

1 **BY AUTHORITY**

2 ORDINANCE NO. _____
3 SERIES OF 2018

COUNCIL BILL NO. CB18-0975
COMMITTEE OF REFERENCE:
Safety, Housing & Education & Homelessness

5 **A BILL**

6 **For an ordinance to amend Article IV of Chapter 27 (Housing) of the Revised**
7 **Municipal Code relating to affordable housing.**
8

9 **WHEREAS**, Article IV was first adopted in August of 2002 and amended in October of 2006,
10 June of 2013, and August of 2014; and

11 **WHEREAS**, the City and County of Denver has experienced a significant number of units
12 becoming non-compliant with the affordable housing program; and

13 **WHEREAS**, a portion of the non-complaint purchasers appear to have purchased without
14 understanding the covenants and restrictions on the MPDU properties; and

15 **WHEREAS**, the City has significant investment in the MPDUs and need for maintaining the
16 MPDUs as affordable for the full term of affordability; and

17 **WHEREAS**, the City believes pursuing eviction of the unaware homeowners could be a
18 significant use of City time and resources; and

19 **WHEREAS**, an amendment is necessary to allow the City additional options to manage the
20 enforcement process.

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

23 **Section 1.** That Section 27-111, "Covenants", of the Revised Municipal Code is hereby
24 amended by adding the language underlined as follows:

25 **Sec. 27-111. Covenants and Deeds of Trust.**
26

27 (a) The applicant shall execute and pay the recording fees for OED to record with the clerk and
28 recorder for the City and County of Denver a completed covenant on the MPDU property, which shall
29 comply with the provisions in the rules and regulations promulgated hereunder. Partnerships,
30 associations or corporations shall not evade this article through voluntary dissolution.

31 (b) The covenants shall at a minimum contain the information that the property value and that
32 use and resale are restricted and shall set forth the control period, the maximum purchase price
33 calculation, the eligibility requirements, penalties for violation, and any other restriction provided
34 herein or in the rules and regulations adopted hereunder. The covenants shall also include provisions
35 which govern the first resale within ten (10) years after the end of the control period ("final MPDU
36 sale") as set forth in [section] 27-112.

37 (c) The director may waive the covenant restrictions on the resale prices for MPDUs if the
38 director finds that the restrictions conflict with regulations of federal or state housing programs and
39 thus prevent eligible households from buying dwelling units under the MPDU program. Any waiver

1 shall be in writing and signed by the director, shall reference the recorded covenant, and shall be
2 recorded in the records of the clerk and recorder for the City and County of Denver, Colorado.

3 (d) At the time of conveyance, all grantors of MPDUs shall require the grantee to execute a
4 memorandum of acceptance which states that the conveyed property is a MPDU and is subject to
5 the restrictions contained in the covenants required under this article during the control period.

6 (e) The director may require certain owners of MPDUs who are out of compliance with the
7 covenant required in this section to execute a performance deed of trust in favor of the city that
8 addresses recapture of noncompliant periods of affordability. The director shall release the
9 performance deed of trust upon a finding that all requirements of the performance deed of trust have
10 been satisfied.

11 (f) The director shall release the covenants upon a finding that all amounts due the city's
12 special revenue fund have been received and all other provisions of the covenant have been
13 satisfied.

14
15 **Section 2.** That subsection (g) of Section 27-116, "Regulations; enforcement", of the
16 Revised Municipal Code is hereby amended by adding the language underlined and deleting the
17 language stricken as follows:

18 **Sec. 27-116. Regulation; enforcement.**

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

- 22 (1) Enjoin an MPDU owner who violates this article, or any covenant signed or order issued
23 under this article, from continuing the violation; ~~or~~
 - 24 (2) Require an owner to sell an MPDU owned or occupied in violation of this article to an
25 eligible household; or
 - 26 (3) Recapture a lost term of affordable housing.
- 27
28

1 COMMITTEE APPROVAL DATE: September 12, 2018
2 MAYOR-COUNCIL DATE: September 18, 2018 by Consent
3 PASSED BY THE COUNCIL: _____ October 22, 2018
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: Laurie J. Heydman, Assistant City Attorney DATE: October 11, 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
16 Kristin M. Bronson, Denver City Attorney
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18 BY: Kristin J. Crawford, Assistant City Attorney DATE: Oct 11, 2018