property and evaluate status of the tenants, viability of transfer and/or continuation of a section 8 agreement with HUD and other pertinent information.

(d) To the extent allowed by HUD, owners of federal preservation projects must maintain an available HUD section 8 contract in good standing during the notice periods identified in this chapter as well as any condemnation proceeding commenced.

(e) Owners of federal preservation projects must refrain from taking any action, other than notifying HUD of the owner's intention to not renew the contract, that would preclude the city or its designee from succeeding to the contract or negotiating with the owner for purchase of the property during the notice periods identified in this article as well as any condemnation proceeding commenced.

(f) In addition to any other times, during the notice periods identified in this article, the city may pursue preservation of the project through negotiation for purchase or through condemnation.

(g) Owners of federal preservation projects who have decided to sell the federal preservation project shall provide a right of first refusal to the city or its designee, and any such purchase and sale agreement entered into by the owner of federal preservation project shall be contingent upon the right of first refusal of the city or its designee to purchase the federal preservation project. The owner of the federal preservation projects shall provide the contingent sales agreement to the city or its designee upon its execution. Upon receipt of the contingent sales agreement, the city shall have one hundred twenty (120) days to notify the owner of the federal preservation project of its or its designee's intent to purchase the federal preservation project or its intent to facilitate the purchase of the federal preservation project by its designee, an entity willing to preserve the affordability of the housing provided in the federal preservation project. If the city or its designee is willing to purchase the federal preservation project on terms that are economically substantially identical to the terms of the contingent purchase and sale agreement and shall agree to close within one hundred twenty (120) days from the date the city or its designee and the owner sign a purchase and sale agreement, the owner shall sell the federal preservation project to the city or its designee on those terms.

(h) Federal preservation projects subject to long-term affordability restrictions shall not be subject to the requirements of this section.

(Ord. No. 757-00, § 1, 9-25-00; Ord. No. 291-05, § 14, 5-2-05; Ord. No. 571-15, § 2, 9-14-15; Ord. No. 1089-18, § 2, 10-22-18; Ord. No. 47-20, § 2, 3-16-20)

Sec. 27-48. Federal preservation projects—Civil fines.

(a) An owner who fails to comply with any of the requirements specified in this article shall pay a civil fine. The fine shall be calculated in relation to the costs and damages caused by the owner's failure to comply, up to full replacement costs of each project-based section 8 housing unit lost. Such civil fines shall be payable into a housing replacement fund to be established and managed by the city. If the civil fine is not received within the timeframes specified in this article or in rules and regulations promulgated to enforce this article, the city may commence enforcement proceedings.

(b) Any fines received shall be used only for creating replacement affordable housing.

(Ord. No. 757-00, § 1, 9-25-00; Ord. No. 291-05, § 14, 5-2-05)

Sec. 27-49. Local preservation projects—Tenant and city notice provisions.

(a) When the owner of a local preservation project takes action which will make the affordable housing no longer affordable or has decided to pursue a sale of the local preservation project, the owner must provide ninety (90) days' advance notice to the city. The notice shall meet standards developed by HOST. During the ninety (90) day notification period, the owner may not sell or contract to sell the property, but may engage in discussions with other interested parties.

(b) Owners of local preservation projects who have decided to take action described in section 27-49(a), must provide a written notice of ninety (90) days to tenants. This shall be in addition to the notice to be provided to the city under section 27-49(a). During this notice period the owner may not initiate a no cause eviction.

(c) Owners of local preservation projects who have decided to sell the local preservation project shall provide a right of first refusal to the city or its designee, and any such purchase and sale agreement entered into by the owner of local preservation projects shall be contingent upon the right of first refusal of the city or its designee to purchase the local preservation project. The owner of the local preservation project shall provide the contingent purchase and sale agreement to the city or its designee upon its execution. Upon receipt of the contingent purchase and sale agreement, the city shall have one hundred twenty (120) days to notify the owner of the local preservation project of its or its designee's intent to purchase the local preservation project or its intent to facilitate the purchase of the local preservation project by its designee, an entity willing to preserve the affordability of the housing provided in the local preservation project. If the city or its designee is willing to purchase the local preservation project on terms that are economically substantially identical to the terms of the contingent purchase and sale agreement and shall agree to close within one hundred twenty (120) days from the date the city and the owner sign a purchase and sale agreement, the owner shall sell the local preservation project to the city or its designee on those terms.

(d) Local preservation projects subject to long-term affordability restrictions shall not be subject to the requirements of this section.

(Ord. No. 757-00, § 1, 9-25-00; Ord. No. 291-05, § 14, 5-2-05; Ord. No. 571-15, § 3, 9-14-15; Ord. No. 1089-18, § 3, 10-22-18; Ord. No. 47-20, §§ 3, 4, 3-16-20)

Sec. 27-50. City subsidy projects—Affordability requirements.

(a) City subsidy projects will be subject to affordability restrictions for a minimum of sixty (60) years.

(b) All city agencies administering affordable rental housing subsidy programs will be responsible for implementing this section. As the primary agency charged by the city to negotiate and confer affordable housing subsidies, HOST will develop implementing strategies consistent with the sixty-year affordability principles contained in this section.

(Ord. No. 757-00, § 1, 9-25-00; Ord. No. 291-05, § 14, 5-2-05; Ord. No. 571-15, § 4, 9-14-15; Ord. No. 1089-18, § 4, 10-22-18; Ord. No. 47-20, § 5, 3-16-20)

Sec. 27-51. Compliance and enforcement.

(a) HOST shall develop and implement procedures, through the promulgation of rules and regulations, to enforce the provisions of this article. Such procedures should include, where feasible, record notice of the applicability of this Code to affected properties, filing a lien to enforce the provisions of this Code, and developing civil penalties or other enforcement provisions necessary or appropriate to enforce this article.

(b) The city attorney's office may enforce the provisions of this Code on behalf of the city in any court of competent jurisdiction or city administrative body.

The amendment to section 27-50 regarding minimum affordability periods shall be effective with regard to projects receiving a city subsidy pursuant to a contract dated on or after February 1, 2019.

(Ord. No. 757-00, § 1, 9-25-00; Ord. No. 291-05, § 14, 5-2-05; Ord. No. 571-15, § 5, 9-14-15; Ord. No. 1089-18, § 6, 10-22-18; Ord. No. 47-20, § 6, 3-16-20)

Sec. 27-52. No restriction of powers of eminent domain; severability.

(a) This article shall not be construed to restrict the city's existing authority to exercise powers of eminent domain through condemnation.

(b) If any part or provision of this article, or application thereof to any person or circumstance, is held invalid, the remainder of this article and the application of the provision or part thereof, to other persons not similarly situated or to other circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this article are severable.

(Ord. No. 757-00, § 1, 9-25-00; Ord. No. 291-05, § 14, 5-2-05)

Secs. 27-53—27-100. Reserved.

ARTICLE IV. AFFORDABLE HOUSING

Sec. 27-101. Legislative findings.

The city council hereby finds that a severe housing problem continues to exist within Denver with respect to the supply of housing relative to the need for moderately priced dwelling units or MPDUs. Specifically, the city council finds that:

(a) Demographics and analyses of new housing indicate that a large majority of private development is geared toward high-priced housing development and does not serve households earning less than one hundred (100) percent of area median income;

(b) Development trends produce the undesirable and unacceptable effects of limiting housing available to moderate and low-income households, thus failing to implement the housing goal of the Denver Comprehensive Plan 2000 and Blueprint Denver of dispersal of a diverse range of housing throughout the city;

(c) Market forces including continued population growth and unmet demand for new housing, result in highly priced housing, and a lack of economic incentive for developers to offer a more diversified price range of housing, and therefore such housing is not being created;

(d) Rapid regional growth and a strong housing demand have also combined to make land and construction costs higher, limiting the areas where affordable housing is located;

(e) Income has not kept pace with this rapid and significant increase in the cost of housing in Denver;

(f) Ensuring a mix of incomes and access to home-ownership opportunities for moderate income families are high priorities for the city, and therefore the city has a strong interest in ensuring that the city's limited supply of developable land provides housing opportunities for all incomes;

(g) Developers of new housing are not meeting the need for moderately priced, affordable housing. The provision of only higher priced housing contributes to the lack of affordable housing;

(h) Developers of new for sale housing are not meeting the need for dispersed, affordable housing. In reviewing public records and development trends from 2000—2014, the city council has concluded that average housing prices have increased forty-eight (48) percent since 2000 for all housing, and sixty-nine (69) percent for new housing, and that the affordability gap between median sale price and median income in Denver has widened by one hundred thousand dollars ($100,000.00) since 2000;

(i) Without a program requiring moderately priced housing to be built, it is unlikely based on current trends that developers will provide such housing on their own initiative, leaving Denver citizens without sufficient affordable housing; and

(j) Providing incentives and increased flexibility to developers will assist developers in providing a minimal percentage of affordable housing units as an integral part of new developments.

(Ord. No. 617-02, § 1, 8-5-02; Ord. No. 475-14, § 1, 8-25-14)

Sec. 27-102. Declaration of public policy.

The city council hereby declares it to be the public policy of the city to:

(a) Implement the comprehensive plan goal of providing for a full range of housing choices, conveniently located in a suitable living environment, for all incomes, ages and family sizes;

(b) Increase the availability of additional low and moderate income housing to address existing and anticipated future housing needs in Denver;

(c) Assure that moderately priced housing is dispersed throughout Denver consistent with the Comprehensive Plan;

(d) Encourage the construction of moderately priced housing by offering incentives;

(e) Require that all development of thirty (30) or more detached for sale single-family dwelling units and all for sale attached or multifamily projects of thirty (30) or more units include a minimum number of moderately priced units;

(f) Allow developers of residential units in qualified projects flexibility to meet the broad objectives of the policies set forth herein by allowing a developer, under specified circumstances, to comply with this article by, where approved by the city, voluntarily agreeing to build alternative moderately priced units or contributing to a special revenue fund;

(g) Assure that provision of moderately priced housing does not diminish existing resources which have previously been devoted to development of low and very low income housing in the city; and

(h) Administer the special revenue fund for the purpose of providing future incentive payments to developers who build moderately priced units, and utilize any amounts in the special revenue fund in excess of all obligations remaining for the next fiscal year, next for the creation or preservation of affordable housing in accordance with applicable city plans, with consideration being given to create housing from funds that were generated from areas identified within this article as high need zones, in areas proximate to those same high need areas when practicable.

(Ord. No. 617-02, § 1, 8-5-02; Ord. No. 305-13, § 1, 6-24-13; Ord. No. 475-14, § 2, 8-25-14)

Sec. 27-103. Definitions.

The following words and phrases, as used in this article, have the following meanings:

(a) *AMI* or *adjusted median income* or *median income* or *area median income* means the median income for the Denver metropolitan area, adjusted for household size as calculated by HUD.

(b) *Applicant* means any person, firm, partnership, association, joint venture, corporation, or any other entity or combination of entities, or affiliated entities and any transferee of all or part of the real property at one location, which after this article takes effect develops a total of thirty (30) or more new for sale dwelling units at one location in Denver.

(c) *At one location* means all real property of the applicant if:

(1) The properties are contiguous at any point;

(2) The properties are separated only by a public or private right-of-way or utility corridor right-of-way, at any point; or

(3) The properties are separated only by other real property of the applicant which is not subject to this article at the time of any building permit, site plan, development or subdivision application by the applicant.

(d) *Available for development* means all real property:

(1) Owned by, or under contract to, the applicant;

(2) Zoned for residential development; and

(3) Which will use public water and sewerage.

(e) *Comprehensive plan* means the Denver Comprehensive Plan 2000.

(f) *Consumer Price Index* means the latest published version of the Consumer Price Index for All Urban Consumers (CPI-U) of the U.S. Department of Labor for the Denver metropolitan area, or any similar index selected by the director.

(g) *Control period* means the time an MPDU is subject to restrictions to insure the long-term affordability of the MPDU. The control period is no less than fifteen (15) years and begins on the date of initial sale as defined herein.

(h) *Date of initial sale* means the date of closing for initial purchase of a MPDU.

(i) *Director* means the director of HOST or director's designee.

(j) *Dwelling unit* means one (1) or more habitable rooms constituting a unit for permanent occupancy, having but one (1) kitchen together with facilities for sleeping and bathing, and which unit occupies a structure or portion of a structure, but does not include hotels or other lodging accommodation, hospitals, tents, or similar structures providing transient or temporary accommodation.

(k) *Eligible household* means a household whose income qualifies the household to participate in the MPDU program, and who holds a valid verification of eligibility from HOST which entitles the household to buy an MPDU. To be qualified to participate in the MPDU program as an eligible household at initial sale, the household must be able to demonstrate that its total household income will allow it to pay the mortgage on the unit and the household must earn no more than eighty (80) percent of AMI or if the MPDU is in a high cost structure, no more than ninety-five (95) percent of AMI. To be qualified to participate in the MPDU program as an eligible household on a resale during the control period, the household must be able to demonstrate that its total household income will allow it to pay the mortgage or rent on the unit and the household must earn no more than the amount set forth in a schedule of eligibility provided by HOST, which schedule may not under any circumstances exceed one hundred (100) percent of AMI. To be qualified to participate in the MPDU program as an eligible household for a rental MPDU, the household must be able to demonstrate that, as of the date the lease is signed, its total household income will allow it to pay the rent under the formula provided by HOST for the unit and the household must earn no more than sixty-five (65) percent of AMI adjusted for the household size or if the MPDU is in a high cost structure, no more than eighty (80) percent of AMI. Eligibility standards shall be based on the UND AMI calculation. All nonprofit organizations designated by the director, governmental or quasi-governmental bodies who purchase MPDUs for the purpose of sale or rental under any city approved program designed to assist the construction or occupancy of housing for families of low or moderate income are deemed "eligible households" for the purposes of this article.

(l) *Final MPDU sale* means the first resale within ten (10) years after the end of the control period.

(m) *For sale dwelling unit* means a dwelling unit which is offered for sale any time up to two (2) years after completion of construction, as evidenced by a certificate of occupancy.

(n) *High cost structure* means a development in which buildings are greater than three (3) stories, elevators are provided, and over sixty (60) percent of the parking is structured. In the event a project is presented as high cost, the director shall determine whether a project is qualified as high cost.

(o) *HOST* means the Department of Housing Stability of the City and County of Denver or its successor.

(p) *Household* means:

(1) A single person;

(2) Any number of persons bearing to each other the relationship of: husband, wife, mother, father, grandmother, grandfather, son, daughter, brother, sister, stepson, stepdaughter, stepbrother, stepsister, stepmother, stepfather, grandson, granddaughter, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, uncle, aunt, nephew or niece, living together as a single nonprofit housekeeping unit; or

(3) Two (2) unrelated adults over the age of eighteen (18) years plus, if applicable, any persons bearing to either of the two (2) unrelated adults the relationship of son, daughter, stepson, stepdaughter, mother, father, grandmother, grandfather, grandson, granddaughter, sister, brother, living together as a single nonprofit housekeeping unit.

(q) *HUD* means the U.S. Department of Housing and Urban Development.

(r) *Initial sale* means the sale by an applicant to an eligible household.

(s) *Low and moderate income* means the level of income as defined by the AMI, as adjusted for household size, within the income range for low and moderate income established from time to time by HUD for the Denver metropolitan area, under federal law.

(t) *Maximum purchase price* means the maximum amount for which an MPDU may be transferred, calculated in accordance with the covenants recorded against the property. Transfer fees shall never be charged for transfer of an MPDU and shall not be permitted to be included in any MPDU pricing calculation.

(u) *Memorandum of acceptance* means a document signed by each MPDU purchaser stating the purchaser is aware of and will be bound by the MPDU restrictions and providing an address for notices to the purchaser.

(v) *MPDU* or *moderately priced dwelling unit* means a dwelling unit which:

(1) Is offered to eligible households under the terms of this article or as an approved alternative under section 27-106 and is priced at initial sale to be affordable to households earning no more than eighty (80) percent of AMI, adjusted for household size. For high cost structures, the unit shall be priced at initial sale to be affordable to households earning no more than ninety-five (95) percent of AMI, adjusted for household size; or

(2) Was constructed as an MPDU pursuant to a contractual commitment requesting incentives and entered into before December 1, 2014; or

(3) Is constructed pursuant to a customized alternative allowed under section 27-106 as part of a master-planned development project that has either:

(A) A general development plan (GDP) or planned unit development (PUD) where the total mix of for sale dwelling units within the master planned area exceeds thirty (30) units; or

(B) Where the total number of for sale dwelling units within the master-planned development project area exceeds one thousand (1,000) units.

(w) *New development* means all residential development which is being constructed for the first time or existing buildings which are being substantially rehabilitated or remodeled to provide dwelling units.

(x) *Owner* means any eligible household which purchases an MPDU from the applicant and any subsequent buyer, devisee, transferee, grantee, owner or holder of title of any MPDU.

(y) *Parking is structured* means parking that is not an open lot and that is not a carport or carports.

(z) *Special revenue fund* means a fund established by the director for use for affordable housing purposes. Community Development Block Grant (CDBG) and HOME moneys may never be deposited into this fund. The director shall adopt procedures in the rules and regulations to determine whether there is adequate funding of the special revenue fund for estimated incentive payments and all other affordable housing obligations for the subsequent fiscal year. The director shall use the special revenue fund for the primary purpose of providing future incentive payments to applicants who build moderately priced units, and utilize any amounts in the special revenue fund in excess of all obligations remaining through the subsequent fiscal year, next for the creation or preservation of affordable housing in accordance with applicable city plans, with consideration being given to create housing from funds that were generated from areas identified within this article as high need zones, in area proximate to those same high need areas when practicable. Amounts in the special revenue fund exceeding the adequate funding for these priorities through the subsequent fiscal year may be expended for the administration of this article, up to the greater of five (5) percent of the total amount of the balance in the fund on January 1 of each year or two hundred fifty thousand dollars ($250,000.00). Notwithstanding the foregoing, the director shall adopt as part of the rules and regulations, a reservation for a portion of alternative contribution payments paid by applicant from

high need downtown areas as defined in the rules and regulations. This reservation shall be held for payments for MPDUs created in the same or proximate neighborhoods. The reservation shall take priority over all other purposes of the special revenue fund for a reasonable time as defined by the rules and regulations.

