

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2019

COUNCIL BILL NO. CB19-1177
COMMITTEE OF REFERENCE:

Safety, Housing, Education & Homelessness

A BILL

For an ordinance creating the office of climate action, sustainability, and resiliency.

BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

Section 1. That chapter 2 of the D.R.M.C. is amended by the addition of a new article, to read as follows:

Secs. 2-393. - 2-400. - Reserved.

ARTICLE XIX. - OFFICE OF CLIMATE ACTION, SUSTAINABILITY, AND RESILIENCY

Sec. 2-401. - Office created.

There is hereby created an office of climate action, sustainability, and resiliency in the office of the mayor.

Sec. 2-402. - Executive director - staff.

The office consists of the executive director, to be appointed by the Mayor, and any additional staff necessary to carry out the functions and duties of the office.

Sec. 2-403. - Mission.

(a) The office's mission is to:

(1) Act with urgency to proactively mitigate climate change by advancing science-based strategies to reduce greenhouse gas emissions on a scale and timeline that align with the recommendations from the Intergovernmental Panel on Climate Change;

(2) Cultivate resiliency in the face of potential climate change-related emergencies;

(3) Secure an economically, socially, and environmentally sustainable city for generations to come; and

(4) Ensure that the setting of goals and metrics and monitoring of results considers equity.

(b) The office must pursue its mission while ensuring that equity, access and inclusion are integrated as a core value.

(c) The office must coordinate with other agencies as appropriate to assist in developing and transitioning a local skilled workforce to implement low-carbon or zero-carbon solutions.

Sec. 2-404. - Powers and duties.

1 The office has the following powers and duties:

- 2 (a) Develop, administer, and oversee contracts with vendors and technical consultants;
- 3 (b) Establish relationships with city agencies and private-sector stakeholders to ensure a
4 coordinated, citywide approach to addressing climate change;
- 5 (c) Coordinate with regional and state stakeholders to ensure consistency and scale for
6 various climate mitigation and adaptation strategies;
- 7 (d) Implement the energize Denver commercial building benchmarking ordinance or any
8 successor ordinance;
- 9 (e) Assist in implementation of Denver's green buildings ordinance or any successor
10 ordinance;
- 11 (f) Develop and implement programs and policies to reduce energy consumption in
12 commercial and residential buildings while also reducing greenhouse gases;
- 13 (g) Establish and evaluate building strategies that lead to significant reductions in climate-
14 forcing emissions;
- 15 (h) Actively coordinate with city leadership and utility companies to further goals established
16 in the energy future collaborative or any successor program;
- 17 (i) Actively represent the city in front of the public utilities commission to achieve Denver's
18 renewable electricity goals;
- 19 (j) Coordinate with city agencies and private-sector stakeholders to prepare for rapidly
20 increasing electric vehicle registrations and the associated electric vehicle charging networks
21 throughout Denver;
- 22 (k) Implement Denver's climate action plan or any successor plan;
- 23 (l) Coordinate with city agencies to establish and track progress towards Denver's
24 sustainability goals;
- 25 (m) Oversee updates to and implementation of Denver's executive order 123 or any
26 successor executive order;
- 27 (n) Implement the certifiably green Denver small business assistance program or any
28 successor program;
- 29 (o) Implement sustainable neighborhoods program or any successor program;
- 30 (p) Oversee the energy efficiency in commercial and multi-family buildings program
31 described in Article V of Chapter 4, D.R.M.C., or any successor program.
- 32 (q) Coordinate with city agencies to develop, implement, and track progress towards
33 Denver's climate adaptation plan or any successor plan; and
- 34 (r) Promulgate any rules and regulations necessary to achieve the powers and duties

1 specified in this section.

2

3 **Section 2.** That section 4-53, D.R.M.C., is amended by deleting the language stricken and
4 adding the language underlined, as follows:

5 **Sec. 4-53. - Benchmarking and reporting.**

6 (1) Each owner of a covered building shall benchmark the building's energy usage annually
7 using the ENERGY STAR Portfolio Manager tool, and by June 1 each year, shall accurately report
8 energy performance information to the ~~department~~ office of climate action, sustainability, and
9 resiliency for the previous calendar year.

10 (a) Each owner of a covered municipal building shall begin reporting by June 1, 2017.

11 (b) Each owner of a covered building, other than a covered municipal building, with a gross
12 floor area greater than fifty thousand (50,000) square feet shall begin reporting by June 1, 2017.

13 (c) Each owner of a covered building with a gross floor area between twenty-five thousand
14 (25,000) and fifty thousand (50,000) square feet shall begin reporting by June 1, 2018.

