

1 **BY AUTHORITY**

2 ORDINANCE NO. _____
3 SERIES OF 2020

COUNCIL BILL NO. CB20-0047
COMMITTEE OF REFERENCE:
4 Safety, Housing, Education & Homelessness

5 **A BILL**

6 **For an ordinance amending the Denver Revised Municipal Code in connection**
7 **with the execution of the revised Executive Order 28 creating Denver Economic**
8 **Development and Opportunity, the rescission of Executive Order 91, and the**
9 **execution of Executive Order No. 145 creating the Department of Housing**
10 **Stability.**

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

13 **Section 1.** That section 27-46, D.R.M.C. shall be amended by deleting the language stricken
14 and adding the language underlined, to read as follows:

15 **Sec. 27-46. - Definitions.**

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

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

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

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

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

34 (e) *City subsidy projects.* Privately owned properties that include five (5) or more units

1 receiving funding from or through a city subsidy.

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

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

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

14 ~~(h)~~ (i) HUD. The United States Department of Housing and Urban Development.

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

21 ~~(k) OED. The Office of Economic Development of the City and County of Denver.~~

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

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

30 **Section 2.** That section 27-47 (h), D.R.M.C. shall be amended by adding the language
31 underlined, to read as follows:

32 **Sec. 27-47. – Federal Preservation Projects – Notice and purchase opportunities.**

33 (h) Federal preservation projects subject to long term affordability restrictions shall not be

1 subject to the requirements of this section.

2 **Section 3.** That section 27-49 (a), D.R.M.C. shall be amended by deleting the language
3 stricken and adding the language underlined, to read as follows:

4 **Sec. 27-49. – Local Preservation Projects – Tenant and city notice provisions.**

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

10 **Section 4.** That section 27-49 (d), D.R.M.C. shall be amended by adding the language
11 underlined, to read as follows:

12 **Sec. 27-49. – Local Preservation Projects – Tenant and city notice provisions.**

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

15 **Section 5.** That section 27-50 (b), D.R.M.C. shall be amended by deleting the language
16 stricken and adding the language underlined, to read as follows:

17 **Sec. 27-50. – City subsidy projects – ~~Long term affordability~~ Affordability requirements.**

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

22 **Section 6.** That section 27-51 (a), D.R.M.C. shall be amended by deleting the language
23 stricken and adding the language underlined, to read as follows:

24 **Sec. 27-51. – Compliance and enforcement.**

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

30 **Section 7.** That section 27-103, D.R.M.C. shall be amended by deleting the language stricken
31 and adding the language underlined, to read as follows:

32 **Sec. 27-103. - Definitions.**

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

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

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

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

9 (1) The properties are contiguous at any point;

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

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

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

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

17 (2) Zoned for residential development; and

18 (3) Which will use public water and sewerage.

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

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

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

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

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

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

33 (k) *Eligible household* means a household whose income qualifies the household to

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

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

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

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

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

31 (p) *Household* means:

32 (1) A single person;

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

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

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

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

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

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

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

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

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

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

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

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

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

6 ~~(w) OED means the City and County of Denver's Office of Economic Development or its~~
7 ~~successor.~~

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

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

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

15 (z) *Special revenue fund* means a fund established by the director for use for affordable
16 housing purposes. Community Development Block Grant (CDBG) and HOME moneys may never
17 be deposited into this fund. The director shall adopt procedures in the rules and regulations to
18 determine whether there is adequate funding of the special revenue fund for estimated incentive
19 payments and all other affordable housing obligations for the subsequent fiscal year. The director
20 shall use the special revenue fund for the primary purpose of providing future incentive payments
21 to applicants who build moderately priced units, and utilize any amounts in the special revenue
22 fund in excess of all obligations remaining through the subsequent fiscal year, next for the creation
23 or preservation of affordable housing in accordance with applicable city plans, with consideration
24 being given to create housing from funds that were generated from areas identified within this
25 article as high need zones, in area proximate to those same high need areas when practicable.
26 Amounts in the special revenue fund exceeding the adequate funding for these priorities through
27 the subsequent fiscal year may be expended for the administration of this ~~ordinance~~ [article], up to
28 ~~a maximum~~ the greater of five (5) percent of the total amount of the balance in the fund on January
29 1 of each year or \$250,000. Notwithstanding the foregoing, the director shall adopt as part of the
30 rules and regulations, a reservation for a portion of alternative contribution payments paid by
31 applicant from high need downtown areas as defined in the rules and regulations. This reservation
32 shall be held for payments for MPDUs created in the same or proximate neighborhoods. The

1 reservation shall take priority over all other purposes of the special revenue fund for a reasonable
2 time as defined by the rules and regulations.