(aa) *Statistical neighborhood category* means a classification for a neighborhood into either a high need for affordable housing, an average need for affordable housing, or a low need for affordable housing. Classifications shall be assigned and set forth in rules and regulations by HOST through periodically updated modeling of for sale housing prices and proximity to transit.

(bb) *Substantially rehabilitated or remodeled* means more than fifty (50) percent of an existing building is being rehabilitated or remodeled.

(cc) *Supplemental incentive* has the meaning set forth at section 27-108.

(dd) *Verified* or *verification* means that a household has been determined to be eligible to occupy an MPDU under this article.

(Ord. No. 617-02, § 1, 8-5-02; Ord. No. 654-02, §§ 1, 2, 8-12-02; Ord. No. 710-06, § 1, 10-30-06; Ord. No. 305-13, § 2, 6-24-13; Ord. No. 475-14, § 3, 8-25-14; Ord. No. 47-20, § 7, 3-16-20)

Sec. 27-104. Applicable development.

(a) This article is applicable to all applicants who, prior to January 1, 2017:

(1) Submit for approval or extension of approval a development plan, rezoning, or site review, or seek a building permit which provides or will provide for the construction or development of a total of thirty (30) or more for sale dwelling units at one location in one or more subdivisions, parts of subdivisions, or stages of development; or

(2) With respect to all real property in zones not subject to subdivision approval or site plan review, apply for a general zoning approval for the construction of a total of thirty (30) or more for sale dwelling units at one location.

(b) In determining whether a development contains the applicable total number of dwelling units for the purpose of applying this article, all real property at one location within Denver under common ownership or control by an applicant, including real property owned or controlled by separate corporations in which any stockholder or family of the stockholder owns ten (10) percent or more of the stock, shall be included. An applicant shall not avoid this article by submitting piecemeal applications or approval requests for subdivision plats, rezoning, site or development plans, or building permits. Any applicant may submit a preliminary plan of subdivision for approval, site or development plans for approval, record plat or request for building permits for less than the applicable number of dwelling units at any time; but the applicant shall agree in writing that upon the next such application or request the applicant will comply with this article when the total number of dwelling units at one location has reached the applicable number of dwelling units.

(c) Any application for any approval as set forth in subsection (a) of this section submitted on or after January 1, 2017, shall not be subject to the requirements of this article. However, this article shall continue to govern MPDU plans associated with applications for approvals submitted prior to January 1, 2017.

(Ord. No. 617-02, § 1, 8-5-02; Ord. No. 625-16, § 3, 9-19-16)

Sec. 27-105. MPDU requirements.

(a) For new developments of thirty (30) or more for sale dwelling units, applicants shall create ten (10) percent of all the units as MPDUs which are priced at initial sale to be affordable to households earning no more than eighty (80) percent of AMI, adjusted for household size. For new developments of high cost structures, applicants shall create ten (10) percent of all the units as MPDUs which are priced at initial sale to be affordable to households earning no more than ninety-five (95) percent of AMI, adjusted for household size. Maximum purchase prices for MPDUs shall be determined by the HOST based on normal underwriting standards and a maximum down payment of five (5) percent. HOST shall make available tables which show maximum purchase price.

(b) The allowable prices for the MPDUs shall be adjusted for the number of bedrooms in the unit. This price adjustment shall be reflected in the tables provided by HOST.

(c) Any homeowner association fees shall be included in the determination of affordability.

(d) If parking or additional amenities are being provided to the purchasers of the market rate units, the same parking and additional amenities must be offered to the purchasers of MPDUs and the pricing or fees for parking and additional amenities shall be included in the determination of affordability.

(e) In calculating the number of MPDUs to be created, rounding shall be used such that five-tenths (.5) or greater shall result in requiring that a whole unit shall be produced. For example, ten (10) percent of thirty-three (33) units calculates to three and three-tenths (3.3) units, which would require three (3) whole units to be MPDUs, but ten (10) percent of thirty-five (35) units calculates to three and five-tenths (3.5) units, which would require four (4) whole units to be MPDUs. Alternative contribution payments for a unit required to be an MPDU solely as a result of rounding up may be offered in the affordable housing plan at the rate established under [section] 27-106 for an alternative contribution payment.

(Ord. No. 617-02, § 1, 8-5-02; Ord. No. 710-06, § 2, 10-30-06; Ord. No. 305-13, § 3, 6-24-13; Ord. No. 475-14, § 4, 8-25-14; Ord. No. 47-20, §§ 8, 9, 3-16-20)

Sec. 27-106. Plan to build MPDUs; alternatives.

(a) Prior to obtaining a building permit, an applicant shall submit to HOST a written MPDU plan. The director shall review the plan and approve, approve with conditions, or reject the MPDU plan. No permits, rezoning, or plans shall be approved or issued until approval of the MPDU plan is obtained. Each plan shall contain information as set forth in rules and regulations adopted by the director and a form of covenants to encumber the MPDUs, a statement that the terms of this plan will bind the applicant and will run with the land upon approval of HOST and recording with the clerk and recorder of the City and County of Denver, and such other information as HOST requires to determine the applicant's compliance with this article. The director shall provide written confirmation of approval of a MPDU plan to the manager of the department of community planning and development to allow building permits to be issued. For MPDU plans prepared as part of a customized alternative allowed under this section as part of a master-planned development project as defined in subsection 27-106(b), the MPDU plan shall be included as part of the development agreement, PUD, or GDP.

(b) Alternatives.

(1) In lieu of building the required number of MPDUs on site, when consistent with the plans, rules, regulations and policies of the department of community planning and development and HOST, the director may approve an alternative defined in the MPDU plan customized to provide MPDUs at a different site that would:

(A) Build more total bedrooms or more MPDUs at one (1) or more other sites in the same or proximate statistical neighborhood as defined in the rules and regulations; or

(B) Build more total bedrooms or more MPDUs at one (1) or more other sites within five-tenths (.5) miles of a light rail or commuter rail station as defined in the rules and regulations; or

(C) Build more rental MPDUs at one (1) or more other sites in the same or proximate statistical neighborhood or at one (1) or more other sites within five-tenths (.5) mile of a light rail or commuter rail station as defined in rules and regulations.

(2) In lieu of building the required number of MPDUs on site, the director may approve an alternative defined in the MPDU plan customized to provide alternate MPDUs on the site if the alternate would:

(A) Build fewer MPDUs at affordability levels lower that the AMI required under section 27-105; or

(B) Build fewer MPDUs with more net bedrooms; or

(C) Build fewer MPDUs for populations or special need or high priority of the director; or

(D) Build fewer MPDUs for a longer control period; or

(E) Build more rental MPDUs at the site.

(3) In lieu of providing the required number of MPDUs, the director may approve an alternative defined in the MPDU plan to contribute to the special revenue fund an amount equal to percentage up to one hundred (100) percent of the price per MPDU not provided but required under section 27-105. The percentage will be based on the statistical neighborhood category of low need, average need, or high need, in which the applicant proposes to construct the development. HOST will categorize statistical neighborhoods as low, average or high, and the specific percentages associated with each statistical neighborhood category shall be defined in the rules and regulations. The contribution amount shall be calculated at the prices set forth on the then current table provided by HOST under section 27-105 for the maximum sale prices without homeowners' association fees. This percentage and amount may be adjusted by the director using a formula set forth in the rules and regulations promulgated under this article.

(c) The approved MPDU plans shall be signed by the applicant and shall be recorded with the clerk and recorder of the City and County of Denver.

(d) HOST shall assist applicants interested in any of the above alternatives explore options prior to submitting an MPDU plan.

(e) Final discretion for granting an alternative is solely with the director and the city is not liable nor shall there be any review for the director's decision to require an applicant to meet the standard obligations of this ordinance [article] instead of granting an alternative.

(Ord. No. 617-02, § 1, 8-5-02; Ord. No. 710-06, § 3, 10-30-06; Ord. No. 305-13, § 4, 6-24-13; Ord. No. 475-14, § 5, 8-25-14; Ord. No. 47-20, §§ 10—12, 3-16-20)

Sec. 27-107. Incentive for producing MPDUs.

(a) Standard incentive. The director is authorized to reimburse the producer of the MPDUs a tiered amount based on statistical neighborhood category as further defined in the rules and regulations up to twenty-five thousand dollars ($25,000.00) per MPDU built, up to fifty (50) percent of the total units in a development. The director is further authorized to reimburse the producer of the MPDUs an additional five thousand dollars ($5,000.00) per MPDU built which is affordable to households earning no more than sixty (60) percent of AMI, adjusted for household size, up to fifty (50) percent of the total units in a development, unless the producer has provided MPDUs at this affordability level as a result of an alternative being granted under

[section] 27-106, in which case the average need level incentive will apply. The amount of reimbursement to any one producer of MPDUs is limited to a maximum of two hundred fifty thousand dollars ($250,000.00) per development per year; however, if a producer of MPDUs constructs MPDUs in a high cost structure, then this maximum yearly limit shall not apply. The amount of reimbursement is limited to the amount available in the special revenue fund. Furthermore, this incentive will only be made available to developments that provide the minimum number of MPDUs required by this article and at the tiered level for the statistical neighborhood category where the MPDU is constructed. The director is authorized to establish procedures through rules and regulations for reimbursement from the special revenue fund and for the manner of payment of incentives. The director may seek annual appropriation in order to adequately fund the special revenue fund.

(b) The standard incentive(s) set forth in this section shall be in addition to any supplemental incentives available, whether in this article, in other governmental incentive programs, or elsewhere.

(c) The standard incentive amount requested shall be set forth in the applicant's MPDU plan and if the applicant is not identical to the producer of MPDUs the applicant shall fully identify the producer.

(Ord. No. 617-02, § 1, 8-5-02; Ord. No. 654-02, § 3, 8-12-02; Ord. No. 710-06, § 4, 10-30-06; Ord. No. 475-14, § 7, 8-25-14)

Sec. 27-108. Supplemental incentive.

(a) Producers of the MPDUs may request in the MPDU plan as set forth in section 27-106(a), a density bonus or premium, a parking reduction, and expedited processing as supplemental incentives set forth under the terms of this section, pursuant to the procedures set forth in the Denver Zoning Code, former Chapter 59, and in rules and regulations. The supplemental incentives will only be available to those producers of the MPDUs where the MPDUs are proposed to be constructed. The supplemental incentives requested shall be set forth in both the applicant's and producer's MPDU plans.

(b) Density bonus. Except for R-0, R-1, R-2, R-2A, and R-2-B zone districts, or in planned unit developments (PUDs), or in districts where there is no maximum floor area ratio, or in districts where no residential use is permitted, producers of the MPDUs may be able to request a density bonus or premium in select zone districts where allowed under the Denver Zoning Code or its equivalent in former Chapter 59.

(c) Parking reduction. Except for existing PUDs, reduced parking requirements are available as provided by former Chapter 59 of the Denver Zoning Code.

(d) Expedited processing.

(1) Development services shall provide a development review check list to producers of MPDUs upon request.

(2) Producers of the MPDUs who fully comply with all items on the development review check list in a completed application for site development plan review may request any expedited processing as set forth in the rules and regulations. The expedited processing time frame excludes time not attributable to Development Services.

(3) To provide notice to development services, in addition to a request for expedited processing in the MPDU plan producers of the MPDUs shall file a written request for expedited processing with submission of the completed application for site development plan review.

(Ord. No. 617-02, § 1, 8-5-02; Ord. No. 654-02, § 4, 8-12-02; Ord. No. 1024-02, § 2, 12-20-02; Ord. No. 710-06, § 5, 10-30-06; Ord. No. 543-08, § 1, 10-13-08; Ord. No. 305-13, § 6, 6-24-13; Ord. No. 475-14, § 7, 8-25-14)

Sec. 27-109. Eligibility standards.

(a) The standards of eligibility for households applying to purchase an MPDU shall be based on the AMI calculation adjusted for household size. The income levels required herein shall be reviewed by HOST to be verified.

(b) All nonprofit organizations designated by the director, governmental or quasi-governmental entities who purchase MPDUs for the purpose of sale or rental under any city approved program designed to assist the construction or occupancy of housing for families of low or moderate income are deemed eligible households for all purposes under this article.

(c) To be eligible to purchase an MPDU at initial sale, households must be earning no more than eighty (80) percent of the AMI, or no more than ninety-five (95) percent of the AMI for high cost structures. To be eligible to purchase an MPDU on a resale, the household must be earning no more than the amount set forth in a schedule of eligibility provided by HOST, which schedule may not under any circumstances exceed one hundred (100) percent of AMI.

(d) The director shall adopt regulations for approving eligibility and for approving the sale or rental of MPDUs to eligible households.

(Ord. No. 617-02, § 6, 8-5-02; Ord. No. 305-13, § 6, 6-24-13; Ord. No. 475-14, § 8, 8-25-14; Ord. No. 47-20, §§ 13, 14, 3-16-20)

Sec. 27-110. Initial offering of MPDUs.

(a) In view of the critical, long-term public need for housing for families of low and moderate income, governmental entities or nonprofit organizations designated by the director are deemed eligible buyers and may buy for sale MPDUs. The MPDUs so purchased may be sold or rented to households of low or moderate income who are eligible for assistance under any federal, state, or local program or to eligible households as defined in this article.

(b) Initial sale to eligible households.

(1) Every MPDU required under this article shall be offered solely to eligible households for sale to be used primarily for the buyer's own primary residence.

(2) During the initial sales period, the MPDUs shall be offered to eligible households by the applicant through a fair and equitable system.

(3) The applicant shall use reasonable, good-faith efforts to enter into contracts with eligible households and in marketing to eligible households.

(4) An applicant shall not sell any unit without first obtaining a verification of eligibility issued by HOST from the buyer.

(Ord. No. 617-02, § 1, 8-5-02; Ord. No. 710-06, § 7, 10-30-06; Ord. No. 305-13, § 7, 6-24-13; Ord. No. 47-20, § 15, 3-16-20)

Sec. 27-111. Covenants and deeds of trust.

(a) The applicant shall execute and pay the recording fees for HOST to record with the clerk and recorder for the City and County of Denver a completed covenant and, if applicable, a performance deed of trust or a lien on the MPDU property, which shall comply with the provisions in the rules and regulations promulgated

hereunder. Partnerships, associations or corporations shall not evade this article through voluntary dissolution.

(b) The covenants, performance deeds of trust, and liens shall each at a minimum contain the information that the property value and that use and resale are restricted and shall set forth the control period, the maximum purchase price calculation, the eligibility requirements, penalties for violation, and any other restriction provided herein or in the rules and regulations adopted hereunder. The covenants, performance deeds of trust, and liens shall also include provisions which govern the first resale within ten (10) years after the end of the control period ("final MPDU sale") as set forth in section 27-112.

(c) The director may waive the covenant restrictions and, if applicable, the performance deed of trust requirements or the lien requirements on the resale prices for MPDUs if the director finds that the restrictions conflict with regulations of federal or state housing programs and thus prevent eligible households from buying dwelling units under the MPDU program. Any waiver shall be in writing and signed by the director, shall reference the recorded covenant and, if applicable, performance deed of trust or the lien, or both, and shall be recorded in the records of the clerk and recorder for the City and County of Denver, Colorado.

(d) At the time of conveyance, all grantors of MPDUs shall require the grantee to execute a memorandum of acceptance which states that the conveyed property is a MPDU and is subject to the restrictions contained in the covenants and, if applicable, performance deeds of trust or the lien required under this article during the control period.

(e) The director may require certain owners of MPDUs who are out of compliance with the covenant required in this section to execute a performance deed of trust in favor of the city that addresses recapture of noncompliant periods of affordability. The director shall release the performance deed of trust upon a finding that all requirements of the performance deed of trust have been satisfied.

(f) The director shall release the covenants and, if applicable, performance deeds of trust or lien, or both, upon a finding that all amounts due the city's special revenue fund have been received and all other provisions of the covenant have been satisfied.

(Ord. No. 617-02, § 1, 8-5-02; Ord. No. 654-02, § 5, 8-12-02; Ord. No. 710-06, § 8, 10-30-06; Ord. No. 305-13, § 8, 6-24-13; Ord. No. 975-18, § 1, 10-22-18; Ord. No. 47-20, § 16, 3-16-20)

Editor's note(s)—Ord. No. 975-18, § 1, adopted October 22, 2018, renamed § 27-111 from "covenants" to "covenants and deeds of trust."

Sec. 27-112. Final MPDU sale.

(a) *Right of HOST to purchase.* The first resale within ten (10) years after the end of the control period shall be known as the "final MPDU sale." The covenant and, if applicable, the performance deed of trust or the lien, or both, shall provide that the owner thirty (30) days before the final MPDU sale notify HOST of the proposed offering and the date on which the owner will be ready to offer the property for sale. The property shall be offered as a single property for sale and shall be offered at fair market value with no extraordinary terms of sale. The notice shall set forth the number of bedrooms, and the floor area for the MPDU type, a description of the amenities offered in the MPDU. Within thirty (30) days from receipt of said written notice, HOST shall notify the owner by written notice of the city's intent or the city's designee's intent to purchase. Any sale under this subsection shall close within sixty (60) days of the notice of intent to purchase to the owner. If the property does not close within the sixty (60) days, the owner may proceed to sell the MPDU as provided by this subsection. Any property purchased by HOST or its designee shall be used for affordable housing purposes.

(b) *Final MPDU payment.* In return for the benefits received by the owner in being able to purchase the MPDU, the owner shall upon the final MPDU sale pay to the city's affordable housing special revenue fund an amount equal to the following calculation:

One-half (½) of the excess of the total resale price over the sum of:

(i) The prior purchase price (prior maximum purchase price);

(ii) A percentage of the MPDU's prior purchase price equal to the increase in the cost of living since the MPDU was last sold, as determined by the Consumer Price Index;

(iii) The fair market value of documented capital improvements made to the MPDU between the date of the last sale and the date of resale; and

(iv) A reasonable sales commission and all reasonable costs of sale.

