

1 BY AUTHORITY

2 ORDINANCE NO. _____
3 SERIES OF 2019

COUNCIL BILL NO. 19-0805
COMMITTEE OF REFERENCE:
Finance & Governance Committee

6 A BILL

8 For an ordinance establishing the Office of Climate Action, Sustainability, and
9 Resiliency.

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

13 **Section 1.** The D.R.M.C. is amended by the addition of a new Chapter 11.5, to read as
14 follows:

16 **Chapter 11.5 - CLIMATE ACTION, SUSTAINABILITY, AND RESILIENCY**

18 **ARTICLE I. - IN GENERAL**

19 **Sec. 11.5-1. - Definitions.**

20 As used in this chapter, the following words and terms have the following meanings:

21 (a) "Benchmarking" means Measuring a covered building's energy performance using
22 the ENERGY STAR portfolio manager.

23 (b) "Covered building" means an individual building in the City and County of Denver
24 with a gross floor area of twenty-five thousand square feet or larger except the following:

25 (1) A building that was not occupied and did not have a certificate of occupancy or
26 temporary certificate of occupancy for all twelve months of the calendar year for which
27 benchmarking is required;

28 (2) A building that was not occupied, due to renovation, for all twelve months of the
29 calendar year for which benchmarking is required;

30 (3) A building for which a demolition permit for the entire building has been issued
31 and for which demolition work has commenced on or before the date the benchmarking report
32 is due;

33 (4) A building that is presently experiencing qualifying financial distress, as defined by

1 any of the following:

2 a. The building is the subject of a qualified tax lien sale or public auction due to
3 property tax arrearages;

4 b. The buildings is controlled by a court appointed receiver; or

5 c. The building has been acquired by a deed in lieu of foreclosure;

6 (5) A building that had an average physical occupancy of less than sixty percent
7 throughout the calendar year for which benchmarking is required;

8 (6) A building that is used primarily for industrial or agricultural processes; and

9 (7) A building for which the owner can demonstrate that its energy performance is a
10 confidential business practice that includes trade secrets, privileged, or confidential commercial
11 information. To qualify for this exemption, the owner must specifically identify the information
12 the owner believes is confidential and provide a written statement describing the manner in
13 which public disclosure would cause substantial harm to the owner's competitive position.
14 Inefficient energy usage alone is not confidential commercial information.

15 (c) "Covered municipal building" means a covered building that is owned or operated
16 by the City and County of Denver.

17 (d) "Energy efficiency program" means the administrative program implemented by
18 the department requiring the benchmarking and reporting of energy consumption in commercial
19 and multifamily buildings that are twenty-five thousand gross square feet or larger within the
20 City and County of Denver.

21 (e) "ENERGY STAR portfolio manager" means the online tool created by the U.S.
22 environmental protection agency used to measure and track a building's energy use, water
23 consumption, and greenhouse gas emissions.

24 (f) "Environmental justice" means the fair treatment and meaningful involvement of
25 all people, regardless of race, ethnicity, color, national origin, or income, with respect to the
26 development, implementation, and enforcement of environmental laws, regulations, and
27 policies.

28 (g) "Equity" means delivering the needed services, benefits, and protections to
29 anyone, giving special consideration to vulnerable populations, resulting in equitable
30 opportunities and outcomes where race can no longer be used to predict life outcomes, and
31 outcomes for all groups are improved.

32 (h) "Vulnerable population" means a population of people in Denver who may be
33 affected disproportionately by climate change because of their physical location, socio-
34 economic status, race, ethnicity, national origin, gender, age, physical or mental ability, or living

1 conditions. “Vulnerable population” includes, but is not limited to: people of color, low income
2 people or people in financial hardship, the unhoused, those who work outdoors, the elderly, the
3 young, pregnant people, people with disabilities, those in low-lying areas, those near heat
4 islands, and those already suffering from illness.

5

6 **ARTICLE II. - OFFICE OF CLIMATE ACTION, SUSTAINABILITY, AND RESILIENCY**

7

8 **Sec. 11.5-2. - Created - Executive director.**

9 There is hereby created the office of climate action, sustainability, and resiliency as a
10 staff agency under the mayor. The office consists of the executive director to be appointed by
11 the Mayor, and the appropriate staff. To be eligible for appointment, the executive director must
12 have documented experience in leading climate action, sustainability, and resiliency programs.

13 **Sec. 11.5-3. - Mission.**

14 The office of climate action, sustainability, and resiliency’s mission is to ensure urgent
15 and proactive climate mitigation efforts while preparing for the effects of climate change, and
16 creating a local, skilled workforce to carry out these actions. The office will ensure that Denver
17 meets or exceeds all science-based targets for greenhouse gas emissions reductions following
18 the recommendations of the Intergovernmental Panel on Climate Change. The office will focus
19 efforts on building out low-income energy efficiency and solar programs, prioritize investments
20 in neighborhoods with higher-than-average energy burden, prioritize small and minority-owned
21 businesses and low-income households, and prioritize resiliency efforts to protect vulnerable
22 populations first.

23 **Sec. 11.5-4. - Powers and duties.**

24 (a) The powers and duties of the agency are:

25 (1) To promulgate rules furthering environmental justice principles and strategies.

26 (2) To promulgate rules adopting greenhouse gas emissions standards that may be
27 more stringent than state or federal emissions standards.

28 (3) To administer and promulgate rules for the energy efficiency in commercial and
29 multifamily buildings program created in accordance article II of this chapter.

30 (4) To assist in developing and transitioning a local skilled workforce to implement
31 energy efficiency, electrification, smart building, renewable power, and other low carbon or zero
32 carbon solutions as required. This workforce must prioritize job skills and transition training,
33 apprenticeships, and other opportunities to engage, recruit, and retain economically

1 disadvantaged workers, including people of color, women, persons with disabilities, and the
2 chronically underemployed.

3 (5) To administer and promulgate rules for the green buildings program created in
4 article III of this chapter.

5 (6) To develop and conduct programs for the Denver community to address climate
6 mitigation and adaptation needs.

7 (7) To develop and conduct programs for city agencies and employees that will
8 improve their understanding of climate change, the operational and financial impacts to the city,
9 and the opportunities to improve environmental, social, and economic outcomes by
10 implementing climate change solutions.

11 (8) To work to ensure all programs and initiatives developed by the office are based
12 on equity and give preference to low-income communities while working with, but not limited to,
13 the following commissions, or any successor commissions:

- 14 a. African American Commission;
- 15 b. American Indian Commission;
- 16 c. Asian American Pacific Islander Commission;
- 17 d. Commission on Aging;
- 18 e. Commission for People with Disabilities;
- 19 f. Commission for Strategic Partnerships;
- 20 g. Immigrant and Refugee Commission;
- 21 h. Latino Commission;
- 22 i. LGBTQ Commission; and
- 23 j. Women’s Commission.