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

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

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

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

12 **Section 8.** That section 27-105 (a), D.R.M.C. shall be amended by deleting the language
13 stricken and adding the language underlined, to read as follows:

14 **Sec. 27-105. – MPDU requirements.**

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

24 **Section 9.** That section 27-105 (b), D.R.M.C. shall be amended by deleting the language
25 stricken and adding the language underlined, to read as follows:

26 **Sec. 27-105. – MPDU requirements.**

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

29 **Section 10.** That section 27-106 (a), D.R.M.C. shall be amended by deleting the language
30 stricken and adding the language underlined, to read as follows:

31 **Sec. 27-106. – Plan to build MPDUs; alternatives.**

32 (a) Prior to obtaining a building permit, an applicant shall submit to ~~OED~~ HOST a written
33 MPDU plan. The director shall review the plan and approve, approve with conditions, or reject the

1 MPDU plan. No permits, rezoning, or plans shall be approved or issued until approval of the MPDU
2 plan is obtained. Each plan shall contain information as set forth in rules and regulations adopted by
3 the director and a form of covenants to encumber the MPDUs, a statement that the terms of this
4 plan will bind the applicant and will run with the land upon approval of ~~OED~~ HOST and recording
5 with the clerk and recorder of the City and County of Denver, and such other information as ~~OED~~
6 HOST requires to determine the applicant's compliance with this article. The director shall provide
7 written confirmation of approval of a MPDU plan to the manager of the department of community
8 planning and development to allow building permits to be issued. For MPDU plans prepared as part
9 of a customized alternative allowed under this section as part of a master-planned development
10 project as defined in [subsection] 27-106(u)(3)(b), the MPDU plan shall be included as part of the
11 development agreement, PUD, or GDP.

12 **Section 11.** That section 27-106 (b), D.R.M.C. shall be amended by deleting the language
13 stricken and adding the language underlined, to read as follows:

14 **Sec. 27-106. – Plan to build MPDUs; alternatives.**

15 (b) Alternatives

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

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

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

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

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

31 (A) Build fewer MPDUs at affordability levels lower that the AMI required under section 27-
32 105; or

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

- 1 (C) Build fewer MPDUs for populations or special need or high priority of the director; or
- 2 (D) Build fewer MPDUs for a longer control period; or
- 3 (E) Build more rental MPDUs at the site.

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

15 **Section 12.** That section 27-106 (d), D.R.M.C. shall be amended by deleting the language
16 stricken and adding the language underlined, to read as follows:

17 **Sec. 27-106. – Plan to build MPDUs; alternatives.**

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

20 **Section 13.** That section 27-109 (a), D.R.M.C. shall be amended by deleting the language
21 stricken and adding the language underlined, to read as follows:

22 **Sec. 27-109. – Eligibility standards.**

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

26 **Section 14.** That section 27-109 (c), D.R.M.C. shall be amended by deleting the language
27 stricken and adding the language underlined, to read as follows:

28 **Sec. 27-109. – Eligibility Standards.**

29 (c) To be eligible to purchase an MPDU at initial sale, households must be earning no more
30 than eighty (80) percent of the AMI, or no more than ninety-five (95) percent of the AMI for high
31 cost structures. To be eligible to purchase an MPDU on a resale, the household must be earning
32 no more than the amount set forth in a schedule of eligibility provided by ~~OED~~ HOST, which

1 schedule may not under any circumstances exceed one hundred (100) percent of AMI.

2 **Section 15.** That section 27-110 (b)(4), D.R.M.C. shall be amended by deleting the language
3 stricken and adding the language underlined, to read as follows:

4 **Sec. 27-110. – Initial offering of MPDUs.**

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

7 **Section 16.** That section 27-111, D.R.M.C. shall be amended by deleting the language
8 stricken and adding the language underlined, to read as follows:

9 **Sec. 27-111. – Covenants and deeds of trust.**

10 (a) The applicant shall execute and pay the recording fees for ~~OED~~ HOST to record with
11 the clerk and recorder for the City and County of Denver a completed covenant and, if applicable, a
12 performance deed of trust or a lien on the MPDU property, which shall comply with the provisions
13 in the rules and regulations promulgated hereunder. Partnerships, associations or corporations
14 shall not evade this article through voluntary dissolution.