(v) In the event that the amount remaining after the calculation of items (i)—(iv) above, is less than twenty thousand dollars ($20,000.00) the amount which shall be due to the special revenue fund shall be adjusted in each case so that the owner/seller will retain ten thousand dollars ($10,000.00) or the entire amount, of the excess of the final MPDU sales price, whichever is less. This section does not apply to any designated nonprofit organization, or any governmental entity, or any quasi-governmental entity which owns an MPDU.

(Ord. No. 710-06, § 9, 10-30-06; Ord. No. 305-13, § 9, 6-24-12; Ord. No. 475-14, § 9, 8-25-14; Ord. No. 47-20, § 17, 3-16-20)

Editor's note(s)—Ord. No. 710-06, §§ 9—17, adopted Oct. 30, 2006, amended the Code by adding a new section 27-112 and renumbering former sections 27-112—27-119 as new sections 27-113—27-120.

Sec. 27-113. Voluntary opportunities for developers of less than thirty (30) dwelling units.

Prior to January 1, 2017, any person, firm, partnership, association, joint venture, corporation, or any other entity or combination of entities, or affiliated entities and any transferee of all or part of the real property at one (1) location, which after this article takes effect develops less than thirty (30) new for sale dwelling units at one (1) location in Denver may request the incentives described in sections 27-107 and 27-108 by voluntarily making application to the HOST and meeting the requirements of this article. Such entities shall be considered "applicants" for all purposes of this article. Effective January 1, 2017, HOST shall no longer accept voluntary applications for incentives under this section.

(Ord. No. 617-02, § 1, 8-5-02; Ord. No. 710-06, § 10, 10-30-06; Ord. No. 305-13, § 10, 6-24-12; Ord. No. 625-16, § 4, 9-19-16; Ord. No. 47-20, § 18, 3-16-20)

Editor's note(s)—See editor's note following section 27-112.

Sec. 27-114. Voluntary opportunities for developers of rental dwelling units.

(a) Prior to January 1, 2017, for new developments of rental dwelling units, a rental applicant may request the incentives described in this chapter by voluntarily making application to the HOST and submitting for approval a written MPDU plan which meets the requirements of section 27-106 and which provides that at least ten (10) percent of the units will be made available to households earning no more than sixty-five (65) percent of AMI, adjusted by household size. Such entities shall be considered "applicants" for all purposes of this article. A high cost structure may provide MPDUs for households earning no more than eighty (80) percent of AMI. Incentives shall not be available for rental units provided in lieu of affordable for sale units provided under [sub]section 27-106(b). A rental applicant may request the enhanced standard incentive of

an additional five thousand dollars ($5,000.00) per rental MPDU unit made available to households earning no more than fifty (50) percent of AMI, adjusted by household size. The specific incentives requested shall be set forth in the MPDU plan. Rents shall be limited and the formula for determining allowed rent shall be set forth in rules and regulations.

(b) *Definitions.* The following words and phrases shall have the following meanings as used in connection with developers of rental dwelling units under this section:

(1) *Control period* means the time period an MPDU is subject to maximum rental rate requirements set forth in this section. The control period is no less than fifteen (15) years and begins on the date of initial rental as defined herein. If an individual rental MPDU is offered for sale during the control period, the unit shall be treated as a resale MPDU for purposes of pricing and eligibility.

(2) *Date of initial rental* means the date a certificate of occupancy is issued for a rental MPDU.

(3) *Landlord* means the applicant and any subsequent owner or operator of multifamily rental development which owns or operates a rental development containing MPDUs during the control period.

(4) *MPDU* in this section means a rental dwelling unit offered to eligible households for rent under this section, or rented under any government or city approved program designed to offer or support housing for families of low or moderate income. Units rented under a government program are deemed MPDUs but are not offered the incentives available under this article or subject to the requirements of this article.

Other terms shall have the same meaning as assigned to them in section 27-103.

(c) *Covenants.* A rental applicant requesting incentives under this section, whose MPDU plan is approved by HOST, shall enter into covenants and performance deeds of trust or lien, or both, as described in section 27-111 in order to receive the incentives requested. At a minimum the covenants, performance deeds of trust and liens will meet the following:

(1) The rental applicant shall execute and record with the clerk and recorder for the City and County of Denver a covenant and a performance deed of trust or a lien, or both, on the MPDU property, which shall comply with the provisions in this section. Partnerships, associations or corporations shall not evade this section after receiving incentives through voluntary dissolution.

(2) The covenants, performance deeds of trust and liens shall contain at a minimum the information that the property is affordability restricted and shall set forth the control period, the rental pricing calculation, the eligibility and non-sublease requirements, penalties for violation, and any other restriction provided herein or in the rules and regulations hereto.

(d) During the control period, all grantors of real property which contains rental MPDUs shall require the grantee to execute a memorandum of acceptance which states that the conveyed property contains rental MPDUs and is subject to the restrictions contained in the covenants and performance deeds of trust or lien, or both, required under this article.

(e) The director shall release the covenants and performance deeds of trust or lien, or both, upon a finding that all amounts due the city's special revenue fund have been received and all other provisions of the covenant have been satisfied.

(f) The director may waive the covenant and performance deed of trust or lien, or both, restrictions on rental if the director finds that the restrictions conflict with regulations governing federal or state housing programs and thus prevent eligible households from renting such units under the MPDU program. Any waiver shall be in writing, shall reference the recorded covenant, and shall be recorded with the clerk and recorder for the City and County of Denver.

(g) Effective January 1, 2017, HOST shall no longer accept voluntary applications for incentives under this section.

(Ord. No. 617-02, § 1, 8-5-02; Ord. No. 654-02, §§ 6, 7, 8-12-02; Ord. No. 710-06, § 11, 10-30-06; Ord. No. 305-13, § 11, 6-24-13; Ord. No. 475-14, § 10, 8-25-14; Ord. No. 625-16, § 5, 9-19-16; Ord. No. 47-20, §§ 19—24, 3-16-20)

Editor's note(s)—See editor's note following section 27-112.

Sec. 27-115. Foreclosure.

(a) Foreclosure or other court-ordered sales. In the event of foreclosure or the acceptance of a deed in lieu of foreclosure with respect to such MPDU by a holder of a purchase money first priority deed of trust against the MPDU (the "purchase money first lien holder"), HOST shall release the covenant of record and the performance deed of trust or the lien, or both, and waive its ability to enforce the provisions of the covenant with respect to such MPDU. The purchase money first lien holder shall be the only party entitled to take the MPDU free of the covenant.

(b) In the event that the Federal National Mortgage Association (FNMA), Federal Home Loan Mortgage Corporation (Freddie Mac), Federal Housing Administration (FHA), or Veteran's Administration (VA) forecloses or accepts a deed in lieu of foreclosure the restrictions imposed by this article shall automatically and permanently terminate.

(Ord. No. 617-02, § 1, 8-5-02; Ord. No. 710-06, § 12, 10-30-06; Ord. No. 305-13, § 12, 6-24-13; Ord. No. 47-20, § 25, 3-16-20)

Editor's note(s)—See editor's note following section 27-112.

Sec. 27-116. Regulations; enforcement.

(a) The director may, from time to time, adopt rules and regulations necessary to administer this article.

(b) HOST shall maintain a list of all MPDUs constructed, sold or rented under this article. The list shall include the date of the expiration of the control period for each unit.

(c) If an applicant violates the requirements of section 27-101 et seq., the city may withhold any and all later building department permits to that applicant until the MPDUs required hereunder are built and offered for sale to eligible buyers.

(d) This article applies to all agents, successors and assigns of an applicant. A building permit shall not be issued, and a preliminary plan of subdivision, development plan, or site plan shall not be approved unless the applicant meets the requirements of this article. The city may deny, suspend or revoke any building or occupancy permit for a site where a violation is found upon finding a violation of this article. Any prior approval of a preliminary plan of subdivision, development plan or site plan may be suspended or revoked upon the failure to meet any requirement of this article.

(e) Any violation of this article or rules and regulations adopted hereunder is subject to the penalties described under D.R.M.C. section 1-13(e), except covenant and performance deed of trust or lien, or both, violations shall be enforceable through the district court. Pursuant to D.R.M.C. section 1-13(e), the city may impose a civil fine on applicants in an amount up to one hundred fifty (150) percent of the value of the housing required but not provided.

(f) The director may take legal action to enjoin or void any transfer of an MPDU if any party to the transfer does not comply with all requirements of this article. The director may recover any funds improperly obtained from any sale or rental of an MPDU in violation of this article.

(g) In addition to or instead of any other available remedy, the director may take legal action to:

(1) Enjoin an MPDU owner who violates this article, or any covenant, performance deed of trust or lien signed or order issued under this article, from continuing the violation;

(2) Require an owner to sell an MPDU owned or occupied in violation of this article to an eligible household; or

(3) Recapture a lost term of affordable housing.

(Ord. No. 617-02, § 1, 8-5-02; Ord. No. 710-06, § 13, 10-30-06; Ord. No. 305-13, § 13, 6-24-13; Ord. No. 475-14, § 11, 8-25-14; Ord. No. 975-18, § 2, 10-22-18; Ord. No. 47-20, §§ 26—28, 3-16-20; Ord. No. 1178-20, § 3, 11-16-20)

Editor's note(s)—See editor's note following section 27-112.

Sec. 27-117. Administrative review and appeal.

(a) Any persons aggrieved by a denial, suspension or revocation of a building or occupancy permit or denial, suspension or revocation of approval of a preliminary plan of subdivision, development plan, or site plan may appeal to the official, agency, board, agency or other entity designated by law to hear such appeal.

(b) Any person aggrieved by a final administrative action or decision of HOST under this article may appeal by the procedure described in D.R.M.C. section 56-106 with the director of HOST to serve as the designated official in the stead of the manager of transportation and infrastructure.

(Ord. No. 617-02, § 1, 8-5-02; Ord. No. 710-06, § 14, 10-30-06; Ord. No. 305-13, § 14, 6-24-13; Ord. No. 39-20, § 57, 2-3-20; Ord. No. 47-20, § 29, 3-16-20)

Editor's note(s)—See editor's note following section 27-112.

Sec. 27-118. Severability.

If any part, term, or provision of this article is held by a court of competent jurisdiction to be illegal or in conflict with any law of the State of Colorado, the validity of the remaining portions or provisions shall not be affected, and the rights, obligations and enforcement of this article shall be continued in full force and effect as if the article did not contain the particular part, term, or provision held to be invalid.

(Ord. No. 617-02, § 1, 8-5-02; Ord. No. 710-06, § 15, 10-30-06)

Editor's note(s)—See editor's note following section 27-112.

Sec. 27-119. Applicability.

(a) This article applies to all applicants and housing units developed by applicants, where an application for approval of a site plan, development plan, or submission to the development review committee is requested after August 12, 2002 and prior to January 1, 2017. The amendments to this article apply to all applicants and housing units developed by applicants, where any application for approval of a site plan, development plan, or submission to the development review committee is requested on or after December 1, 2014 and prior to January 1, 2017. Any application for any approval set forth in this subsection submitted on or after January 1, 2017, shall not be subject to the requirements of this article. However, this article shall continue to govern MPDU plans associated with applications for approvals submitted prior to January 1, 2017.

(b) The requirements of this article shall not apply to planned unit developments (PUDs), adopted prior to August 12, 2002. The amended requirements to this article shall not apply to planned unit developments (PUDs) adopted prior to December 1, 2014.

(c) The requirements of this article shall not apply to any public or private developer who has, prior to August 12, 2002, made a contractual commitment in a zoning application to the city for the provision of affordable housing. The amended requirements of this article shall not apply to any public or private developer who has, prior to December 1, 2014, made a contractual commitment in a zoning application to the city for the provision of affordable housing.

(d) The requirements of the amendments to this article shall not apply to any public or private developer which, prior to December 1, 2014, makes a contractual commitment to the city to construct MPDUs as part of any master planned development project under the terms of this chapter 27, article IV, as it existed prior to December 1, 2014.

(e) This article does not apply to:

(1) Applicants whose projects utilize private activity bond allocation and four (4) percent Low Income Housing Tax Credits ("LIHTC") or nine (9) percent LIHTC.

(2) Governmental entities, or quasi-governmental bodies which develop or construct dwelling units for the purpose of sale or rental under any government program that provides for equivalent or greater number of required dwelling units meeting the definition of MPDU and occupied as housing for persons of low or moderate income.

(Ord. No. 617-02, § 1, 8-5-02; Ord. No. 710-06, § 16, 10-30-06; Ord. No. 475-14, § 12, 8-25-14; Ord. No. 625-16, § 6, 9-19-16)

Editor's note(s)—See editor's note following section 27-112.

Sec. 27-120. Evaluation of article.

(a) *General.* To achieve affordable housing within the City and County of Denver, it is contemplated that participation in this endeavor is not only the responsibility of the applicants but shall include the support and involvement of the Denver city government, other governmental entities, and the community as a whole.

(b) *Evaluation.* Every twelve (12) months, HOST shall prepare a written report of HOST's activities related to, and an assessment of outcomes and progress toward the goals of, this article. No later than August of 2020, HOST shall conduct a policy review of the ordinance, hold a public hearing to gather input for the review, and report the findings and any recommendations to the city council.

(Ord. No. 617-02, § 1, 8-5-02; Ord. No. 654-02, § 8, 8-12-02; Ord. No. 710-06, § 17, 10-30-06; Ord. No. 305-13, § 15, 6-24-13; Ord. No. 475-13, § 13, 8-25-14; Ord. No. 47-20, § 30, 3-16-20)

Editor's note(s)—See editor's note following section 27-112.

Secs. 27-121—27-149. Reserved.

ARTICLE V. DEDICATED FUNDING FOR AFFORDABLE HOUSING

DIVISION 1. AFFORDABLE HOUSING PERMANENT FUNDS

Sec. 27-150. Sources and uses of fund revenue.

(a) *Dedicated revenues.* The affordable housing permanent funds shall consist of the Affordable Housing Linkage Fee Revenue Fund created for the exclusive purpose of receiving and accounting for all revenues derived from the affordable housing linkage fees provided in division 2 of this article V and the Affordable Housing Property Tax and Other Local Revenue Fund created for the purpose of receiving and accounting for revenues derived from the portion of the city's property taxes and retail marijuana sales taxes dedicated for affordable housing programs, as provided in subsections (i) and (j) of this section, as well as donations, cash transfers from other funds, and other local revenue sources.

(b) *Permitted uses of revenue in the Affordable Housing Linkage Fee Revenue Fund.* Revenue received in the Affordable Housing Linkage Fee Revenue Fund shall be used exclusively for the following purposes:

(1) To increase the supply of affordable rental housing, including the funding of renter assistance programs, for qualified households earning eighty (80) percent or less of AMI, in response to increased housing demand linked to new construction and new employment.

(2) To increase the supply of for-sale housing for qualified households earning eighty (80) percent or less of AMI, in response to increased housing demand linked to new construction and new employment.

(3) To support homebuyer assistance programs, including by way of example down payment and mortgage assistance programs, for qualified households earning eighty (80) percent or less of AMI, in response to increased housing demand linked to new construction and new employment.

(c) *Permitted uses of revenue in the Affordable Housing Property Tax and Other Local Revenue Fund.* Revenue received in the Affordable Housing Property Tax and Other Local Revenue Fund shall be used exclusively for the following purposes:

(1) For the production or preservation of rental housing, including the funding of rental assistance programs, for qualified households earning eighty (80) percent or less of AMI.

(2) For the production or preservation of for-sale housing for qualified households earning one hundred (100) percent or less of AMI.

(3) For homebuyer assistance programs, including by way of example down payment and mortgage assistance programs, for qualified households earning one hundred and twenty (120) percent or less of AMI.

(4) For the development and preservation of supportive housing for homeless persons, and for supportive services associated with supportive housing; provided, however, in no event shall the amount expended from the Affordable Housing Property Tax and Other Local Revenue Fund for supportive services under this paragraph (4) exceed ten (10) percent of the amount appropriated by the city council to the fund for that year.

(5) For programs supporting low-income at-risk individuals in danger of losing their existing homes, for mitigation of the effects of gentrification and involuntary displacement of lower income households in those neighborhoods of the city that are most heavily impacted by rapidly escalating housing costs, for homeowner emergency repairs, or for other housing programs.

(d) *Cap on administrative costs.* Monies in the affordable housing permanent funds may be expended to pay the costs incurred by the city associated directly with the administration of the funds; provided, however, in no event shall the amount expended from the funds for such administrative expenses in any year exceed eight (8) percent of the amount of revenue received in the Affordable Housing Linkage Fee Revenue Fund that year and shall not exceed eight (8) percent of the amount appropriated by the city council to the Affordable Housing Property Tax and Other Local Revenue Fund that year.

(e) *Fund earnings.* Any interest earning on any balance in either of the affordable housing permanent funds shall accrue to that fund.

(f) *Administration of funds.* The affordable housing permanent funds shall be administered by the executive director of the department of housing stability, in coordination with the recommendations and assistance of the housing stability strategic advisors as provided in division 3 of this article V. The executive director may promulgate rules and regulations consistent with this article V governing the procedures and requirements for expenditures from the funds. Expenditures from the funds shall be made in accordance with the adopted three- to five-year strategic plan for the funds as provided in subsection 27-164(a).

(g) *Definition of AMI.* As used in this section, the term "AMI" means the area median income, adjusted for household size, for the Denver metropolitan area as determined by the U.S. Department of Housing and Urban Development.

(h) *Review of article.* No later than December 31, 2021, the department of housing stability shall conduct a policy review of this article V, hold a public hearing to gather input for the review, and report the findings and any recommendations to the city council.

(i) *Dedicated levy for Affordable Housing Property Tax and Other Local Revenue Fund.* For 2016 property taxes to be collected in 2017, the city's certification of property tax mill levies shall include a separate itemized levy at the rate of one-half of one mill (.5 mill) for the purpose of funding affordable housing programs through the Affordable Housing Property Tax and Other Local Revenue Fund. For 2017 property taxes to be collected in 2018, and in each subsequent year, the city shall continue to maintain a separately itemized levy to fund affordable housing programs and, as provided in subsection 20-26(d), shall adjust the levy annually in coordination with the adjustment other city levies to the extent necessary to comply with the city property tax revenue limitation.

