EXPANDING HOUSING AFFORDABILITY

Through Market-Based Tools

RECCOMENDED POLICY APPROACH

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DENVER
THE MILE HIGH CITY

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Section 1: Project Purpose and Background Context

Section 1 provides background and context for why the City & County of Denver is exploring new and expanded policy tools to promote affordable housing.

We have an immediate and growing need for housing in Denver. The city has made it a priority to address that need by working to create more options and affordability for everybody. As housing costs go up, more families in Denver are spending more of their budgets on where they live or finding themselves priced out of neighborhoods. Additionally, citywide plans and policy documents reflect this need and call for new tools to create more housing opportunities.

The Expanding Housing Affordability project will create tools to drive the construction of affordable and mixed-income housing across the city. Creating new housing at various income levels where people can live near jobs, transit and amenities will help create a more sustainable Denver—and address housing needs.

Along with a zoning incentive and a reexamination of the current linkage fee, the project was expanded to consider changes to state law that allow local governments to pursue mandatory affordable housing requirements (commonly referred to as "inclusionary housing ordinance" or "IHO") on new residential rental, as well as for-sale housing.

Project Objective

To establish market-based programs for new development that complement existing tools and resources, enabling the city to address housing needs for low-to-moderate income households in every neighborhood.

Guiding Principles:

- An **equitable** program that addresses housing needs for low- and moderate-income households in every Denver neighborhood
- A **predictable** program that provides clarity and transparency of process, requirements, and outcomes
- A **market-based** program that responds to varied market conditions and partnerships

What does equity mean for Denver?

Equity Defined: Equity is when everyone, regardless of who they are or where they come from, has the opportunity to thrive. Where there is equity, a person's identity does not determine their outcome. Equitable, inclusive communities are places of value that provide access to resources and opportunities for all people to improve the quality of their life. As a city, we advance equity by serving individuals, families and communities in a manner that reduces or eliminates persistent institutional biases and barriers based on race, ability, gender identity and sexual orientation, age and other factors.

Equitable Development: Equitable development is an approach to meeting the needs of underserved communities through policies and programs that reduce disparities, while fostering places that are healthy and vibrant. Truly equitable development leads to greater choice and opportunities and improves everyone's quality of life.

-- Denver Comprehensive Plan 2040, p 30

Blueprint Denver Key Equity Concepts

Improving Accessing to Opportunity: Creating more equitable access to quality-of-life amenities, health and quality education.

Reducing Vulnerability to Displacement: Stabilizing residents and businesses who are vulnerable to involuntary displacement due to increasing property values and rents.

Expanding Housing and Jobs Diversity: Providing better and more inclusive range of housing and employment options in all neighborhoods.

-- Blueprint Denver, p 30

Policy Tools Proposed

This project developed requirements for three interrelated policy tools[1] to establish market-based programs for new development to better address housing needs for low-to-moderate income households:

- **Linkage Fee** is a fee-based tool that currently applies to all new development. This fee is legally justified through a Nexus study which identifies the impacts of new development to the need for affordable housing. These fees play a critical role in funding affordable housing throughout the city in conjunction with other important funding sources.

- **Mandatory ("Inclusionary") Housing** requires new residential developments, both rental and for-sale, to include a portion of affordable housing units and create mixed-income housing. See page 5 to learn more about the recent legislation that enabled this tool more broadly.

- **Incentives** are an important tool to pair with mandatory housing programs. The City is evaluating how to maximize the impact of a new mandatory housing policy by pairing them with appropriate financial and zoning incentives to improve the economic feasibility of complying with these new requirements.

As each of these tools leverage new development to create and contribute to affordable housing needs. Therefore, financial feasibility analysis has been conducted to understand the impacts of a change to the linkage fee and implantation of mandatory housing and associated incentives.

Each of these tools will play an important role in providing complementary solutions to a range of Denver's housing programs and initiatives, all of which are critical to addressing Denver's housing needs. To learn more about Denver's housing priorities and programs, check out the HOST 5-Year Strategic Plan and the Denver Affordable Housing Dashboard for additional details on market conditions, housing production, and funding allocations.

Key Considerations

Based on other city analysis, evaluation of Denver's 38th & Blake incentive pilot program[2], and extensive stakeholder feedback[3], the following key considerations have been identified. These key considerations informed the City's policy recommendations.

Create mixed-income housing. The program should prioritize the on-site unit creation of affordable housing units, creating mixed-income housing and neighborhoods, especially in areas of opportunity with good access to transit, parks, and employment.

Create affordable housing that serves unmet needs. The program should prioritize outcomes that serve populations who are severely cost burdened and where existing programs are insufficient to meet housing needs.

Promote clarity and predictability. Establish a clear and easy-to-understand/administer program that provides long-term developer expectations.

Increase funding for affordable housing. Increasing the current linkage fee on non-residential and low-scale residential development will provide further funding opportunities to support housing needs along the entire housing continuum.

Create market-based requirements. These tools enable the private development market to contribute to the growing need of affordable housing. Requirements should maintain overall project financial feasibility and respond to market factors such as land costs, construction costs, rents achieved, operating costs, and housing needs. See the financial feasibility report for the feasibility analysis that informed each of the tools.

Pair incentives with mandatory requirements. Meaningful incentives can mitigate some of the loss in revenue/profitability from providing affordable units and lead to more affordable and market rate housing units.

Complement existing programs and funding sources for affordable housing. Program requirements should fill the gap in housing needs between areas where government subsidy is focused and where the private market is serving through new development.

Create long-term affordability. Long-term affordability covenants ensure long term benefits of affordable housing as federal and or state funds may diminish, or covenants expire. Additionally, this supports key city preservation goals and long-term housing needs.

[1] Each of these tools leverage the private development market to produce and fund affordable housing. Therefore, to be successful, they need to work within the market. This effort will conduct the necessary financial analysis and outreach to determine, refine and calibrate program requirements.

[2] See Background Report and Peer City Video online.

[3] See Phase One Engagement Summary online.