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

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

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

33 (e) The director may require certain owners of MPDUs who are out of compliance with

1 the covenant required in this section to execute a performance deed of trust in favor of the city that
2 addresses recapture of noncompliant periods of affordability. The director shall release the
3 performance deed of trust upon a finding that all requirements of the performance deed of trust
4 have been satisfied.

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

8 **Section 17.** That section 27-112 (a), D.R.M.C. shall be amended by deleting the language
9 stricken and adding the language underlined, to read as follows:

10 **Sec. 27-112. – Final MPDU sale.**

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

24 **Section 18.** That section 27-113, D.R.M.C. shall be amended by deleting the language
25 stricken and adding the language underlined, to read as follows:

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

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

1 applications for incentives under this section.

2 **Section 19.** That section 27-114 (a), D.R.M.C. shall be amended by deleting the language
3 stricken and adding the language underlined, to read as follows:

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

5 (a) Prior to January 1, 2017, for new developments of rental dwelling units, a rental applicant
6 may request the incentives described in this chapter by voluntarily making application to the ~~OED~~
7 HOST and submitting for approval a written MPDU plan which meets the requirements of section
8 27-106 and which provides that at least ten (10) percent of the units will be made available to
9 households earning no more than sixty-five (65) percent of AMI, adjusted by household size. Such
10 entities shall be considered "applicants" for all purposes of this article. A high cost structure may
11 provide MPDUs for households earning no more than eighty (80) percent of AMI. Incentives shall
12 not be available for rental units provided in lieu of affordable for sale units provided under
13 {sub}section 27-106(b). A rental applicant may request the enhanced standard incentive of an
14 additional five thousand dollars (\$5,000.00) per rental MPDU unit made available to households
15 earning no more than fifty (50) percent of AMI, adjusted by household size. The specific incentives
16 requested shall be set forth in the MPDU plan. Rents shall be limited and the formula for
17 determining allowed rent shall be set forth in rules and regulations.

18 **Section 20.** That section 27-114 (c), D.R.M.C. shall be amended by deleting the language
19 stricken and adding the language underlined, to read as follows:

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

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

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

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

1 **Section 21.** That section 27-114 (d), D.R.M.C. shall be amended by deleting the language
2 stricken and adding the language underlined, to read as follows:

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

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

8 **Section 22.** That section 27-114 (e), D.R.M.C. shall be amended by deleting the language
9 stricken and adding the language underlined, to read as follows:

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

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

14 **Section 23.** That section 27-114 (f), D.R.M.C. shall be amended by deleting the language
15 stricken and adding the language underlined, to read as follows:

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

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

22 **Section 24.** That section 27-114 (g), D.R.M.C. shall be amended by deleting the language
23 stricken and adding the language underlined, to read as follows:

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

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

27 **Section 25.** That section 27-115 (a), D.R.M.C. shall be amended by deleting the language
28 stricken and adding the language underlined, to read as follows:

29 **Sec. 27-115. - Foreclosure.**

30 (a) Foreclosure or other court-ordered sales. In the event of foreclosure or the acceptance
31 of a deed in lieu of foreclosure with respect to such MPDU by a holder of a purchase money first
32 priority deed of trust against the MPDU (the "purchase money first lien holder"), ~~OEED~~ HOST shall
33 release the covenant of record and the performance deed of trust or the lien, or both, and waive its

1 ability to enforce the provisions of the covenant with respect to such MPDU. The purchase money
2 first lien holder shall be the only party entitled to take the MPDU free of the covenant.