(j) *Dedicated portion of marijuana sales tax revenues.* All revenue collected by the city pursuant to section 53-92 shall be remitted to the Affordable Housing Property Tax and Other Local Revenue Fund as provided in subsection (a) of this section and used exclusively for the purposes in subsection (c) of this section.

(Ord. No. 625-16, § 1, 9-19-16; Ord. No. 864-18, § 1, 8-27-18; Ord. No. 47-20, §§ 31—33, 3-16-20)

DIVISION 2. LINKAGE FEES

Sec. 27-151. Legislative findings and intent.

The city council has determined that Denver is experiencing an unprecedented escalation in housing costs, and thus a critical lack of housing opportunities for households with low or moderate incomes. In recent years, Denver has ranked at or near the top of national reports of U.S. cities in terms of inflation in housing costs. The declining availability of low and moderately priced housing in Denver forces persons employed in the city to either spend a disproportionate percentage of their disposable income on housing, thus sacrificing other necessities of life, or forces them to seek housing opportunities outside the city. Households living outside of the city spend additional time and resources commuting, which leads to stress, increased child-care requirements, and increased air pollution. The extraordinary housing cost increases in Denver are driven, in part, by the pace of population and job growth in the city, resulting in a situation where demand for housing has far outpaced supply, especially for persons who may find jobs in Denver's growing economy but are employed at low or moderate income levels.

The city council has determined that it is in the public interest to address the severe social and economic impacts to the city and its citizens caused by the increasing gap between supply and demand for housing for funding programs designed to preserve and increase the supply of affordable housing available to low and moderate income households. The city council specifically finds that it is appropriate to fund a portion of the costs of such programs from a linkage fee on new development for the following reasons:

(a) New residential and non-residential development is demonstrably associated with the generation of new jobs at various income levels, with the number of jobs associated with any particular development being correlated with the type and size of the development.

(b) When jobs at a low or moderate income level are generated as a direct consequence of new non-residential development, employees receiving such incomes will experience a lack of housing availability and affordability in Denver under current market conditions unless efforts are taken by the city to increase housing opportunities to keep pace with job growth.

(c) The city council also specifically finds that job growth associated with new residential development is directly related to the income and spending capacity of the household occupying the residence and that the size of the residence, as measured in gross floor area, correlates with the income and spending capacity of the residents, thus causing a larger residence to drive more job growth and more concomitant secondary housing demand than a smaller residence.

(d) For the foregoing reasons, the city council has determined there is a direct nexus between both non-residential and residential development, job growth, and demand for new housing that is affordable to households with low or moderate incomes.

(e) The city council acknowledges that monetary exactions on new development cannot exceed an amount that is justified by the impacts caused by the development. The city council has determined that the fees set forth herein fall far below the amount of revenue that would actually be necessary to meet the demand for new affordable housing driven by the job growth that is associated with new development, and thus these fees do not exceed the applicable standards that define the maximum legally justifiable fee.

(f) The city council further acknowledges that the revenue derived from the fees provided herein must be used, not to address the existing gap between supply and demand for affordable housing in the city, but instead to mitigate future increases in the gap caused by new construction which will lead to new employment opportunities in the city, and the increased demand for affordable housing associated with such employment.

(g) The city council has determined to set the affordable housing linkage fees set forth herein at a level much lower than those imposed by other cities, in an effort to ensure that the fees do not impair the feasibility of any development project in the city.

(h) The foregoing findings are supported by the "Denver Affordable Housing Nexus Study" prepared for the City and County of Denver by David Paul Rosen & Associates and dated September 8, 2016, the contents of which are expressly incorporated herein as a part of the legislative findings of the city council.

(i) The linkage fees set forth in division 2 of this article are supported by the "Expanding Housing Affordability: Feasibility Analysis" prepared for the City and County of Denver by Root Policy Research and dated September 28, 2021, the contents of which are expressly incorporated herein as a part of the legislative findings of the city council.

(j) The city council has further determined that, since Denver does not impose nearly the range or amount of development impact fees as are imposed by virtually every other municipality throughout the Denver metropolitan area, the fees set forth herein will not place the city at a competitive disadvantage in relation to neighboring jurisdictions in terms of accommodating future population growth and economic development.

(Ord. No. 625-16, § 1, 9-19-16; Ord. No. 47-20, § 34, 3-16-20; Ord. No. 426-22, § 1, 6-6-22)

Sec. 27-152. Definitions.

The following words and phrases, as used in this division 2, have the following meanings:

(a) *Dwelling unit; dwelling, single unit; dwelling, two-unit;* and *dwelling, multi-unit* shall have the same meaning as these terms are used in article 11 of the Denver Zoning Code.

(b) *Gross floor area (GFA)* shall have the same meaning as the term is defined in the International Building Code, excluding parking garages and any other structures or areas used exclusively for the storage or parking of vehicles.

(c) *Primary agricultural uses* shall have the same meaning as the term is used in article 11 of the Denver Zoning Code.

(d) *Primary civic, public and institutional uses* shall have the same meaning as the term is used in article 11 of the Denver Zoning Code.

(e) *Primary commercial sales, services and repair uses* shall have the same meaning as the term is used in article 11 of the Denver Zoning Code.

(f) *Primary industrial, manufacturing and wholesale uses* shall have the same meaning as the term is used in article 11 of the Denver Zoning Code.

(g) *Primary residential use* shall have the same meaning as the term is defined in article 11 of the Denver Zoning Code, and shall be deemed to include any and all primary residential uses and all uses accessory to a primary residential use, except accessory dwelling units, as set forth in article 11 of the Denver Zoning Code.

(h) *Structure* shall have the same meaning as the term is defined in article 13 of the Denver Zoning Code, but shall not include any partially enclosed or open structures such as porches, balconies, courtyards, and similar structures.

(Ord. No. 625-16, § 1, 9-19-16; Ord. No. 426-22, § 1, 6-6-22)

Sec. 27-153. Imposition of linkage fee.

(a) *In general.* Except as provided in section 27-154, an affordable housing linkage fee shall be imposed prior to the issuance of a building permit for any new structure or for any addition to an existing structure that increases the gross floor area of the existing structure, according to the following fee schedule:

Use Within a Structure	Fee Per square foot of GFA			
	Effective July 1, 2022	Effective July 1, 2023	Effective July 1, 2024	Effective July 1, 2025
Dwelling unit(s) of 1,600 square feet or less of GFA within a single-unit dwelling, two-unit dwelling, or multi-unit dwelling or live/work dwelling of 9 dwelling units or less.	$1.75	$2.83	$3.92	$5.00
Dwelling unit(s) of more than 1,600 square feet of GFA within a single-unit dwelling, two-unit dwelling, or multi-unit	$2.50	$4.33	$6.17	$8.00

dwelling, or live/work dwelling of 9 dwelling units or less.				
Any primary residential use other than dwelling units.	$2.25	$3.83	$5.42	$7.00
Any primary commercial sales services and repair uses or any primary civic public or institutional uses in a typical market area as typical market area is defined in section 27-219.	$2.90	$3.93	$4.97	$6.00
Any primary commercial sales services and repair uses or any primary civic, public or institutional uses in a high market area as high market area is defined in section 27-219.	$3.65	$5.43	$7.22	$9.00
Any primary industrial, manufacturing and wholesale uses or any primary agricultural uses.	$0.96	$1.47	$1.99	$2.50

(b) *Mixed use structures; split properties.* When a structure is proposed to be constructed and used for any combination of the uses set forth in subsection (a) of this section, the required linkage fee shall be determined based upon an apportionment of the gross floor area in the structure attributable to each of the proposed uses. When a structure is proposed to be constructed upon any property that is partially subject to either of the exceptions to applicability of the fee as set forth in subsection 27-154(a), (b) or (k), the required linkage fee shall be applied only to the gross floor area of construction that is physically located outside of the portion of the property to which the exception applies.

(c) *Voluntary compliance with Mandatory Affordable Housing, Article X, Chapter 27.* An applicant for a building permit for any structure that contains dwelling units that would be subject to the payment of the linkage fee may voluntarily comply with Mandatory Affordable Housing, Article X, Chapter 27 rather than pay the required linkage fee.

(d) *Modification of existing structures.* The linkage fees imposed by this section shall not be required for the issuance of building permits associated with any improvement, repair, remodeling, tenant finish, or any other modifications to an existing structure unless the modification increases the gross floor area of the structure.

(e) *Annual inflation adjustment; future fee increases.*

(1) On July 1, 2026, and on each July 1 thereafter, the fees set forth in subsection (a) of this section shall be adjusted in an amount equal to the percentage change from the previous calendar year in the CPI-U. The adjustments will be reflected in a fee schedule issued by the executive director (manager) of the department of community planning and development and made publicly available in advance of the fees becoming effective. The annual inflation adjustment shall apply to and be collected in conjunction

with the issuance of any building permit on or after July of the year in which the adjustment is made, regardless of when the application for the building permit was made.

(2) As used in subsection (e), the term "CPI-U" means the United States Department of Labor Statistics (Bureau of Labor Statistics) Consumer Price Index for All Urban Consumers, All items, for the Denver-Aurora-Lakewood, Colorado metropolitan area (1982-84-100). In the event that the CPI-U is substantially changed, renamed, or abandoned by the United States Government, then in its place shall be substituted the index established by the United States Government that most closely resembles the CPI-U, as determined by the executive director of the department of housing stability.

(3) Except as provided in paragraph (1) of this section, the fees set forth in this section shall not be increased prior to January 1, 2028. On and after January 1, 2028, the fees set forth in this section shall not be increased in excess of the inflation adjustments set forth in subsection (2) unless and until the city commissions another study to evaluate whether the fee increase will affect the economic feasibility or any type of development to which the fee increase is proposed to be applied.

(Ord. No. 625-16, § 1, 9-19-16; Ord. No. 47-20, § 35, 3-16-20; Ord. No. 426-22, § 1, 6-6-22)

Sec. 27-154. Exceptions.

The payment of linkage fees as set forth in section 27-153 shall not be required for the issuance of a building permit under any of the following circumstances:

(a) Construction upon any property which is, alone or in combination with other properties, the subject of a contractual commitment or covenant that is dated and properly recorded prior to the imposition of a linkage fee on the first structure on the property and is enforceable by the city to construct affordable housing, including by way of example any development or subdivision agreement which includes an affordable housing covenant and to which the city is a party, any city-approved plan to build moderately priced development units (MPDUs) under article IV of this chapter 27, any city-approved plan to build affordable units in place of the linkage fee, any high impact development compliance plan executed and recorded pursuant to article X, division 3 of this chapter 27 where a payment of fees to support affordable housing development is contained in the high impact development compliance plan, or an affordable housing plan executed to meet incentive requirements under article VI of this chapter 27. The exception provided by this subsection (a) shall apply only for so long as such contractual commitment or covenant to construct affordable housing remains in effect. Construction upon property that, alone or in combination with other properties, was originally developed under such a contractual commitment or covenant and is substantially proposed for redevelopment shall be subject to payment of linkage fees hereunder unless the redevelopment is governed by a new contractual commitment or covenant to construct affordable housing, or otherwise qualifies for an exception under any other provision of this section.

(b) Construction upon any property subject to an obligation as a condition of zoning to provide affordable housing on the property.

(c) Structures that are constructed with the support of any combination of federal, state or local financial resources, including private activity bonds, tax credits, grants, loans, or other subsidies to incentivize the development of affordable housing, including support from the affordable housing permanent funds created in section 27-150, and that are or will be restricted by law, contract, deed, covenant, or any other legally enforceable instrument to provide housing units only to income-qualified households. This exception shall apply to any housing project financed or constructed by or on behalf of the Denver Housing Authority.

(d) Residential dwelling units that are built by any charitable, religious, or other nonprofit entity and deed-restricted to ensure the affordability of the dwelling unit to low and moderate income households.

(e) Structures that are built by any charitable, religious or other nonprofit entity and that are primarily used to provide, shelter, housing, housing assistance, or related services to low income households or persons experiencing homelessness.

(f) Construction by or on behalf of the federal, state or local governments or any department or agency thereof, to the extent any or all of the gross floor area in the structure will be used solely for a governmental or educational purpose.

(g) Any structure that is being reconstructed up to the legally established gross floor area due to involuntary demolition or involuntary destruction as defined in article 13 of the Denver Zoning Code, but which also includes involuntary manmade forces.

(h) An addition of four hundred (400) square feet of gross floor area or less to an existing structure containing a single-unit dwelling or a two-unit dwelling.

(i) Accessory dwelling units as defined in article 11 of the Denver Zoning Code.

(j) Any gross floor area of a structure containing an education use as defined in article 11 of the Denver Zoning Code, including any student housing operated by an education use.

(k) Any gross floor area of a structure containing residential development, as defined in section 27-219, that is subject to Mandatory Affordable Housing, article X of this Chapter 27.

(Ord. No. 625-16, § 1, 9-19-16; Ord. No. 1407-18, § 7, 12-17-18; Ord. No. 47-20, § 36, 3-16-20; Ord. No. 426-22, § 1, 6-6-22; Ord. No. 1154-24, § 1, 9-30-24)

Sec. 27-155. Reserved.

Editor's note(s)—Ord. No. 426-22, § 1, adopted June 6, 2022, repealed § 27-155. Former § 27-155 pertained to build alternative and derived from Ord. No. 625-16, § 1, adopted September 19, 2016 and Ord. No. 47-20, §§ 37, 38, adopted March 16, 2020.

Sec. 27-156. Collection and remittance of linkage fees; reporting.

(a) The responsibility for the calculation and collection of linkage fees shall reside with personnel in the department of community planning and development, and the fees required by this division shall be collected in conjunction with the administration of the city's system for issuing building permits. Any and all linkage fees applicable to a construction project shall be paid in full prior to the issuance of any building permit, excluding the shoring or excavation permit, for that project. For projects such as townhomes where units receive separate building permits, fees shall be assessed on a permit-by-permit basis. All fees collected by the department shall be remitted to the affordable housing linkage fee revenue fund as provided in section 27-150 and used exclusively for the purposes set forth therein.

(b) If, after the issuance of a building permit and collection of the applicable linkage fee but before the issuance of a certificate of occupancy, the amount of gross floor area of the construction project increases or a decision is made by the applicant to change the use of the structure to a use category for which a higher linkage fee would be imposed under section 27-153, then the applicant shall be required to pay additional linkage fees in compliance with this division.

(c) Any dispute over the applicability or calculation of the linkage fees may be appealed by the applicant for a building permit to the executive director (manager) of the department of community planning and

development, who shall determine such appeals in consultation with the executive director of the department of housing stability.

(d) Linkage fees previously paid by an applicant at building permit issuance may be refunded from the affordable housing linkage fee revenue fund if it is later determined on appeal or otherwise by the executive director (manager) of community planning and development that the fees were not due and owning under this division, if a decision is made by the applicant after a building permit has been issued to reduce the gross floor area of the construction project or to change the use of the structure to a use category for which a lower linkage fee would be imposed under section 27-153, or if the building permits for the project lapse or are relinquished by the applicant without the project building built. The executive director (manager) of community planning and development shall not be obligated to make any refund under this subsection (d) unless the applicant files a written request for a refund with the executive director within sixty (60) days from the day any grounds for a refund arise.

(e) After a building permit has been issued and the applicable linkage fees have been paid, no additional fees shall be required under either of the following circumstances:

(1) If the original building permit is cancelled in order to issue a replacement building permit to change the general contractor; or

(2) If modified drawings for the construction project are submitted and logged in for review, so long as the modified drawings do not increase the overall gross floor area of the project.

(f) The departments of community planning and development and housing stability shall provide a publicly available online resources to report on linkage fee funds collected, how linkage fee funds were spent, and approved reductions and waivers as enabled in section 27-157.

(Ord. No. 625-16, § 1, 9-19-16; Ord. No. 47-20, § 39, 3-16-20; Ord. No. 426-22, § 1, 6-6-22)

Sec. 27-157. Reductions and waivers.

(a) The executive director of the department of housing stability may reduce or waive the amount of linkage fees that would otherwise be imposed upon a specific development under section 27-153 if the applicant for a reduction or waiver demonstrates that the required amount of fees exceeds the amount that would be needed to mitigate the actual demand for affordable housing created by the development. An application for such a reduction or waiver shall include information showing the reduced affordable housing impacts created by the development, based upon the actual characteristics of the development including, for example:

(1) The unique characteristics and space utilization of the workforce that will occupy a non-residential development and the demand of that particular workforce for affordable housing;

(2) A non-residential development that will involve a structure built for and suitable solely for a specific use involving few or no employees; or

(3) The unique characteristics of the residents who will occupy a residential development, and the likelihood those particular residents, due to their disposable household income or projected spending patterns, will not drive additional employment requiring additional affordable housing.

(b) The executive director shall promptly notify in writing the executive director (manager) of the department of community planning and development of any reduction or waiver or linkage fees granted under the authority of this section.

(c) If the requested reduction or waiver has not been approved or denied by the time of building permit issuance, then the applicant for a reduction or waiver request may pay the linkage fees in accordance with

section 27-153. If a reduction or waiver is approved by the executive director after payment of linkage fees, or later determined on appeal, then the appropriate amount of linkage fees already paid by the applicant will be refunded.

(Ord. No. 625-16, § 1, 9-19-16; Ord. No. 47-20, § 40, 3-16-20; Ord. No. 426-22, § 1, 6-6-22)

Sec. 27-157.5. Regulations.

The director of the department of housing stability and the director of the department of community planning and development may cooperatively adopt rules and regulations to administer this division.

(Ord. No. 426-22, § 1, 6-6-22)

DIVISION 3. HOUSING STABILITY STRATEGIC ADVISORS[4]

Sec. 27-158. Housing stability strategic advisors created.

(a) There is hereby created the housing stability strategic advisors. The housing stability strategic advisors shall consist of eleven (11) members as follows:

(1) The following two (2) members with professional or lived expertise in in the effects of gentrification and displacement or housing instability on lower income households: The mayor and city council shall each appoint one (1) member with such expertise in housing stability.

(2) The following two (2) members with professional or lived expertise in homelessness or in providing housing or services for residents experiencing homelessness: The mayor and city council shall each appoint one (1) member with such expertise in homelessness resolution.

(3) The following two (2) members with professional or lived expertise living in affordable housing or developing income restricted housing: The mayor and city council shall each appoint one (1) member with such expertise in housing opportunity.

