

1 **BY AUTHORITY**

2 ORDINANCE NO. _____

COUNCIL BILL NO. CB18-1134

3 SERIES OF 2018

COMMITTEE OF REFERENCE:

4 Green Roof Initiative

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 of 25,000 square feet or
12 more of gross floor area and green roof and solar combination requirements on existing buildings of
13 that same size when those existing buildings replaced their roofs; 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 to provide
19 environmental benefits to the city that will protect the health and general welfare of the citizens of
20 Denver.

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

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24 same is hereby repealed and reenacted to read as follows:

25
26 **Article XIII. GREEN BUILDINGS**

27 **Division 1. Green building requirements.**

28 **Sec. 10-300. Definitions**

29 The following words and phrases, as used in this Article XIII, have the following meanings:

30
31 (a) *Addition* for purposes of this Article XIII means an extension or increase in gross floor area or
32 height of a building or structure. A connecting element of limited width as required by the
33 International Building Code for a pedestrian walkway does not create an addition to a building.

- 1 (b) *Available roof space* means the total roof area of a building excluding the following:
- 2 (1) Private terraces no greater in area than the gross floor area of the abutting unit at the
- 3 roof level;
- 4 (2) Outdoor amenity spaces of buildings, including, but not limited to, areas for recreational
- 5 or social use;
- 6 (3) Areas of rooftop mechanical, electrical or other equipment, including cell towers or
- 7 other equipment leasing space on the roof, and all required clearances around these areas;
- 8 (4) Areas covered by skylights;
- 9 (5) Areas consisting of glass-covered atriums;
- 10 (6) Areas covered with glazing (windows); and
- 11 (7) Areas for renewable energy devices.
- 12
- 13 (c) *Building* for the purposes of this Article XIII means any structure used or intended for
- 14 supporting or sheltering any use or occupancy. The boundary of any single building is defined by
- 15 its surrounding exterior walls. Party walls as constructed in accordance with the International
- 16 Building Code shall create separate buildings.
- 17 (d) *Building official* means the person authorized and directed to act on behalf of the Building
- 18 Permitting and Inspections Services in the interpretation and enforcement of the Building Code of
- 19 the City and County of Denver, and appointed by the Executive Director of Community Planning and
- 20 Development.
- 21 (e) *Campus* means a tract of contiguous property with one or more owners; that contains or will
- 22 contain more than one building; and that is planned, developed and operated as an integrated facility
- 23 for a number of individual uses with special attention to coordinated circulation, parking, utility needs,
- 24 aesthetics and compatibility. For purposes of this definition, the presence of public rights-of-way
- 25 shall not destroy contiguity of land area. A campus may contain only existing buildings, existing
- 26 buildings and proposed new buildings, or only proposed new buildings.
- 27 (f) *Character defining roof* means a visible roof where the roof's relationship to the overall shape
- 28 of the building, as well as the roof's distinctive materials, craftsmanship, or decorative details are
- 29 important to the overall visual character of the building; a change of materials, color, or shape to a
- 30 character defining roof would significantly impact the visual character of the building.
- 31 (g) *Cool roof* means a roof, or portion of a roof, containing roof covering materials meeting certain
- 32 solar reflectance values that mitigate or assist in reducing urban heat island effect.

- 1 (h) *Denver Building and Fire Code* has the same meaning as in Section 10-16, D.R.M.C.
- 2 (i) *Executive director of CPD* means the executive director of the department of community
3 planning and development (“CPD”), or his/her designee.
- 4 (j) *Executive director of DDPHE* means the executive director of the department of public health
5 and environment (“DDPHE”), or his/her designee.
- 6 (k) *Green space* means any area that is proposed to contain trees, groundcover, shrubs, urban
7 agriculture, natural grass/turf, or vegetated roofs.
- 8 (l) *Greenhouse* means a structure or a thermally isolated area of a building that maintains a
9 specialized sunlit environment exclusively used for, and essential to, the cultivation, protection or
10 maintenance of plants, that sells its commodities for a profit, or on behalf of a non-profit, and is
11 constructed or planned to be constructed as either an F-1 or U occupancy.
- 12 (m) *Gross floor area* means the gross floor area within the inside perimeter of the exterior walls
13 of the building under consideration, exclusive of vent shafts and courts, without deduction for
14 corridors, stairways, ramps, closets, the thickness of interior walls, columns or other features. The
15 gross floor area of a building, or portion thereof, not provided with surrounding exterior walls shall
16 be the usable area under the horizontal projection of the roof or floor above. The gross floor area of
17 a building shall not include shafts with no openings, interior courts, or areas used exclusively for the
18 storage or parking of vehicles.
- 19 (n) *Individual roof section* means a portion of roof bounded on all sides by one or more of the
20 following features: a wall or parapet; the roof edge; an expansion joint; or a roof divider.
- 21 (o) *Net zero energy building* means an energy-efficient building where, on a source energy basis,
22 the actual annual delivered energy is less than or equal to the on-site renewable exported energy.
- 23 (p) *Owner* means any person, agent, operator, entity, firm, or corporation having any legal or
24 equitable interest in the building or property; or any person authorized to act on the owner’s behalf.
- 25 (q) *Renewable energy device* means a device that obtains energy derived from solar radiation,
26 wind, landfill gas, biomass, the internal heat of the earth, or another source with the approval of CPD.
- 27 (r) *Residential building* means a building where more than sixty percent (60%) of the gross floor
28 area of the building is used, designed or intended to be used for a household living use type as
29 defined in the Denver Zoning Code, including accessory residential uses; however, a residential
30 building shall not include a nursing home or hospice use, a residence for older adults use, or a
31 lodging accommodation use, all as defined in the Denver Zoning Code.
- 32 (s) *Roof* means the overhead structural component of a building or a part of a building supported