3 **Section 26.** That section 27-116 (b), D.R.M.C. shall be amended by deleting the language
4 stricken and adding the language underlined, to read as follows:

5 **Sec. 27-116. – Regulations; enforcement.**

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

8 **Section 27.** That section 27-116 (e), D.R.M.C. shall be amended by deleting the language
9 stricken and adding the language underlined, to read as follows:

10 **Sec. 27-116. – Regulations; enforcement.**

11 (e) Any violation of this article or rules and regulations adopted hereunder is subject to the
12 penalties described under D.R.M.C. section 1-13(c), except covenant and performance deed of trust
13 or lien, or both, violations shall be enforceable through the district court. Pursuant to D.R.M.C. section
14 1-13(c), the city may impose a civil fine on applicants in an amount up to one hundred fifty (150)
15 percent of the value of the housing required but not provided.

16 **Section 28.** That section 27-116 (g)(1), D.R.M.C. shall be amended by deleting the language
17 stricken and adding the language underlined, to read as follows:

18 **Sec. 27-116. – Regulations; enforcement.**

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

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

22 **Section 29.** That section 27-117 (b), D.R.M.C. shall be amended by deleting the language
23 stricken and adding the language underlined, to read as follows:

24 **Sec. 27-117. – Administrative review and appeal.**

25 (b) Any person aggrieved by a final administrative action or decision of ~~OED~~ HOST under this
26 article may appeal by the procedure described in D.R.M.C. section 56-106 with the director of ~~the~~
27 ~~office of economic development~~ HOST to serve as the designated official in the stead of the
28 manager of public works.

29 **Section 30.** That section 27-120 (b), D.R.M.C. shall be amended by deleting the language
30 stricken and adding the language underlined, to read as follows:

31 **Sec. 27-120. – Evaluation of article.**

32 (b) *Evaluation.* Every twelve (12) months, ~~OED~~ HOST shall prepare a written report of ~~OED~~
33 HOST's activities related to, and an assessment of outcomes and progress toward the goals of,

1 this article. No later than August of ~~2019~~ 2020, ~~OED~~ HOST shall conduct a policy review of the
2 ordinance, hold a public hearing to gather input for the review, and report the findings and any
3 recommendations to the city council.

4 **Section 31.** That section 27-150 (c)(4), D.R.M.C. shall be amended by deleting the language
5 stricken and adding the language underlined, to read as follows:

6 **Sec. 27-150. – Sources and uses of fund revenue.**

7 (c) *Permitted uses of revenue in the Affordable Housing Property Tax and Other Local*
8 *Revenue Fund.*

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

14 **Section 32.** That section 27-150 (f), D.R.M.C. shall be amended by deleting the language
15 stricken and adding the language underlined, to read as follows:

16 **Sec. 27-150. – Sources and uses of fund revenue.**

17 (f) *Administration of funds.* The affordable housing permanent funds shall be administered
18 by the Executive Director of the ~~Office of Economic Development~~ Department of Housing Stability,
19 in coordination with the recommendations and assistance of the ~~Affordable Housing Advisory~~
20 ~~Committee~~ Housing Stability Strategic Advisors as provided in ~~subsection (e)~~ division 3 of this
21 article V. The Executive Director may promulgate rules and regulations consistent with this article V
22 governing the procedures and requirements for expenditures from the funds. Expenditures from
23 the funds shall be made in accordance with the adopted three- to five-year ~~comprehensive housing~~
24 strategic plan for the funds as provided in subsection 27-164(a).

25 **Section 33.** That section 27-150 (h), D.R.M.C. shall be amended by deleting the language
26 stricken and adding the language underlined, to read as follows:

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

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

31 **Section 34.** That section 27-151 (c), D.R.M.C. shall be amended by deleting the language
32 stricken and adding the language underlined, to read as follows:

33 **Sec. 27-151. – Legislative findings and intent.**

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

7 **Section 35.** That section 27-153 (d)(2), D.R.M.C. shall be amended by deleting the language
8 stricken and adding the language underlined, to read as follows:

9 **Sec. 27-153. – Imposition of linkage fee.**

10 (d) *Annual inflation adjustment; future fee increases.*

11 (2) As used in subsection (d), the term "CPI-U" means the United States Department
12 of Labor Statistics (Bureau of Labor Statistics) Consumer Price Index for All Urban
13 Consumers, All items, for the Denver-Boulder-Greenly Greeley, Colorado metropolitan area
14 (1982-84-100). In the event that the CPI-U is substantially changed, renamed, or
15 abandoned by the United States Government, then in its place shall be substituted the index
16 established by the United States Government that most closely resembles the CPI-U.