24 (9) To promulgate any rules necessary to create a hardship exemption application
25 process that allows small businesses, energy intensive industrial manufacturing, and other
26 organizations to apply for and receive a rebate for a portion or all the tax paid, based on
27 hardship experience.

28 (10) To promulgate rules necessary to create a tax rebate program for not-for-profit
29 entities.

30 (11) To promulgate rules to create a tax rebate program for any customer enrolled in a
31 renewable electricity program offered by Xcel Energy, including but not limited to WindSource,
32 Renewable Connect, Solar Rewards, or equivalent programs as may be approved by the office.
33 The renewable electricity program must cover seventy percent of the customer’s annual
34 electricity demand.

1 (b) The executive director is the city’s chief climate action, sustainability, and
2 resiliency officer responsible for all new office functions as well as the functions specified for
3 the office of sustainability under executive order 123, or any successor executive order,
4 including coordinating the implementation of the city’s internal goal-setting and plan
5 implementation.

6 (c) The office must initially include all climate action team staff currently residing in
7 the environmental quality division of the Denver department of public health and environment,
8 all office of sustainability staff, and all associated budgets, contracts, and grants.

9 (12) To promulgate rules necessary to create a rebate program for electric vehicle
10 charging station site hosts for the annual electricity demand for fuel of electric vehicles.

11 **Sec. 11.5-5. - Advisory boards - Created.**

12 (a) The following boards are hereby created:

13 (1) The climate action and resiliency science advisory board (“science advisory
14 board”).

15 a. The science advisory board has nine members to be comprised of atmospheric
16 and climate scientists, as well as energy, built-environment or transportation professionals.

17 b. The science advisory board must be made up of diverse and representative
18 individuals that reflect the demographic and socioeconomic makeup of Denver, including youth
19 leaders.

20 (2) The climate action and resiliency community advisory board (“community advisory
21 board”).

22 a. The community advisory board has fifteen members from vulnerable populations
23 including but not limited to nonprofit, faith, neighborhood groups, workers, and other advocacy
24 groups. The community advisory board shall consist of community members drawn from
25 diverse sectors, whose input and support are critical to combating climate change and ensuring
26 vulnerable populations are not adversely affected.

27 b. The community advisory board must be made up of diverse and representative
28 individuals that reflect the demographic and socioeconomic makeup of Denver, including youth
29 leaders.

30 **Sec. 11.5-6. - Appointments.**

31 Each appointment to the two advisory boards must be made alternately first by the city
32 council appointee, then by the Mayoral appointee, then by the joint appointee in succession
33 until all positions on both boards are filled.

34 **Sec. 11.5-7. - Advisory Boards - Powers and duties - Terms.**

1 (a) The science advisory board will advise the executive director on goals and
2 strategies for greenhouse gas emissions.

3 (b) The community advisory board will oversee the grant funds, including grants for
4 city buildings or initiatives, and rebate programs and make recommendations for how the
5 grants, rebates, and workforce funds are distributed, and will advise the executive director on
6 goals and policy of the office.

7 (c) The members of both boards may receive compensation of \$90 per meeting and
8 may be reimbursed for expenses incurred in connection with the work of the advisory board and
9 as approved by the executive director.

10 (e) The terms of the members of both boards is three (3) years.

11 (f) The terms must be staggered so that one-third of the members are appointed
12 each year. In the event of the death or resignation of any member, a successor must be
13 appointed to serve for the unexpired portion of the term for which such member has been
14 appointed.

15 (g) Each advisory board shall nominate a member to serve as chairperson who upon
16 acceptance of the nomination, confirmation by the executive director, and subject to the
17 charter, article II of this chapter, and the advisory board's bylaws, shall serve as chair for a
18 period of one year. No advisory board member elected chairperson may serve more than two
19 consecutive terms as chairperson.

20 (h) The advisory boards must:

21 (1) Advise the executive director on special or emerging issues or opportunities that
22 may affect constituent groups.

23 (2) Provide input to the Executive Director regarding annual agency goals, priorities,
24 and objectives.

25 (3) Create sub-committees, as needed, to research an emerging issue or situation for
26 a time period determined by the advisory board and recommend necessary procedures,
27 programs, legislation, or administrative action in a final report submitted to the executive
28 director.

29 (4) Meet at least six times a year and may hold special meetings as the chairperson
30 deems necessary.

31 (5) Develop and adopt bylaws concerning governance and operation of the board. All
32 bylaws, including amendments thereto, are subject to the executive director's approval.

33 **Sec. 11.5-8. - Permitted uses of climate action, sustainability, and resiliency fund.**

34 (a) All monies derived from future electricity and natural gas excise taxes in the

1 climate action, sustainability, and resiliency fund must be expended solely on the following,
2 while also engaging and valuing the community voice to fully understand the impacts of
3 changes made on every Denver community, paying special attention to low-income and
4 vulnerable populations:

5 (1) Workforce development, implemented with an equity lens, to build comprehensive
6 plans for programs and projects that prioritize job skills, transition training, department of labor
7 registered apprenticeships, and other opportunities that engage, recruit, and retain
8 economically disadvantaged workers, including people of color, women, people with disabilities,
9 and the chronically underemployed. Priority must be given to programs and projects that both
10 reduce greenhouse gases and promote economic, social, and environmental benefits.

11 (2) Residential climate action efforts, including but not limited to planning, programs,
12 and incentives to increase adoption of energy and water efficiency, electrification of space and
13 water heating, installation of solar panels and battery storage, offsite solar, ecological
14 restoration, natural carbon sequestration, and elimination of greenhouse gas emissions from
15 homes and multifamily buildings.

16 (3) Commercial and industrial climate action efforts, including but not limited to
17 planning, programs, and incentives to increase energy and water efficiency, electrification,
18 installation of solar panels and battery storage, ecological restoration, natural carbon
19 sequestration, and elimination of greenhouse gas emissions from buildings and manufacturing
20 processes, including city buildings and city initiatives.

21 (4) Transportation greenhouse gas emission elimination efforts, including but not
22 limited to planning, programs, and incentives for electric vehicles, charging infrastructure,
23 reduction in total vehicle miles traveled, other clean mobility, and mode shift education and
24 outreach.

25 (5) Environmental justice, adaptation, resiliency, and greenhouse gas emissions
26 elimination efforts that help Denver prepare for and respond to a changing climate.