15 (2) The energy performance information that must be reported to the ~~department~~ office of
16 climate action, sustainability, and resiliency shall include, at a minimum, a covered building's annual
17 energy use intensity, ENERGY STAR Portfolio Manager score if eligible for a score, greenhouse gas
18 emissions, and any other data fields needed to calculate the ENERGY STAR Portfolio Manager score
19 for auditing and verification purposes. Owners of covered buildings shall not be required to report
20 monthly energy bill data.

21 (3) Owners of covered buildings shall keep records of monthly energy consumption for a
22 minimum of twenty-four (24) months. Such records shall be made available for the ~~department's~~ office
23 of climate action, sustainability, and resiliency's inspection upon request.

24

25 **Section 3.** That section 4-54, D.R.M.C., is amended by deleting the language stricken and
26 adding the language underlined as follows:

27 **Sec. 4-54. - Office of climate action, sustainability, and resiliency to promulgate rules.**

28 The ~~board~~ office of climate action, sustainability, and resiliency shall promulgate rules for the
29 energy efficiency program.

30

31 **Section 4.** That section 4-55, D.R.M.C., is amended by deleting the language stricken and
32 adding the language underlined as follows:

33 **Sec. 4-55. - Enforcement.**

1 The ~~manager, or the manager's designee,~~ executive director of the office of climate action,
2 sustainability, and resiliency, or the executive director's designee, is empowered to enforce the
3 provisions of this article and any rules and regulations adopted by the board pursuant to this article.
4

5 **Section 5.** That section 10-300 (j), D.R.M.C. is amended by deleting the language stricken and
6 adding the language underlined as follows:

7 **Sec. 10-300. - Definitions.**

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

9 (j) *Executive director of* ~~DDPHE~~ OCASR means the executive director of the ~~department of~~
10 ~~public health and environment ("DDPHE"), or his/her designee~~ office of climate action, sustainability,
11 and resiliency, or his or her designee ("OCASR").
12

13 **Section 6.** That section 10-306, D.R.M.C., is amended by deleting the language stricken and
14 adding the language underlined as follows:

15 **Sec. 10-306. - Authority to adopt rules and regulations.**

16 The executive director of CPD and the ~~board of public health and environment~~ executive
17 director of the office of climate action, sustainability, and resiliency shall have the authority to adopt
18 cooperatively rules and regulations for the implementation and administration of this article XIII.
19

20 **Section 7.** That section 10-307, D.R.M.C., is amended by deleting the language stricken and
21 adding the language underlined as follows:

22 **Sec. 10-307. - Enforcement.**

23 (a) It ~~shall be~~ is unlawful to violate any provision of this article XIII, or any rules and
24 regulations adopted pursuant to this article XIII.

25 (b) The executive directors of CPD and the ~~DDPHE~~ OCASR, or their designees, have the
26 authority to enforce the provisions of article XIII.

27 (c) This article applies to all agents, successors and assigns of an owner. A building permit
28 ~~shall~~ may not be issued, and a site development plan ~~shall~~ may not be approved unless the owner
29 meets the requirements of this article and rules and regulations adopted under this article. The
30 building official may deny, suspend or revoke any building or occupancy permit for a site when ~~he/she~~
31 the building official finds a violation of article XIII or adopted rules and regulations.

32 (d) CPD and the ~~DDPHE~~ OCASR ~~are authorized to~~ may issue notices or orders for violations
33 of this article. Any person who violates any provision of this article XIII, including any rules and

1 regulations adopted under this article, ~~shall be~~ is subject to a civil penalty in an amount up to fifty
2 dollars (\$50.00) times sixty (60) percent of the total roof area, to be deposited into the green building
3 fund, defined below.

4 (e) ~~In the event~~ If an owner subject to the civil penalty above fails to pay the required amount
5 within one hundred eighty (180) days, the civil penalty ~~shall~~ will be considered a debt to the city until
6 paid in full. ~~This debt shall be~~ The debt is a perpetual lien on the property, and ~~shall be~~ is superior and
7 prior to all other liens, regardless of their dates of recordation, except for liens for general taxes and
8 prior special assessments, until the civil penalty owed, delinquent interest, and recording fees have
9 been paid in full. In addition to the remedies set forth in this section, an action or other process
10 provided by law may be maintained by the city to recover or collect any amounts, including interest,
11 owing under this section. Interest ~~shall be~~ is calculated in the same manner and same amount as
12 delinquent property taxes. The executive director of ~~the department of public health and environment~~
13 ~~shall~~ OCASR must record the lien with the clerk and recorder.

14 (f) In addition to any other available remedy, the executive director of ~~community planning~~
15 ~~and development or the executive director of the department of public health and environment~~ CPD or
16 the executive director of OCASR may take legal action to require an owner to construct a cool roof
17 upon discovery of any unpermitted roof recover or replacement.

