

1 **BY AUTHORITY**

2 ORDINANCE NO. _____

COUNCIL BILL NO. CB18-XXXX

3 SERIES OF 2018

COMMITTEE OF REFERENCE:

4
5 **A BILL**

6 **For an ordinance repealing and reenacting Article XIII of Chapter 10, Denver**
7 **Revised Municipal Code concerning green buildings and for conforming**
8 **amendments to Chapters 2 and 10, Denver Revised Municipal Code.**

9
10 **WHEREAS**, in November of 2017, City and County of Denver voters passed Initiated
11 Ordinance 300, which imposed green roof requirements on new buildings and green roof and solar
12 combination requirements on existing buildings when those existing buildings replaced their roofs;
13 and

14 **WHEREAS**, the city charter authorizes City Council to amend or repeal an initiated ordinance
15 six months after final passage by a two-thirds (2/3) vote of City Council; and

16 **WHEREAS**, City Council desires to amend Initiated Ordinance 300 by repealing and
17 reenacting the ordinance in order to provide various green building compliance options for new and
18 existing buildings of 25,000 square feet or greater of gross floor area, in order provide environmental
19 benefits to the city that will protect the health and general welfare of the citizens of Denver.

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22 **NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF**
23 **DENVER:**

24
25 **Section 1.** That Article XIII of Chapter 10 of the Denver Revised Municipal Code be and the
26 same is hereby repealed and reenacted to read as follows:

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29 **Article XIII. GREEN BUILDINGS**

30 **Division 1. Green building requirements.**

31 **Sec. 10-300. Definitions**

32 The following words and phrases, as used in this division 1, have the following meanings:

1 (a) *Addition* for purposes of this article XIII means an extension or increase in gross floor area or
2 height of a building or structure. A connecting element of limited width as required by the
3 International Building Code for a pedestrian walkway does not create an addition to a building.
4

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

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

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

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

12 (4) Areas covered by skylights;

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

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

15 (7) Areas for renewable energy devices.
16

17 (c) *Building* for the purposes of this article means any structure used or intended for supporting
18 or sheltering any use or occupancy. The boundary of any single building is defined by its surrounding
19 exterior walls. Party walls as constructed in accordance with the International Building Code shall
20 create separate buildings.
21

22 (d) *Building official* means the person authorized and directed to act on behalf of the Building
23 Permitting and Inspections Services in the interpretation and enforcement of the Building Code of
24 the City and County of Denver, and appointed by the Executive Director of Community Planning and
25 Development.
26

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

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(f) *Character defining roof(s)* means a visible roof where the roof's relationship to the overall shape of the building, as well as the roof's distinctive materials, craftsmanship, and/or decorative details are important to the overall visual character of the building; if the materials, color, or shape of the roof were to change, it would significantly impact the visual character of the building.

(g) *Cool roof* means a roof or portion of a roof containing certain roof covering material meeting certain solar reflectance values to mitigate or assist in reducing urban heat island effect. A cool roof shall meet requirements as set forth in rules and regulations.

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

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

(j) *Executive director of DPHE* means the executive director of the department of public health and environment, or his/her designee.

(k) *Green space* means any area that is proposed to contain trees, groundcover, shrubs, urban agriculture, natural grass/turf, or vegetated roofs. Green space shall meet requirements as set forth in rules and regulations.

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

(m) *Gross floor area* means the gross floor area within the inside perimeter of the exterior walls of the building under consideration, exclusive of vent shafts and courts, without deduction for corridors, stairways, ramps, closets, the thickness of interior walls, columns or other features. The gross floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above. The gross floor area

1 shall not include shafts with no openings, interior courts, or areas used exclusively for the storage or
2 parking of vehicles.

3

4 (n) *Individual roof section* means a portion of roof bounded on all sides by one or more of the
5 following features: a wall or parapet; the roof edge; an expansion joint; or a roof divider.

6

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

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

11

12 (q) *Renewable energy device* means a device that obtains energy derived from solar radiation,
13 wind, landfill gas, biomass, the internal heat of the earth, or another source with the approval of the
14 departments of community planning and development and public health and environment.

