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# Proposed DRMC Revisions for Mandatory Affordable Housing

Denver City Council's Land Use, Transportation, and Infrastructure Committee  
September 10, 2024

# Agenda

- Proposed DRMC Revisions Summary
- Minor Revisions (4)
- Substantive Revision for Negotiated Alternatives
- Substantive Revision for High Impact Developments
- Next Steps

# EHA/MAH Background

## Ordinance

- Approved June 8, 2022 and effective July 1, 2022
- Grace period deadline extended twice (2023 & 2024)

## Grace Period Eligibility Dates

- Submitted concept prior to June 30, 2022
- SDP approval by April 18, 2025.

## Compliance

- Non-residential projects and residential projects with 1 to 9 units subject to linkage fees
- Projects with 10+ residential units to provide affordable housing on-site, pay a fee-in-lieu, or negotiate an alternative
- Projects of 10+ acres or leveraging TIF / met district financing to complete a High Impact Development Compliance Plan

## Incentives

- Base: Permit fee reduction, reduced parking ratio, linkage fee exemption on ground floor commercial
- Enhanced: Base Incentives + height and FAR increases, parking exemption

# Proposed Revisions Summary

## Minor:

1. Sec. 27-154 – Linkage Fee Exceptions (allowing HIDCPs to describe affordable housing fee compliance)
2. Sec. 27-219 (p) – Definitions (of Income-Restricted Unit)
3. Sec. 27-219 (t) – Definitions (of Residential Development)
4. Sec. 27-224 – Enhanced Incentives (including reference to DZC Article 8)

## Substantive:

1. Sec. 27-226 – Alternative Compliance / Negotiated Alternatives
  - allow access to enhanced incentives
2. Sec. 27-229 – High Impact Developments
  - allow flexibility in negotiations/access to enhanced incentives

# Sec. 27-154 – Linkage Fee Exceptions

## Current Language and Redline:

The payment of linkage fees as set forth in section 27-153 shall not be required for the issuance of a building permit under any of the following circumstances:

(a) Construction upon any property which is, alone or in combination with other properties, the subject of a contractual commitment or covenant that is dated and properly recorded prior to the imposition of a linkage fee on the first structure on the property and is enforceable by the city to construct affordable housing, including by way of example ... **any high impact development compliance plan executed and recorded pursuant to article X, division 3 of this Chapter 27 where a payment of fees to support affordable housing development is contained in the high impact development compliance plan,** ... The exception provided by this subsection (a) shall apply only for so long as such contractual commitment or covenant to construct affordable housing remains in effect...

## Justification:

- High Impact Developments to date have included custom approaches to linkage fee. CAO suggests clarifying that the standard application of the linkage fee no longer applies.

# Sec. 27-219(p) – Definitions

## Current Language and Redline:

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

## Justification:

- Clarify the specific locations where Income-Restricted Units may be defined

# Sec. 27-219(t) – Definitions

## Current Language and Redline:

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

## Justification:

- Clarify that MAH only applies if the change in use results in the creation of dwelling units
- Conversions to residential uses that do not include dwelling units (e.g. Residential Care) are not subject to MAH

# Sec. 27-224 – Enhanced Incentives

## Current Language and Redline:

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

(1) *Enhanced incentives...*

...

(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.

...

## Justification:

- Article 8 -- Downtown (D-) Neighborhood Context -- also includes details about the height increases allowed in D- zone districts.
- CAO recommends including Article 8 for clarity and to ensure a comprehensive reference

# Summary of Substantive Revisions

Goal of this effort is to align DRMC with initial policy intent, in two ways:

1. Remove prohibition on Negotiated Alternatives accessing Enhanced Incentives
2. Allow customized High Impact Development Compliance Plans to access Enhanced Incentives

# Examples: Negotiated Alternatives seeking Incentive Height

## A. Multifamily tower (112 units)

- 81 studio / 1-br units
- 25 2-br units
- 6 3-br units
- Developer proposed 10% of units at 70% AMI, of which 50% would be 2- and 3-br units (rather than 10% of units at 60% AMI)

## B. Scattered site

- Developer owns several parcels, which cumulatively do not comprise 10 acres
- Proposal to income-restrict units on-site, as well as donate a parcel to the City

# Sec. 27-226 – Alternative compliance- Negotiated Alternatives

## Proposed New Language:

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

- (1) a greater percentage of IRUs than would otherwise be required for enhanced on-site compliance based on the residential development's market area and compliance option, with the maximum AMI for eligible households detailed in the negotiated alternative; or
- (2) a maximum AMI for eligible households that is lower than would otherwise be required for enhanced on-site compliance based on the residential development's market area, with the percentage of IRUs detailed in the negotiated alternative; or
- (3) IRUs with a greater number of bedrooms than is otherwise required in section 27-224(f)(2).

# Examples: High Impact Developments seeking Incentive Height

- A. Rather than rent 10% of units at 60% AMI, rent 8% of units at 40-50% AMI
- B. Rather than sell 10% of units at 80% AMI, sell 18% of units at 120% AMI
- C. Rather than rent 10% of units at 60% AMI, create 50 3-br townhomes (6% of units) to be sold to a land trust at 80% AMI.

# Sec. 27-229 – High Impact Developments

## Proposed New Language:

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

- (a) a greater percentage of IRUs than would otherwise be required for enhanced on-site compliance based on the residential development's market area and compliance option, with the maximum AMI for eligible households detailed in the high impact development compliance plan; or
- (b) a maximum AMI for eligible households that is lower than would otherwise be required for enhanced on-site compliance based on the residential development's market area, with the percentage of IRUs detailed in the high impact development compliance plan; or
- (c) IRUs with a greater number of bedrooms than is otherwise required in section 27-224(f)(2).

# Proposed Timeline/ Next Steps

Tentatively scheduled, dependent on other priorities in front of Council:

- Bill Request Submitted 8/30
- LUTI - 9/10
- Mayor Council - 9/17
- 1st reading - 9/23
- 2nd reading - 9/30

Other activities related to HIDCP negotiations:

- Finalizing internal negotiations process and lines of communication
- Public-facing "expected terms" sheet to provide transparency and expectations
- Revising administrative Rules & Regulations to align with DRMC

# Requested Action

We are seeking approval of **BR 24-1154**: Amends Chapter 27 (Housing) of the Denver Revised Municipal Code to amend provisions relating to negotiated alternatives and high impact developments.



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# Questions?