18
19 **Section 8.** That section 10-308 (b), D.R.M.C., is amended by deleting the language stricken
20 and adding the language underlined as follows:

21 **Sec. 10-308. - Appeals.**

22 (b) Any person aggrieved by a final administrative action or decision by the executive director
23 of CPD or ~~DDPHE~~ OCASR concerning issuance of a civil penalty as allowed in section 10-307(d), may
24 appeal in accordance with ~~the process described in~~ Article I, Section 24, D.R.M.C., except that no
25 request for a variance ~~shall~~ may be granted by ~~the board of public health and environment~~ OCASR.
26 The decision of ~~the board of public health and environment~~ OCASR may be appealed to district court
27 in accordance with the Colorado Rules of Civil Procedure Rule 106(a)(4).

28
29 **Section 9.** That section 10-316 (a) (1), D.R.M.C., is amended by deleting the language stricken
30 and adding the language underlined as follows:

31 **Sec. 10-316. - Creation and composition; terms; and officers.**

32 (a) *Creation and composition.* There is hereby created a green building technical advisory
33 committee. The committee ~~shall consist~~ consists of thirteen (13) members, all appointed by the mayor,
34 except for the members in subsection (1) below, as follows:

1 (1) A representative from the department of community planning and development's building
2 permitting and inspections services agency, a representative from the department of community
3 planning and development department's landmark preservation staff, a representative from ~~the~~
4 ~~department of public health and environment~~ the office of climate action, sustainability, and resiliency,
5 and a representative from the department of public works, each of whom shall be appointed by their
6 respective executive directors;

7
8 **Section 10.** That section 10-317, D.R.M.C., is amended by deleting the language stricken and
9 adding the language underlined as follows:

10 **Sec. 10-317. - Meetings.**

11 The committee ~~shall~~ must meet at the call of the executive directors of CPD or ~~DDPHE~~
12 OCASR, or their designees, and ~~the meeting shall~~ consider the matters set out in an agenda prepared
13 by the executive directors, or their designees.

14
15 **Section 11.** That the introductory paragraph to section 10-318, D.R.M.C., is amended by
16 deleting the language stricken and adding the language underlined as follows:

17 **Sec. 10-318. - Powers and duties.**

18 The general purpose of the committee is to render advice and recommendations to the
19 executive directors of CPD and ~~DDPHE~~ OCASR regarding green building standards. The specific
20 powers and duties of the committee ~~shall be~~ are:

21
22 **Section 12.** That section 10-320 (e), D.R.M.C., is amended by deleting the language stricken
23 and adding the language underlined as follows:

24 **Sec. 10-320. - Green building fund.**

25 (e) *Administration of fund.* The green building fund ~~shall be~~ is administered by the executive
26 director of the ~~department of public health and environment~~ office of climate action, sustainability, and
27 resiliency, or its successor city agency or department. The executive director may promulgate rules
28 and regulations consistent with this article XIII governing the procedures and requirements for
29 expenditures from the funds.

30 (f) *Review of fund.* ~~The department of public health and environment~~ office of climate
31 action, sustainability, and resiliency shall conduct a policy review of the fund created in this article XIII,
32 hold a public hearing to gather input for the review, and report the findings and any recommendations
33 to the city council. The first public hearing shall be held no later than March of 2020, and subsequent

1 public hearings and reviews of the fund shall occur every two (2) years after this date.

2

3 **Section 13.** That section 10-321, D.R.M.C., is amended by deleting the language stricken and
4 adding the language underlined as follows:

5 **Sec. 10-321. - Evaluation of article.**

6 Every twelve (12) months, CPD and ~~DDPHE~~ OCASR must prepare a written report of the
7 activities related to, and an assessment of outcomes of, this article, and report their findings and any
8 recommendations to the city council.

9

10 **Section 14. Effective date.** This act takes effect July 1, 2020.

11

12 COMMITTEE APPROVAL DATE: November 6, 2019

13 MAYOR-COUNCIL DATE: N/A

14 PASSED BY THE COUNCIL _____

15 _____ - PRESIDENT

16 APPROVED: _____ - MAYOR _____

17 ATTEST: _____ - CLERK AND RECORDER,
18 EX-OFFICIO CLERK OF THE
19 CITY AND COUNTY OF DENVER

20

21 NOTICE PUBLISHED IN THE DAILY JOURNAL _____; _____

22

23 PREPARED BY: Troy Bratton, Assistant City Attorney DATE: October 3, 2019

24

25 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of the
26 City Attorney. We find no irregularity as to form and have no legal objection to the proposed
27 ordinance. The proposed ordinance **is not** submitted to the City Council for approval pursuant to §
28 3.2.6 of the Charter.

29

30 Kristin M. Bronson, Denver City Attorney

31 BY: _____, Assistant City Attorney DATE: _____