(4) One (1) member representing public, private or philanthropic partner organizations that fund affordable housing appointed by the mayor.

(5) Two (2) representatives from organizations that have a national best practice perspective on housing stability, homelessness resolution or housing opportunity. The mayor and city council shall each appoint one (1) member.

(6) One (1) community representative appointed by the mayor.

(7) One (1) community representative member appointed by city council.

(b) At least three (3) of the housing stability strategic advisors shall be individuals with lived expertise.

(Ord. No. 47-20, § 42, 3-16-20)

[4]Editor's note(s)—Ord. No. 47-20, § 41, adopted March 16, 2020, renamed art. V, div. 3 from "affordable housing advisory committee" to "housing stability strategic advisors."

Editor's note(s)—Ord. No. 47-20, § 42, adopted March 16, 2020, repealed § 27-158 and enacted a new § 27-158 as set out herein. Former § 27-158 pertained to affordable housing advisory committee; created and derived from Ord. No. 625-16, § 1, adopted September 19, 2016; and Ord. No. 864-18, § 2, adopted August 27, 2018.

Sec. 27-159. Term of appointed members.

(a) The appointed members of the housing stability strategic advisors shall serve for a period of three (3) years, with terms to be staggered by initially appointing one-third of the appointed members for three-year terms, another third for two (2) years, and the remaining third for one (1) year. Initial terms shall be set by the appointing authority.

(b) Housing stability strategic advisors members may be reappointed for successive terms.

(Ord. No. 625-16, § 1, 9-19-16; Ord. No. 47-20, § 43, 3-16-20)

Sec. 27-160. Vacancies.

Any vacancy in any appointed position of the housing stability strategic advisors shall be promptly filled by the appropriate appointing authority to serve the remainder of the unexpired term of the member who vacated the position.

(Ord. No. 625-16, § 1, 9-19-16; Ord. No. 47-20, § 44, 3-16-20)

Sec. 27-161. Compensation.

The members of the housing stability strategic advisors shall serve without compensation; provided, however, that members may be reimbursed for reasonable expenses incurred in performance of their duties pursuant to the rules and regulations of the city for such reimbursement.

(Ord. No. 625-16, § 1, 9-19-16; Ord. No. 47-20, § 45, 3-16-20)

Sec. 27-162. Officers.

The housing stability strategic advisors shall elect from its membership, a chairperson and such other officers as it may designate who shall serve for two-year terms.

(Ord. No. 625-16, § 1, 9-19-16; Ord. No. 47-20, § 46, 3-16-20)

Sec. 27-163. Meetings and procedures.

(a) The schedule of regular meetings of the housing stability strategic advisors shall be established by a majority of the membership, but the schedule must provide for at least six (6) regular meetings per year. Additional meetings shall be called as needed by the chair of the housing stability strategic advisors. The first meeting of the housing stability strategic advisors shall occur no later than January 31, 2021.

(b) All meetings of the housing stability strategic advisors shall be subject to city requirements for open meetings, as set forth in article 111 of chapter 2 of the Code. Participation and voting in housing stability strategic advisors' business by members of the housing stability strategic advisors shall be subject to the requirements and limitations of the Code of Ethics, as set forth in article IV of chapter 2 of the Code.

(c) The housing stability strategic advisors may adopt additional bylaws and procedures for the conduct of its meetings and the performance of its duties as set forth in section 27-164.

(Ord. No. 625-16, § 1, 9-19-16; Ord. No. 47-20, § 47, 3-16-20; Ord. No. 1122-20, § 1, 10-20-20)

Sec. 27-164. Powers and duties.

The general purpose of the housing stability strategic advisors is to render advice and recommendations to the executive director of the department of housing stability in regard to the planning and implementation of city programs and services related to homelessness resolution, housing stability, and housing opportunities. Such advice and recommendations shall include strategies to preserve and increase the supply of affordable housing in the city, to the extent such programs and services are supported by expenditures from the affordable housing permanent funds, as provided in section 27-150, and federal or other funds allocated by the executive director of the department of housing stability for housing development, preservation or programs. Such advice and recommendations shall also include strategies that support equity for those that have been historically disadvantaged in access to housing and for those experiencing homelessness. The specific powers and duties of the housing stability strategic advisors shall be:

(a) To recommend goals, objectives and policies to inform the adoption of the three- to five-year strategic plan for city housing expenditures, including, but not limited to, the permanent funds and any federal or other funds allocated by the executive director of the department of housing stability, for homelessness resolution, housing stability, and housing opportunity, which shall include, but not be limited to, housing development, preservation or programs. The executive director of the department of housing stability shall direct city staff, independent consultants, or a combination thereof to develop the strategic plan to be reviewed by the housing stability strategic advisors and recommended for submittal to the city council by September 1 of the year prior to the plan's first program year for subsequent approval. The plan shall be developed with input from stakeholders and the public including those with lived expertise with housing instability and/or homelessness. Notwithstanding the foregoing, the first three- to five-year strategic plan shall be submitted to the city council by November 1, 2021, for subsequent approval. The three- to five-year strategic plan shall include, at a minimum, the following elements:

    (1) Comprehensive list of city homelessness and housing expenditures across the housing continuum intended to address homelessness resolution, housing stability, and housing opportunity, and preserve and increase the supply of affordable housing, to be developed in coordination with agencies such as the Denver Housing Authority and Denver Urban Renewal Authority where external housing expenditures are planned;

    (2) Establishment of measurable goals for each type and category of city homelessness and housing expenditure along the housing continuum, with consideration and reference to planned external housing expenditures where possible, including financial and production goals for a mix of housing affordable to persons exiting homelessness and households in various ranges of area median income (AMI), subject to the AMI limitations set forth in section 27-150 for the permanent funds, and appropriate income limitations according to other housing program requirements;

    (3) Financial and production goals for a mix of affordable rental and for-sale housing;

    (4) Specific strategies aimed at promoting equity in housing and services, including for persons experiencing homelessness.

    (5) Specific provisions for tracking homelessness and for shelter or other services for persons experiencing homelessness as part of an overall rehousing strategy;

    (6) Specific provisions for tracking and reducing the effects of gentrification and displacement on lower income households in neighborhoods with the most rapidly escalating housing costs;

    (7) Parameters for usage of a portion of the revenue in the permanent fund derived from the dedicated affordable housing property tax levy for supportive services;

(8) Parameters for usage of a portion of the revenue in the permanent funds for land banking and other tools to preserve locations in the city for future development of affordable housing; and

(9) Parameters for the use of permanent funds to maximize mixed income development.

(b) To recommend annual action plans intended to implement the overall strategic plan to prioritize and allocate city housing expenditures based on current conditions.

(c) To review annual progress reports and regular intermittent reports throughout each year, at the discretion of the executive director of the department of housing stability, that evaluate the implementation of the goals outlined in the strategic plan. The reports shall describe compliance with the strategic plan and include information on (i) city homelessness and housing expenditures along the housing continuum, (ii) shelter and other strategies for persons experiencing homelessness, and (iii) housing unit production, including an explanation of any variances between plan goals and actual unit production where possible. Reports reviewed by the housing stability strategic advisors shall be delivered to the city council.

(d) To recommend annual goals, objectives and policies to inform budget priorities for expenditures to be made from the permanent funds, prior to the submission of such priorities by the executive director of the department of housing stability to the mayor and the city council as part of the city's annual budget process.

(e) To recommend to the executive director on an ongoing basis:

(1) Concepts for new programs and services to achieve the purposes of the permanent funds;

(2) Metrics to be tracked in order to monitor the success of the expenditures from funds in achieving their intended purposes;

(3) Community engagement strategies, including no less than one (1) public hearing annually;

(4) Housing priorities, including geographic priorities for creating or preserving affordable housing within the city;

(5) Methods to leverage and maximize expenditures from the permanent funds;

(6) Specific provisions for expenditures designed to mitigate the effects of gentrification and displacement of lower income households in neighborhoods with the most rapidly escalating housing costs; and

(7) Specific provisions for expenditures designed to reduce homelessness.

(Ord. No. 625-16, § 1, 9-19-16; Ord. No. 891-17, § 1, 8-28-17; Ord. No. 47-20, § 48, 3-16-20; Ord. No. 781-20, § 1, 8-24-20)

Sec. 27-165. Staffing and administrative support.

Staffing and administrative support for the housing stability strategic advisors shall be provided by the department of housing stability.

(Ord. No. 625-16, § 1, 9-19-16; Ord. No. 47-20, § 49, 3-16-20)

Secs. 27-166—27-169. Reserved.

DIVISION 4. SUNSET PROVISION

Sec. 27-170. Reserved.

Editor's note(s)—Ord. No. 864-18, § 3, adopted August 27, 2018, repealed § 27-170. Former 27-170 pertained to repealer and derived from Ord. No. 625-16, adopted September 19, 2016.

ARTICLE VI. RESERVED[5]

Secs. 27-171—27-179. Reserved.

ARTICLE VII. HOMELESSNESS RESOLUTION PROGRAM

Sec. 27-189. Legislative declaration.

(a) The city council finds, determines, and declares:

(1) According to the 2020 Point in Time ("PIT") study by the Metro Denver Homeless Initiative, there are more than four thousand (4,000) people experiencing homelessness in the city—up six (6) percent from 2019—including one thousand two hundred (1,200) people experiencing chronic homelessness;

(2) According to the Colorado Department of Education, there were one thousand seven hundred sixty-two (1,762) children experiencing homelessness in the city's K-12 schools during the 2018-2019 school year;

(3) The 2020 PIT survey counted nine hundred ninety-six (996) unsheltered people in Denver on one (1) night in January, a growth over previous years averaging around five hundred thirty (530) unsheltered people on one (1) night in January between 2014 and 2019. According to findings from the PIT survey, challenges also exist regarding shelter access for certain populations;

(4) According to the National Low Income Housing Coalition, there is a deficit of homes for the lowest-income families in the Denver metro area, with only thirty (30) affordable homes available for every one hundred (100) households in need, and among the lowest-income families who are housed, seventy-four (74) percent are cost burdened;

(5) Denver City Council approved an affordable housing fund in 2016 that was doubled in 2018 and is estimated to create or preserve six thousand (6,000) affordable homes for low- to moderate-income families in approximately five (5) years, but the affordable housing fund is charged with expanding affordable housing across the full income spectrum and the need for housing among those experiencing homelessness far exceeds the portion of the fund that is available for this population, and there is currently no dedicated source of local funding that can be used to fund shelter or services unconnected to housing;

(6) An increase in housing, shelter, and service options for Denver's most vulnerable populations are priorities identified in Denver's Comprehensive Plan 2040, adopted by Denver City Council in May of

[5]Editor's note(s)—Ord. No. 426-22, § 2, adopted June 6, 2022, repealed art. VI, divs. 1 and 2, §§ 27-180—27-188.5. Former art. VI pertained to incentives for affordable housing and derived from Ord. No. 0019-18, § 1, adopted February 12, 2018; Ord. No. 1407-18, §§ 1—5, adopted December 17, 2018; Ord. No. 47-20, §§ 51—56, adopted March 16, 2020; and Ord. No. 636-21, §§ 1—6, adopted July 19, 2021. Similar subject matter can be found in art. X.

2019, and investments in these areas will advance the plan's goals for a healthy, safe, and equitable, affordable and inclusive city;

(7) Denver's Three-Year Shelter Expansion Plan identifies five (5) areas of needed investment—permanent housing expansion, coordinated entry, shelter and services funding, crisis service operations, and real estate and capital expenditures—and new funding is needed to enable implementation of the plan;

(8) Denver's Social Impact Bond program has demonstrated that supportive services can be provided in a housing setting for approximately thirteen thousand four hundred dollars ($13,400.00) per person annually, compared to an average yearly cost to taxpayers of twenty-nine thousand dollars ($29,000.00) per individual experiencing homelessness for medical care, incarceration, detox services, and shelter services, with a typical retention rate around eighty (80) percent, and more investment into this form of cost-effective and successful housing is needed in Denver;

(9) The need for dedicated, additional funding to address homelessness has become more acute due to the COVID-19 pandemic, with tens of thousands of Denver residents vulnerable to eviction due to rent burden and risk of unemployment, and modeling based on correlations between unemployment and homelessness in the past by economists with Colombia University predicts a steep rise in homelessness nationwide as a result of the economic fallout from the virus;

(10) Denver's response to the pandemic required establishment of auxiliary shelter for up to seven hundred sixty-five (765) men and three hundred (300) women and more than eight hundred (800) motel/hotel rooms, along with reduced capacity and conversion of existing shelters to 24-hour, seven-days-a-week operations, to provide for social distancing and/or isolation of people with symptoms who were experiencing homelessness, all of which have been heavily-utilized and funded through time-limited, one-time emergency funding sources, which risks leaving hundreds of people without shelter or housing options when emergency funds are no longer available;

(11) A dedicated, additional funding source to address housing, shelter, and services for those experiencing homelessness is necessary to protect the health and safety of the City and County of Denver.

(b) Therefore, the city council has determined that the question of whether the city shall be authorized to impose a one-quarter (0.25) percent sales tax for the purposes and in the manner set forth in this ordinance should be submitted to the registered electors of the city at the special municipal election to be conducted in coordination with the state general election on November 3, 2020.

(Ord. No. 782-20, § 6, 8-24-20)

Sec. 27-190. Permitted uses of revenue in the homelessness resolution fund.

(a) All monies derived from the sales and use taxes in the homelessness resolution fund must be expended on housing, shelter, and services for those experiencing or having exited from homelessness, including, but not limited to:

(1) Capital improvements, operations and maintenance, and services;

(2) New or renovated housing, rental assistance, or supportive services;

(3) New or existing shelter capacity, improvement, operations, services and accessibility for those experiencing homelessness including underserved populations; and

(4) Other services or supports for those experiencing homelessness, including for those who are unsheltered.

(b) *Cap on administrative costs.* Monies in the homelessness resolution fund may be expended to pay the costs incurred by the city associated directly with the administration of the funds; except that, in no event may the

amount expended from the funds for city administrative expenses in any year exceed eight (8) percent of the amount of revenue received in the fund in that year.

(c) *Fund earnings.* Any interest earned on the balance of the fund accrues to the fund.

(d) *Administration of funds.* The executive director of the department of housing stability will manage the homelessness resolution fund.

(e) *Permanency.* If the monies in the fund are not expended at the end of the fiscal year, such monies must remain in the fund to be expended in subsequent fiscal years.

(f) *Maintenance of effort.* All monies in the fund must be used in accordance with this section and may not replace nor supplant any general fund appropriations allocated each year to the department of housing stability.

(g) *Rulemaking.* The executive director of the department of housing stability may promulgate any rules necessary for the proper administration of this section.

(h) *Planning.* No later than January 31, 2021, the department of housing stability shall prepare, and the housing stability strategic advisors shall take public input on, review, and recommend, a first year-plan for use of the funds in 2021. Subsequently, intended uses of the fund shall be included in annual action plans and three- to five-year strategic plans for city housing and homeless expenditures which include requirements for public input and consideration of equity as outlined in section 27-164 of the D.R.M.C.

(i) *Reporting.* Providing publicly accessible reports on actual uses of the homelessness resolution fund, outcomes, and evaluation compared to the relevant goals outlined in annual or strategic plans shall be incorporated into annual progress reports and intermittent reports on housing and homelessness provided by the executive director of the department of housing stability to the housing stability strategic advisors and the city council pursuant to section 27-164(c) of the D.R.M.C.

(Ord. No. 782-20, § 6, 8-24-20)

ARTICLE VIII. LICENSING OF RESIDENTIAL RENTAL PROPERTY

Sec. 27-191. Legislative intent.

The purpose of this article is to supplement the provisions of state law governing the rights and duties of landlords and tenants of residential property in the city and to license and regulate certain buildings, structures, dwelling units or accessory dwelling units that are rented or offered for rent as long-term residential rental properties. This Code shall be construed to ensure public health, safety, and welfare insofar as they are affected by the continued occupancy and maintenance of these structures and premises. In the future, efficiency standards for rental properties to ensure emission reductions, improved indoor air quality and affordability of rentals for tenants and landlords may be implemented into these provisions.

(Ord. No. 420-21, § 1, 5-3-21)

Sec. 27-192. Definitions.

In addition to the definitions provided in article II of this chapter, the following terms shall have the respective meanings assigned to them:

(1) *Department* means the department of excise and licenses.

(2) *Director* means the director of excise and licenses.

(3) *Dwelling unit* shall have the meaning set forth in the Denver Zoning Code.

(4) *Home inspector* means a professional who meets the following qualifications:

a. Certified by either the American Society of Home Inspectors, Inc., the International Association of Certified Home Inspectors, Inc., or the Master Inspector Certification Board, Inc.; and

b. Certified as a Combination Building Inspector by the International Code Council.

(5) *Rent* means receiving or offering money, services, or other remunerations in exchange for occupation of a residential rental property.

(6) *Residential rental property* means any building(s), structure(s), or accessory dwelling unit that is rented or offered for rent as a residence. Residential rental property does not include on-campus college housing, facilities licensed pursuant to article I of chapter 26 of this Code, or facilities licensed pursuant to article II or article III of chapter 33 of this Code.

(Ord. No. 420-21, § 1, 5-3-21)

Sec. 27-193. License required.

(a) *License required—Residential rental property: apartment complexes and multi-unit homes.* After January 1, 2023, it shall be unlawful for any person to offer, provide, or operate a residential rental property consisting of two (2) or more dwelling units on a parcel under that person's ownership without first obtaining a license for that residential rental property as provided in this article VIII and in compliance with any and all applicable laws. Examples of two (2) or more dwelling units on a parcel include, but are not limited to apartment complexes, multi-unit structures, and any other type of home where two (2) or more dwelling units are provided for rent. The director may issue a single residential rental property license for any residential property situated on two (2) or more contiguous parcels under the same ownership.

(b) *License required—Residential rental property: single family homes; rowhouses; and condominiums.* After January 1, 2024, it shall be unlawful for any person to offer, provide, or operate a residential rental property consisting of a single dwelling unit on a single parcel without first obtaining a license for that residential rental property as provided in this article VIII and in compliance with any and all applicable laws. Examples of a single dwelling unit on a parcel include, but are not limited to single family homes, a single dwelling unit within a rowhouse, a single dwelling unit within a condominium, and any other type of home where a person is offering only one (1) dwelling unit on the parcel is for rent.

