

**DRAFT TEXT OF PROPOSED DENVER ORDINANCE
CREATING A PERMANENT FUND FOR AFFORDABLE HOUSING
WITHOUT IDENTIFYING SPECIFIC DEDICATED FUNDING SOURCES**

Be it enacted by the Council of the City and County of Denver:

Section 1. That Chapter 27 of the Denver Revised Municipal Code shall be amended by the addition of a new Article V, to read as follows:

ARTICLE V. DEDICATED FUNDING FOR AFFORDABLE HOUSING

Division 1. Affordable housing permanent fund

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

(a) *Dedicated revenues.* The affordable housing permanent fund shall consist of any city revenue budgeted and appropriated to fund on an annual basis and dedicated for affordable housing programs in accordance with the purposes set forth in this Division 1.

(b) *Permitted uses of revenue in the affordable housing permanent fund.* Revenue budgeted and appropriated in the affordable housing permanent 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 percent (80%) 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 one hundred percent (100%) 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 one-hundred and twenty percent (120%) or less of AMI, in response to increased housing demand linked to new construction and new employment.

(4) For the development of permanent supportive housing for homeless persons and for supportive services associated with such housing; provided, however, in no event shall the amount expended from the Affordable Housing Property Tax Revenue Fund for supportive services under this paragraph (4) exceed ten percent (10%) of the amount of revenue received in the fund for that year.

(5) For programs supporting low-income at-risk individuals in danger of losing their existing homes, for homeowner emergency repairs, or for other housing programs assisting low-income households.

(c) *Cap on administrative costs.* Monies in the affordable housing permanent fund 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 percent (8%) of the amount of revenue received in both funds in that year.

(d) *Fund earnings.* Any interest earning on any balance in the fund shall accrue to the fund.

(e) *Administration of funds.* The affordable housing permanent fund shall be administered by the executive director of the office of economic development, in coordination with the recommendations and assistance of the affordable housing permanent funds advisory committee as provided in Part B of this Article VII. The executive director may promulgate rules and regulations consistent with this Article VII governing the procedures and requirements for expenditures from the funds. Expenditures from the funds shall be made in accordance with the adopted 3-5 year strategic plan for the funds, as provided in Sec. 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.

Division 2. Affordable housing permanent fund advisory committee

Sec. 27-158. Committee created.

There is hereby created an affordable housing permanent fund advisory committee. The committee shall consist of twenty-three (23) members as follows:

- (a) The following nine (9) *ex officio* members, or the member's designee:
 - (1) Executive director of the mayor's office of housing and opportunities for people everywhere (H&OPE).
 - (2) Executive director of the office of economic development.

(3) Executive director (manager) of department of community planning and development.

(4) Chief financial officer (manager of finance).

(5) City official primarily responsible for services to the homeless.

(6) Executive director of Denver Housing Authority.

(7) Executive director of Denver Urban Renewal Authority.

(8) Executive director of the Colorado Housing and Finance Authority, to the extent the state agency elects to participate in the committee.

(9) Executive director of the Colorado Division of Housing, to the extent the state agency elects to participate in the committee.

(b) The following eleven (11) members appointed by the mayor and confirmed by the city council:

(1) Housing finance expert.

(2) Representative of a provider of services to the homeless.

(3) Representative of a community housing development organization.

(4) Representative of a major employer.

(5) Resident of an affordable housing project or unit, such as a project or unit that is deed-restricted for affordability.

(6) Representative of the private-sector, commercial real estate industry.

(7) Representative of the private-sector, market rate single-family residential real estate industry.

(8) Representative of the private-sector, market rate multi-family real estate industry.

(9) For-profit affordable housing developer.

(10) Non-profit affordable housing developer.

(11) At-large community member.

(c) The following three (3) members appointed by the city council:

(1) A member of the city council.

(2) Affordable housing advocate.

(3) At-large community member.

Sec. 27-159. Term of appointed committee members.

(a) The appointed members of the committee 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 years, and the remaining third for one year. Initial terms shall be set by the appointing authority.

(b) Committee members may be reappointed for successive terms.

Sec. 27-160. Vacancies.

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

Sec. 27-161. Compensation

The members of the committee 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.

