

1 **BY AUTHORITY**

2 ORDINANCE NO. _____
3 SERIES OF 2024

COUNCIL BILL NO. CB24-1154

COMMITTEE OF REFERENCE:

4 Land Use, Transportation & Infrastructure

5 **A BILL**

6 **For an ordinance amending Chapter 27 (Housing) of the Denver Revised**
7 **Municipal Code to amend provisions relating to negotiated alternatives and high**
8 **impact developments.**

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

11 **Section 1.** That subsection (a) of section 27-154, D.R.M.C. is amended by adding the
12 language underlined to read as follows:

13 **Sec. 27-154. Exceptions.**

14 (a) Construction upon any property which is, alone or in combination with other
15 properties, the subject of a contractual commitment or covenant that is dated and properly
16 recorded prior to the imposition of a linkage fee on the first structure on the property and
17 is enforceable by the city to construct affordable housing, including by way of example
18 any development or subdivision agreement which includes an affordable housing
19 covenant and to which the city is a party, any city-approved plan to build moderately
20 priced development units (MPDUs) under article IV of this chapter 27, any city-approved
21 plan to build affordable units in place of the linkage fee, any high impact development
22 compliance plan executed and recorded pursuant to article X, division 3 of this Chapter
23 27 where a payment of fees to support affordable housing development is contained in
24 the high impact development compliance plan, or an affordable housing plan executed to
25 meet incentive requirements under article VI of this Chapter 27. The exception provided
26 by this subsection (a) shall apply only for so long as such contractual commitment or
27 covenant to construct affordable housing remains in effect. Construction upon property
28 that, alone or in combination with other properties, was originally developed under such
29 a contractual commitment or covenant and is substantially proposed for redevelopment
30 shall be subject to payment of linkage fees hereunder unless the redevelopment is
31 governed by a new contractual commitment or covenant to construct affordable housing,

1 or otherwise qualifies for an exception under any other provision of this section.

2 **Section 2.** That subsections (p) and (t) of Section 27-219, D.R.M.C. are amended by
3 deleting the language stricken and adding the language underlined to read as follows:

4 **Sec. 27-219. – Definitions.**

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

7 (p) *IRU or income-restricted unit* means a dwelling unit required by this article
8 ~~required to be affordable as set forth in this article~~ section 27-224, a negotiated
9 alternative, or a high impact development compliance plan.

10 (t) *Residential development* means any project that would create ten (10) or
11 more new dwelling units at one location by (i) the construction or alteration of structures
12 or (ii) the conversion of a use within an existing structure to a residential use containing
13 dwelling units from any other non-residential use. If a project has both residential and
14 non-residential uses, the residential portion of a project shall be considered a residential
15 development if it would create ten (10) or more new dwelling units.

16 **Section 3.** That subsection (c) of section 27-224, D.R.M.C. is amended by adding the
17 language underlined as follows:

18 **Sec. 27-224. – On-site compliance requirements.**

19 (c) *Enhanced on-site compliance; incentives.*

20 (1) *Enhanced incentives.* To increase the overall supply of housing and
21 encourage applicants to provide on-site IRUs in excess of the base requirements
22 specified in subsection (a), an applicant is eligible for the incentives set forth in a.
23 through c. of this subsection if the applicant provides IRUs as follows:

Market Area	Applicant Compliance Options	Minimum percent of total dwelling units to be IRUs	Maximum AMI for eligible households	
High Market Area	H-1E	12% of total dwelling units	Rental developments: 60% of AMI	Ownership developments: 80% of AMI
	H-2E	18% of total dwelling units	Rental developments: An effective average of 70% of AMI	Ownership developments: An effective average of 90% of AMI
Typical Market Area	T-1E	10% of total dwelling units	Rental developments: 60% of AMI	Ownership development: 80% of AMI
	T-2E	15% of total dwelling units	Rental developments: An effective average of 70% of AMI	Ownership developments: An effective average of 90% of AMI

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a. *Access to base incentives.* An applicant is eligible for the base incentives for on-site compliance set forth in section 27-224(b)(1).

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b. *Height and floor area increase.* A residential development shall be entitled to an increase in building height and floor area ratio in accordance with the provisions set forth in articles 8 and 10 of the Denver Zoning Code.

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c. *Vehicle parking exemption.* A residential development shall be entitled to a vehicle parking exemption in accordance with the provisions set forth in article 10 of the Denver Zoning Code.

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Section 4. That subsection (d) of 27-226, D.R.M.C. is amended by adding the language underlined as follows and recodifying the current subsection (d) to a new subsection (e):

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Section 27-226 - Alternative compliance—Negotiated alternatives.

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(d) The director may grant access to the enhanced incentives for on-site compliance set forth in section 27-224(c)(1) when the residential development is providing IRUs on-site, the negotiated alternative better supports the goals of the HOST strategic plan, comprehensive plan goals, and any small area plan applicable to the residential

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1 development compared to the enhanced on-site compliance requirements of section 27-
2 224(c)(1), and the applicant provides at least one of the following:

3 (1) a greater percentage of IRUs than would otherwise be required for
4 enhanced on-site compliance based on the residential development's market area
5 and compliance option, with the maximum AMI for eligible households detailed in
6 the negotiated alternative; or

7 (2) a maximum AMI for eligible households that is lower than would otherwise
8 be required for enhanced on-site compliance based on the residential
9 development's market area with the percentage of IRUs detailed in the negotiated
10 alternative; or

11 (3) IRUs with a greater number of bedrooms than is otherwise required in
12 section 27-224(f)(2).