CO House Bill 21-1117

Prior to the passage in May 2021 of HB21-1117, the state ban on rent control along with the Telluride decision by the Colorado State Supreme Court had significantly limited municipalities' ability to leverage mandatory housing tools for rental housing developments. However, with the recent passing of HB21-1117, Denver and other communities across the state may require affordable housing (including rental) on all new housing, provided they also meet certain other criteria.

Specifically, the bill…

- Enables "local governments to regulate the use of land to promote the construction of new affordable housing units"
- Requires a "choice of options… and creates one or more alternatives to the construction of new affordable housing units on site."
- It also requires that local governments demonstrate their commitment to "increase the overall number and density of housing units… or create incentives to the construction of affordable housing units."
- Does NOT authorize a local government to adopt or enforce any ordinance or regulation that would have the effect of controlling rent on any existing private residential housing unit in violation of the existing statutory prohibition on rent control.

The proposed alternatives included in this Proposed Policy Recommendation are intended to align with the requirements of this state bill.

Current and Future Housing Needs

Given recent state law changes that enabled Denver and other communities across the state to enact affordability requirements on new development. The following summary identifies the housing needs and market gaps that could be addressed as part of a mandatory (or inclusionary) housing program.

The following summarizes key findings related to current and future housing needs. Given current rates of production and pricing, the private rental market will more than adequately accommodate renters earning more than 80% AMI. Similarly, if for sale price trends continue, most homes for sale will serve 151% AMI households. These trends will reduce the homeownership rate in the city and drive would-be-owners into rentership longer term, potentially increasing the need for 61-80 percent rental units, or drive them to purchase homes elsewhere.

Therefore, given current and future housing needs, public-private partnerships should be focused on closing the gap in unit production in the 51-80% AMI range, freeing up public sector investments to serve less than 50% AMI households with growing needs. Interventions in the ownership market should focus on creation of new units to serve the 80 – 100% AMI range, preservation of existing affordable units, facilitating land trusts, and promoting attainable (commonly attached) ownership housing opportunities.

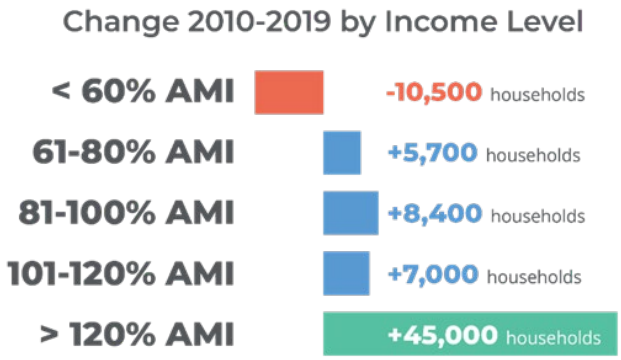
Further details can be found in the Housing Market Analysis, conducted by Root Policy Research, and the 5-Year Strategic Plan, produced by HOST, adopted in November of 2021.

Key Findings

Denver's growth has not benefited everyone.

From 2010 to 2019, Denver added 56,000 households, an average of 6,300 households each year. While many of Denver's households have been able to manage rising rents and the costs of homeownership, others did not have the resources to stay in the city.

Growth was highly concentrated among high income households. Those with incomes of more than 120% AMI ($100,608[4] and higher) accounted for 68 percent of household growth, totaling 45,000 households. This growth was equally split between renters and owners.



Source: 2019 ACS, Root Policy Research.

Households with incomes between 61 to 100% AMI ($51,305 and $83,840) grew at about the same pace as the city overall, representing 25% of overall growth or 14,000 households. Growth was concentrated among renters.

In contrast, households earning less than 60% AMI declined by 10,500. Nearly all these households were renters. This occurred as they left the city, doubled up to afford rent or experienced increases in household income.

As a result of these growth patterns, the city has become slightly less racially and ethnically diverse, much more highly educated, higher income, and older.

Incomes have not kept pace with the cost of housing.

Between 2010 and 2019 in Denver, the median rent increased by 77%, and the median home value increased by 79%. In comparison, the median 2-person household income only increased by 32%[5]. Despite moderate wage growth and the raising of the city's minimum wage, in 2019, 58,913 households pay more than 30% of their income on housing (housing cost burdened), and 51,935 households pay more than 50% of their income on housing[6] (severely housing cost burdened). Households that are cost burdened or severely cost burdened are at greater risk of losing their housing.

Cost burden continues to be the greatest for those with lower incomes, particularly those earning less than 60% AMI.

[4] Assumes a 2-person household, 2021 AMI income limits

[5] Source: 2010 and 2019 ACS Data, Root Policy Research, Apartment Association of Metro Denver.

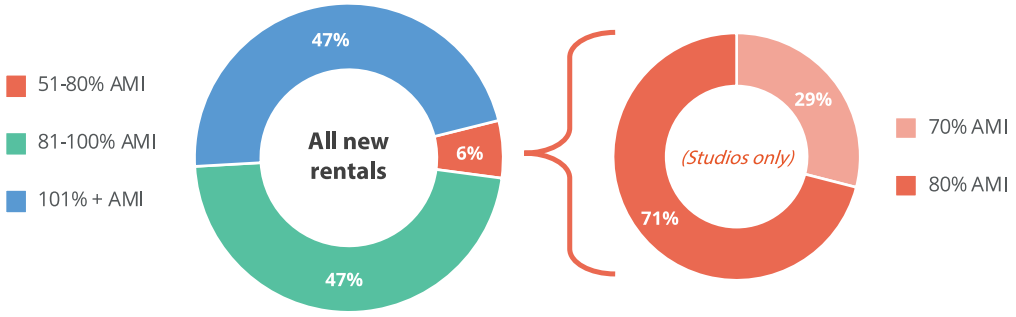
[6] Source: 2019 ACS Data, Root Policy Research.

As of 2019, 81% of households earning less than 60% of AMI ($56,640 for a three-person household) are housing cost-burdened, meaning they pay more than 30% of their gross income on housing costs. That number has increased dramatically from 61% in 2010. As a result of these rapidly rising housing costs, the number of these households in Denver declined by 10,500. Nearly all these households were renters. No longer able to afford to remain in Denver, many of these households either left the city or doubled up with other households to afford rent. Further, because of these growth patterns, the city has become slightly less racially and ethnically diverse, more highly educated, with higher incomes, and older than a decade ago. See the Appendix for 2019 data on cost burden by AMI.