27 (b) All monies in the fund must be spent toward the above uses through the following
28 means:

29 (1) *Grants*. The grant program must be designed to minimize greenhouse gas
30 emissions while ensuring that everyone, especially low-income households and people of color
31 are prioritized in the transition to clean energy.

32 (2) *Rebates and market incentives*. Develop rebate and market incentive programs to
33 accelerate adoption of renewable energy, energy efficiency, water efficiency, and transportation
34 projects to minimize greenhouse gas emissions.

1 (3) *Workforce development.* Programs and projects to train, transition, and create a
2 local workforce through, but not limited to, training facilities, department of labor registered
3 apprenticeships, scholarships, and other educational incentives.

- 4 (4) *Staffing.* Staff responsibilities must include, but are not limited to:
- 5 a. Reducing greenhouse gas emissions from the building and transportation sectors.
 - 6 b. Planning and implementation for equity in all climate programs and policies.
 - 7 c. Accounting for greenhouse gas, data analytics, and program evaluation.
 - 8 d. Policy and planning, including updating goals based on new scientifically informed
9 targets.
 - 10 e. Hiring and overseeing contractors.
 - 11 f. Administration and finance, including:
 - 12 1. Communication, outreach and education.
 - 13 2. Addressing agency needs including, but not limited to, professional services,
14 travel and training, equipment, and financial services.

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

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

19 (e) *Rulemaking.* The executive director may promulgate rules necessary for the
20 administration of this section.

21 (f) *Reporting.* A report of fund expenditures must be submitted publicly and annually
22 to the mayor, city council, auditor, and the advisory boards created in sec. 11.5-5, D.R.M.C.

23 (g) *Planning.* Within one (1) year of the adoption of this chapter 11.5, and every three
24 years thereafter, the executive director, must hold no less than one (1) public hearing and
25 submit a three-year plan for the approval by City Council on the planned revenue uses in the
26 climate action, sustainability, and resiliency fund. The public hearing must seek input from
27 community stakeholders, equity stakeholders, and labor stakeholders.

28
29 **Section 2.** That article V of chapter 4 of the D.R.M.C. is repealed in its entirety and relocated
30 with conforming amendments to article II of chapter 11.5 to read as follows:

31
32 **ARTICLE II. - ENERGY EFFICIENCY IN COMMERCIAL AND MULTIFAMILY BUILDINGS**

33

1 **Sec. 11.5-9. - Purpose.**

2 The purpose of this article is to establish an energy efficiency program that requires covered
3 building owners to benchmark building energy performance and makes such energy performance
4 information publicly available in order to raise awareness and drive action.

5 **Sec. 11.5-10. - Applicability.**

6 The energy efficiency program applies to all commercial and multifamily buildings within the
7 City and County of Denver with a gross floor area of twenty-five thousand (25,000) square feet or
8 larger.

9 **Sec. 11.5-11. - Benchmarking and reporting.**

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

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

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

17 (c) Each owner of a covered building with a gross floor area between twenty-five thousand
18 (25,000) and fifty thousand (50,000) square feet ~~shall~~ must begin reporting by June 1, 2018.

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

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

28 **Sec. 11.5-12. - Office to promulgate rules.**

29 The ~~department~~ office of climate action, sustainability, and resiliency may promulgate rules for
30 the energy efficiency program.

31 **Sec. 11.5-13. - Enforcement.**

32 The ~~manager, or the manager's designee,~~ executive director or his or her designee is
33 empowered to enforce the provisions of this article and any rules and regulations adopted by the

1 ~~board~~ executive director of the office of climate action, sustainability, and resiliency pursuant to this
2 article.

3 **Secs. 11.5-14--11.5-17. - Reserved.**

4

5 **Section 3.** That article XIII of chapter 4 of the D.R.M.C. is repealed in its entirety and
6 relocated with conforming amendments to article III of chapter 11.5 to read as follows:

7

8 **ARTICLE III. - GREEN BUILDINGS.**

9

10 **DIVISION 1. - GREEN BUILDING REQUIREMENTS**

11

12 **Sec. 11.5-18. - Definitions.**

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

14 (a) *Addition* for purposes of this ~~article XIII~~ article III means an extension or increase in gross
15 floor area or height of a building or structure. A connecting element of limited width as required by the
16 International Building Code for a pedestrian walkway does not create an addition to a building.

17 (b) *Available roof space* means the total roof area of a building excluding the following:

18 (1) Private terraces no greater in area than the gross floor area of the abutting unit at the roof
19 level;

20 (2) Outdoor amenity spaces of buildings, including, but not limited to, areas for recreational or
21 social use;

22 (3) Areas of rooftop mechanical, electrical or other equipment, including cell towers or other
23 equipment leasing space on the roof, and all required clearances around these areas;

24 (4) Areas covered by skylights;

25 (5) Areas consisting of glass-covered atriums;

26 (6) Areas covered with glazing (windows); and

27 (7) Areas for renewable energy devices.

28 (c) *Building* for the purposes of this ~~article XIII~~ article III means any structure used or intended
29 for supporting or sheltering any use or occupancy. The boundary of any single building is defined by
30 its surrounding exterior walls. Party walls as constructed in accordance with the International Building
31 Code shall create separate buildings.

32 (d) *Building official* means the person authorized and directed to act on behalf of the building
33 permitting and inspections services in the interpretation and enforcement of the Building Code of the

1 City and County of Denver and appointed by the executive director of community planning and
2 development.

3 (e) *Campus* means a tract of contiguous property with one (1) or more owners; that contains
4 or will contain more than one (1) building; and that is planned, developed and operated as an
5 integrated facility for a number of individual uses with special attention to coordinated circulation,
6 parking, utility needs, aesthetics and compatibility. For purposes of this definition, the presence of
7 public rights-of-way ~~shall~~ may not destroy contiguity of land area. A campus may contain only existing
8 buildings, existing buildings and proposed new buildings, or only proposed new buildings.

9 (f) *Character defining roof* means a visible roof where the roofs relationship to the overall
10 shape of the building, as well as the roofs distinctive materials, craftsmanship, or decorative details
11 are important to the overall visual character of the building; a change of materials, color, or shape to a
12 character defining roof would significantly impact the visual character of the building.

13 (g) *Cool roof* means a roof, or portion of a roof, containing roof covering materials meeting
14 certain solar reflectance values that mitigate or assist in reducing urban heat island effect.

15 (h) *Denver Building and Fire Code* has the same meaning as in Section 10-16, D.R.M.C.

16 (i) *Executive director of CPD* means the executive director of the department of community
17 planning and development ("CPD"), or his/her designee.

18 (j) *Executive director of ~~DDPHE~~ the office of climate action, sustainability, and resiliency*
19 means the executive director of ~~the department of public health and environment ("DDPHE")~~ the office
20 of climate action, sustainability, and resiliency, or his or her designee.