15

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

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

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

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

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

5
6 (w) *Vegetated roof* means an assembly of interacting components designed to waterproof and
7 normally insulate a building's top surface that includes, by design, vegetation and related
8 landscape elements. A vegetative roof shall meet requirements as set forth in rules and
9 regulations.

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

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15 **Sec. 10-301 Green building requirements for new buildings**

16 (a) *In General.* Except as provided in subsection (c) below, an owner constructing a building after
17 the effective date of this ordinance, and containing 25,000 square feet or greater of gross floor area
18 must provide the following green building requirements:

19
20 (1) A cool roof; and

21
22 (2) One of the following options:

23 a. Green space covering an area in one of the following amounts, whichever is
24 least:

25 1. Ten percent (10%) of the gross floor area of the building;

26 2. Sixty percent (60%) of the total roof area on the building; or

27 3. The available roof space on the building.

28
29 b. On-site solar panels covering an area anywhere on the building or zone lot equal
30 to seventy percent (70%) of the total roof area or an area equal to an amount required to provide
31 one hundred percent (100%) of estimated annual average electricity used at the building; other
32 renewable energy devices may be used in place of on-site solar panels so long as the applicant

1 proves similar generation capacity. Any net zero energy building complies with this subsection (c).

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c. Off-site renewable purchase with the following requirements:

1. The off-site renewable energy purchase must be met through a minimum five year contract for a subscription, lease, or purchase of a share in a voluntary renewable energy program offered by Xcel Energy or a community solar project for which a dedicated renewable energy resource located in Public Service Company of Colorado territory is built for that customer program, and which has dedicated customer capacity or energy to fulfill that customer's subscription.

2. The term of purchase must be renewed a minimum of every five years for the life of the building; and

3. The off-site renewable energy purchase must cover the equivalent energy production of either (i) the estimated one hundred percent (100%) of electricity the building will use, or (ii) the amount that would have been provided with required on-site solar panels and demonstration of decreased energy consumption measured as estimated cost savings of a minimum six percent (6%) above requirements in the applicable Denver Building and Fire Code.

d. Demonstration of decreased energy consumption measured as estimated cost savings of at least twelve percent (12%) above requirements in the applicable Denver Building and Fire Code.

e. Building certification of LEED Gold, Enterprise Green Communities, or an equivalent certification approved by the executive director of community planning and development, or his/her designee.

f. A combination of green space, and renewable energy device(s) with the following required coverages:

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

- 3 (i) Three percent (3%) of the gross floor area of the building;
- 4 (ii) Eighteen percent (18%) of the total roof area on the building; or
- 5 (iii) The available roof space on the building; and

6
7 2. On-site solar panels located anywhere on the subject zone lot covering
8 an area in one of the following amounts, whichever is least:

- 9 (i) Seven percent (7%) of the gross floor area of the building,
- 10 (ii) Forty-two percent (42%) of the total roof area on the building, or
- 11 (iii) The available roof space on the building; or

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

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

- 20 (i) Ten percent (10%) of the gross floor area of the building;
- 21 (ii) Sixty percent (60%) of total roof area on the building; or
- 22 (iii) The available roof space on the building.

23
24 g. A combination of green space and off-site renewable energy purchase, with the
25 following requirements:

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27 1. Green space covering an area in one of the following amounts,
28 whichever is least:

- 29 (i) Three percent (3%) of the gross floor area of the building;
- 30 (ii) Eighteen percent (18%), of total roof area on the building; or
- 31 (iii) Available roof space on the building;

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

7
8 3. The off-site renewable energy purchase must cover the amount that
9 would have been provided with required on-site solar panels would have provided and demonstration
10 of decreased energy consumption measured as estimated cost savings of a minimum two and a half
11 percent (2.5%) above requirements in the Denver Building and Fire Code.

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13 h. A combination of green space and increased energy efficiency with the following
14 requirements:

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16 1. Green space covering an area in one of the following amounts,
17 whichever is least:

- 18 (i) Three percent (3%) of the gross floor area of the building;
- 19 (ii) Eighteen percent (18%) of total roof area on the building; or
- 20 (iii) The available roof space on the building; and

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22 2. The building must demonstrate decreased energy consumption
23 measured as estimated cost savings of a minimum five percent (5%) above requirements in the
24 applicable Denver Building and Fire Code during plan review.

