

1 **BY AUTHORITY**

2 ORDINANCE NO.
3 SERIES OF 2024

COUNCIL BILL NO. CB24-xxxx
COMMITTEE OF REFERENCE:
4 [fill in]

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.**

9
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,
32 or otherwise qualifies for an exception under any other provision of this section.

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

Sec. 27-219. – Definitions.

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

(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.

(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.

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

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

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

(1) *Enhanced incentives.* To increase the overall supply of housing and encourage applicants to provide on-site IRUs in excess of the base requirements specified in subsection (a), an applicant is eligible for the incentives set forth in a. 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	Ownership developments: An effective

			average of 70% of AMI	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

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).

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.

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.

Section 4. That subsection (d) of 27-226, D.R.M.C. is amended by adding the language underlined as follows:

Section 27-226 - Alternative compliance—Negotiated alternatives.

(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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (5) The director may grant access to the enhanced incentives for on-site
25 compliance set forth in section 27-224(c)(1) if the high impact development
26 compliance plan proportionally meets or exceeds the on-site IRU requirements set
27 forth in section 27-224(c). Alternatively, the director may grant access to the
28 enhanced incentives for on-site compliance set forth in section 27-224(c)(1) when
29 the project is providing IRUs within the area of high impact development, the high
30 impact development compliance plan better supports the goals of the HOST

1 strategic plan, comprehensive plan goals, and any small area plan applicable to
2 the residential development compared to the enhanced on-site compliance
3 requirements of section 27-224(c)(1), and the applicant provides at least one of
4 the following:

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

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

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

15 **REMAINDER OF PAGE INTENTIONALLY LEFT BLANK**

1 COMMITTEE APPROVAL DATE: [fill in]
2 MAYOR-COUNCIL DATE: [fill in]
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: [fill in], Assistant City Attorney DATE: [fill in]

11 Pursuant to section 13-9, D.R.M.C., this proposed ordinance has been reviewed by the office of the
12 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 Kerry Tipper, Denver City Attorney

17
18 BY: _____, Assistant City Attorney DATE: _____,