Sec. 27-162. Officers.

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

Sec. 27-163. Meetings and procedures.

(a) The schedule of regular meetings of the committee shall be established by a majority of the membership, but the schedule must provide for at least one regular meeting per month. Additional meetings shall be called as needed by the chair of the committee.

(b) All meetings of the committee shall be subject to city requirements for open meetings, as set forth in Article III of Chapter 2 of the code. Participation and voting in committee business by members of the committee 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 committee 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.

Sec. 27-164. Powers and duties.

The general purpose of the committee is to render advice and recommendations to the executive director of the office of economic

development in regard to the planning and implementation of city programs and services 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 fund, as provided in section 27-150. The specific powers and duties of the committee shall be:

1. To recommend goals, objectives and policies to inform the adoption of 3-5 year strategic plans for the permanent fund, including but not limited to:

(1) Goals for a mix of housing affordable to households in various ranges of area median income (AMI), subject to the AMI limitations set forth in section 27-150;

(2) Goals for a mix of affordable rental and for-sale housing;

(3) 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; and

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

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

(c) To review semi-annual and annual performance and outlook reports regarding past and potential future uses of revenue in the

permanent fund, as shall be submitted by the executive director to the committee.

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

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

(2) Metrics to be tracked in order to monitor the success of the expenditures from the permanent fund in achieving the purposes of the fund;

(3) Community engagement strategies;

(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.

Sec. 27-165. Staffing and administrative support.

Staffing and other administrative support for the committee shall be provided by the office of economic development.

Section 2. That section 2-32, D.R.M.C. concerning Open Meetings shall be amended by adding a new paragraph (2)(ddd), to read as follows:

Sec. 2-32. - Definitions.

(2) Public body:

(ddd) The affordable housing permanent fund advisory committee.

Section 3. That section 27-104, D.R.M.C. concerning the applicability of the city ordinance commonly known as the “inclusionary housing ordinance” or “IHO” shall be amended by deleting the language stricken and adding the language underlined in subsection (a), and adding a new subsection (c), to read as follow:

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.

(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.

Section 4. That section 27-113, D.R.M.C. concerning certain incentives offered under the city ordinance commonly known as the “inclusionary housing ordinance” or “IHO” shall be amended by deleting the language stricken and adding the language underlined, to read as follows:

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

~~Any~~ 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 location, which after this article takes effect develops less than thirty (30) new for sale dwelling units at one location in Denver may request the incentives described in sections 27-107 and 27-108 by voluntarily making application to the OED and meeting the requirements of this article. Such entities shall be considered "applicants" for all purposes of this article. Effective January 1, 2017, OED shall no longer accept voluntary applications for incentives under this section.

Section 5. That section 27-114, D.R.M.C. concerning certain incentives offered under the city ordinance commonly known as the “inclusionary housing ordinance” or “IHO” shall be amended by deleting the language stricken and adding the language underlined in subsection (a) and adding a new subsection (g), to read as follows:

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

(a) ~~For~~ 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 OED 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 subsection 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.

(g) Effective January 1, 2015, OED shall no longer accept voluntary applications for incentives under this section.

Section 6. That subsection 27-119 (a), D.R.M.C. concerning the applicability of the city ordinance commonly known as the "inclusionary housing ordinance" or "IHO" shall be amended by adding the language underlined, to read as follow:

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.

Section 7. Establishment of Affordable Housing Permanent Funds.

A. There is hereby established in the General Government Special Revenue Fund, Fund Number 19000, an Affordable Housing Permanent Fund, Accounting No. _____, for the purpose of receiving and expending any monies appropriated thereto for the purposes set forth in section 27-150, D.R.M.C.

C. The expending authority for the Affordable Housing Permanent fund shall be the Executive Director of the Office of Economic Development. Notwithstanding any other provision of the charter or ordinances of the city, expenditures from the Affordable Housing Permanent Funds shall be subject to annual appropriation by the city council.

D. The Chief Financial Officer (Manager of Finance) of the City and County of Denver is hereby authorized and directed to make such book and record entries and to do such other things as may be necessary to accomplish the purposes of this ordinance.

Section 8. Effective Date. This ordinance shall be effective upon final adoption by the City Council and publication.