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26 (b) *Payment into fund.* An owner may pay an amount to the green building fund, defined in
27 Division 3 below, of \$50.00 per square foot of green space coverage required in subsections (a)(2)a,
28 f, g, or h above, but not provided. In cases where an owner is unable to provide the entirety of green
29 space coverage required, the owner may pay \$50.00 per square foot for no more than twenty-five
30 percent (25%) of the green space required but not provided.

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32 (c) *Exceptions.* Subsection (a) of this section shall not apply to the following:

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(1) Subsection (a) of this section shall not apply to the following:

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

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

c. Temporary structures, air supported structures, and greenhouses.

(2) Subsection (a)(1) of this section shall not apply to the following:

a. Portions of proposed roofs that include the following:

1. Photovoltaic systems or components;
2. Solar-, air-, or water-heating systems or components;
3. Vegetated roofs;
4. Above-roof decks or walkways; or
5. HVAC systems and components, and other opaque objects mounted above the roof.

b. Portions of the proposed roof shaded during the peak sun angle on the summer solstice by neighboring buildings or other portions of the same building;

c. Portions of the proposed roof that are ballasted with a minimum stone ballast of fifteen pounds per square foot.

(d) An individual roof section containing less than twenty five percent (25%) of roofing materials; or

(e) Visible roofs for no more than ten percent (10%) of the total roof area.

(3) Subsection (a)(2) of this section shall not apply to residential buildings five stories or fewer, or less than 62.5 feet in height, and with 25,000 square feet or more of gross floor area.

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

(e) Any owner who submits a building permit for a roof replacement or construction including roof replacement, and has complied with subsection (a) of this section, does not have to comply with the

1 requirements of Section 10-302(a), but shall maintain compliance with the selected option from
2 Section 10-301(a) or demonstrate compliance with another option from this subsection upon
3 completion of any roof replacement which must be submitted and approved by the building official.
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5 (f) Owners of buildings subject to the requirements of Sec. 10-301(a) must provide one of the
6 requirements of 10-301(a)(2) for the duration of the building's existence.
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8 **Sec. 10-302. Green building requirements for existing buildings.**

9 (a) *In General.* Except as provided in subsection (d) below, any owner of a building that has
10 received a certificate of occupancy prior to the effective date of this ordinance and whose building
11 contains 25,000 square feet or greater of gross floor area, must provide the following green building
12 requirements upon a roof replacement for more than five percent (5%) of either the total roof area or
13 individual roof section(s), as applicable, in any calendar year:
14

15 (1) A cool roof; and
16

17 (2) One of the following options:
18

19 a. Green space covering an area in one of the following amounts, whichever is
20 least:

21 1. For total roof area replacement: two percent (2%) of the gross floor area
22 of the building; for individual roof section replacement: two percent (2%) of the gross
23 floor area of the building, multiplied by the area of individual roof section(s) being
24 replaced, divided by the total roof area of the building.;

25 2. For total roof area replacement: eighteen percent (18%) of the total roof
26 area on the building; for individual roof section replacement: eighteen percent (18%)
27 of the individual roof section(s) being replaced; or

28 3. Available roof space on the total roof area of the building, or the individual
29 roof section(s) being replaced, as applicable;

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

32 1. For total roof area replacement: five percent (5%) of the gross floor area

1 of the building; for individual roof section replacement: five percent (5%) of the gross
2 floor area of the building, multiplied by the area of roof section(s) being replaced,
3 divided by the total roof area of the building

4 2. For total roof area replacement: forty-two percent (42%) of the total roof
5 area on the building; for individual roof section replacement: forty-two percent (42%)
6 of the individual roof section(s) being replaced; or

7 3. An area equal to an amount required to provide one hundred percent
8 (100%) of estimated annual average electricity used at the building;

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10 c. Building certification of LEED Silver, Enterprise Green Communities, or an
11 equivalent certification approved by the executive director of community planning and development,
12 or his/her designee.; or

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14 d. Enrollment in the energy program described in Section 10-304 below.