17 **Section 36.** That section 27-154 (h), D.R.M.C. shall be amended by deleting the language
18 stricken and adding the language underlined, to read as follows:

19 **Sec. 27-154. – Exceptions.**

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

22 **Section 37.** That section 27-155 (a), D.R.M.C. shall be amended by deleting the language
23 stricken and adding the language underlined, to read as follows:

24 **Sec. 27-155. – Build alternative.**

25 (a) As an alternative to the linkage fee requirement set forth in section 27-153, an applicant
26 for a building permit for any structure subject to the requirements of this division 2 may elect to build
27 or cause to be built affordable housing units on the subject property or within a one-quarter mile
28 radius of the subject property, with the required number of affordable housing units to be
29 determined by the following formulas:

30 (1) Structures containing multi-unit dwellings:

31 $(\text{Gross } \del{\text{square feet}} \text{ } \underline{\text{floor area}} \text{ of structure} / 1000) \times .0168 = \text{number of units}$

1 (2) Structures containing any primary industrial, manufacturing and wholesale uses
2 or primary agricultural uses:

3 (Gross ~~square-foot~~ floor area of structure/1000) × .0054 = number of units

4 (3) Structures containing any primary commercial sales, services and repair uses or
5 any primary civic, public and institutional uses:

6 (Gross ~~square-foot~~ floor area of structure/1000) × .0228 = number of units

7 (4) Developments consisting of fifty (50) or more single-unit dwellings or two-unit
8 dwellings: Number of affordable housing units shall equal two (2) percent of the total number
9 of housing units in the development.

10 In the event the application formulas set forth in this subsection to a particular project creates
11 an obligation to build a fractional housing unit, any fraction of one-half (.5) or greater shall be
12 converted into an additional unit.

13 **Section 38.** That section 27-155 (c), D.R.M.C. shall be amended by deleting the language
14 stricken and adding the language underlined, to read as follows:

15 **Sec. 27-155. – Build alternative.**

16 (c) An applicant who chooses to comply with the requirements of this division 2 through the
17 construction of affordable housing units shall submit to the executive director of the ~~office of~~
18 ~~economic development~~ department of housing stability sufficient information to enable the director
19 to determine that the applicant will construct or cause to be constructed the affordable housing
20 units, and enter into a binding agreement with the city to covenant-restrict such units in order to
21 ensure their affordability, to stipulate when affordable housing units will be built, and to include any
22 other terms of conditions as may be imposed by the executive director to enforce the requirements
23 of this section. The executive director may require in any such agreement forms of financial security
24 to ensure that the units are built. If the executive director approves a build alternative under this
25 section and an agreement is executed and recorded, the director shall deliver to the department of
26 community and planning, and development written notice of such approval and a copy of the
27 agreement. Only after the agreement is executed and recorded may any building permits be issued
28 for a project for which the applicant has elected to use the build alternative as provided in this
29 section.

30 **Section 39.** That section 27-156, D.R.M.C. shall be amended by deleting the language
31 stricken and adding the language underlined, to read as follows:

32 **Sec. 27-156. – Collection and remittance of linkage fees.**

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

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

15 (c) Any dispute over the applicability or calculation of the linkage fees may be appealed by
16 the applicant for a building permit to the executive director (manager) of the department of
17 community planning and development, who shall determine such appeals in consultation with the
18 executive director of the ~~office of economic development~~ department of housing stability.

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

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

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

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

4 **Section 40.** That section 27-157 (a), D.R.M.C. shall be amended by deleting the language
5 stricken and adding the language underlined, to read as follows:

6 **Sec. 27-157. – Reductions and waivers.**

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

14 (1) The unique characteristics and space utilization of the workforce that will occupy a
15 nonresidential development and the demand of that particular workforce for affordable
16 housing;

17 (2) A nonresidential development that will involve a structure built for and suitable
18 solely for a specific use involving few or no employees; or

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

23 **Section 41.** That Division 3 of Article V, Chapter 27 shall be amended by deleting the
24 language stricken and adding the language underlined, to read as follows:

25 **DIVISION 3. - AFFORDABLE HOUSING STABILITY STRATEGIC ADVISORY ADVISORS**
26 **COMMITTEE.**

27 **Section 42.** That section 27-158, D.R.M.C. shall be amended by repealing and re-enacting
28 such section, to read as follows:

29 **Sec. 27-158. – Housing Stability Strategic Advisors created.**

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

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

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

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

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

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

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

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

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

19 **Section 43.** That section 27-159, D.R.M.C. shall be amended by deleting the language
20 stricken and adding the language underlined, to read as follows:

21 **Sec. 27-159. – Term of appointed ~~committee~~ members.**

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

26 (b) ~~Committee~~ Housing stability strategic advisors members may be reappointed for successive
27 terms.