1 by walls or columns and which functions primarily to shelter the interior of the building from the effects
2 of weather and the infiltration of water.

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

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

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

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

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

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

19 (a) *In General.* Except as provided in subsection 10-301(c) below, an owner constructing a building
20 containing 25,000 square feet or greater of gross floor area who has not submitted a formal site
21 development plan application with payment of all applicable fees by 4:30 pm on November 2, 2018
22 must provide the following green building requirements:

- 23 (1) A cool roof; and
- 24 (2) One of the following options:
 - 25 a. Green space covering an area in one of the following amounts, whichever is
26 least:

- 27 1. Ten percent (10%) of the gross floor area of the building;
- 28 2. Sixty percent (60%) of the total roof area on the building; or
- 29 3. The available roof space on the building.

- 30
- 31 b. On-site solar panels covering an area anywhere on the building or zone lot equal
32 to seventy percent (70%) of the total roof area or an area equal to an amount required to provide

1 one hundred percent (100%) of estimated annual average electricity used at the building. Other
2 renewable energy devices may be used in place of on-site solar panels so long as the owner provides
3 evidence of similar generation capacity. Any net zero energy building complies with this subsection
4 10-301(a)(2)b.

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

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

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

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

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

23 e. Building certification of LEED Gold, Enterprise Green Communities, the
24 National Green Building Standard ICC/ASHRAE 700, or an equivalent certification approved
25 by the building official.

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

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

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

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

1 (iii) Thirty percent (30%) of the available roof space on the building;
2 and either Sec. 10-301(a)(2)f.2 or 3 below.

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

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

6 (ii) Forty-two percent (42%) of the total roof area on the building, or

7 (iii) Seventy percent (70%) of the available roof space on the building; or

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

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

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

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

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

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

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

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

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

23 (iii) Available roof space on the building.

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

30 3. The off-site renewable energy purchase must cover the amount that
31 required on-site solar panels would have provided and demonstration of decreased energy
32 consumption measured as estimated cost savings of a minimum two and a half percent (2.5%) above

1 requirements in the Denver Building and Fire Code.

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

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

- 6 (i) Three percent (3%) of the gross floor area of the building;
- 7 (ii) Eighteen percent (18%) of total roof area on the building; or
- 8 (iii) The available roof space on the building.

9
10 2. Demonstration of decreased energy consumption measured as
11 estimated cost savings of a minimum five percent (5%) above requirements in the applicable Denver
12 Building and Fire Code during plan review.

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

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

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

22 (c) *Exceptions.*

23 (1) Subsection 10-301(a) shall not apply to the following:

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

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

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

30

31 (2) Subsection 10-301(a)(1) shall not apply to the following:

32 a. Portions of a proposed roof that include the following:

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

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

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

11 d. Twenty-five percent (25%) of an individual roof section, when the remaining
12 seventy-five percent (75%) of the proposed individual roof section contains a cool roof;

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

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

16 (3) Subsection 10-301(a)(2) shall not apply to residential buildings five stories or fewer,
17 less than 62.5 feet in height, and with 25,000 square feet or more of gross floor area.

18
19 (d) *Character defining roof.* When a proposed roof is determined to be a character defining roof,
20 the building official may allow roof materials that do not meet the requirements for a cool roof.