15
16 (b) *Payment into fund.* An owner may pay an amount to the green building fund, defined in
17 Division 3 below, of \$50.00 per square foot of green space coverage required in subsection (a)(2)a
18 above, but not provided. In cases where an owner is unable to provide the entirety of green space
19 coverage required, the owner may pay \$50.00 per square foot for no more than twenty-five percent
20 (25%) of the green space required but not provided.

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

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27 (d) *Exceptions.*

28 (1) Subsection (a) of this section shall not apply to the following:

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

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

1 plane;

- 2 c. Temporary structures, air supported structures, and greenhouses; and
- 3 d. Buildings that have complied with Section 10-301(a).

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5 (2) Subsection (a)(1) of this section shall not apply to the following:

6 a. Portions of the roof that include or are covered by the following:

- 7 1. Photovoltaic systems or components;
- 8 2. Solar-, air-, or water-heating systems or components;
- 9 3. Vegetated roofs;
- 10 4. Above-roof decks or walkways; or
- 11 5. HVAC systems and components, and other opaque objects mounted
- 12 above the roof.

13 b. Portions of the roof shaded during the peak sun angle on the summer solstice

14 by neighboring buildings or other portions of the same building;

15 c. Portions of roofs that are ballasted with a minimum stone ballast of fifteen

16 pounds per square foot, or, in the case of an existing ballasted roof, the weight of

17 ballast for which the roof was originally designed.

18 d. A individual roof section containing less than twenty-five (25%) of available roof

19 space.; or

20 e. Visible roofs for no more than ten percent (10%) of the total roof area.

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22 (3) Subsection (a)(2) of this section shall not apply to the following:

23 a. Residential buildings five stories or fewer, or less than 62.5 feet in height and

24 with 25,000 square feet or more of gross floor area;

25 b. A building that must replace its roof due to an emergency, including, but not

26 limited to, fire or wind damage to be determined by the building official;

27 c. A building that must replace its roof due to hail damage in the first year after the

28 effective date of this ordinance when the building owner can demonstrate a gap in insurance

29 coverage. Such gap exists where the building owner has insurance coverage that includes the cost

30 of meeting any new code requirements, but had a cost limit on that coverage that is insufficient to

31 meet the additional costs of this ordinance, and the insurance policy is not yet due for renewal; and

32 d. A building that contained a vegetative roof prior to January 1, 2018, so long as

1 the vegetative roof is replaced upon any roof replacement.

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

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6 (f) *Roof recovers.* Any owner proposing a roof recover of more than five percent (5%) 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 Sec. 10-302(a)(1) for that portion of roof
9 being recovered, but need not comply with the requirements of Sec. 10-302(a)(2). When an analysis
10 of any individual roof section prior to a roof recover determines that application of a cool roof will
11 result in condensation, then an owner may choose not to provide a cool roof.

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13 (g) Owners of buildings subject to the requirements of Sec. 10-302(a) must provide one of the
14 requirements of Sec. 10-302(a)(2) for the duration of the building's existence.

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16 **Sec. 10-303. Additions**

17 (a) Any owner proposing an addition of 50,000 square feet of gross floor area or greater to a
18 building shall comply with Sec. 10-301 for that addition.

19 (b) Any owner proposing an addition of 25,000 or more and less than 50,000 square feet of gross
20 floor area to a building shall provide a cool roof, as applicable, and comply with any of the following:

21 (1) Any of the requirements of Sec. 10-302(a)(2)a-c for that addition;

22 (2) The requirements of Sec. 10-302(b) for that addition; or

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

25

26 **Sec. 10-304. Energy program.**

27 (a) *Purpose.* The purpose of this section is to establish an energy program that provides building
28 owners various options designed to reduce cumulative emissions city-wide in an amount equivalent
29 to Sec. 10-302(a)(2)(c).

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31 (b) *Applicability.* Owners subject to the requirements of Sec. 10-302(a) above, may enroll in the
32 energy program at or before the time of roof replacement.