28 **Section 44.** That section 27-160, D.R.M.C. shall be amended by deleting the language
29 stricken and adding the language underlined, to read as follows:

30 **Sec. 27-160. – Vacancies.**

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

4 **Section 45.** That section 27-161, D.R.M.C. shall be amended by deleting the language
5 stricken and adding the language underlined, to read as follows:

6 **Sec. 27-161. – Compensation.**

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

11 **Section 46.** That section 27-162, D.R.M.C. shall be amended by deleting the language
12 stricken and adding the language underlined, to read as follows:

13 **Sec. 27-162. – Officers.**

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

16 **Section 47.** That section 27-163, D.R.M.C. shall be amended by deleting the language
17 stricken and adding the language underlined, to read as follows:

18 **Sec. 27-163. - Meetings and procedures.**

19 (a) The schedule of regular meetings of the housing stability strategic advisors ~~committee~~ shall
20 be established by a majority of the membership, but the schedule must provide for at least ~~one (1)~~ six
21 (6) regular ~~meeting~~ meetings per ~~month~~ year. Additional meetings shall be called as needed by the
22 chair of the ~~committee~~ housing stability strategic advisors. The first meeting of the housing stability
23 strategic advisors shall occur no later than November 1, 2020.

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

29 (c) The ~~committee~~ housing stability strategic advisors may adopt additional bylaws and
30 procedures for the conduct of its meetings and the performance of its duties as set forth in section
31 27-164.

32 **Section 48.** That section 27-164, D.R.M.C. shall be amended by deleting the language

1 stricken and adding the language underlined, to read as follows:

2 **Sec. 27-164. – Powers and duties.**

3 The general purpose of the ~~committee~~ housing stability strategic advisors is to render advice
4 and recommendations to the executive director of the ~~office of economic development~~ department
5 of housing stability in regard to the planning and implementation of city programs and services
6 related to homelessness resolution, housing stability, and housing opportunities. Such advice and
7 recommendations shall include strategies to preserve and increase the supply of affordable
8 housing in the city, to the extent such programs and services are supported by expenditures from
9 the affordable housing permanent funds, as provided in section 27-150, and federal or other funds
10 allocated by the executive director of ~~office of economic development~~ the department of housing
11 stability for housing development, preservation or programs. The specific powers and duties of the
12 ~~committee~~ housing stability strategic advisors shall be:

13 (a) To recommend goals, objective and policies to inform the adoption of the three- to five-
14 year ~~comprehensive housing plans~~ strategic plan for city housing expenditures, including, but not
15 limited to, the permanent funds and any federal or other funds allocated by the executive director of
16 the ~~office of economic development~~ department of housing stability, for homelessness resolution,
17 housing stability, and housing opportunity, which shall include, but not be limited to, housing
18 development, preservation or programs. The executive director of the ~~office of economic~~
19 ~~development~~ department of housing stability shall direct city staff, independent consultants, or a
20 combination thereof, to solicit input and develop the ~~comprehensive housing plan~~ strategic plan to
21 be reviewed by the ~~affordable housing~~ stability strategic advisors ~~advisory committee~~ and
22 recommended for submittal to the city council by September 1 of the year prior to the plan's first
23 program year for subsequent approval. Notwithstanding the foregoing, the first three- to five-year
24 ~~comprehensive housing~~ strategic plan shall be submitted to the city council by ~~October~~ November 1,
25 ~~2017~~ 2020, for subsequent approval. The three- to five-year ~~comprehensive housing~~ strategic plan
26 shall include, at a minimum, the following elements:

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

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

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

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

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

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

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

19 (8) Parameters for the use of permanent funds to maximize mixed income
20 development.