(c) Notwithstanding the provisions of paragraphs (a) and (b), an applicant for a residential rental property license may continue in operation on and after the date a respective license would be required, if:

(1) The applicant has submitted an application satisfying all provisions of this article VIII to the department prior to the date that the respective license would be required;

(2) The application is pending at the time of the date a respective license would be required;

(3) The applicant has completed an inspection subject to the provisions of this article VIII; and

(4) The applicant complies with all provisions of this article VIII, and any rules and regulations adopted pursuant thereto.

(Ord. No. 420-21, § 1, 5-3-21)

Sec. 27-194. Application.

(a) *Application requirements.* All residential rental property license applications shall be made on forms provided by the director and shall include, in addition to any information required by chapter 32 of this Code, all supplemental materials required by this article and any rules adopted pursuant thereto. The director may, at the director's discretion, require additional documentation associated with the application, as may be necessary, to enforce the requirements of this article VIII.

(b) *Referral to other agencies.* Applications for a residential rental property license may be referred to other appropriate city agencies, including, but not limited to, the department of public health and environment, department of zoning administration, fire prevention bureau, building inspection division, and the wastewater division of the department of public works. The applicant shall obtain any and all necessary permits, licenses, or other regulatory approvals as provided for in chapter 32 of this Code.

(Ord. No. 420-21, § 1, 5-3-21; Ord. No. 551-23, § 12, 6-5-23)

Sec. 27-195. Licensing requirements.

In addition to the provisions applicable to all licenses, all residential rental property licensees shall comply with the following provisions:

(a) A residential rental property licensee must maintain premises in compliance with article II, and all rules and regulations adopted pursuant thereto.

(b) A residential rental property licensee shall ensure that all appliances supplied by the owner are in good working condition, free of leaks or other defects, so as not to cause any unsafe or unsanitary condition.

(c) A residential rental property licensee shall ensure that all dwelling units within a residential rental property contain a functioning smoke detector, carbon monoxide detector, and fire extinguisher.

(d) A residential rental property licensee shall comply with section 27-240 herein.

(e) A residential rental property licensee shall, to advertise a residential rental property, clearly display the license number on the face of the advertisement. For the purpose of this section, the terms "advertise," "advertising" or "advertisement" mean the act of drawing the public's attention to a residential rental property. This subsection (e) shall apply to any person, employee, agent or independent contractor advertising on behalf of a residential rental property licensee.

(Ord. No. 420-21, § 1, 5-3-21; Ord. No. 617-22, § 1, 6-20-22; Ord. No. 1585-22, § 2, 12-19-22)

Sec. 27-196. Inspections.

(a) *License inspections.* Except as provided in subsection (c) of this section, the director shall not approve a residential rental property application unless the applicant provides verification of a successful inspection, in the form required by the manager of public health and environment or its designee, that the licensed premises comply with the provisions of article II. Residential rental properties with multiple dwelling units on a parcel shall cause a minimum of ten (10) percent of their units to be inspected at random, or at least one (1) unit at random if there are less than ten (10) dwelling units on the parcel.

(b) *License inspections to be completed by home inspectors.* Inspections for residential rental properties must be completed by a home inspector as defined in this article VIII. Verifications of successful completion shall include a copy of the home inspector's certifications required by this article VIII.

(c) *Special license inspections.* An applicant whose fees may be waived pursuant to section 32-105(b) may submit an inspection report certifying compliance with federal housing standards conducted by a local, state, or federal government agency or state finance agency. Such inspection report must be dated within four (4) years of the application date.

(d) *Deadlines for inspections.* The director shall not accept verification of a successful inspection if the verification is completed more than ninety (90) days prior to the residential rental property application date. Applicants for a residential rental property may submit verification of a successful inspection at any time during the application period, as long as the verification occurred no more than ninety (90) days prior to the residential rental property application date. Verification of a successful inspection must be submitted prior to issuance of the license by the department.

(e) *Exemption from initial inspection.* Subsection (a) shall not apply to newly constructed rental properties if the application is submitted within four (4) years after the date of issuance of the certificate of occupancy or temporary certificate of occupancy. This exemption does not apply to existing structures that receive a new certificate of occupancy or temporary certificate of occupancy.

(f) *Other inspections.* All residential rental property licensees shall be subject to inspections as provided in article II of this chapter from the manager of public health and environment or its designee. No person shall be deemed to be in compliance with the provisions of article II solely by virtue of having received a passing inspection from a home inspector.

(Ord. No. 420-21, § 1, 5-3-21; Ord. No. 1585-22, § 2, 12-19-22)

Sec. 27-197. Causes for denial.

In addition to the grounds set forth in the chapter 32 of this Code, any application submitted pursuant to this article VIII shall be denied if:

(a) The issuance of a license to the applicant or licensee would not comply with any applicable federal, state, or local law, and any rules and regulations adopted pursuant thereto.

(b) The proposed licensed premises does not conform to the requirements of the Denver Zoning Code, Former Chapter 59, the Denver Building and Fire Code, the electrical code of the City and County of Denver, article II of this chapter, or the rules and regulations promulgated by the department of public health and environment.

(c) The applicant or licensee fails to complete any required inspections or obtain any necessary permits for the proposed premises.

(Ord. No. 420-21, § 1, 5-3-21)

Sec. 27-198. Transferability of license.

No license granted pursuant to this article shall be transferable from one (1) person or location to another.

(Ord. No. 420-21, § 1, 5-3-21)

Sec. 27-199. Term license, renewal.

(a) *Term.* Residential rental property licenses shall expire four (4) years from issuance or when ownership of the property licensed pursuant to this article changes from the person recorded on the face of the license.

(b) *Application materials and deadlines.* Residential rental property license renewals shall be governed by the standards and procedures set forth in chapter 32 of this Code. Applications to renew a residential rental property shall be made in the manner provided by the director.

(c) *Inspection prior to renewal.* Residential rental property licensees shall cause the licensed premises to be inspected pursuant to section 27-196 prior to renewal. The director shall not accept verification of a successful inspection if the verification is not within ninety (90) days of the renewal application date, except as provided for in section 27-196(c).

(d) *Denial of renewal.* An application to renew a residential rental property license may be denied if there are causes for denial, suspension, revocation, non-renewal or other licensing sanctions as provided in chapter 32 of this Code, this article VIII, or rules and regulations promulgated thereto.

(Ord. No. 420-21, § 1, 5-3-21)

Sec. 27-200. Suspension, revocation, and other sanctions.

(a) *Disciplinary actions.* In addition to the grounds set forth in chapter 32 of this Code, a residential rental property license may be suspended or revoked for any of the grounds for denial set forth in this article VIII.

(b) *Disciplinary procedures.* Procedures for investigation of license violations and for suspension, revocation or other licensing sanctions as a result of any such violation shall be as provided in chapter 32 of this Code and any rules and regulations promulgated by the director.

(c) *Effect on leases.* The suspension or revocation of a license shall not affect any lease or other arrangement for possession between the licensee and a tenant. However, the licensee shall not enter into any new arrangement for possession, nor renew any arrangement, during active suspension or revocation of its license. Additionally, the licensee must comply with any conditions related to the disciplinary action.

(Ord. No. 420-21, § 1, 5-3-21)

Sec. 27-201. Rules and regulations.

The director may adopt such reasonable rules and regulations as may be necessary for the administration and enforcement of the provisions of this article and any other ordinances or laws relating to and affecting the licensing and operation of residential rental properties. It shall be unlawful for any person to violate a rule or regulation adopted by the director pursuant to this section.

(Ord. No. 420-21, § 1, 5-3-21; Ord. No. 617-22, § 1, 6-20-22)

Editor's note(s)—Ord. No. 617-22, § 1, adopted June 20, 2022, repealed § 27-201 and renumbered §§ 27-202 and 27-203 as §§ 27-201 and 27-202. Former § 27-201 pertained to executed written leases and notice of tenant rights and resources and derived from Ord. No. 420-21, § 1, adopted May 3, 2021.

Sec. 27-202. Reporting.

Report to city council. The director shall report in writing to city council by July 1 of each year, beginning in 2022, regarding the issuance of rental licenses.

(Ord. No. 420-21, § 1, 5-3-21; Ord. No. 617-22, § 1, 6-20-22)

Editor's note(s)—See editor's note, § 27-201.

Secs. 27-203—27-210. Reserved.

ARTICLE IX. TENANT LEGAL SERVICES[6]

Sec. 27-211. Legislative intent.

Subject to appropriation, the intent of this article is to codify access to free legal services and representation for low to moderate income individuals experiencing eviction; requiring the creation of an annual report that analyzes implementation and performance metrics in order to assess the continued needs of Denver residents; and, requiring landlords to disclose to their tenants certain information regarding the access to full legal representation in eviction proceedings.

(Ord. No. 529-21, § 1, 6-7-21)

Sec. 27-212. Definitions.

The following words and terms, when used in this chapter, shall have the meanings set forth below:

(l) *Covered individual* shall mean an individual seeking access to legal services who occupies for remuneration a building, structure, or dwelling unit as set forth in the Denver Zoning Code, including those owned, operated, or managed by the Denver Housing Authority, and whose income is equal to or less than eighty (80) percent of the area median income as defined in 27-103, D.R.M.C.

(2) *Covered proceeding* shall mean any judicial or administrative proceeding related to a covered individual who is facing eviction or civil claim for monetary damages for nonpayment of rent, including any proceeding deemed by a designated organization as the functional equivalent of such a proceeding, and any related appeals, or any action by a governmental assistance-providing agency terminating a subsidy or otherwise adversely affecting a tenant's rights, duties, welfare or status.

(3) *Designated organization* shall mean any entity that has the capacity to provide legal representation to covered individuals in covered proceedings.

(4) *Full legal representation* shall mean ongoing legal representation provided by a designated organization to a covered individual and all legal advice, advocacy, mediation, negotiations, and assistance associated with a covered proceeding.

(Ord. No. 529-21, § 1, 6-7-21)

Sec. 27-213. Selection of designated organization and access to legal services.

(a) Subject to appropriations, the city shall provide funding to be used exclusively for the administration of the program and the provision of full legal representation to covered individuals in covered proceedings.

---

[6]Editor's note(s)—Ord. No. 529-21, § 1, adopted June 7, 2021, set out provisions intended for use as art. IX, §§ 27-191—27-196. In order to avoid duplication of section numbers and at the discretion of the editor, these provisions have been included as art. IX, §§ 27-211—27-215.

Editor's note(s)—This article shall be effective as of September 1, 2021.

(b) The city shall oversee the procurement and selection process of designated organizations to provide full legal representation, subject to appropriations, to covered individuals seeking representation in covered proceedings.

(c) Covered individuals will receive full legal representation, subject to appropriations, in a covered proceeding as soon as practicable after the initiation of a covered proceeding, but no later than their first scheduled appearance.

(d) The executive director of the department of housing stability shall grant priority to covered individuals with the lowest median income.

(Ord. No. 529-21, § 1, 6-7-21)

Sec. 27-214. Report required.

The executive director of the department of housing stability shall submit an annual report to city council fifteen (15) months following the execution of contracts funded under section 27-213 that will be used to assess the program and access to legal representation under this article. The annual report shall include information from the prior year regarding:

(a) Number of covered individuals served or denied services;

(b) Description of legal representation performed and cost per case;

(c) Income levels of covered individuals served and covered individuals who were denied service for income qualification;

(d) Information that was voluntarily disclosed concerning demographics of individuals served; and,

(e) Case disposition or outcome data.

(Ord. No. 529-21, § 1, 6-7-21)

Sec. 27-215. Rules and regulations.

The executive director of the department of housing stability may adopt such reasonable rules and regulations as may be necessary for the administration and implementation of the provisions of this article.

(Ord. No. 529-21, § 1, 6-7-21; Ord. No. 617-22, § 2, 6-20-22)

Editor's note(s)—Ord. No. 617-22, § 2, adopted June 20, 2022, repealed § 27-215 and renumbered § 27-216 as § 27-215. Former § 27-215 pertained to required disclosures and derived from Ord. No. 529-21, § 1, adopted June 7, 2021. Similar provisions can now be found in § 27-240.

Sec. 27-216. Reserved.

ARTICLE X. MANDATORY AFFORDABLE HOUSING

DIVISION 1. GENERAL

Sec. 27-217. Legislative findings.

The city council hereby finds that a severe housing problem continues to exist within Denver with respect to the supply of housing relative to the need for affordable housing. Specifically, the city council finds that:

(a) Demographics and analyses of new housing indicate that a large majority of private development is geared toward high-priced housing development and does not serve households earning less than one hundred (100) percent of area median income;

(b) Development trends produce high-priced housing which does not serve a large segment of the population and limits housing available to low- and moderate-income households, thus failing to implement the housing goals of the HOST Strategic Plan, Comprehensive Plan 2040, and Blueprint Denver, calling for a city that is equitable, affordable, and inclusive;

(c) Market forces, including continued population growth and unmet demand for new housing, result in highly priced housing, and a lack of economic incentive for developers to offer a more diversified price range of housing, and therefore such housing is not being created at a level that meets current demand;

(d) Rapid regional growth and a strong housing demand have combined to make land and construction costs higher, limiting the areas where affordable housing is located;

(e) Incomes of Denver's growing workforce has not kept pace with this rapid and significant increase in the cost of housing in Denver;

(f) Ensuring a mix of incomes and access to homeownership and rental housing opportunities for low- and moderate-income households are high priorities for the city, and therefore the city has a strong interest in ensuring that the city's limited supply of developable land provides housing opportunities for all incomes of the workforce;

(g) Land in Denver is highly limited and without a program requiring affordable housing to be built, it is unlikely based on current trends, new development will create affordable housing, leaving Denver residents without sufficient affordable housing;

(h) Naturally occurring affordable housing, which is housing that may rent or sell at an affordable rate without affordability restrictions, has declined significantly in recent years thereby necessitating a program to assist in the development of affordable housing;

(i) The city has deployed multiple funding strategies and programs which are successful in creating new affordable housing, but not at a pace sufficient to meet the growing demand of the workforce; and

(j) Providing incentives to new development will improve the economic feasibility of providing a minimal percentage of affordable housing units as an integral part of new residential developments.

(Ord. No. 426-22, § 2, 6-6-22)

Sec. 27-218. Declaration of public policy.

The city council hereby declares it to be the public policy of the city to:

(a) Exercise the authority granted to the city pursuant to HB 21-1117 to regulate development in order to promote the construction of new affordable housing units;

(b) In compliance with HB 21-1117, the city has demonstrated the following actions to increase the overall number and density of housing units within the city:

(1) Changing its zoning regulations to increase the number of housing units allowed on a particular site;

(2) Promoting mixed-use zoning that permits housing units be incorporated in a wider range of developments;

(3) In certain zones, permitting more than one dwelling unit per lot in traditional single-family lots;

(4) Increasing the permitted household size in single-family homes;

(5) Promoting denser housing development near transit stations and places of employment;

~~(6) Granting reduced parking requirements to residential or mixed-use developments that include housing near transit stations or affordable housing development~~;

(7) Granting density bonuses to development projects that incorporate affordable housing units;

(8) Materially reducing or eliminating certain utility charges, regulatory fees, or taxes imposed by the city applicable to affordable housing units; and

(9) Granting affordable housing development material regulatory relief from any type of zoning or land development regulations that would ordinarily restrict the density of new development.

(c) Encourage the construction of new affordable housing units alongside market rate housing units within mixed income residential developments by offering incentives to increase the overall supply and availability of housing;

(d) Provide property owners or land developers with alternatives to the construction of new affordable housing units as required by HB 21-1117;

(e) Implement the comprehensive plan goal to create a Denver that's equitable, affordable, and inclusive;

(f) Increase the availability of additional low- and moderate-income housing to address existing and anticipated future housing needs of the workforce in Denver and the unmet needs of residents in Denver; and

(g) Ensure diverse housing options continue to be available for households earning at or below the area median income.

(Ord. No. 426-22, § 2, 6-6-22)

Sec. 27-219. Definitions.

The following words and phrases, as used in this article, have the following meanings:

(a) *AMI* or *area median income* means the median income for the Denver metropolitan area, adjusted for household size, as calculated by the U.S. Department of Housing and Urban Development.

(b) *Affordable housing plan* means a plan approved by the executive director of the department of housing stability outlining the number and type of income restricted units to be provided when an applicant elects to build income restricted units on-site as required by this article.

(c) *Affordable housing project* means a residential rental or ownership development in which the number of affordable units for that project is at least equal to the number and affordability level of IRUs otherwise required under section 27-224(c).

(d) *Applicant* means any person, firm, partnership, association, joint venture, corporation, or any other entity or combination of entities, or affiliated entities and any transferee of all or part of the real

property at one location that submits an application for a project that would provide a total of ten (10) or more new dwelling units at one location in Denver.

(e) *At one location* means all real property under common ownership or control by the applicant if:

(1) The properties are contiguous at any point;

(2) The properties are separated only by a public or private right-of-way or utility corridor right-of-way, at any point; or

(3) The properties are separated only by other real property owned by the applicant which is not subject to this article at the time of any building permit(s), site development plan, subdivision, or other zoning development application by the applicant.

(f) *Building permit* means any residential or commercial construction permit issued for the construction of any structure, foundation and/or superstructure or any similar term used to issue permits for such work as the terminology may be modified by the department of community planning and development. A building permit does not include permits for shoring or excavation and any associated permits for such work as electrical, mechanical, plumbing or similar permits.

(g) *Comprehensive plan* means the Denver Comprehensive Plan 2040 or its successor.

(h) *CPI-U or Consumer Price Index* means the United States Department of Labor Statistics (Bureau of Labor Statistics) Consumer Price Index for All Urban Consumers, All items, for the Denver-Aurora-Lakewood Colorado area (1982-84=100). In the event that the CPI-U is substantially changed, renamed, or abandoned by the United States Government, then in its place shall be substituted the index established by the United States Government that most closely resembles the CPI-U, as determined by the executive director of the department of housing stability.