New market rate rental is not providing housing at affordable rates.

Responding to housing demand, the housing market added 34,000 rental units between 2010 and 2019, with half of those built between 2017 and 2019[7]. Overall, rental supply has kept up with rental demand.

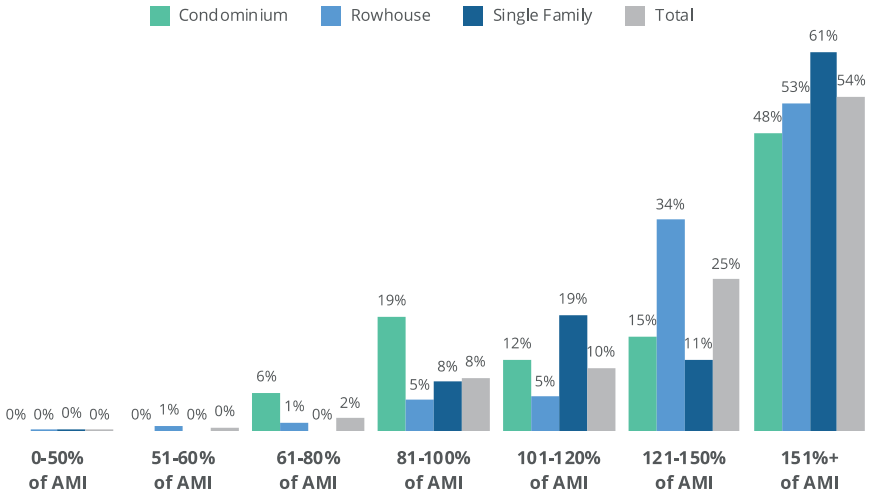
Most of the units added were priced to serve households earning 80% of the AMI and more. Of those affordable to less than 80% AMI households, all were studio units, and most were priced at 70% AMI[8]. Therefore, where housing needs are the greatest, at 60% AMI and below, no new market rate rental housing is serving this need.



Market Rate Rental Development, by AMI
Note: The 2020 HUD AMI for a two-person household of $80,000 was used.
Source: CoStar and Root Policy Research

New for-sale housing serves higher-income households.

New for-sale housing production tends to serve higher income households above 120% AMI with condos and rowhomes serving ownership needs for moderate income households Specifically, the vast majority (73%) of single family units are priced at 120% AMI and above, with 61% at 150% AMI and above[9].



AMI distribution of units that were built between 2015 and 2020 and sold between July 2019 and July of 2020 according to data from the Denver Property Taxation and Assessment System.

Naturally Occurring Affordable Housing (NOAH) is rapidly declining.

Naturally occurring affordable housing is housing that may rent or sell at an affordable rate; however, these units do not have any affordability restrictions that guarantee long-term affordability. NOAH commonly serves 51 – 80% AMI households. Once affordable to 60% AMI renters and lower, the supply of NOAH has declined significantly. Compared to 2010, Denver has 28,000 fewer rental units affordable to 0-60% AMI renters, largely due to the loss of NOAH.

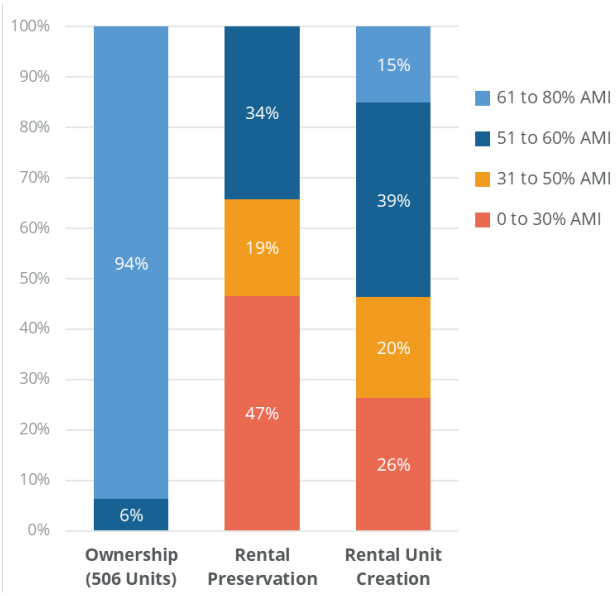
[7] Source: Apartment Association of Metro Denver, Quarterly Rent & Vacancy Survey, ACS 1-year estimates, Root Policy Research.

[8] Source: CoStar, Root Policy Research.

[9] Note: The 2020 HUD AMI for a two-person household of $80,000 was used. Source: Denver Property Taxation and Assessment System and Arland, LLC

New affordable (income restricted) housing has been focused on serving households 60% AMI and below.