21 (k) *Green space* means any area that is proposed to contain trees, groundcover, shrubs,
22 urban agriculture, natural grass/turf, or vegetated roofs.

23 (l) *Greenhouse* means a structure or a thermally isolated area of a building that maintains a
24 specialized sunlit environment exclusively used for, and essential to, the cultivation, protection or
25 maintenance of plants, that sells its commodities for a profit, or on behalf of a non-profit, and is
26 constructed or planned to be constructed as either an F-1 or U occupancy.

27 (m) *Gross floor area* means the gross floor area within the inside perimeter of the exterior
28 walls of the building under consideration, exclusive of vent shafts and courts, without deduction for
29 corridors, stairways, ramps, closets, the thickness of interior walls, columns or other features. The
30 gross floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be
31 the usable area under the horizontal projection of the roof or floor above. The gross floor area of a
32 building shall not include shafts with no openings, interior courts, or areas used exclusively for the
33 storage or parking of vehicles.

34 (n) *Individual roof section* means a portion of roof bounded on all sides by one (1) or more of

1 the following features: a wall or parapet; the roof edge; an expansion joint; or a roof divider.

2 (o) *Net zero energy building* means an energy-efficient building where, on a source energy
3 basis, the actual annual delivered energy is less than or equal to the on-site renewable exported
4 energy.

5 (p) *Owner* means any person, agent, operator, entity, firm, or corporation having any legal or
6 equitable interest in the building or property; or any person authorized to act on the owner's behalf.

7 (q) *Renewable energy device* means a device that obtains energy derived from solar
8 radiation, wind, landfill gas, biomass, the internal heat of the earth, or another source with the approval
9 of CPD.

10 (r) *Residential building* means a building where more than sixty (60) percent of the gross floor
11 area of the building is used, designed or intended to be used for a household living use type as
12 defined in the Denver Zoning Code, including accessory residential uses; however, a residential
13 building shall not include a nursing home or hospice use, a residence for older adults use, or a lodging
14 accommodation use, all as defined in the Denver Zoning Code.

15 (s) *Roof* means the overhead structural component of a building or a part of a building
16 supported by walls or columns and which functions primarily to shelter the interior of the building from
17 the effects of weather and the infiltration of water.

18 (t) *Roof recover* means the process of installing an additional layer of roof covering over a
19 prepared existing roof covering without removing the existing roof covering.

20 (u) *Roof replacement* means the process of removing the existing roof covering, repairing any
21 damaged substrate, and installing a new roof; or the reconstruction or renewal of any part of an
22 existing roof for the purposes of its maintenance.

23 (v) *Total roof area* means the square footage of all roofs and roof sections located on a
24 building. A roof covering a story or stories below grade, as determined in accordance with the
25 International Building Code as adopted in the Denver Building and Fire Code, shall not be included in
26 the calculation of total roof area of a building.

27 (w) *Vegetated roof* means an assembly of interacting components designed to waterproof
28 and normally insulate a building's top surface that includes, by design, vegetation and related
29 landscape elements.

30 (x) *Visible roof* means an individual roof section that is at least partially visible from a person
31 of average height in a public vantage point such as a park, public street, campus grounds, or private
32 street with public easement.

33 **Sec. 11.5-19. - Green building requirements for new buildings.**

34 (a) *In general.* Except as provided in ~~subsection 10-301(e)~~ subsection 11.5-19 (c) below, an

1 owner constructing a building containing twenty-five thousand (25,000) square feet or greater of gross
2 floor area who has not submitted a formal site development plan application with payment of all
3 applicable fees by 4:30 pm on November 2, 2018, must provide the following green building
4 requirements:

- 5 (1) A cool roof; and
- 6 (2) One (1) of the following options:
 - 7 a. Green space covering an area in one (1) of the following amounts, whichever is least:
 - 8 1. Ten (10) percent of the gross floor area of the building;
 - 9 2. Sixty (60) percent of the total roof area on the building; or
 - 10 3. The available roof space on the building.
 - 11 b. On-site solar panels covering an area anywhere on the building or zone lot equal to
12 seventy (70) percent of the total roof area or an area equal to an amount required to provide one
13 hundred (100) percent of estimated annual average electricity used at the building. Other renewable
14 energy devices may be used in place of on-site solar panels so long as the owner provides evidence
15 of similar generation capacity. Any net zero energy building complies with this ~~subsection 10-~~
16 ~~301(a)(2)b~~ subsection 11.5-19 (a)(2)b.
 - 17 c. Off-site renewable energy purchase with the following requirements:
 - 18 1. The off-site renewable energy purchase must be met through a minimum five (5) year
19 contract for a subscription, lease, or purchase of a share in a voluntary renewable energy program
20 offered by Xcel Energy or a community solar project for which a dedicated renewable energy resource
21 located in Public Service Company of Colorado territory is built for that customer program, and which
22 has dedicated customer capacity or energy to fulfill that customer's subscription;
 - 23 2. The term of purchase must be renewed a minimum of every five (5) years for the life of the
24 building; and
 - 25 3. The off-site renewable energy purchase must cover the equivalent energy production of
26 either (i) the estimated one hundred (100) percent of electricity the building will use, or (ii) the amount
27 that would have been provided with required on-site solar panels and demonstration of decreased
28 energy consumption measured as estimated cost savings of a minimum six (6) percent above
29 requirements in the applicable Denver Building and Fire Code.
 - 30 d. Demonstration of decreased energy consumption measured as estimated cost savings of
31 at least twelve (12) percent above requirements in the applicable Denver Building and Fire Code.
 - 32 e. Building certification of LEED Gold, Enterprise Green Communities, the National Green
33 Building Standard ICC/ASHRAE 700, or an equivalent certification approved by the building official.
 - 34 f. A combination of green space, and renewable energy device(s) with the following required

1 coverages:

2 1. Green space covering an area in one (1) of the following amounts, whichever is least:

3 (i) Three (3) percent of the gross floor area of the building;

4 (ii) Eighteen (18) percent of the total roof area on the building; or

5 (iii) Thirty (30) percent of the available roof space on the building; and either ~~section 10-~~
6 ~~301(a)(2) f. 2 or 3 below~~ section 11.5-19 (a) (2) f. 2 or 3 below.

7 2. On-site solar panels located anywhere on the subject zone lot covering an area in one of
8 the following amounts, whichever is least:

9 (i) Seven (7) percent of the gross floor area of the building,

10 (ii) Forty-two (42) percent of the total roof area on the building; or

11 (iii) Seventy (70) percent of the available roof space on the building.