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(c) *Options.* The requirements of the energy program shall provide for compliance options, including but not limited to the following: building certification; on-site solar panels; off-site renewable energy purchase; energy efficiency improvements; reductions in energy use intensity; and differentiation of requirements for buildings over and under 50,000 square feet of gross floor area.

Sec. 10-305. Campus compliance with green building requirements.

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

(b) *Documentation.* The department of community planning and development shall require owners who choose to comply at the campus level to submit a plan documenting compliance with Section 10-301(a) and/or Section 10-302(a). Such plan may include, but is not limited to, a general development plan, infrastructure master plan, site development plan, and/or development agreement. A site development plan will be required for any new buildings or green space. Requirements shall be set forth in rules and regulations.

(c) *Energy master plan.* In addition to the required plan listed above, the building official shall require submission of an energy master plan for owners who choose to comply with Section 10-301(a)(2)c or g, or Section 10-302(a)(2)c. The energy master plan shall contain information as set forth in rules and regulations.

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

The executive director of CPD and the board of public health and environment shall have the authority to adopt cooperatively rules and regulations for the implementation and administration of this Article XIII.

Sec. 10-307. Enforcement.

(a) It shall be unlawful to violate any provision of this Article XIII, or any rules and regulations

1 adopted pursuant to this Article XIII.

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3 (b) The executive directors of CPD and the department of public health and environment, or their
4 designees, have the authority to enforce the provisions of this article.

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6 (c) This article applies to all agents, successors and assigns of an owner. A building permit shall
7 not be issued, and a site development plan shall not be approved unless the owner meets the
8 requirements of this article and rules and regulations adopted under this article. The city may deny,
9 suspend or revoke any building or occupancy permit for a site where a violation of this article or rules
10 and regulations adopted under this article is found.

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12 (d) The department of community planning and development and the department of public health
13 and environment are authorized to issue notices or orders for violations of this article. Any person
14 who violates any provision of this article XIII, including any rules and regulations adopted under this
15 article, shall be subject to a civil penalty in an amount up to \$50.00 times sixty percent (60%) of the
16 total roof area, to be deposited into the green building fund, defined below.

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18 (e) In the event the owner subject to the civil penalty above fails to pay the required amount within
19 one hundred eighty (180) days, the civil penalty shall be considered a debt to the city until paid in
20 full. This debt shall be a perpetual lien on the property, and shall be superior and prior to all other
21 liens, regardless of their dates of recordation, except for liens for general taxes and prior special
22 assessments, until the civil penalty owed, delinquent interest, and recording fees have been paid in
23 full. In addition to the remedies set forth in this section, an action or other process provided by law
24 may be maintained by the city to recover or collect any amounts, including interest, owing under this
25 section. Interest shall be calculated in the same manner and same amount as delinquent property
26 taxes. The executive director of the department of public health and environment shall record the
27 lien with the clerk and recorder.

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

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Sec. 10-308. Appeals.

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

(2) Any person aggrieved by a final administrative action or decision by the executive director of CPD or DPHE concerning issuance of a civil penalty as allowed in Sec. 10-307(c) above, may appeal in accordance with the process described in Article I, Sections 24, D.R.M.C., except that no request for a variance shall be granted by the board of public health and environment. The decision of the board of public health and environment may be appealed to district court in accordance with the Colorado Rules of Civil Procedure Rule 106(a)(4).

Secs. 10-309—10-315. Reserved.

Division 2. Green building technical advisory group

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

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

- (1) A representative from the department of community planning and development's building permitting and inspections services agency, a representative from the department of community planning and development department's landmark preservation staff, the department of public health and environment, and the department of public works, each of whom shall be appointed by their respective executive directors;
- (2) Representative(s) of the design sector;
- (3) Representative(s) of material and component manufacturers and suppliers sector;
- (4) Representative(s) of the construction sector;
- (5) Representative(s) of the research sector including but not limited to persons involved in green roof research and testing, water quality/capture research and testing or building energy efficiency in a professional academic institution, school of engineering or architecture;
- (6) Representative(s) of the green roof industry sector;

- 1 (7) Representative(s) of the renewable energy industry sector;
- 2 (8) Representative(s) of the energy efficiency industry sector; and
- 3 (9) Water quality/capture requirements expert(s).