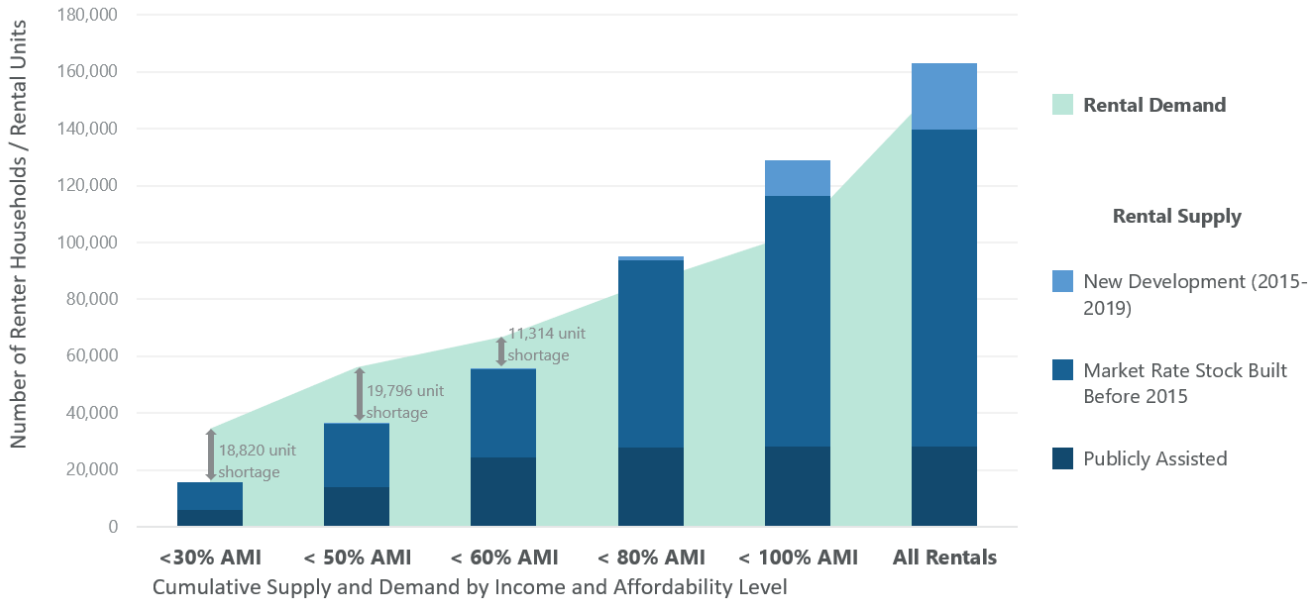
From 2010 to 2020, new affordable housing production with HOST funding has resulted in 5,842 new construction affordable units and 2,230 units preserved or acquired[10]. As shown in the graphic below, over the past few years from 2018 - 2019, ownership has served 51 – 80% AMI owners, with the majority focused at 61 – 80% AMI. Rental preservation has served 0-60% AMI renters with a focus to serve households at or below 30% AMI. Rental unit creation has served 0-80% AMI renters with a focus towards 51–60% AMI renters. However, despite the continued preservation and creation of units to serve renter households at and below 60% AMI, a notable rental shortage of 11,400 units exists for renters earning 51 – 60% AMI and an even greater shortage for those earning less than 50% AMI.



Units Created or Preserved with HOST Funding 2018-2020
Source: Affordable Housing Dashboard (HOST) and Root Policy Research

Current Housing Needs

The greatest affordability needs continue to exist below 60% AMI. As shown in the figure below, existing market rate stock and new development are priced to serve 80 to 100% AMI households. Unit shortages exist for renters with incomes of 60% AMI and lower—especially for renters at the 50% AMI level and below. Publicly assisted housing provides a large share of housing for these households, yet is nowhere near the level needed. As such, renters often must "rent up" to find housing, resulting in cost burden.



Cumulative Supply and Demand by Income and Affordability Level

Note: Housing Choice Vouchers are included in Publicly Assisted Inventory; accounts for a 40% estimated overlap in HCVs and other publicly subsidized units (e.g., HCV use in LIHTC). The 2020 HUD AMI for a two-person household of $80,000 was used.
Source: 2019 ACS, Affordable Housing Dashboard (HOST), HUD Picture of Subsidized Households, CoStar, and Root Policy Research.

[10] Source: Denver Affordable Housing Dashboard, Denver Department of Housing Stability (HOST)

Future Housing Needs

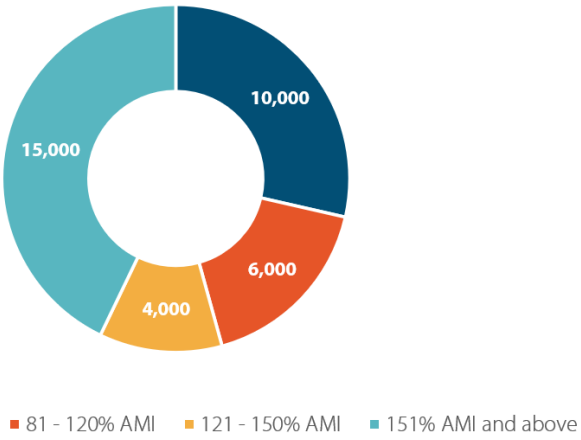
For Denver to continue to grow and thrive, the public sector (local, state and federal funds), non-profit sector and the private market will need to build partnerships to address housing needs.

The market's tilt toward higher priced housing is likely to continue, driven by projected employment growth in high-paying fields, continued in-migration of high-income households and continued increases in the price of land.

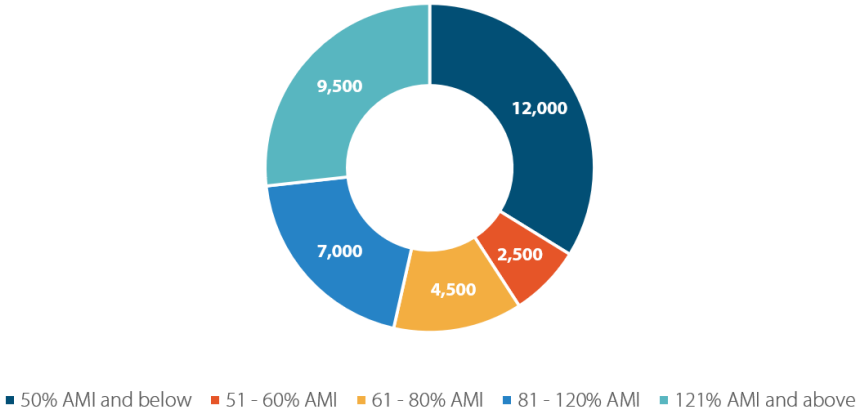
Denver's affordable housing challenges will not be solved by increased housing supply, employment growth and wage increase alone. Three of the industries anticipated to grow fastest between now and 2040—Health Care, Social Assistance and Educational Services—pay wages in the 50 to 80% AMI range. Accommodating the affordable housing needs of these new workers will be critical to ensure that workers in these critical industries can both work and live in Denver.

At current rates of production and pricing, the private rental market will more than adequately accommodate renters earning more than 80% AMI. Rental housing gaps will be increasingly compressed in the 51 to 80%, and by 2040, 81-100% AMI ranges, where new production and NOAH will become increasingly diminished.