21 (e) *Continuing compliance.* An owner of a building subject to the requirements of Sec. 10-301(a)
22 must provide a cool roof and one of the options of 10-301(a)(2) for the duration of the building's
23 existence.

24 **Sec. 10-302. Green building requirements for existing buildings.**

25 (a) *In General.* Except as provided in subsection 10-302(d) below, any owner of a building that
26 has received a certificate of occupancy prior to November 2, 2018 and whose building contains
27 25,000 square feet or greater of gross floor area, must provide the following green building
28 requirements upon a roof replacement for more than five percent (5%) of either the total roof area or
29 individual roof section(s), as applicable, in any calendar year:

- 30 (1) A cool roof; and

- 1 (2) One of the following options:
- 2 a. Green space covering an area in one of the following amounts, whichever is
- 3 least:
- 4 1. For total roof area replacement: two percent (2%) of the gross floor area
- 5 of the building; for individual roof section replacement: two percent (2%) of the gross
- 6 floor area of the building, multiplied by the area of individual roof section(s) being
- 7 replaced, divided by the total roof area of the building;
- 8 2. For total roof area replacement: eighteen percent (18%) of the total roof
- 9 area on the building; for individual roof section replacement: eighteen percent (18%)
- 10 of the individual roof section(s) being replaced; or
- 11 3. Available roof space on the total roof area of the building, or the individual
- 12 roof section(s) being replaced, as applicable.
- 13
- 14 b. On-site solar panels located anywhere on the building or zone lot and covering
- 15 an area in the least of the following:
- 16 1. For total roof area replacement: five percent (5%) of the gross floor area
- 17 of the building; for individual roof section replacement: five percent (5%) of the gross
- 18 floor area of the building, multiplied by the area of roof section(s) being replaced,
- 19 divided by the total roof area of the building;
- 20 2. For total roof area replacement: forty-two percent (42%) of the total roof
- 21 area on the building; for individual roof section replacement: forty-two percent (42%)
- 22 of the individual roof section(s) being replaced; or
- 23 3. An area equal to an amount required to provide one hundred percent
- 24 (100%) of estimated annual average electricity used at the building;
- 25
- 26 c. Building certification of LEED Silver, Enterprise Green Communities, the
- 27 National Green Building Standard ICC/ASHRAE 700, or an equivalent certification approved by the
- 28 building official.
- 29
- 30 d. Enrollment in the energy program described in Section 10-304 below.
- 31
- 32

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

2 (1) Instead of providing required green space, an owner may pay an amount to the green
3 building fund, defined in Division 3 below, of \$50.00 per square foot of all green space coverage
4 required in subsection 10-302(a)(2)a, but not provided.

5 (2) In cases where an owner chooses to provide green space as required in subsection
6 10-302(a)(2)a, but is unable to provide the entirety of green space coverage required, the owner
7 may pay \$50.00 per square foot for no more than twenty-five percent (25%) of the green space
8 required, but not provided, and must provide at least seventy-five percent (75%) of the required
9 green space coverage.

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

13 (d) *Exceptions.*

14 (1) Subsection 10-302(a) shall not apply to the following:

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

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

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

21 d. Buildings that have complied with Section 10-301(a).

22

23 (2) Subsection 10-302(a)(1) shall not apply to the following:

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

25 1. Photovoltaic systems or components;

26 2. Solar-, air-, or water-heating systems or components;

27 3. Vegetated roofs;

28 4. Above-roof decks or walkways; or

29 5. HVAC systems and components, and other opaque objects mounted
30 above the roof;

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

1 c. Portions of a roof that are ballasted with a minimum stone ballast of fifteen
2 pounds per square foot, or, in the case of an existing ballasted roof, the weight of
3 ballast for which the roof was originally designed.

4 d. Twenty-five percent (25%) of an individual roof section, when the remaining
5 seventy-five percent (75%) of the individual roof section contains a cool roof;

6 (e) An individual roof section containing less than twenty-five (25%) of roofing
7 materials; or

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

9 (3) Subsection 10-302(a)(2) shall not apply to the following:

10 a. Residential buildings five stories or fewer, or less than 62.5 feet in height and
11 with 25,000 square feet or more of gross floor area;

12 b. A building that must replace its roof due to an emergency, including, but not
13 limited to, fire or wind damage to be determined by the building official;

14 c. A building that must replace its roof due to hail damage in the first year after the
15 effective date of this ordinance when the building owner can demonstrate a gap in insurance
16 coverage. Such gap exists where the building owner has insurance coverage that includes the cost
17 of meeting any new code requirements, but had a cost limit on that coverage that is insufficient to
18 meet the additional costs of this ordinance, and the insurance policy is not yet due for renewal; or

19 d. A building that contained a vegetative roof prior to January 1, 2018, so long as
20 the vegetative roof is replaced upon any roof replacement.