21 (b) To recommend annual action plans intended to implement the overall ~~comprehensive~~
22 housing strategic plan to prioritize and allocate city housing expenditures based on current
23 conditions;

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

1 city council;

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

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

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

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

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

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

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

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

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

20 **Section 49.** That section 27-165, D.R.M.C. shall be amended by deleting the language
21 stricken and adding the language underlined, to read as follows:

22 **Sec. 27-165. – Staffing and administrative support.**

23 Staffing and administrative support for the ~~committee~~ housing stability strategic advisors shall
24 be provided by the ~~office of economic development~~ department of housing stability.

25 **Section 50.** That section 2-32 (2) (ddd) shall be amended by deleting the language stricken
26 and adding the language underlined to read as follows:

27 **Sec. 2-32. – Definitions.**

28 (2) *Public body:*

29 (ddd) *The ~~affordable housing permanent funds advisory committee~~ stability strategic*
30 *advisors;*

31 **Section 51.** That section 27-180 (b)(4), D.R.M.C. shall be amended by deleting the language
32 stricken and adding the language underlined, to read as follows:

33 **Sec. 27-180. – Incentive fee fund.**

1 (b)(4) *Permitted uses of revenue in the affordable housing incentive fee fund.* For the
2 development and preservation of permanent supportive housing for homeless persons, and for
3 supportive services associated with such supportive housing; provided, however, in no event shall
4 the amount expended from the affordable housing incentive fee fund for supportive services under
5 this paragraph (4) exceed ten (10) percent of the balance in the fund on January 1 of each year.

6 **Section 52.** *That section 27-180 (e), D.R.M.C. shall be amended by deleting the language*
7 *stricken and adding the language underlined, to read as follows:*

8 **Sec. 27-180. – Incentive fee fund.**

9 (e) *Administration of fund.* The affordable housing incentive fee fund shall be administered
10 by the executive director of the ~~office of economic development~~ department of housing stability, or
11 its successor city agency or department.

12 **Section 53.** *That section 27-182 (f), D.R.M.C. shall be amended by deleting the language*
13 *stricken and adding the language underlined, to read as follows:*

14 **Sec. 27-182. - Definitions.**

15 (f) *Total structure build alternative unit(s)* means the number of build alternative units and
16 associated affordability restrictions required for an entire structure under section 27-155, D.R.M.C.
17 Total structure build alternative units shall be approved in accordance with the ~~office of economic~~
18 ~~development~~ department of housing stability's affordable housing permanent funds ordinance
19 administrative rules and regulations.

20 **Section 54.** *That section 27-184 (b), D.R.M.C. shall be amended by deleting the language*
21 *stricken and adding the language underlined, to read as follows:*

22 **Sec. 27-184. – Additional definitions.**

23 (b) *Community serving use agreement* means an agreement entered into between an
24 applicant and the city and administered by the ~~office of economic development~~ Denver economic
25 development & opportunity agency, that allows an applicant to provide community serving uses for
26 a portion of a proposed structure in place of payment of any applicable incentive height fees. A
27 community serving use agreement shall not substitute for payment of the total structure linkage
28 fee. The ~~office of economic development~~ Denver economic development & opportunity agency, in
29 consultation with community planning and development and considering demonstrated community
30 needs and priorities in the surrounding neighborhood(s), and the value of commensurate incentive
31 height fee savings and benefits, shall determine applicable community serving uses for each
32 community serving use agreement. The community serving use agreement shall be executed by
33 the city and the applicant using the city's standard contract process, and prior to approval of a site

1 development plan or issuance of building permits. The community serving use agreement shall
2 include, but is not limited to the following: benefitting tenant use; rent-reduction rate; time period;
3 collateral; and default remedies such as re-leasing or recapture of any obtained incentive height
4 fee savings.

5 **Section 55.** That section 27-184 (d), D.R.M.C. shall be amended by deleting the language
6 stricken and adding the language underlined, to read as follows:

7 **Sec. 27-184. – Additional definitions.**

8 (d) *Incentive height build alternative unit(s)* means the number of build alternative units
9 required for the portion of a structure above the base height, which shall equal the product of the
10 amount of applicable build alternative units using the formulas in section 27-155, D.R.M.C. for the
11 incentive height area only, and the specific incentive overlay multiplier in the table below. For
12 example, if the formula in 27-155, D.R.M.C. requires two (2) build alternative units based on the
13 gross floor area located above the base height, and the multiplier is ten (10), then the incentive
14 height build alternative units would equal twenty (20) units. Unless and until any rules and
15 regulations have been adopted specific to this article VI, incentive height build alternative units
16 shall be approved in accordance with the ~~office of economic development's~~ department of housing
17 stability's affordable housing permanent funds ordinance administrative rules and regulations;
18 however, in no event will the approved number of incentive height build alternative units result in
19 zero (0) units. Incentive height build alternative units are provided in addition to total structure build
20 alternative units.