Denver 20-Year Ownership Needs



Denver 20-Year Rental Needs



Similarly, if for-sale price trends continue, the vast majority of homes for sale—an estimated 86%—will serve 151% AMI households. These trends will reduce the homeownership rate in the city and drive would-be-owners into rentership longer term, further increasing the demand for rental homes affordable to middle-income households or drive them to purchase homes elsewhere.

Therefore, given current and future housing needs, public-private partnerships should be focused on closing the gap in unit production in the 51-80% AMI range, freeing up public sector investments to serve less than 50% AMI households with growing needs. Interventions in the ownership market should focus on creation of new units to serve the 80 – 100% AMI range, preservation of existing affordable units, facilitating land trusts, and promoting attainable (commonly attached) ownership housing opportunities.

Section 2: Other City Program Summaries

Section 2 is a high-level summary of cities with similar mandatory programs. Complete details of the cities programs, outcomes and market impacts can be found in the Background Report online.

Other Cities' Commercial Linkage Fees

Many cities use linkage fees, sometimes called "impact fees," to assess the impact of new development to affordable housing needs. Some cities (Boston) have one single fee across the city, whereas others (Seattle, Los Angeles, San Jose) vary the fee amount by geography with the central business district commonly paying the highest fee per square foot and less dense, lower cost areas paying a lower fee.

The following table provides a high-level summary of other cities' commercial linkage fees. To ensure that fees remain up-to-date and relevant, most cities adjust them on a regular basis, commonly annually to adjust for inflation.

Other Cities' Commercial Linkage Fees		
	Commercial linkage fee per/sf	**Notes**
Austin, TX	$12 – 18 per/sf	Texas law bans inclusionary (mandatory) housing and linkage fees, therefore the fees assessed only apply to the bonus height.
Boston, MA	$15.29 per/sf	Updated in winter of 2021. The prior fee was $8.34 per/sf.
Cambridge, MA	$12 per/sf	Last updated in 2015.
Los Angeles, CA	$3.11 – 5.19 per/sf	Fee based on low, medium, and high market areas. Residential fees range from $1.04 – 18.69 per/sf based on four different market areas and the number of units.
San Jose, CA	$3 – 15 per/sf	Smaller developments pay a smaller fee. Additionally, the fee on commercial projects is $12 per/sf if paid at time of CO and $15 per/sf if paid in phases.
Seattle, WA	$5.58 – 17.50	Fees range by market area and zoning entitlement with Downtown and South Lake Union having the highest fees.

Other Cities' Mandatory (Inclusionary) Housing

The following is a high-level summary of cities with mandatory (inclusionary) housing programs. For more details on the programs and outcomes, see the Background Report.

Applicability

Some cities have citywide applicability regardless of development size, whereas others only apply a mandatory requirement to developments of 10 units or more (e.g., San Jose), a particular process (e.g., variance requirements); or a specific geography (e.g., Atlanta's beltline).

Geographic Variants

Depending on cities size and market variations, some cities have up to four different cost zones that inform the affordability requirement and/or the fee-in-lieu. Cities with different geographic variants assess the greatest proportion of units or charge the highest fee in high-cost zones which are commonly the central business district.

On-Site Affordability Requirement

Mandatory housing programs can serve residents earning 30% AMI to 120% AMI; however, most programs focus between 60% AMI and 80% AMI. Most are designed to focus production to serve households with the greatest needs (below 60% AMI) and/or at an AMI level that is complementary to other funding and programs at the local, state and federal level, which commonly targets households earning less than 60% AMI.

Related to the affordability level served is the percent of units required to be affordable. These range anywhere from 5 – 20% of units, with the most common outcome around 10% of total units. Additionally, many of these programs offer one or two developer options to build onsite or provide a mix of incomes. For example, in Atlanta, the developer can build 10% of units at 60% AMI or 15% of units at 80% AMI. In San Jose a total affordability requirement of 15% is required with the units split between 50% AMI and 80% AMI. Many cities also differentiate between ownership and rental, with ownership units serving a slightly higher AMI than the rental units.

Alternative Compliance

All cities offer a form of alternative compliance or alternative satisfaction to meeting the requirements. Depending on the intent of the program (payment v. performance) the alternative compliance requirements are calibrated accordingly.

All cities provide a fee-in-lieu. These fees are sometimes assessed per square foot of the total building (e.g., Seattle which ranges from $5.58 – 17.50 per/sf). Others assess a fee per each residential unit in the development (e.g., Los Angeles which ranges from $53,233 - $69,927 per market rate unit). And some cities charge a fee for the affordable units required (e.g., Boston which ranges by market area from $200,000 - $380,000 per unit)

Incentives

Nearly all cities include some form of incentive. Incentives provided include density bonus, zoning variance, expedited review, fee reduction/waiver, tax relief, and parking reduction/waiver. The most common incentive is a density bonus. Some communities set up the incentives to be a menu in which the developer may select one (e.g., Atlanta) whereas other communities enable for the developer to access multiple incentives.