12 3. Renewable energy devices, other than solar panels, so long as the renewable energy
13 devices achieve equivalent total energy production to the required amount of on-site solar panels in
14 ~~subsection 10-302(2)f.2~~ subsection 11.5-19 (2) f. 2 above; or

15 4. Alternative coverages of green space and on-site solar panels may be approved by the
16 building official so long as the combination covers an area in one (1) of the following amounts,
17 whichever is least:

18 (i) Ten (10) percent of the gross floor area of the building;

19 (ii) Sixty (60) percent of total roof area on the building; or

20 (iii) The available roof space on the building.

21 g. A combination of green space and off-site renewable energy purchase, with the following
22 requirements:

23 1. Green space covering an area in one (1) of the following amounts, whichever is least:

24 (i) Three (3) percent of the gross floor area of the building;

25 (ii) Eighteen (18) percent, of total roof area on the building; or

26 (iii) Available roof space on the building.

27 2. The off-site renewable energy purchase must be met through a minimum five (5) year
28 contract for a subscription, lease, or purchase of a share in a voluntary renewable energy program
29 offered by Xcel Energy or a community solar project for which a dedicated renewable energy resource
30 located in Public Service Company of Colorado territory is built for that customer program, and which
31 has dedicated customer capacity or energy to fulfill that customer's subscription. The term of purchase
32 must be renewed a minimum of every five (5) years after initial purchase.

33 3. The off-site renewable energy purchase must cover the amount that required on-site solar
34 panels would have provided and demonstration of decreased energy consumption measured as

1 estimated cost savings of a minimum two and a half (2.5) percent above requirements in the Denver
2 Building and Fire Code.

3 h. A combination of green space and decreased energy consumption with the following
4 requirements:

- 5 1. Green space covering an area in one (1) of the following amounts, whichever is least:
 - 6 (i) Three (3) percent of the gross floor area of the building;
 - 7 (ii) Eighteen (18) percent of total roof area on the building; or
 - 8 (iii) The available roof space on the building.
- 9 2. Demonstration of decreased energy consumption measured as estimated cost savings of
10 a minimum five (5) percent above requirements in the applicable Denver Building and Fire Code
11 during plan review.

12 (b) *Payment into the green building fund.*

13 (1) Instead of providing required green space, an owner may pay an amount to the green
14 building fund, defined in division 3 below, of fifty dollars (\$50.00) per square foot of all green space
15 coverage required in ~~subsections 10-301(a)(2)a, f, g, or h,~~ subsections 11.5-19 (a)(2)a, f, g, or h, but
16 not provided.

17 (2) In cases where an owner chooses to provide green space as required in ~~subsections 10-~~
18 ~~301(a)(2)a, f, g, or h,~~ subsections 11.5-19 (a)(2)a, f, g, or h, but is unable to provide the entirety
19 required green space coverage, the owner may pay fifty dollar (\$50.00) per square foot for no more
20 than twenty-five (25) percent of the green space required, but not provided, and must provide at least
21 seventy-five (75) percent of the required green space coverage.

22 (c) *Exceptions.*

- 23 (1) ~~Subsection 10-301(a) shall~~ Subsection 11.5-19 (a) does not apply to the following:
 - 24 a. One- and two-family dwellings constructed under the provisions of the International
25 Residential Code;
 - 26 b. Dwelling units constructed in a group of three (3) or more attached units in which each unit
27 extends from foundation to roof and is not more than three (3) stories above grade plane; or
 - 28 c. Temporary structures, air supported structures, and greenhouses.
- 29 (2) ~~Subsection 10-301(a) shall~~ Subsection 11.5-19 (a) does not apply to the following:
 - 30 a. Portions of a proposed roof that include the following:
 - 31 1. Photovoltaic systems or components;
 - 32 2. Solar-, air-, or water-heating systems or components;
 - 33 3. Vegetated roofs;
 - 34 4. Above-roof decks or walkways; or

- 1 5. HVAC systems and components, and other opaque objects mounted above the roof.
- 2 b. Portions of a proposed roof shaded during the peak sun angle on the summer solstice by
- 3 neighboring buildings or other portions of the same building;
- 4 c. Portions of a proposed roof that are ballasted with a minimum stone ballast of fifteen (15)
- 5 pounds per square foot;
- 6 d. Twenty-five (25) percent of an individual roof section, when the remaining seventy-five (75)
- 7 percent of the proposed individual roof section contains a cool roof;
- 8 e. An individual roof section containing less than twenty-five (25) percent of roofing materials;
- 9 or
- 10 f. Visible roofs for no more than ten (10) percent of the total roof area.

11 (3) ~~Subsection 10-301(a) shall~~ Subsection 11.5-19 (a) (2) does not apply to residential
12 buildings five (5) stories or fewer, less than sixty-two and one-half (62.5) feet in height, and with
13 twenty-five thousand (25,000) square feet or more of gross floor area.

14 (d) *Character defining roof.* When a proposed roof is determined to be a character defining
15 roof, the building official may allow roof materials that do not meet the requirements for a cool roof.

16 (e) *Continuing compliance.* An owner of a building subject to the requirements of section 40-
17 ~~301(a)~~ section 11.5-19 (a) must provide a cool roof and one (1) of the options of ~~40-301(a)(2)~~ section
18 11.5-19 (a) (2) for the duration of the building's existence.

19 **Sec. 11.5-20. - Green building requirements for existing buildings.**

20 (a) *In general.* Except as provided in ~~subsection 10-302(d)~~ subsection 11.5-20(d) below, any
21 owner of a building that has received a certificate of occupancy prior to November 2, 2018 and whose
22 building contains twenty-five thousand (25,000) square feet or greater of gross floor area, must
23 provide the following green building requirements upon a roof replacement for more than five (5)
24 percent of either the total roof area or individual roof section(s), as applicable, in any calendar year:

- 25 (1) A cool roof; and
- 26 (2) One (1) of the following options:
 - 27 a. Green space covering an area in one (1) of the following amounts, whichever is least:
 - 28 1. For total roof area replacement: two (2) percent of the gross floor area of the building; for
 - 29 individual roof section replacement: two (2) percent of the gross floor area of the building, multiplied by
 - 30 the area of individual roof section(s) being replaced, divided by the total roof area of the building;
 - 31 2. For total roof area replacement: eighteen (18) percent of the total roof area on the building;
 - 32 for individual roof section replacement: eighteen (18) percent of the individual roof section(s) being
 - 33 replaced; or
 - 34 3. Available roof space on the total roof area of the building, or the individual roof section(s)

1 being replaced, as applicable.