4 (b) *Terms.*

- 5 (1) Group members shall serve for a period of three (3) years.
- 6 (2) Group members may be re-appointed for an additional three (3) years.
- 7 (3) The group members from subsection (a)(1) above shall not be subject to the term
- 8 requirements of this subsection (b).

9

10 (c) *Officers.* The mayor shall appoint a chairperson to preside over the group for a three (3) year

11 term.

12

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

14 The group shall meet at the call of the executive directors of the departments of community planning

15 and development or public health and environment, or their designees, and the meeting shall

16 consider the matters set out in a meeting agenda prepared by the executive directors, or their

17 designees.

18

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

20 The general purpose of the group is to render advice and recommendations to the executive

21 directors of the departments of community planning and development and public health and

22 environment regarding green building standards. The specific powers and duties of the group shall

23 be:

- 24 (a) Technical issues relating to the implementation of vegetative roof construction
- 25 standard contained in the rules and regulations;
- 26 (b) Possible amendments to the vegetative roof construction standard;
- 27 (c) Review the consistency of the vegetative roof standards with objectives in the Denver
- 28 Building and Fire Code;
- 29 (d) Periodic review of the rules and regulations;
- 30 (e) Review annual reports of the energy program; and
- 31 (f) Review projects requesting to use an equivalent certification program as outlined in
- 32 Section 10-301(a)(2)f and make a recommendation to the executive director of community planning

1 and development on its use; and

2 (g) Review projects requesting to use an alternative coverage of vegetated roof/green
3 space and on-site solar and make a recommendation to the executive director of community planning
4 and development on its use.

5
6 **Sec. 10-319. Staffing and administrative support.**

7 Staffing and administrative support for the group shall be provided by the department of community
8 planning and development.

9
10 **Division 3. Fees.**

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

12 (a) *Dedicated revenues.* The green building fund is created for the exclusive purpose of
13 receiving and accounting for all revenues derived from the payments of amounts for required, but
14 not provided, vegetative roofs provided in this article XIII.

15
16 (b) *Permitted uses of revenue in the green building fund.* Revenue received in the green
17 building fund shall be used exclusively for the following purposes:

- 18 (1) For the acquisition of green space within the city.
19 (2) For improvements to existing green space.
20 (3) For water quality improvements and green infrastructure.
21 (4) For urban forest protection and expansion.
22 (5) For green roof creation; and
23 (6) For solar adoption and energy efficiency for low-income and affordable housing
24 populations.

25
26 (c) *Cap on administrative costs.* Monies in the green building fund may be expended to pay the
27 costs incurred by the city associated directly with the administration of this fund; provided,
28 however, in no event shall the amount expended from the green building fund for such
29 administrative expenses in any year exceed five percent (5%) of the balance in the fund on
30 January 1 of each year.

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

3
4 (e) *Administration of fund.* The green building fund shall be administered by the executive
5 director of the department of public health and environment, or its successor city agency or
6 department. The executive director may promulgate rules and regulations consistent with this
7 Article XIII governing the procedures and requirements for expenditures from the funds.

8
9 (f) *Review of fund.* The department of public health and environment shall conduct a policy
10 review of the fund created in this Article XIII, hold a public hearing to gather input for the review,
11 and report the findings and any recommendations to the city council. The first public hearing shall
12 be held no later than March of 2020, and subsequent public hearings and reviews of the fund shall
13 occur every two years after this date.

14
15
16 **Section 2.** That section 2-32, D.R.M.C. concerning Open Meetings shall be amended by adding a
17 new paragraph (2)(eee) to read as follows:

18
19 (2) Public Body:

20
21 (eee) The green building technical advisory group.