Other Cities' Affordable Housing Requirements			
	On-Site Build Requirement	**Alternative Compliance**	**Incentives**
Atlanta, GA[11]	10% of units at 60% AMI or 15% of units at 80% AMI	Fee-In-Lieu[12]: $124,830 – 131,950 per affordable unit required at 15%	FAR Bonus Reduced Parking Streamlined Project Meeting
Austin, TX[13]	10% of units affordable to 60 – 120% AMI	None – Incentive only program.	Fee Waivers
Boston, MA	13% of units at 70% AMI	Off-Site: 15-18% at 70% AMI Fee In-Lieu: $200,000 – $380,000[14] per affordable unit required applied to 18% of units	Zoning Variance
Longmont, CO	12% of all units at 60% AMI rental and 80% AMI ownership	Fee In-Lieu: $1,90 psf rental; $7.90 ownership; Off-Site; Land Dedication; or Voluntary Alternative Agreement	Density bonus, zoning variance, fee reductions, water/sewer subsidy
Los Angeles, CA	Rental[15]: 10% of units at 40% AMI; 15% of units at 65% AMI; 20% of units at 80% AMI. Ownership: 5 – 20% of units of 135% AMI	Fee In-Lieu: $53,233 - $69,927 per market rate unit[16]	Density Bonus[17]; Reduced Parking; Zoning Variance
Minneapolis, MN	8% of units at 60% AMI; or 4% of units at 30% AMI; or 20% of units at 50% AMI[18]	Fee-In Lieu: 1-7 stories $15 psf of residential area; 8+ stories $22 psf of residential area; off-site; land donation	Direct Subsidy, TIF, Property Tax Reductions
Portland, OR	8-10% of units at 60% AMI or 15-20% of units at 80% AMI[19]	Off-Site; Designate existing units[20]; Fee In Lieu: $23 – 27 gsf	Property tax exemption; Density FAR bonus; other tax exemptions; parking exemptions
San Jose, CA [21]	Total of 15% of units with 5% at 100% AMI; 5% at 60% AMI; and 5% at 50% AMI; or 10% at 30% AMI	Off-Site: 5% at 80% AMI, and 5% at 60% AMI, and 10% at 50% AMI Fee In-Lieu: $18.70 psf (Moderate market); $43 psf (Strong Market)	Density bonus Streamlined development process
Seattle, WA	5 – 11% of units at 40 – 80% AMI[22]	Fee In Lieu: $5.58 – 17.50	Reduced parking, multi-family tax exemption

[11] Incentives are only available for those building the affordable units on-site. Developer may select one of the provided incentives.

[12] Assumes $120,689 as the construction cost and varies land cost by 11 subareas leading to a small pricing difference based on project geography.

[13] Austin has multiple density bonus programs from the early 90s to today. The information in the table summarizes their various incentive systems. The latest density bonus program "Affordability Unlocked" which is geared towards supporting affordable development rather than incentives for market rate developers to provide affordable housing. Additionally, important to note that Texas state law bans both inclusionary housing and linkage fees, as such the only tool available in Texas are through incentives.

[14] Fee varies by geography and ownership/rental.

[15] Los Angeles has smaller percentage requirements for small projects (less than 15 units) which requires about half the percent of units at each income tier. Additionally, the program allows for income averaging so long as the units average the requirement.

[16] The fee is higher for residential projects in neighborhoods where unit types were formerly disallowed to incentive production in those areas.

[17] Density bonus in TOD areas are required by California state law.

[18] Projects providing 20% of units at or below 50% AMI are eligible to the Revenue Loss Off-Set Assistance which provides financial assistance to facility project feasibility.

[19] Requires 20% of units to be affordable is central city and gateway areas at 80% AMI and 10% of units at 60% AMI

[20] Requires greater depth of affordability 30 or 60% AMI and a greater percentage of units, up to 25% of units

[21] San Jose recent changed their ordinance in spring of 2021. Former program required: onsite15% total units, 9% of units at 80% AMI and 6% of units at 50% AMI; and off-site: Off-Site: 12% at 50% AMI and 8% at 50% AMI. Changes have been made to lower the applicability to 10 or more units, serve a wider range of income levels and increase the fees from $125,000 for 20% of units. Additionally, the affordability increased from 55 years to 99 years.

[22] Affordability level and percent dependent on geography with South Lake Union and Downtown with the highest requirements. AMI also varies by unit type.

Section 3: Proposed Policy Approach

Section 3 details the recommended policy approaches for the three tools: linkage fee, mandatory (inclusionary) housing, and associated incentives.

Linkage Fee

Policy Objective: Increase generation of fees to fund the creation of affordable housing.

In 2016, Denver created a permanent funding source by adopting the linkage fee and dedicating a portion of property tax revenue to fund affordable housing. While these funds have been critical to the creation and preservation of over 3,000 affordable homes since 2018, the funding is still insufficient to meet growing housing needs.

Applicability: The updated linkage fee will apply to all new commercial, industrial, and residential development of 1-9[23] units, as well as additions to said development.

The linkage fee does not apply to tenant finishes, Accessory Dwelling Units (ADUs), or additions of 400sf or less to existing single-unit or duplex buildings as noted below. Additionally, the fee does not apply to zoning or trade-specific permits (mechanical, electrical, etc.).

Exceptions: The current linkage fee provides a series of exceptions, which can be found in the Denver Revised Municipal Code (DRMC) chapter 27-154. As part of this effort, we are proposing to revise what exemptions will be allowed. Exemptions (a) – (i) are existing exemptions, exemption (j) is new. *See the DRMC Public Review DRAFT Section 27 – 154 for full language.*

(a) Project is part of a property subject to an affordable housing plan or other preexisting contractual commitment or covenant to construct affordable housing.

(b) Projects subject to an obligation as a condition of zoning to provide affordable housing on the property.

(c) Affordable housing projects that are constructed with the support of any combination of federal, state or local financial resources, including private activity bonds, tax credits, grants, loans, or other subsidies to incentivize the development of affordable housing, including support from the affordable housing permanent funds created in section 27-150, and that are restricted by law, contract, deed, covenant, or any other legally enforceable instrument to provide housing units only to income-qualified households. This exception shall apply to any housing project financed or constructed by or on behalf of the Denver Housing Authority.

(d) Project built by a charitable, religious or other non-profit to be used primarily to provide housing, shelter, housing assistance or related services to low-income households or persons experiencing homelessness.

(e) Project is constructed by or on behalf of the federal, state or local government, or any department or agency thereof, that will be used solely for a governmental or educational purpose.

(f) Project is constructed by or on behalf of an entity that will be used solely for an educational purpose.

(g) Project is a reconstruction of a structure that was destroyed due to a natural or man-made involuntary disaster.

(h) Project is an addition of 400 square feet or less to an existing single-unit or duplex structure.

(i) Project is for an Accessory Dwelling Unit.

(j) Any gross floor area of a structure containing an education use as defined in article 11 of the Denver Zoning Code. This exception shall also apply to the gross floor area of a structure occupied by housing provided for students, staff or faculty of the education use and operated by the governing board of the education institution, regardless of the zoning use category determined for that student, staff or faculty housing.