2 b. On-site solar panels located anywhere on the building or zone lot and covering an area in
3 the least of the following:

4 1. For total roof area replacement: five (5) percent of the gross floor area of the building; for
5 individual roof section replacement: five (5) percent of the gross floor area of the building, multiplied by
6 the area of roof section(s) being replaced, divided by the total roof area of the building;

7 2. For total roof area replacement: forty-two (42) percent of the total roof area on the building;
8 for individual roof section replacement: forty-two (42) percent of the individual roof section(s) being
9 replaced; or

10 3. An area equal to an amount required to provide one hundred (100) percent of estimated
11 annual average electricity used at the building.

12 c. Building certification of LEED Silver, Enterprise Green Communities, the National Green
13 Building Standard ICC/ASHRAE 700, or an equivalent certification approved by the building official.

14 d. Enrollment in the energy program described in ~~section 10-304~~ section 11.5-22 below.

15 (b) *Payment into the green building fund.*

16 (1) Instead of providing required green space, an owner may pay an amount to the green
17 building fund, defined in division 3 below, of fifty dollars (\$50.00) per square foot of all green space
18 coverage required in ~~subsection 10-302(a)(2)a,~~ subsection 11.5-20(a)(2)a, but not provided.

19 (2) In cases where an owner chooses to provide green space as required in ~~subsection 10-~~
20 ~~302(a)(2)a,~~ subsection 11.5-20(a)(2)a, but is unable to provide the entirety of green space coverage
21 required, the owner may pay fifty dollars (\$50.00) per square foot for no more than twenty-five (25)
22 percent of the green space required, but not provided, and must provide at least seventy-five (75)
23 percent of the required green space coverage.

24 (c) *Individual roof section replacements.* Any excess coverage requirements provided on an
25 individual roof section replacement may be applied to later roof replacements of individual roof
26 sections of the building.

27 (d) *Exceptions.*

28 (1) ~~Subsection 10-302(a) shall~~ Subsection 11.5-20 (a) does not apply to the following:

29 a. One- and two-family dwellings constructed under the provisions of the International
30 Residential Code;

31 b. Dwelling units constructed in a group of three (3) or more attached units in which each unit
32 extends from foundation to roof and is not more than three (3) stories above grade plane;

33 c. Temporary structures, air supported structures, and greenhouses; or

34 1. d. Buildings that have complied with ~~section 10-301 (a)~~ section 11.5-19 (a).

- 1 (2) ~~Subsection 10-302(a)(1) shall~~ Subsection 11.5-20 (a) (1) does not apply to the following:
- 2 a. Portions of a roof that include or are covered by the following:
- 3 1. Photovoltaic systems or components;
- 4 2. Solar-, air-, or water-heating systems or components;
- 5 3. Vegetated roofs;
- 6 4. Above-roof decks or walkways; or
- 7 5. HVAC systems and components, and other opaque objects mounted above the roof.
- 8 b. Portions of a roof shaded during the peak sun angle on the summer solstice by
- 9 neighboring buildings or other portions of the same building;
- 10 c. Portions of a roof that are ballasted with a minimum stone ballast of fifteen pounds per
- 11 square foot, or, in the case of an existing ballasted roof, the weight of ballast for which the roof was
- 12 originally designed;
- 13 d. Twenty-five (25) percent of an individual roof section, when the remaining seventy-five (75)
- 14 percent of the individual roof section contains a cool roof;
- 15 e. An individual roof section containing less than twenty-five (25) percent of roofing materials;
- 16 or
- 17 f. Visible roofs for no more than ten (10) percent of the total roof area.
- 18 (3) ~~Subsection 10-302(a)(2) shall~~ Subsection 11.5-20 (a) (2) does not apply to the following:
- 19 a. Residential buildings five (5) stories or fewer, or less than sixty-two and one-half (62.5) feet
- 20 in height and with twenty-five thousand (25,000) square feet or more of gross floor area;
- 21 b. A building that must replace its roof due to an emergency, including, but not limited to, fire
- 22 or wind damage to be determined by the building official;
- 23 c. A building that must replace its roof due to hail damage in the first year, effective
- 24 November 2, 2018, when the building owner can demonstrate a gap in insurance coverage. Such gap
- 25 exists where the building owner has insurance coverage that includes the cost of meeting any new
- 26 code requirements, but had a cost limit on that coverage that is insufficient to meet the additional
- 27 costs of this ordinance, and the insurance policy is not yet due for renewal; or
- 28 d. A building that contained a vegetative roof ~~prior to~~ before January 1, 2018, so long as the
- 29 vegetative roof is replaced upon any roof replacement.
- 30 (e) *Compliance with new building requirements.* Any owner who submits a building permit for
- 31 a roof replacement or construction including roof replacement, and has complied with subsection
- 32 ~~section 10-302(a)~~ section 11.5-19 (a), does not have to comply with the requirements of ~~section 10-~~
- 33 ~~302(a)~~ section 11.5-20 (a), but shall maintain compliance with the selected option from ~~section 10-~~
- 34 ~~302(a)(2)~~ section 11.5-20 (a) (2) or demonstrate compliance with another option from ~~section 10-~~

1 ~~302(a)(2)~~ section 11.5-20 (a) (2) upon completion of any roof replacement which must be submitted
2 and approved by the building official.

3 (f) *Character defining roof.* When a proposed or existing roof is determined to be a character
4 defining roof, the building official may allow roof materials that do not meet the requirements for a cool
5 roof.

6 (g) *Roof recover.* Any owner proposing a roof recover of more than five (5) percent of either
7 the total roof area or individual roof section in any calendar year, and whose building contains 25,000
8 square feet or greater of gross floor area must comply with ~~section 10-302(a)(1)~~ section 11.5-20 (a) (1)
9 for that portion of roof being recovered, but need not comply with the requirements of ~~section 10-~~
10 ~~302(a)(2)~~ section 11.5-20 (a) (2). When an analysis of any individual roof section prior to a roof
11 recover determines that application of a cool roof will result in condensation, then an owner may
12 choose not to provide a cool roof.

13 (h) *Continuing compliance.* An owner of a building subject to the requirements of ~~section 10-~~
14 ~~302(a)~~ section 11.5-20 (a) must provide a cool roof and one (1) of the options of ~~section 10-302(a)(2)~~
15 section 11.5-20 (a) (2) for the duration of the building's existence.

16 **Sec. 11.5-21. - Additions.**

17 (a) *Large additions.* Any owner proposing an addition of fifty thousand (50,000) square feet of
18 gross floor area or greater to a building shall comply with ~~section 10-304~~ section 11.5-19 for that
19 addition.