(i) *Director* means the executive director of HOST or executive director's designee.

(j) *Dwelling unit* shall have the same meaning as defined in article 11 of the Denver Zoning Code.

(k) *Eligible household* means (i) a household whose income qualifies them to rent or purchase an IRU and who holds a valid verification of eligibility from HOST; and (ii) nonprofit organizations designated by the director and governmental or quasi-governmental bodies who rent or purchase an IRU for the purpose of renting or selling an IRU to a household whose income qualifies them to rent or purchase the IRU.

(l) *High market area* means census tracts in the City and County of Denver with the highest land values compared to the citywide median land value. Classification of high market areas shall be periodically updated as set forth in the rules and regulations.

(m) *High impact development* means any combination of residential, non-residential, or mixed-use structures that are built as a part of a development where the development:

(1) Will be built on ten (10) or more acres; or

(2) Is using a city-approved financing tool, such as tax increment financing or a metropolitan district.

(n) *HOST* means the department of housing stability of the City and County of Denver or its successor.

(o) *HOST strategic plan* means the three- to five-year strategic plan or its successor as required by section 27-164(a).

(p) *IRU* or *income-restricted unit* means a dwelling unit required by this article to be affordable as set forth in section 27-224, a negotiated alternative, or a high impact development compliance plan.

(q) *On-site* means at the same location of a residential development.

(r) *Ownership development* means a residential development where dwelling units are offered for sale.

(s) *Rental development* means a residential development where dwelling units are offered for rent.

(t) *Residential development* means any project that would create ten (10) or more new dwelling units at one location by (i) the construction or alteration of structures or (ii) the conversion of a use within an existing structure to a residential use containing dwelling units from any other non-residential use. If a project has both residential and non-residential uses, the residential portion of a project shall be considered a residential development if it would create ten (10) or more new dwelling units.

(u) *Typical market area* means census tracts in the City and County of Denver that are not identified as high market areas. Classification of typical market areas shall be periodically updated as set forth in the rules and regulations.

(v) *Townhouse* shall have the same meaning as defined in the International Residential Code (IRC).

(Ord. No. 426-22, § 2, 6-6-22; Ord. No. 1154-24, § 2, 9-30-24)

Sec. 27-220. Special revenue fund.

(a) The director shall use the Mandatory Affordable Housing Special Revenue Fund for the primary purpose of offsetting the costs of the building permit fee reduction incentive provided in section 27-224. Any amounts in the special revenue fund remaining after offsetting such costs shall then be used for the following purposes, with prioritization being given to utilize such funds generated from areas vulnerable to displacement in areas vulnerable to displacement:

(1) For the production or preservation of rental housing, including the funding of rental assistance programs, for qualified households earning eighty (80) percent or less of AMI.

(2) For the production or preservation of for-sale housing for qualified households earning one hundred (100) percent or less of AMI.

(3) For homebuyer assistance programs, including by way of example, down payment and mortgage assistance programs, for qualified households earning one hundred twenty (120) percent or less of AMI.

(b) As used in this section, "areas vulnerable to displacement" means neighborhoods identified as meeting all three (3) indicators as defined in Appendix C—Key Equity Concepts Methodology of Blueprint Denver, a supplement to the comprehensive plan. In the event that the methodology or data source is substantially changed, renamed, or abandoned by community planning and development, then in its place shall be substituted a methodology that most closely resembles the original intent as determined by the executive director of the department of community planning and development.

(c) *Cap on administrative costs.* Monies in the Mandatory Affordable Housing Special Revenue Fund may be expended to pay the costs incurred by the city associated directly with the administration of this fund; provided, however, in no event shall the amount expended from the special revenue fund for such administrative expenses in any year exceed the greater of eight (8) percent of the balance in the fund on January 1 of each year or five hundred thousand dollars ($500,000.00).

(d) *Fund earnings.* Any interest on any balance in the Mandatory Affordable Housing Special Revenue Fund shall accrue to this fund.

(e) *Administration of fund.* The Mandatory Affordable Housing Special Revenue Fund shall be administered by the director.

(Ord. No. 426-22, § 2, 6-6-22)

DIVISION 2. MANDATORY AFFORDABLE HOUSING FOR RESIDENTIAL DEVELOPMENTS

Sec. 27-221. Applicability.

(a) This division is applicable to all residential developments. If a residential development project provides both residential and non-residential uses, this division shall be applicable to the residential development portion of the project and the portion of the project that is not a residential development shall be subject to Chapter 27, Article V, Division 2.

(b) In determining whether a residential development contains the applicable total number of dwelling units for the purpose of applying this article, all real property at one location within Denver under common ownership or control of the applicant, including real property owned or controlled by separate entities in which any person or family of an applicant owns ten (10) percent or more of the ownership interest shall be included. An applicant shall not avoid this article by submitting piecemeal applications or approval requests for subdivision plats, site development plans, zone lot amendments, or building permits. Any applicant may submit a development proposal that intends construction of dwelling units, including applications for subdivision plats, site development plans, zone lot amendments, or building permits, for less than the applicable number of dwelling units at any time; but the applicant shall agree in writing that upon the next such application or request the applicant will comply with this article when the total number of dwelling units at one location has reached the applicable number of dwelling units.

(Ord. No. 426-22, § 2, 6-6-22)

Sec. 27-222. Exceptions.

Compliance with this division shall not be required for a residential development under any of the following circumstances:

(a) Construction upon any property which is, alone or in combination with other properties, the subject of a contractual commitment or covenant that is properly recorded and is enforceable by the city to construct affordable housing, including by way of example any development or subdivision agreement which includes an affordable housing covenant and to which the city is a party, any city-approved plan to build moderately priced development units (MPDUs) under article IV of this chapter 27, any city-approved plan to build affordable units in place of the linkage fee, or an affordable housing plan executed to meet incentive requirements under former Article VI of this Chapter 27. The exception provided by this subsection (a) shall apply only for so long as such contractual commitment or covenant to construct affordable housing remains in effect. Construction upon property that, alone or in combination with other properties, was originally developed under such a contractual commitment or covenant and is substantially proposed for redevelopment shall be subject to the requirements of this section here under unless the redevelopment is governed by a new contractual commitment or covenant to construct affordable housing, or otherwise qualifies for an exception under any other provision of this section.

(b) Construction upon any property subject to an obligation as a condition of zoning to provide affordable housing on the property.

(c) Affordable housing projects that are or will be restricted by law, contract, deed, covenant, or any other legally enforceable instrument.

(d) Residential developments that are built by any charitable, religious, or other nonprofit entity and deed restricted to ensure the affordability of the dwelling units to low- and moderate-income households.

(e) Any structure that contained a residential development that is being reconstructed up to the legally established gross floor area due to involuntary demolition or involuntary destruction as defined in Article 13 of the Denver Zoning Code, but which also includes involuntary man-made forces.

(f) Projects that are high impact developments, which shall instead be required to comply with division 3.

(Ord. No. 426-22, § 2, 6-6-22)

Sec. 27-223. Compliance requirements.

An applicant may satisfy its requirement under this division by:

(a) Providing IRUs on-site of the residential development as set forth in section 27-224; or

(b) Making a payment of the fee-in-lieu as set forth in section 27-225; or

(c) Entering into a negotiated alternative as set forth in section 27-226.

(Ord. No. 426-22, § 2, 6-6-22)

Sec. 27-224. On-site compliance requirements.

(a) *Base on-site compliance.* Applicants electing to provide income restricted units on-site may satisfy its requirements by providing the number of IRUs at the income-restricted levels in accordance with the options set forth below, as the applicant may choose, as follows:

Market Area	Applicant Compliance Options	Minimum percent of total dwelling units to be IRUs	Maximum AMI for eligible households	
High Market Area	H-1B	10% of total dwelling units	Rental development 60% of AMI	Ownership developments: 80% of AMI
	H-2B	15% of total dwelling units	Rental developments: An effective average of 70% of AMI	Ownership developments: An effective average of 90% of AMI
Typical Market Area	T-1B	8% of total dwelling units	Rental developments: 60% of AMI	Ownership developments: 80% of AMI
	T-2B	12% of total dwelling units	Rental developments: An effective average of 70% of AMI	Ownership developments: An effective average of 90% of AMI

(b) *Base incentives for on-site compliance.*

(1) To promote the construction of on-site IRUs, an applicant providing IRUs on-site pursuant to the requirements in subsection (a) is eligible for the following incentives for the applicable residential development:

a. *Permit fee reduction.* An applicant will receive a building permit fee reduction of six thousand five hundred dollars ($6,500.00.00) per IRU in a typical market area and ten thousand dollars ($10,000.00) per IRU in a high market area. The building permit fee reduction shall not exceed fifty (50) percent of the total building permit fee.

~~b. Reduced minimum vehicle parking required by the Denver Zoning Code. An applicant may utilize the alternative minimum vehicle parking ratios allowed in article 10 of the Denver Zoning Code.~~

b ~~c~~. Commercial, sales service and repair street level exemption to linkage fee. An applicant may receive an exemption from the requirement to pay a linkage fee for the gross floor area of a primary commercial sales, services, and repair use located on the street level of a structure. As used in this subsection, the terms "primary commercial sales, services, and repair use" shall have the same meaning as the term is defined in article 11 of the Denver Zoning Code and "Street level" shall have the same meaning as the term is defined in article 13 of the Denver Zoning Code.

(2) Notwithstanding the applicability of this division, any residential development that is exempt pursuant to section 27-222(c) or (d) may receive the base incentives set forth in this section.

(c) *Enhanced on-site compliance; incentives.*

(1) *Enhanced incentives.* To increase the overall supply of housing and encourage applicants to provide on-site IRUs in excess of the base requirements specified in subsection (a), an applicant is eligible for the incentives set forth in a. through b ~~c~~. of this subsection if the applicant provides IRUs as follows:

Market Area	Applicant Compliance Options	Minimum percent of total dwelling units to be IRUs	Maximum AMI for eligible households	
High Market Area	H-1E	12% of total dwelling units	Rental developments: 60% of AMI	Ownership developments: 80% of AMI
	H-2E	18% of total dwelling units	Rental developments: An effective average of 70% of AMI	Ownership developments: An effective average of 90% of AMI
Typical Market Area	T-1E	10% of total dwelling units	Rental developments: 60% of AMI	Ownership development: 80% of AMI
	T-2E	15% of total dwelling units	Rental developments: An effective average of 70% of AMI	Ownership developments: An effective average of 90% of AMI

a. *Access to base incentives.* An applicant is eligible for the base incentives for on-site compliance set forth in section 27-224(b)(1).

b. *Height and floor area increase.* A residential development shall be entitled to an increase in building height and floor area ratio in accordance with the provisions set forth in articles 8 and 10 of the Denver Zoning Code.

~~c. *Vehicle parking exemption.* A residential development shall be entitled to a vehicle parking exemption in accordance with the provisions set forth in article 10 of the Denver Zoning Code~~.

(2) Notwithstanding the applicability of this division, any residential development that is exempt pursuant to section 27-222(c) or (d) may receive the enhanced incentives set forth in this subsection if the residential development provides the percentage of IRUs specified in subsection (c)(1).

(d) *Affordable housing plan submission.* An applicant who chooses to provide IRUs on-site pursuant to this section shall submit an affordable housing plan to HOST. The affordable housing plan must be submitted in conjunction with the formal site development plan or, if no site development plan is required, at time of the applicable permit application. The director shall review the proposed affordable housing plan for consistency with the requirements of this article prior to approval of the site development plan or applicable permit. The director shall approve, approve with conditions, or reject the affordable housing plan. A site development plan or applicable permit may not be approved until an affordable housing plan is approved by the director.

(e) *Covenant restriction.* Residential developments, specific IRUs, or both, shall carry deed restrictions, restrictive covenants, or other forms of affordability restrictions, in the form approved by the director. No temporary or final certificate of occupancy shall be issued until a deed restriction, restrictive covenant, or other form of affordability restriction is recorded in the real property records of the Clerk and Recorder for the City and County of Denver and encumbers the residential development or IRUs, as applicable.

(f) *Minimum standards and requirements for on-site IRUs.*

(1) *Length of affordability.* IRUs must be maintained as affordable for a minimum term of ninety-nine (99) years.

(2) IRUs must be (i) functionally equivalent in construction and appearance to other dwelling units at the residential development; (ii) interspersed among other dwelling units at the residential development; (iii) proportionate to the number of bedrooms of the other dwelling units at the residential development; and (iv) compliant with all rules and regulations adopted by the director.

(3) IRUs in rental developments must be made affordable to and occupied by eligible households whose incomes are at or below the applicable AMI limit.

(4) IRUs in ownership developments must be made available for purchase at an affordable price to eligible households whose incomes are at or below the applicable AMI limit.

(5) The city may require an eligible household that purchases an IRU in an ownership development to record a performance deed of trust or a lien on the IRU.

(6) The AMI limit associated with each IRU will be identified as a part of the affordable housing plan and will remain subject to such limitation for the duration of the term of affordability.

(g) *Rounding.* In calculating the number of on-site IRUs required pursuant this section, rounding shall be used such that five-tenths (0.5) or greater shall result in requiring that a whole unit shall be produced; provided, however, that at least one (1) unit shall be provided if the calculation results in less than five-tenths (0.5). By way of example, if a requirement is for 8.3 IRUs, the number of on-site IRUs would be eight (8). Alternatively, if a requirement is for 8.7 IRUs, the number of on-site IRUs would be nine (9).

(h) *Effective average.* For applicants selecting to meet compliance options H-2B, T-2B, H-2E or T-2E, applicants may elect to serve eligible households earning eighty (80) percent or less of AMI for rental developments and

one hundred (100) percent or less of AMI for ownership developments, so long as the average AMI for all on-site IRUs remains at seventy (70) percent of AMI for rental developments and ninety (90) percent of AMI for ownership developments.

(Ord. No. 426-22, § 2, 6-6-22; Ord. No. 1154-24, § 3, 9-30-24)

Sec. 27-225. Alternative compliance—Fee-in-lieu.

(a) An applicant may satisfy its requirements under this division by making a fee-in-lieu payment that will be deposited in the Mandatory Affordable Housing Revenue Fund.

(b) *Fee-in-lieu calculation.*

(1) *Calculation of fee-in-lieu.* The fee-in-lieu shall be calculated pursuant to the table below by multiplying the number of IRUs that would be required by the fee per IRU:

Market Area	Percent of IRUs to be used for the free calculation	Development Type	Fee per IRU required
High Market Area	10% of dwelling units	Rental development	$311,000.00
		Ownership development	$478,000.00
Typical Market Area	8% of total dwelling units	Townhouses	$250,000.00
		Ownership development, dwelling units other than townhouses	$408,000.00
		Rental development of one to seven stories	$250,000.00
		Rental development of eight or more stories	$295,000.00

(2) *Rounding.* In calculating the fee to be paid pursuant this section, rounding shall be used such that five-tenths (0.5) or greater shall result in requiring that a whole unit shall be produced; provided, however, that a unit of one (1) IRU shall be used if the calculation results in less than five tenths (0.5). By way of example, if a calculation results in 8.3 IRUs, the fee per IRU required would be multiplied by eight (8). Alternatively, if a calculation results in 8.7 IRUs, the fee per IRU required would be multiplied by nine (9).

(c) *Remittance and collection of payment.* The calculation and collection of the fees-in-lieu shall be the responsibility of the department of community planning and development. Fees-in-lieu shall be collected in conjunction with the administration of the city's system for issuing building permits. Any and all fees-in-lieu applicable to a project shall be paid in full prior to the issuance of any building permit, excluding the shoring or excavation permit, for the project.

(d) *CPI-U adjustment.* On July 1, 2023, and annually thereafter, the amounts set forth in subsection (b)(1) in the Fee per IRU required column shall be adjusted in an amount equal to the percentage change from the previous calendar year's CPI-U. The adjustments will be reflected in a fee-in-lieu schedule issued by the director of the department of community planning and development and be made publicly available in advance of the fees becoming effective. The annual inflation adjustment shall apply to and be collected in

conjunction with the issuance of any building permit on or after July 1 of the year in which the adjustment is made, regardless of when the application for the building permit was made.

(Ord. No. 426-22, § 2, 6-6-22)

Sec. 27-226. Alternative compliance—Negotiated alternatives.

(a) An applicant may propose an alternative manner to satisfy its requirements under this division. The proposed negotiated alternative must be submitted in conjunction with the formal site development plan or, if no site development plan is required, at time of the applicable permit application. The applicant shall demonstrate how the proposed negotiated alternative provides outcomes that better support the goals of the HOST strategic plan, comprehensive plan goals, and any small area plan applicable to the residential development. The director, in consultation with the director of the department of community planning and development, shall review the proposed negotiated alternative and approve, approve with conditions, or reject the negotiated alternative. Each negotiated alternative shall contain information as set forth below and in any rules and regulations adopted pursuant to this article, a statement that the terms of the negotiated alternative will bind the applicant and will run with the land upon approval of the director and recording with the clerk and recorder of the City and County of Denver.

(b) A negotiated alternative may include a combination of one or more of, but not be limited to, the following:

(1) The dedication of land for the provision of affordable housing. At a minimum, the market value of the land to be dedicated must exceed the total fee-in-lieu required for the residential development and must have zoning entitlement in place to enable for the provision of affordable housing.

(2) An affordable housing plan to provide fewer IRUs on-site but at a greater depth of affordability. In any such negotiated alternative, at a minimum, the total percent of IRUs shall not be less than five percent (5%) of total dwelling units and the majority of IRUs must serve households earning fifty (50) percent of area median income or less.

(3) An affordable housing plan that would provide fewer IRUs on-site but the IRUs would have a greater number of bedrooms than would otherwise be required. In any such negotiated alternative, at a minimum, the total percent of IRUs shall not be less than five (5) percent of total dwelling units and the majority of IRUs must be two (2), three (3), or four (4) bedroom units. The development must also contain family-friendly services and amenities. Amenities may include, but are not limited to, child-care; play area; community garden; and other on-site amenities to serve families.

(4) An agreement to provide off-site IRUs concurrently with the construction of the residential development within the same statistical neighborhood or a ¼-mile radius of the site. In any such negotiated alternative, the total percent of IRUs that must be provided for the residential development accessing this option shall not be less than the enhanced on-site compliance standards requirements for both properties set forth in the section 27-224(c).