[23] Per stakeholder feedback and further analysis, this has been changed from the prior threshold of 7 units to 9 units.

Geographic Variants

The linkage fee program can be more responsive to market opportunities and constraints by offering a two-tiered fee structure where high-cost markets can support a slightly higher fee than typical cost markets, particularly for commercial uses.

Policy Objective: In alignment with the findings of the financial feasibility, calibrate the linkage fee requirements to the market.

Defining High-Cost Market Areas

Areas with the highest land values in the city. The city is updating these areas with the latest ACS data and updated maps will be published prior to adoption.

Defining Typical-Cost Market Areas

All other areas of the city that are not high-cost market areas are considered typical-cost market areas.

Market areas would be updated on a regular basis to ensure that the regulations adjust to geographic market changes.

Linkage fee assessed by use

Different types of uses differently impact the need for affordable housing. Therefore, the Nexus Study from 2016 determined the legally justifiable fee based on the development's impacts to the need for affordable housing. Additionally, there was the Denver Affordable Housing Nexus Study conducted in 2016 to determine what level of fees could be supported by development while still meeting measures of feasibility.

Through this effort, the city worked with consultants to conduct updated financial feasibility findings across a series of prototypes. The summary of these studies for linkage fees is found in the below table. The latest feasibility report from Root Policy can be found online.

Staff Recommendation

Staff's recommendations for updated linkage fees for various development types are included in the table below.

As shown in the table, staff proposes to add in more nuance to the Single Unit, Two-Unit, or Multi-Unit developments of 1-9 units as a means of incentivizing smaller (1,600[24] sf per unit or less) more attainable units. Therefore, the recommended fee for smaller units would reach $5 per/sf and $8[25] per/sf for units larger than 1,600 sf in 2025.

For commercial uses, staff proposes a slightly lower fee than found to be feasible given recent COVID impacts to this industry have been most significant. Additionally, to provide time for these markets to stabilize, a four-year phased increase is proposed. As these fees only apply to new construction, not tenant finishes or changes in use. The recommended fee would be reach $6 per/sf in typical cost market areas and $9 per/sf in high-cost market areas in 2025.

For industrial uses, this is the smallest segment of new construction in Denver and therefore generates very little fees for affordable housing. In balancing the City's desire to increase funding for affordable housing and attract industrial businesses and trade jobs, we are proposing to reach $2.50[26] per sq/ft fee on new industrial developments in 2025, again substantially lower than what was deemed financially feasible in the report.

Similar to today's structure, the adopted linkage fees would be adjusted for inflation in an amount equal to the percentage change from the previous year in the national Consumer Price Index for All Urban Consumers (CPU-U).

See the DRMC Public Review DRAFT Section 27 – 153 for additional details.

Use Category	2016 DR&A Study Nexus Max Fee (2016)	2021 Root Study	Current Fee (Feb 2022)	Proposal			
				Effective July 1, 2022	Effective July 1, 2023	Effective July 1, 2024	Effective July 1, 2025
Dwelling unit(s) of 1,600 sf or less of GFA within a structure	$9.60 per/sf	$9.6 - $14 per/sf	$0.66 or $1.64 (building code depending)	$1.75	$2.83	$3.92	$5.00
Dwelling unit(s) of 1,600 sf or less of GFA within a structure	$9.60 per/sf	$9.6 - $14 per/sf		$2.50	$4.33	$6.17	$8.00
Other residential uses other than dwelling units (e.g., congregate living)	$9.60 per/sf	$9.6 - $14 per/sf		$2.25	$3.83	$5.42	$7.00
Commercial, Sales Services & Repair, Commercial, Office, Sales Services & Repair, Civic, Public or Institutional	$56.74 - 119.29 per/sf	Typical: $6-9 per/sf High: $10 per/sf	$1.86 per/sf	Typical: $2.90 High: $3.65	Typical: $3.39 High: $5.43	Typical: $4.79 High: $7.22	**Typical: $6.00 High: $9.00**
Industrial, Manufacturing, Wholesale & Agricultural	$28.51 per/sf	$6 per/sf	$0.44 per/sf	$0.96	$1.47	$1.99	$2.50

[24] Per stakeholder feedback, the unit size threshold has been increased from 1,400 sf to 1,600 sf.

[25] Per stakeholder feedback, the fee amounts have been increased closer to financial feasibility maximum in a fourth year of increase.

[26] Per stakeholder feedback, the proposed industrial fee to take effect in 2025 was reduced from $4 psf to $2.50 psf.

Notable Changes Made to the Linkage Fee in Response to Feedback

Given stakeholder feedback and continued market evaluation regarding the impacts of the proposed increase to the linkage fee, most notably for industries (office/retail/industrial) yet to recover from the impact of COVID-19, staff proposed a phased four year fee increase from 2022 – 2025 and is shown in the table above. Additionally, the proposed industrial fee is now $2 psf, which is more in alignment with Denver/Metro impact fees which is $1.89 psf[27] for industrial development.

Additionally, significant feedback reported concerns about the impacts on small-scale redevelopment of residential homes, which often replace naturally occurring affordable housing or "starter homes" and are commonly priced in the $500,000s or higher, with larger unaffordable homes often priced well over $1M. This growing trend contributes to additional housing cost pressure on neighborhoods. Therefore, staff revised the proposal to assess a higher linkage fee -- $8 per/sf -- on larger (1,600 sf+) dwelling units in 2025.

Additional feedback called for an increase of linkage fees to amounts reaching the legally justifiable maximum. However, as linkage fees are assessed against market-rate development, it's important the increased fees maintain financial feasibility. For example, the maximum legally justified fee for office development is $56.74 (see the 2016 Nexus study for additional details), however this additional fee would result in negative return metrics and therefore no new office development would occur, and no linkage fees would be paid.

Continued feedback pushed for fees to increase to the financial feasibility amounts as determined in the study. Therefore to balance the need for affordable housing funding and

maintain a strong development market, a further increase to the fees into 2025 is reflected in the final proposal.

[27] Fees evaluated for this comparison include Adams County, Jefferson County, Arapahoe County, Larimer County, Aurora, Fort Collins, and Greeley.