22
23 **Section 3.** That section 10-16, D.R.M.C. concerning the building and fire code of the city shall be
24 amended by adding the language underlined and deleting the language stricken as follows:

25
26 **“Sec. 10-16. Building and fire code.**

27
28 The International Building Code ("IBC"), International Energy Conservation Code ("IECC"), the
29 International Fire Code ("IFC"), the International Fuel Gas Code ("IFGC"), the International
30 Mechanical Code ("IMC"), the International Plumbing Code ("IPC"), the International Existing
31 Building Code, and the International Residential Code ("IRC"), all series of 2015 as published by the
32 International Code Council, all errata to the above codes as published by the International Code

1 Council and the amendments to the above codes and the administration of the Denver Building
2 Code, as filed ~~April 25, 2018~~ [fill in new date], in City Clerk File Number ~~2016-0067-005~~ [fill in new
3 clerk file number] are hereby adopted collectively as the Denver Building and Fire Code.”

4

5 **Section 4. Effective date.**

6 (a) Except as otherwise provided in sections 4(b), 4(c), and 4(d) of this ordinance, the provisions
7 of this ordinance shall be effective upon final publication and shall apply to any owner who submits
8 for a building permit for (i) new construction, roof replacement, or construction including roof
9 replacement, (ii) roof replacement or construction including roof replacement that prior to the
10 effective date of this ordinance received an exemption from the requirements of Sec. 10-301(a)(4),
11 as such section existed prior to the effective date of this ordinance, or (iii) construction including roof
12 replacement that includes an addition of 25,000 square feet or greater of gross floor area.

13

14 (b) Notwithstanding section 4(a) of this ordinance, any owner who prior to the effective date of
15 this ordinance has submitted to the department of community planning and development a formal
16 site development plan application and paid all applicable fees, may comply with the requirements of
17 Article XIII of Chapter 10, D.R.M.C. as the article existed prior to the effective date of this ordinance.

18

19 (c) Notwithstanding Section 4(a) of this ordinance, the requirements of Section 1 of this ordinance
20 shall not apply to any owner who submits for a building permit for roof replacement, or construction
21 including roof replacement after the effective date of this ordinance and who has complied with the
22 requirements of Article XIII of Chapter 10, D.R.M.C. as such article existed prior to the effective date
23 of this ordinance, so long as the applicant replaces either the vegetative roof or solar panels existing
24 on the building upon roof
25 replacement.

26

27 (d) Notwithstanding Section 4(a) of this ordinance, the requirements of Section 1 of this ordinance
28 shall not apply to any owner of a building where any of the following have occurred; however, all
29 buildings subject to the exceptions below must comply with the requirements of Sec. 10-302(a) at
30 time of roof replacement:

31

32 (1) Submission of modified drawings after January 1, 2018 for projects that were permitted

1 in 2017 or earlier, whose permits have not yet received final inspection approval, and for which the
2 scope does not result in any additional square footage;

3
4 (2) Issuance new permits due to a change in contractor after January 1, 2018 for projects
5 that were permitted in 2017 or earlier, and whose prior permit(s) have not yet received final
6 inspection approval;

7
8
9 (3) Construction projects, where the scope of work included a new roof or roof
10 replacement, that was permitted in 2017 or earlier, whose commercial construction or residential
11 construction permit(s) have not yet received final inspection approval, and for which a roofing permit
12 for that same building is issued on January 1, 2018 or later;

13
14 (4) New construction or additions that made a complete building permit application prior
15 to January 1, 2018; or

16
17 (5) New construction or additions that made a complete site plan application for a
18 building(s) or building addition(s) prior to January 1, 2018.

19
20
21 **BALANCE OF PAGE INTENTIONALLY LEFT BLANK**
22

1 COMMITTEE APPROVAL DATE: _____, 2018
2 MAYOR-COUNCIL DATE: _____, 2018
3 PASSED BY THE COUNCIL: _____, 2018

4 _____ - PRESIDENT

5 APPROVED: _____ - MAYOR _____, 2018

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

9 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____, 2018; _____, 2018

10 PREPARED BY: Adam C. Hernandez, Assistant City Attorney DATE: _____, 2018

11 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of
12 the 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 Kristin M. Bronson, City Attorney for the City and County of Denver

16 BY: _____, Assistant City Attorney DATE: _____, 2018

17