20 (b) *Small additions.* Any owner proposing an addition of twenty-five (25,000) or more and less
21 than fifty thousand (50,000) square feet of gross floor area to a building shall provide a cool roof, as
22 applicable, and comply with any of the following:

23 (1) Any of the requirements of ~~section 10-302(a)(2)a-e~~ section 11.5-20 (a) (2) a-c for that
24 addition;

25 (2) The requirements of ~~section 10-302(b)~~ section 11.5-20 (b) for that addition; or

26 (3) Estimated energy cost savings of at least four (4) percent above requirements in the
27 Denver Building and Fire Code for that addition.

28 **Sec. 11.5-22. - Energy Program.**

29 (a) *Purpose.* The purpose of this section is to establish an energy program that provides an
30 owner various options designed to reduce cumulative emissions city-wide in an amount equivalent to
31 ~~section 10-302(a)(2)(b)~~ section 11.5-20 (a) (2) b.

32 (b) *Applicability.* An owner subject to the requirements of ~~section 10-302(a)~~ section 11.5-20
33 (a) may enroll in the energy program at or before the time of roof replacement.

34 (c) *Options.* The requirements of the energy program shall provide for compliance options,

1 including, but not limited to, the following: building certification; on-site solar panels; off-site renewable
2 energy purchase; energy efficiency improvements; reductions in energy use intensity; and
3 differentiation of requirements for buildings over and under fifty thousand (50,000) square feet of gross
4 floor area.

5 **Sec. 11.5-23. - Campus compliance with green building requirements.**

6 (a) *Compliance.* Owners of buildings within a campus may comply with the green building
7 requirements of ~~sections 10-301(a)(2)a, b, or f, and 10-302(a)(2)a or b,~~ sections 11.5-19 (a)(2)a, b, or
8 f, and 11.5-20 (a)(2)a or b, through application of the requirements at a campus-wide level instead of
9 complying with each individual building in the campus or each zone lot. Owners of buildings within a
10 campus must comply with any applicable cool roof requirements for each individual building within a
11 campus.

12 (b) *Documentation.* CPD shall require owners who choose to comply at the campus level to
13 submit a plan documenting compliance with ~~section 10-301(a) or section 10-302(a).~~ section 11.5-19
14 (a) or section 11.5-20 (a). Such plan may include, but is not limited to, a general development plan (or
15 successor type of plan), infrastructure master plan, site development plan, or development agreement.
16 A site development plan will be required for any new buildings or green space.

17 (c) *Energy master plan.* Owners choosing to comply with ~~section 10-301(a)(2)b or f or section~~
18 ~~10-302(a)(2)b~~ section 11.5-19 (a)(2)b or f or section 11.5-20 (a)(2)b must submit an energy master
19 plan to CPD.

20 **Sec. 11.5-24. - Authority to adopt rules and regulations.**

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

24 **Sec. 11.5-25. - Enforcement.**

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

27 (b) The executive directors of CPD and ~~the DDPHE, or their designees,~~ have the office of
28 climate action, sustainability, and resiliency have the authority to enforce the provisions of ~~article XIII~~
29 article III.

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

1 (d) CPD and the ~~DDPHE~~ the office of climate action, sustainability, and resiliency are
2 authorized to issue notices or orders for violations of this article. Any person who violates any
3 provision of this ~~article XIII~~ article III, including any rules and regulations adopted under this article,
4 shall be subject to a civil penalty in an amount up to fifty dollars (\$50.00) times sixty (60) percent of the
5 total roof area, to be deposited into the green building fund, defined below.

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

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

20 **Sec. 11.5-26. - Appeals.**

21 (a) Any person aggrieved by a denial, suspension, or revocation of a building permit or
22 occupancy permit, or a determination of the applicability of this article, may appeal to the board of
23 appeals; however, the board of appeals is not authorized to grant variances to the requirements of this
24 article.

25 (b) Any person aggrieved by a final administrative action or decision by the executive director
26 of CPD or ~~DDPHE~~ the office of climate action, sustainability, and resiliency concerning issuance of a
27 civil penalty as allowed in ~~section 10-307(d)~~ section 11.5-25 (d), may appeal in accordance with the
28 process described in Article I, Section 24, D.R.M.C., except that no request for a variance shall be
29 granted by the board of public health and environment. The decision of the board of public health and
30 environment may be appealed to district court in accordance with the Colorado Rules of Civil
31 Procedure Rule 106(a)(4).

32
33 **DIVISION 2. - GREEN BUILDING TECHNICAL ADVISORY COMMITTEE**

1 **Sec. 11.5-27. - Creation and composition - terms - officers.**

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

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

11 (2) Representative(s) of the design sector;

12 (3) Representative(s) of material and component manufacturers and suppliers sector;

13 (4) Representative(s) of the construction sector;

14 (5) Representative(s) of the research sector including, but not limited to, persons involved in
15 green roof research and testing, water quality/capture research and testing or building energy
16 efficiency in a professional academic institution, school of engineering or architecture;

17 (6) Representative(s) of the green roof industry sector;

18 (7) Representative(s) of the renewable energy industry sector;

19 (8) Representative(s) of the energy efficiency industry sector; and

20 (9) Water quality/capture requirements expert(s).

21 (b) *Terms.*

22 (1) Committee members shall serve for a period of three (3) years, with terms to be
23 staggered by initially appointing three of the mayoral appointed members for three-year terms, another
24 three of the mayoral appointed members for two years, and the remaining mayoral appointees for one
25 year. Initial terms shall be set by the mayor.

26 (2) Committee members may be re-appointed for successive terms.

27 (3) The committee members from subsection (a)(1) above shall not be subject to the term
28 requirements of this subsection (b).

29 (c) *Officers.* The mayor shall appoint a chairperson among the committee members to
30 preside over the committee for a three (3) year term.

31 **Sec. 11.5-28. - Meetings.**

32 The committee shall meet at the call of the executive directors of CPD or ~~DDPHE, or their~~
33 ~~designees~~ the office of climate action, sustainability, and resiliency, or their designees, and the
34 meeting shall consider the matters set out in an agenda prepared by the executive directors, or their

1 designees.

2 **Sec. 11.5-29. - Powers and duties**

3 The general purpose of the committee is to render advice and recommendations to the
4 executive directors of CPD or ~~DDPHE~~ the office of climate action, sustainability, and resiliency
5 regarding green building standards. The specific powers and duties of the committee shall be:

- 6 (a) Reviewing technical issues relating to the implementation of vegetative roof construction
7 standard contained in the rules and regulations;
- 8 (b) Considering possible amendments to any vegetative roof construction standards;
- 9 (c) Reviewing the consistency of the vegetative roof standards with objectives in the Denver
10 Building and Fire Code;
- 11 (d) Periodically reviewing rules and regulations;
- 12 (e) Reviewing annual reports of the energy program; and
- 13 (f) Reviewing projects that request to use an equivalent certification program as allowed in
14 ~~section 10-301(a)(2)e or 10-302(a)(2)c~~, section 11.5-19 (a)(2)e or 11.5-20 (a)(2)c and making a
15 recommendation to the building official.