13 (e) The provisions of section 27-224(e) and (f) are applicable to any IRUs that
14 are provided on-site of the residential development.

15 **Section 5.** That subsection (a) of section 27-229, D.R.M.C. is amended by adding the
16 language underlined as follows:

17 **Sec. 27-229. – High impact developments.**

18 (a) Owners or developers of a high impact development must submit to HOST
19 a high impact development compliance plan that demonstrates how it will satisfy the intent
20 and purposes of division 2 of this article and Chapter 27, Article V, Division 2.

21 (1) The high impact development compliance plan shall demonstrate how the
22 proposed development meets or exceeds the relevant standards set forth in this
23 article; Chapter 27, Article V, Division 2; and the goals of the HOST strategic plan,
24 comprehensive plan goals, and any small area plan applicable to the area of high
25 impact development.

1 (2) The owner or developer must provide to HOST documentation detailing
2 outreach to the surrounding community, including, but not limited to, the
3 organizations and individuals engaged, and how the proposed high impact
4 development compliance plan is responsive to the conducted community outreach.

5 (3) The high impact development compliance plan may include a combination
6 of one or more of, but not be limited to, the following:

7 a. A plan to provide IRUs within the area of high impact development
8 sufficient to meet or exceed one of the compliance options set forth in
9 section 27-224(c).

10 b. The dedication of land within the area of the high impact
11 development for the provision of affordable housing. In any such case, at a
12 minimum, the land dedicated must be of sufficient size and have zoning
13 entitlement in place to reasonably produce IRUs sufficient to meet the
14 compliance requirements set forth in section 27-224(c).

15 c. A plan to provide IRUs within the area of high impact development
16 at a greater depth of affordability than the compliance requirements set forth
17 in section 27-224(c). In any such case, at a minimum, the total percent of
18 IRUs provided in the high impact area shall not be less than eight (8) percent
19 of total dwelling units and the majority of IRUs must serve households
20 earning fifty (50) percent of area median income or less.

21 d. A plan to provide IRUs within the area of high impact development
22 specifically designed to meet the needs of families and larger households.
23 In any such case, at a minimum, the total percent of IRUs provided in the
24 high impact development area shall not be less than eight (8) percent of
25 total dwelling units and the majority of IRUs must include two (2), three (3),
26 or four (4) bedrooms. The development must also contain family-friendly
27 services and amenities. Amenities may include, but are not limited to, child-
28 care; play area; community garden; and other on-site amenities to serve
29 families.

1 (4) The director may grant access to the base incentives for on-site compliance
2 set forth in section 27-224(b)(1) when the project is providing IRUs within the area
3 of high impact development.

4 (5) The director may grant access to the enhanced incentives for on-site
5 compliance set forth in section 27-224(c)(1) if the high impact development
6 compliance plan proportionally meets or exceeds the on-site IRU requirements set
7 forth in section 27-224(c). Alternatively, the director may grant access to the
8 enhanced incentives for on-site compliance set forth in section 27-224(c)(1) when
9 the project is providing IRUs within the area of high impact development, the high
10 impact development compliance plan better supports the goals of the HOST
11 strategic plan, comprehensive plan goals, and any small area plan applicable to
12 the residential development compared to the enhanced on-site compliance
13 requirements of section 27-224(c)(1), and the applicant provides at least one of
14 the following:

15 a. a greater percentage of IRUs than would otherwise be required for
16 enhanced on-site compliance based on the residential development's
17 market area and compliance option, with the maximum AMI for eligible
18 households detailed in the high impact development compliance plan; or

19 b. a maximum AMI for eligible households that is lower than would
20 otherwise be required for enhanced on-site compliance based on the
21 residential development's market area with the percentage of IRUs detailed
22 in the high impact development compliance plan; or

23 c. IRUs with a greater number of bedrooms than is otherwise required
24 in section 27-224(f)(2).

25 **REMAINDER OF PAGE INTENTIONALLY LEFT BLANK**

1 COMMITTEE APPROVAL DATE: September 10, 2024
2 MAYOR-COUNCIL DATE: September 17, 2024 by Consent
3 PASSED BY THE COUNCIL: _____,
4 _____ - PRESIDENT
5 APPROVED: _____ - MAYOR _____,
6 ATTEST: _____ - CLERK AND RECORDER,
7 EX-OFFICIO CLERK OF THE
8 CITY AND COUNTY OF DENVER
9 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____ ; _____,
10 PREPARED BY: Eliot C. Schaefer, Assistant City Attorney DATE: September 19, 2024
11 Pursuant to section 13-9, 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 resolution. The proposed ordinance is not submitted to the City Council for approval pursuant to
14 §3.2.6 of the Charter.
15
16 Kerry Tipper, Denver City Attorney
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18 BY: *Anshul Bagga* _____, Assistant City Attorney DATE: Sep 19, 2024 _____