21 (e) *Compliance with new building requirements.* Any owner who submits a building permit for a
22 roof replacement or construction including roof replacement, and has complied with subsection 10-
23 301(a), does not have to comply with the requirements of Section 10-302(a), but shall maintain
24 compliance with the selected option from Section 10-301(a)(2) or demonstrate compliance with
25 another option from Section 10-301(a)(2) upon completion of any roof replacement which must be
26 submitted and approved by the building official.

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

30 (g) *Roof recover.* Any owner proposing a roof recover of more than five percent (5%) of either
31 the total roof area or individual roof section in any calendar year, and whose building contains 25,000
32 square feet or greater of gross floor area must comply with Sec. 10-302(a)(1) for that portion of roof

1 being recovered, but need not comply with the requirements of Sec. 10-302(a)(2). When an analysis
2 of any individual roof section prior to a roof recover determines that application of a cool roof will
3 result in condensation, then an owner may choose not to provide a cool roof.

4 (h) *Continuing compliance.* An owner of a building subject to the requirements of Sec. 10-302(a)
5 must provide a cool roof and one of the options of Sec. 10-302(a)(2) for the duration of the building's
6 existence.

7 **Sec. 10-303. Additions**

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

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

- 13 (1) Any of the requirements of Sec. 10-302(a)(2)a-c for that addition;
- 14 (2) The requirements of Sec. 10-302(b) for that addition; or
- 15 (3) Estimated energy cost savings of at least four percent (4%) above requirements in the
16 Denver Building and Fire Code for that addition.

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

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

21 (b) *Applicability.* An owner subject to the requirements of Sec. 10-302(a), may enroll in the energy
22 program at or before the time of roof replacement.

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

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

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

1 (b) *Documentation.* CPD shall require owners who choose to comply at the campus level to
2 submit a plan documenting compliance with Section 10-301(a) or Section 10-302(a). Such plan may
3 include, but is not limited to, a general development plan (or successor type of plan), infrastructure
4 master plan, site development plan, or development agreement. A site development plan will be
5 required for any new buildings or green space.

6 (c) *Energy master plan.* Owners choosing to comply with Section 10-301(a)(2)c or f, or Section
7 10-302(a)(2)c must submit an energy master plan to CPD.

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

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

12 **Sec. 10-307. Enforcement.**

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

15 (b) The executive directors of CPD and the DDPHE, or their designees, have the authority to
16 enforce the provisions of Article XIII.

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

22 (d) CPD and the DDPHE are authorized to issue notices or orders for violations of this article.
23 Any person who violates any provision of this article XIII, including any rules and regulations adopted
24 under this article, shall be subject to a civil penalty in an amount up to \$50.00 times sixty percent
25 (60%) of the total roof area, to be deposited into the green building fund, defined below.

26 (e) In the event an owner subject to the civil penalty above fails to pay the required amount within
27 one hundred eighty (180) days, the civil penalty shall be considered a debt to the city until paid in
28 full. This debt shall be a perpetual lien on the property, and shall be superior and prior to all other
29 liens, regardless of their dates of recordation, except for liens for general taxes and prior special
30 assessments, until the civil penalty owed, delinquent interest, and recording fees have been paid in
31 full. In addition to the remedies set forth in this section, an action or other process provided by law
32 may be maintained by the city to recover or collect any amounts, including interest, owing under this

1 section. Interest shall be calculated in the same manner and same amount as delinquent property
2 taxes. The executive director of the department of public health and environment shall record the
3 lien with the clerk and recorder.

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

8 **Sec. 10-308. Appeals.**

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

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

18 **Secs. 10-309—10-315. Reserved.**

19 **Division 2. Green building technical advisory committee**

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

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

24 (1) A representative from the department of community planning and development's
25 building permitting and inspections services agency, a representative from the department of
26 community planning and development department's landmark preservation staff, a representative
27 from the department of public health and environment, and a representative from the department of
28 public works, each of whom shall be appointed by their respective executive directors;

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

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

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

32 (5) Representative(s) of the research sector including but not limited to persons involved

1 in green roof research and testing, water quality/capture research and testing or building energy
2 efficiency in a professional academic institution, school of engineering or architecture;

- 3 (6) Representative(s) of the green roof industry sector;
- 4 (7) Representative(s) of the renewable energy industry sector;
- 5 (8) Representative(s) of the energy efficiency industry sector; and
- 6 (9) Water quality/capture requirements expert(s).