21 **Section 56.** That section 27-188 (c), D.R.M.C. shall be amended by deleting the language
22 stricken and adding the language underlined, to read as follows:

23 **Sec. 27-188. – Incentive height requirements for the Downtown Central Platte Valley-Auraria**
24 **Transition (D-CPV-T), River (D-CPV-R), and Center (D-CPV-C) Districts.**

25 (d) Each large or phased project shall prepare an affordable housing plan instead of
26 complying with section 27-188(a) or (b) above when the project contains any structure that
27 exceeds the base height. The executive director of the ~~office of economic development~~ department
28 of housing stability, or the executive director's designee ("director"), shall review the plan and
29 approve, approve with conditions, or reject the affordable housing plan. For all affordable housing
30 plans prepared under this subsection (c), no building permits shall be approved or issued for any
31 structure within such large or phased project's area until approval of the affordable housing plan is
32 obtained. Each plan shall contain information as set forth below and any rules and regulations
33 adopted by the director, a statement that the terms of the plan will bind the applicant and will run

1 with the land upon approval of the director and recording with the clerk and recorder of the City and
2 County of Denver. The affordable housing plan shall be included as part of any development
3 agreement for the large or phased project. The approved affordable housing plan shall be signed
4 by the applicant and shall be recorded with the clerk and recorder of the City and County of
5 Denver.

6 **Section 57.** That section 29-83 (h), D.R.M.C. shall be amended by deleting the language
7 stricken and adding the language underlined, to read as follows:

8 **Sec. 29-83. – Emergency assistance.**

9 (h) Payments to vendors. There will be no money payments made to recipients under this
10 section. Payments for services will be made directly to the providers thereof who have been
11 selected by the department of human services or the department of housing stability.

12 **Section 58.** That section 38-86.1 (b)(2), D.R.M.C. shall be amended by deleting the language
13 stricken and adding the language underlined, to read as follows:

14 **Sec. 38-86.1. – Sitting or lying down in the public right-of-way.**

15 (b) For purpose of this section:

16 (2) "Designated human service outreach worker" shall mean any person designated
17 in writing by the manager of the Denver Department of Human Services or the executive
18 director of the department of housing stability to assist law enforcement officers as provided
19 in subsection (4), regardless of whether the person is an employee of the department of
20 human services or the department of housing stability.


21 **Section 59.** That section 38-86.2 (d)(2), D.R.M.C. shall be amended by deleting the language
22 stricken and adding the language underlined, to read as follows:

23 **Sec. 38-86.1. – Unauthorized camping on public or private property prohibited.**

24 (d) For purpose of this section:

25 (2) "Designated human service outreach worker" shall mean any person designated
26 in writing by the manager of the Denver Department of Human Services or the department
27 of housing stability to assist law enforcement officers as provided in subsection (c),
28 regardless of whether the person is an employee of the department of human services.

29 **Section 60. Effective date.** This bill is effective upon passage.
30

1 COMMITTEE APPROVAL DATE: February 26, 2020 by Consent
2 MAYOR-COUNCIL DATE: March 3, 2020
3 PASSED BY THE COUNCIL: _____
4 _____ - PRESIDENT
5 APPROVED: _____ - MAYOR _____
6 ATTEST: _____ - CLERK AND RECORDER,
7 EX-OFFICIO CLERK OF THE
8 CITY AND COUNTY OF DENVER
9 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____ ; _____
10 PREPARED BY: Eliot C. Schaefer, Assistant City Attorney DATE: March 5, 2020
11 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the Office of the
12 City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
13 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to §
14 3.2.6 of the Charter.
15
16 Kristin M. Bronson, Denver City Attorney
17
18 BY:  _____, Assistant City Attorney DATE: Mar 5, 2020 _____