16 **Sec. 11.5-30. - Staffing and administrative support.**

17 Staffing and administrative support for the committee shall be provided by CPD.

18

19 **DIVISION 3. - FEES**

20

21 **Sec. 11.5-31. - Green building fund.**

22 (a) *Dedicated revenues.* The green building fund is created for the exclusive purpose of
23 receiving and accounting for all revenues derived from the payments of amounts for required, but not
24 provided, green space in this ~~article XIII~~ article III.

25 (b) *Permitted uses of revenue in the green building fund.* Revenue received in the green
26 building fund shall be used exclusively for the following purposes:

- 27 (1) For the acquisition of green space within the city;
- 28 (2) For improvements to existing green space;
- 29 (3) For water quality improvements and green infrastructure;
- 30 (4) For urban forest protection and expansion;
- 31 (5) For green roof creation; and
- 32 (6) For solar adoption and energy efficiency projects in areas of low-income and affordable
33 housing populations.

1 (c) *Cap on administrative costs.* Monies in the green building fund may be expended to pay
2 the costs incurred by the city associated directly with the administration of this fund; provided,
3 however, in no event shall the amount expended from the green building fund for such administrative
4 expenses in any year exceed five (5) percent of the amount of revenue received in that year.

5 (d) *Fund earnings.* Any interest on any balance in the green building fund shall accrue to this
6 fund.

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

12 (f) *Review of fund.* ~~The department of public health and environment~~ The office of climate
13 action, sustainability, and resiliency shall conduct a policy review of the fund created in this ~~article XIII~~
14 article III, hold a public hearing to gather input for the review, and report the findings and any
15 recommendations to the city council. The first public hearing shall be held no later than March of 2020,
16 and subsequent public hearings and reviews of the fund shall occur every two (2) years after this date.

17 (g) *Annual inflation adjustment.*

18 (1) On July 1, 2020, and on each July 1 thereafter, the fees set forth in ~~sections 10-301(b)~~
19 ~~and 10-302(b)~~ sections 11.5-19 (b) and 11.5-20 (b) shall be adjusted in an amount equal to the
20 percentage change from the previous year in the Mortenson Construction Cost Index for the Denver
21 metro area. The adjustments will be reflected in a fee schedule issued by the executive director of
22 CPD and made publicly available in advance of the fees becoming effective. The annual inflation
23 adjustment shall apply to any building permit on or after January of the year in which the adjustment is
24 made, regardless of when the application for the building permit was made.

25 (2) In the event that the Mortenson Construction Cost Index is substantially changed,
26 renamed, or abandoned, then in its place shall be substituted an index that resembles the Mortenson
27 Construction Cost Index, to be determined by the executive director of CPD.

28 (h) *Prevailing wage.*

29 (1) *Payment of Prevailing Wage.* Every city contract in excess of two thousand dollars
30 that requires or authorizes covered work on non-commercial property and every city contract in
31 excess of five thousand dollars that requires or authorizes covered work on commercial property,
32 whether for an individual contract or subcontract, or in aggregate where a contract or subcontract
33 may require or authorize covered work across multiple properties, expending green building fund
34 monies must require that every worker, mechanic, or other laborer employed by any contractor or

1 subcontractor for covered work must be paid the prevailing wage, as described in section 20-76,
2 D.R.M.C.

3 (2) *Covered Work.* For purposes of this subsection (h), covered work shall mean:
4 drayage or construction, alteration, improvement, repair, maintenance or demolition, and the work
5 of a doorkeeper, caretaker, cleaner, window washer, porter, keeper, janitor, or similar custodial or
6 janitorial work. This subsection (h) shall not apply to any person excepted from prevailing wage
7 coverage by 20-76(a), D.R.M.C.

8 (3) *Record retention.* A contractor or subcontractor that is required to pay prevailing
9 wage in connection with a contract in accordance with paragraph (1) of this subsection (h) must
10 keep and preserve, for a period of at least three years, payroll records and other suitable books
11 and records as may be necessary to determine the prevailing wage paid to workers for covered
12 work. The auditor shall be entitled at any reasonable time to examine the books and payroll
13 records of a contractor or subcontractor related to such a contract and to make copies of their
14 contents.

15 (4) *Certified payroll.* A contractor or subcontractor performing covered work and
16 receiving compensation from the green building fund in excess of fifty thousand dollars, whether
17 for an individual contract or in aggregate, must furnish to the auditor each pay period during which
18 work is in progress in connection with the contract a true and correct electronically certified copy of
19 the payroll records of every person performing work related to the contract. The certified records
20 must show the number of hours worked, hourly pay, any deductions made from pay, and the net
21 amount of pay received by each worker for the period covered by the payroll.

22 (5) *Enforcement.* The auditor has the authority and duty to enforce the provisions of this
23 subsection (h). The penalty, complaint, and review provisions of section 20-76 (e), (f), and (g) apply to
24 violations of this paragraph (h).

25

26 **DIVISION 4. - EVALUATION**

27

28 **Sec. 11.5-32. - Evaluation of article.**

29 Every twelve (12) months, CPD and ~~DDPHE~~ the office of climate action, sustainability, and
30 resiliency shall prepare a written report of the activities related to, and an assessment of outcomes of,
31 this article, and report their findings and any recommendations to the city council.

32

33

34

1 COMMITTEE APPROVAL DATE: August 13, 2019
2 MAYOR-COUNCIL DATE: N/A
3 PASSED BY THE COUNCIL _____ 2019

4 _____ - PRESIDENT

5 APPROVED: _____ - MAYOR _____ 2019

6 ATTEST: _____ - CLERK AND RECORDER,
7 EX-OFFICIO CLERK OF THE
8 CITY AND COUNTY OF DENVER
9

10 NOTICE PUBLISHED IN THE DAILY JOURNAL _____ 2019; _____ 2019

11
12 PREPARED BY: Troy Bratton, Legislative Counsel DATE: August 14, 2019

13
14 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of the
15 City Attorney. We find no irregularity as to form and have no legal objection to the proposed
16 ordinance. The proposed ordinance **is not** submitted to the City Council for approval pursuant to §
17 3.2.6 of the Charter.
18

19 Kristin M. Bronson Denver City Attorney

20
21 BY: _____, Assistant City Attorney DATE: _____
22
23
24