(c) An applicant is eligible for the base incentives for on-site compliance set forth in section 27-224(b)(1) when the residential development is providing IRUs on-site.

(d) The director may grant access to the enhanced incentives for on-site compliance set forth in section 27-224(c)(1)when the residential development is providing IRUs on-site. The negotiated alternative better supports the goals of the HOST strategic plan, comprehensive plan goals, and any small area plan applicable to the residential development compared to the enhanced on-site compliance requirements of section 27-224(c)(1), and the applicant provides at least one of the following:

(1) A greater percentage of IRUs than would otherwise be required for enhanced on-site compliance based on the residential development's market area and compliance option, with the maximum AMI for eligible households detailed in the negotiated alternative; or

(2) A maximum AMI for eligible households that is lower than would otherwise be required for enhanced on-site compliance based on the residential development's market area with the percentage of IRUs detailed in the negotiated alternative; or

(3) IRUs with a greater number of bedrooms than is otherwise required in section 27-224(f)(2).

(e) The provisions of section 27-224(e) and (f) are applicable to any IRUs that are provided on-site of the residential development.

(Ord. No. 426-22, § 2, 6-6-22; Ord. No. 1154-24, § 4, 9-30-24)

DIVISION 3. HIGH IMPACT DEVELOPMENTS

Sec. 27-228. Applicability.

This division shall apply to all high impact developments.

(Ord. No. 426-22, § 2, 6-6-22)

Sec. 27-229. High impact developments.

(a) Owners or developers of a high impact development must submit to HOST a high impact development compliance plan that demonstrates how it will satisfy the intent and purposes of division 2 of this article and Chapter 27, Article V, Division 2.

(1) The high impact development compliance plan shall demonstrate how the proposed development meets or exceeds the relevant standards set forth in this article; Chapter 27, Article V, Division 2; and the goals of the HOST strategic plan, comprehensive plan goals, and any small area plan applicable to the area of high impact development.

(2) The owner or developer must provide to HOST documentation detailing outreach to the surrounding community, including, but not limited to, the organizations and individuals engaged, and how the proposed high impact development compliance plan is responsive to the conducted community outreach.

(3) The high impact development compliance plan may include a combination of one or more of, but not be limited to, the following:

a. A plan to provide IRUs within the area of high impact development sufficient to meet or exceed one of the compliance options set forth in section 27-224(c).

b. The dedication of land within the area of the high impact development for the provision of affordable housing. In any such case, at a minimum, the land dedicated must be of sufficient size and have zoning entitlement in place to reasonably produce IRUs sufficient to meet the compliance requirements set forth in section 27-224(c).

c. A plan to provide IRUs within the area of high impact development at a greater depth of affordability than the compliance requirements set forth in section 27-224(c). In any such case, at a minimum, the total percent of IRUs provided in the high impact area shall not be less than eight

(8) percent of total dwelling units and the majority of IRUs must serve households earning fifty (50) percent of area median income or less.

d. A plan to provide IRUs within the area of high impact development specifically designed to meet the needs of families and larger households. In any such case, at a minimum, the total percent of IRUs provided in the high impact development area shall not be less than eight (8) percent of total dwelling units and the majority of IRUs must include two (2), three (3), or four (4) bedrooms. The development must also contain family-friendly services and amenities. Amenities may include, but are not limited to, child-care; play area; community garden; and other on-site amenities to serve families.

(4) The director may grant access to the base incentives for on-site compliance set forth in section 27-224(b)(1) when the project is providing IRUs within the area of high impact development.

(5) The director may grant access to the enhanced incentives for on-site compliance set forth in section 27-224(c)(1) if the high impact development compliance plan proportionally meets or exceeds the on-site IRU requirements set forth in section 27-224(c). Alternatively, the director may grant access to the enhanced incentives for on-site compliance set forth in section 27-224(c)(1) when the project is providing IRUs within the area of high impact development, the high impact development compliance plan better supports the goals of the HOST strategic plan, comprehensive plan goals, and any small area plan applicable to the residential development compared to the enhanced on-site compliance requirements of section 27-224(c)(1), and the applicant provides at least one of the following:

a. A greater percentage of IRUs than would otherwise be required for enhanced on-site compliance based on the residential development's market area and compliance option, with the maximum AMI for eligible households detailed in the high impact development compliance plan; or

b. A maximum AMI for eligible households that is lower than would otherwise be required for enhanced on-site compliance based on the residential development's market area with the percentage of IRUs detailed in the high impact development compliance plan; or

c. IRUs with a greater number of bedrooms than is otherwise required in section 27-224(f)(2).

(b) The director may waive the application of this division if the applicant requests such a waiver and demonstrates that circumstances unique to the proposed development limit or eliminate the practical application of this division. In such a case, the high impact development would instead be subject to the requirements of Division 2 of this article and Chapter 27, Article V, Division 2, as applicable.

(c) The director shall review the high impact compliance plan and approve, approve with conditions, or reject the high impact development compliance plan. The director shall collaborate with the Denver Urban Renewal Authority when reviewing the compliance plan for a high impact development leveraging tax increment financing. The approved high impact development compliance plan shall result in an agreement to be signed by the owner or owners of the entire subject property, or the authorized agent of the owner or owners in advance of city council approval of city financing tools, if applicable, and shall be recorded with the clerk and recorder of the City and County of Denver.

(d) For all high impact development compliance plans required under this section, no building permits shall be approved or issued for any structure within a high impact development area until the high impact development compliance plan is approved, executed, and recorded.

(Ord. No. 426-22, § 2, 6-6-22; Ord. No. 1154-24, § 5, 9-30-24)

DIVISION 4. REGULATIONS, ENFORCEMENT, AND REPORTING

Sec. 27-230. Regulations, enforcement, and reporting.

(a) The director of the department of housing stability and the director of community planning and development may cooperatively adopt rules and regulations to administer this article.

(b) Any violation of this article or rules and regulations adopted hereunder is subject to the penalties described under section 1-13(e). Pursuant to section 1-13(e), the city may impose a civil fine on applicants in an amount up to one hundred fifty (150) percent of the value of the IRU required but not provided.

(c) The director may take legal action to enjoin or void any transfer of an IRU if any party to the transfer does not comply with all requirements of this article or the rules and regulations promulgated hereunder. The director may recover any funds improperly obtained from any sale or rental of an IRU in violation of this article.

(d) The department of housing stability shall have the authority to enforce the affordability requirements imposed on IRUs.

(e) The departments of community planning and development and housing stability shall provide a publicly available online resources to report on the outcomes of this article, including, but not limited to, number and types of units created, fee-in-lieu fund revenues, and spending allocations.

(Ord. No. 426-22, § 2, 6-6-22)

Secs. 27-231—27-239. Reserved.

ARTICLE XI. REQUIRED DISCLOSURES

Sec. 27-240. Eviction and foreclosure resource.

(a) *Executed written lease.* No landlord or its agent shall allow any person to initiate a new occupancy of a rental property for a period in excess of thirty (30) days for valuable consideration unless and until such landlord or agent has provided a copy of an executed written lease, in the timeframes and manner set forth in C.R.S. § 38-12-801.

(b) *Written notice of tenant rights and resources.* The landlord or agent shall provide written notice of tenants' rights and resources on a form provided or approved by the city. Such notice shall contain information concerning minimum housing standards required under article II of chapter 27; resources and information on how to make a complaint related to minimum housing standards; a statement regarding tenants' legal rights when receiving a notice to vacate their premises, in any court proceeding related to their rental housing, and the right to utilize or seek legal representation; and how to locate rental assistance and legal service providers. The landlord or its agent must provide such notice to tenants at each of the following times:

(1) At the time of executing a lease;

(2) At any time the owner or operator makes any rent demand posted pursuant to C.R.S. § 13-40-104;

(3) At the time that the Denver Housing Authority or any other affordable housing provider sends a notice to terminate a tenant's subsidy or tenancy.

(c) *Foreclosure resources.* Any association, or assignee of the association's debt, seeking to foreclose a lien on and after August 30, 2022 shall provide written notice of owners' rights and resources on a form provided or approved by the city at least thirty (30) days prior to instituting such action. Such notice shall contain a listing of legal and housing resources for homeowners facing foreclosure. An association shall maintain a record of

such notice, including the date and time that the notice was provided. As used in this subsection, "association" has the meaning set forth in the Colorado Common Interest Ownership Act, Article 33.3 of Title 38, C.R.S., as amended.

(d) *Enforcement.* Any person who violates the provisions of this section is subject to the penalties and procedures set forth in article XII, chapter 2, Administrative Citations, of this Code. In addition to such penalties, any residential rental licensee failing to comply with this section may be subject to suspension, revocation, or sanctions in section 27-200, in addition to the grounds set forth in chapter 32 of this Code.

(Ord. No. 617-22, § 3, 6-20-22)

ARTICLE XII. PRIORITIZATION OF INCOME-RESTRICTED AFFORDABLE HOUSING[7]

Sec. 27-241. Legislative findings.

(a) The city council has determined that Denver is experiencing an unprecedented escalation in housing costs, and thus a critical lack of housing opportunities for households with low- and moderate-incomes.

(b) Between 2010 and 2020, Denver grew by over one hundred thousand (100,000) people. The growth has challenged the housing market and the supply of affordable housing. Denver's growth has led to a significant increase in both rental and home sale prices, as housing supply has struggled to keep up with demand.

(c) Between 2010 and 2019, households earning less than sixty (60) percent of area median income declined by ten thousand five hundred (10,500), an indication of low- and moderate-income household displacement from Denver.

(d) As of 2019, thirty-five (35) percent of all households in Denver are housing cost burdened, meaning they pay more than thirty (30) percent of their gross income on housing costs. That problem is particularly prevalent among lower-income households. Eighty-one (81) percent of households earning less than sixty (60) percent of area median income are housing cost burdened, meaning they pay more than thirty (30) percent of their gross income on housing costs.

(e) The Metro Denver area's 2019 Regional Analysis of Impediments to Fair Housing Choice study indicated that about thirty (30) percent of Denver renters responding to the survey had been displaced between 2012 and 2017, with the most common reasons for involuntary displacement being rent increasing more than a household could afford, a landlord selling the rental unit, and a landlord refusing to renew a lease. It is often low- and moderate-income households that experience involuntary displacement.

(f) Preference or prioritization policies in cities such as San Francisco, Austin, and Portland have helped mitigate involuntary displacement by prioritizing subsets of income-eligible households for income-restricted affordable units.

(Ord. No. 970-22, § 1, 9-12-22, eff. 7-1-24)

Sec. 27-242. Purpose.

The purpose of this article is to establish a system to ensure that at least thirty (30) percent of income-restricted affordable units at applicable housing projects are made available on a prioritized basis to households that have been displaced or are vulnerable to involuntary displacement from Denver. The city council is committed

[7]Editor's note(s)—Ord. No. 970-22, § 1, adopted September 12, 2022, shall take effect on July 1, 2024.

to affirmatively furthering fair housing, which includes increasing affordable housing options, ending segregation and discrimination, and addressing involuntary displacement.

(Ord. No. 970-22, § 1, 9-12-22, eff. 7-1-24)

Sec. 27-243. Definitions.

The following words and phrases, as used in this article, have the following meanings:

(a) *Affordable rental unit* means a dwelling unit that must be made available at an affordable rent and occupied by an income-qualified household.

(b) *Affordable ownership unit* means a dwelling unit that must be made available for purchase at an affordable price to an income-qualified household.

(c) *Affordable unit* means an affordable rental unit or an affordable ownership unit.

(d) *Applicable housing project* means (i) any project that receives funding from the city for the purpose of creating or preserving affordable units; (ii) any project that is subject to a build alternative plan or other agreement with the city where affordable units must be provided; or (iii) a residential development or high impact development, as those terms are defined in section 27-219, that provides income-restricted units pursuant to chapter 27, article X, if (a) the project, regardless of the number of dwelling units, is located in an area vulnerable to displacement, or (b) the project contains a minimum of one hundred (100) dwelling units. The term applicable housing project excludes any supportive housing project.

(e) *Area vulnerable to displacement* means neighborhoods identified as meeting all three (3) indicators as defined in Appendix C—Key Equity Concepts Methodology of Blueprint Denver, a supplement to the city's comprehensive plan. In the event that the methodology or data source is substantially changed, renamed, or abandoned by the department of community planning and development, then in its place shall be substituted a methodology that most closely resembles the original intent as determined by the executive director of the department of community planning and development.

(f) *Director* means the executive director of HOST or the director's designee.

(g) *Displaced or vulnerable to displacement* means an individual or household (i) who is or was rent or mortgage burdened; (ii) who is or was required to move from a rental unit because the property owner is selling or has sold the rental unit; (iii) who is or was required to move from a rental unit because the owner is moving into the unit; (iv) who is being or has been evicted without cause or for nonpayment of rent; (v) whose primary residence is subject to a foreclosure proceeding or whose primary residence was sold pursuant to a foreclosure sale; (vi) whose primary residence requires or required costly repairs to address property code violations; (vii) who is or was a resident of a redlined neighborhood; or (viii) whose primary residence is being or was taken through eminent domain.

(h) *Eligible household* means a household where one (1) or more individuals in the household (i) were displaced from their residence in Denver any time after the year 2000, are vulnerable to displacement from their residence in Denver, or have a direct family member that was displaced from Denver between 1939—2000 and (ii) has been certified by HOST as eligible to participate in the prioritization program.

(i) *HOST* means the department of housing stability or its successor.

(j) *Prioritized unit* means an affordable unit subject to the prioritization requirement that must be provided to an eligible household as required by this article.

(Ord. No. 970-22, § 1, 9-12-22, eff. 7-1-24)

Sec. 27-244. Prioritization program.

(a) *Application of prioritization program.*

(1) Except to the extent prohibited by applicable law or state or federal funding sources, at least thirty (30) percent of affordable units in an applicable housing project must be provided to eligible households in accordance with this article and all rules and regulations adopted by the director. In calculating the number of prioritized units required pursuant to this section, rounding shall be used such that one-tenth (0.1) or greater shall result in requiring that a whole unit be set aside as a prioritized unit.

(2) The prioritization requirements of this section apply to (i) affordable ownership units only at the time of first sale of an affordable ownership unit; and (ii) affordable rental units for the duration of the underlying term of affordability. Prioritized units in a rental housing project may float among units during the underlying term of affordability.

(3) Prioritized units must be (i) interspersed among other dwelling units and affordable units; (ii) proportionate to the number of bedrooms of other dwelling units and affordable units; and (iii) compliant with all rules and regulations adopted by the director; provided, however, that to the extent this requirement conflicts with similar Federal laws, rules, or regulations regarding mixed-income units within affordable housing projects, such Federal laws, rules, or regulations shall prevail.

(4) The prioritization requirements are intended to have a prospective effect only and shall not apply to projects funded, affordable housing plans or similar forms of negotiated agreements approved, or affordable units existing prior to July 1, 2024.

(b) *Eligibility standards; application; list of eligible households.*

(1) For a household to be qualified to participate in the prioritization program, at least one (1) individual in the household must be able to demonstrate to HOST that (i) they were displaced from a residence in Denver any time after the year 2000, (ii) they are vulnerable to displacement from its residence in Denver, or (iii) a direct family member was displaced from Denver between 1939—2000.

(2) An individual must apply to HOST to be qualified as an eligible household. An individual's application must contain sufficient documentation for HOST to verify that the individual was displaced, is vulnerable to displacement, or has a family member that was displaced between 1939—2000. An entire household is entitled to participate in the prioritization program if at least one (1) individual of that household meets the eligibility criteria.

(3) HOST will maintain a list of eligible households.

(4) Eligible households must also meet the income eligibility requirements for a particular prioritized unit and any lawful and reasonable requirements imposed by an owner of an applicable housing project.

(c) *Order of priority of eligible households.* The director shall develop a scoring system to manage and establish priority of eligible households. The scoring system shall be used solely to determine the ranked order of eligible households for a prioritized unit.

(d) *Marketing to eligible households.*

(1) Prioritized units must first be offered solely to eligible households in accordance with the procedures specified by HOST in rules and regulations. Owners of applicable housing projects must use good faith efforts to identify and enter into contracts or leases with eligible households that are also income-qualified for the particular prioritized unit. Prioritized units must be open and marketed to eligible households for a minimum of fourteen (14) business days prior to being offered for sale or rent to other income-qualified households.

(2) An owner of an applicable housing project that contains affordable ownership units may seek a waiver from the director of the requirement to market affordable ownership units to eligible households. The director may grant a waiver if the owner can demonstrate that the owner meets the intent and requirements of this article through the owner's typical marketing and business practices. An owner granted a waiver of the requirement to market affordable units to eligible households must still submit reports pursuant to section 27-245 and any rules and regulations.

(Ord. No. 970-22, § 1, 9-12-22, eff. 7-1-24)

Sec. 27-245. Monitoring; reporting.

(a) *Owner's reporting requirements.* Owners of applicable housing projects must submit to HOST reports as required by the rules and regulations promulgated pursuant to this article.

(b) *HOST reporting on prioritization program.* HOST will report on the results of the prioritization program beginning one (1) year after the prioritization program is implemented and annually thereafter. The report shall include the following data:

(1) The number of eligible households that rented or purchased a prioritized unit;

(2) The number of eligible households that have been qualified by HOST but have not yet rented or purchased a prioritized unit;

(3) The total number of prioritized units that were set aside during the reporting period;

(4) The number of prioritized units that were set aside during the reporting period but not sold or rented to an eligible household; and

(5) The total number of individuals submitting applications during the reporting period and a breakdown of the application outcome, including whether the application was approved, denied, or pending.

(Ord. No. 970-22, § 1, 9-12-22, eff. 7-1-24)

Sec. 27-246. Rules and regulations; enforcement.

(a) The director is authorized to promulgate rules and regulations necessary to implement and administer this article. The rules and regulations may include a schedule or range of civil penalties that may be imposed against any person that violates any provision of this article or the rules and regulations.

(b) HOST shall have the authority to enforce the requirements of this article.

(Ord. No. 970-22, § 1, 9-12-22, eff. 7-1-24)