7 (b) *Terms.*

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

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

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

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

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

18 The committee shall meet at the call of the executive directors of CPD or DDPHE, or their designees,
19 and the meeting shall consider the matters set out in an agenda prepared by the executive directors,
20 or their designees.

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

22 The general purpose of the committee is to render advice and recommendations to the executive
23 directors of CPD and DDPHE regarding green building standards. The specific powers and duties
24 of the committee shall be:

- 25 (a) Reviewing technical issues relating to the implementation of vegetative roof
26 construction standard contained in the rules and regulations;
- 27 (b) Considering possible amendments to any vegetative roof construction standards;
- 28 (c) Reviewing the consistency of the vegetative roof standards with objectives in the
29 Denver Building and Fire Code;
- 30 (d) Periodically reviewing rules and regulations;
- 31 (e) Reviewing annual reports of the energy program; and
- 32 (f) Reviewing projects that request to use an equivalent certification program as allowed

1 in Section 10-301(a)(2)e, and making a recommendation to the building official.

2 **Sec. 10-319. Staffing and administrative support.**

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

4

5

Division 3. Fees.

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

7 (a) *Dedicated revenues.* The green building fund is created for the exclusive purpose of receiving
8 and accounting for all revenues derived from the payments of amounts for required, but not provided,
9 green space in this Article XIII.

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

12 (1) For the acquisition of green space within the city;

13 (2) For improvements to existing green space;

14 (3) For water quality improvements and green infrastructure;

15 (4) For urban forest protection and expansion;

16 (5) For green roof creation; and

17 (6) For solar adoption and energy efficiency projects in areas of low-income and affordable
18 housing populations.

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

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

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

29 (f) *Review of fund.* The department of public health and environment shall conduct a policy
30 review of the fund created in this Article XIII, hold a public hearing to gather input for the review, and
31 report the findings and any recommendations to the city council. The first public hearing shall be

1 held no later than March of 2020, and subsequent public hearings and reviews of the fund shall
2 occur every two years after this date.

3 (g) *Annual inflation adjustment.*

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

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

14
15 **Division 4. Evaluation**

16
17 **Sec. 10-321. Evaluation of article.**

18 Every twelve (12) months, CPD and DDPHE shall prepare a written report of the activities related
19 to, and an assessment of outcomes of, this article, and report their findings and any
20 recommendations to the city council.

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

23 (2) Public Body:

24 (eee) The green building technical advisory committee.

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

27 **“Sec. 10-16. Building and fire code.**

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~~ October 18, 2018, in City Clerk File Number ~~2016-0067-005~~ 2016-
3 0067-006 are hereby adopted collectively as the Denver Building and Fire Code.”

4 **Section 4. Effective date.**

5 (a) Except as otherwise provided in sections 4(b), 4(c), and 4(d) below, the provisions of this
6 ordinance shall be effective upon final publication and shall apply to any owner who submits for a
7 building permit on or after the effective date for

8 (1) new construction, roof replacement, or construction including roof replacement;

9 (2) roof replacement or construction including roof replacement that prior to the effective
10 date of this ordinance received an exemption from the requirements of Sec. 10-301(a)(4), as such
11 section existed prior to the effective date of this ordinance; or

12 (3) construction including roof replacement that includes an addition of 25,000 square feet
13 or greater of gross floor area.

14 (b) Notwithstanding section 4(a) of this ordinance, any owner who prior to the effective date of
15 this ordinance has submitted to CPD either (i) a formal site development plan application and paid
16 all applicable fees, or (ii) a building permit application with associated permit drawings when
17 necessary, and payment of all applicable plan review fees for additions, remodels, or reroofing, may
18 comply with the requirements of Article XIII of Chapter 10, D.R.M.C. as the article existed prior to
19 the effective date of this ordinance.

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

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

30 (1) Submission by the owner of modified drawings after January 1, 2018 for projects that
31 were permitted in 2017 or earlier, whose permits have not yet received final inspection approval, and
32 for which the scope of work does not result in any additional square footage or include a new roof

1 or roof replacement;

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

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

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

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

13

14

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15

1 COMMITTEE APPROVAL DATE: October 11, 2018

2 MAYOR-COUNCIL DATE: October 16, 2018

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: Adam C. Hernandez, Assistant City Attorney DATE: October 18, 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

16 BY: _____, Assistant City Attorney DATE: _____