Mandatory (Inclusionary) Housing

Policy Objective: Promote the creation of new income restricted units creating new mixed-income developments throughout the city.

Applicability: The mandatory housing requirement is set to apply to all new residential developments (both ownership and rental) of 10[28] or more units. See DRMC Public Review DRAFT Section 27-220 and 29-219 Residential Development definition for additional details.

Exceptions:

See the DRMC Public Review DRAFT Section 27 – 221 for additional details.

(a) Project is part of a property subject to an affordable housing plan or other preexisting contractual commitment or covenant to construct affordable housing.

(b) Project has an affordable housing obligation from a development agreement tied to the site's zoning[29].

(c) Affordable housing projects that are restricted by law, contract, deed, covenant, or any other legally enforceable instrument.

(d) Residential developments that are built by any charitable, religious, or other nonprofit entity and deed restricted to ensure the affordability of the dwelling units to low- and moderate-income households.

(e) Any structure that contains a residential development that is being reconstructed due to involuntary demolition or involuntary destruction as defined in article 13 of the Denver Zoning Code, but which also includes involuntary man-made forces.

(f) Projects that are high impact developments, which shall instead be required to comply with alternative standards in the division. (See the DRMC Public Review DRAFT Section 27 – 225 for additional details.

Relation to Key Considerations

- ✓ Create mixed-income housing
- ✓ Pair incentives with mandatory requirements
- ✓ Create affordable housing that serves unmet needs

What about mixed-use developments?

Developments with a mix of commercial and residential uses would be subject to both requirements. The linkage fee would apply to the commercial portion[30] of the development, and the inclusionary housing requirement would apply to the residential portion.

[28] Per stakeholder feedback and additional analysis, threshold of applicability has been increased from 8 to 10 units.

[29] This includes Former Chapter 59 zoning with affordability requirements embedded within the zoning through waivers and conditions. This does not apply to Denver Zoning Code districts with affordability incentives.

[30] Per stakeholder feedback and additional analysis, an additional incentive has been created to exempt the ground floor commercial, sales, service and repair use category from the linkage fee when the developer is building affordable units on-site rather than paying the fee-in-lieu.

Geographic Variants

To address the varied housing needs across the city, along with the different market opportunities and constraints, a two-tiered geographic approach is proposed for the requirements.

Policy Objective: In alignment with the findings of the financial feasibility analysis, calibrate affordability requirements and fees-in-lieu to the market. See DRMC Public Review Draft Section 27-219 for the definition. The forthcoming Rules and Regulations will provide further regulation relating to the process and frequency for updating these areas and market distinctions.

Defining High-Cost Market Areas

Areas with the highest land values in the city. The city is updating these areas with the latest ACS data and updated maps will be published prior to adoption.

Defining Typical-Cost Market Areas

All other areas of the city that are not high-cost are considered typical cost.

Areas that are Vulnerable to Displacement

Blueprint Denver, the city's adopted land use and transportation plan annually measures[31] socioeconomic factors, like vulnerability to displacement.

To measure vulnerability to displacement, the city uses a vulnerability to displacement index from Denver Economic Development & Opportunity (DEDO) and Blueprint Denver. The index includes three components: median household income; percent of renters; and percent of population with less than a bachelor's degree. For purposes of this policy, if a neighborhood hits all three indicators, the neighborhood is considered vulnerable to displacement.

See page 22 for more information on the approach to address housing needs in areas vulnerable to displacement.

Why do high-cost market areas have slightly higher affordability requirements and fees-in-lieu than typical market areas?

The staff rationale for this approach is three-fold. First, our independent economic feasibility analysis indicates that the higher revenue potential of developments in these submarkets is sufficient to overcome the added land and construction costs barriers and accommodate slightly higher policy requirements. Second, in our analysis of other jurisdictions[32] with related policy programs throughout the country, nearly all of them have two or more submarket tiers with the highest requirements specifically in downtown and other high-costs areas.

And third, relative to the balance of the city, there are fewer income-restricted housing options in these submarkets given structural challenges with federal, state and local subsidy programs that support the vast majority of affordable housing production. These areas also tend to have a greater number of lower wage retail and service jobs, and nearby housing options are lacking for the individuals who are in those roles. Therefore, it is critical to leverage the higher revenue potential of these areas to achieve more affordable units.

[31] Data Source from ACS 1-year estimates. Most up to date map can be found here: https://geospatialdenver.maps.arcgis.com/apps/MapSeries/index.html?appid=3d4e30b0f2f048aeb0c3ae394ff011ff

[32] For example, Seattle MAH program provides a matrix of three different market areas along with zoning intensity. The affordability requirements range from five percent or a fee of $7.64 psf to eleven percent and a fee of $35.75 (source: https://www.seattle.gov/Documents/Departments/HALA/Policy/How_MHA_Works.pdf

On-Site Affordability Requirements

Policy Objective

Create a clear and predictable program to promote on-site unit creation resulting in mixed-income housing and therefore mixed-income neighborhoods.

- Top Priority: Affordable housing should serve those with greatest housing needs where existing programs and resources are insufficient. It should also be available to serve renters and those that want to own a home.
- Secondary Priority: Affordable units should serve a mix of incomes (up to 80% AMI-rental; 100% AMI - ownership) and complement existing programs and resources.

Note, these priorities were developed based on analysis of housing needs (summarized earlier in the document) and based on community feedback throughout the process.

Staff Recommendation for high market areas

The applicant may choose from two on-site build options:

On-Site Option 1:

- Rental: 10% of total units up to 60% AMI
- Ownership: 10%[33] of total units up to 80% AMI; or

On-Site Option 2:[34]

- Rental: 15% of total units averaging 70% AMI serving households with incomes up to 80% AMI
- Ownership: 15%[35] of total units averaging 90% AMI serving households with incomes up to 100% AMI

Staff Recommendation for typical market areas

The applicant may choose from two on-site build options:

On-Site Option 1:

- Rental: 8% of total units up to 60% AMI
- Ownership: 8%[36] of total units up to 80% AMI; or

On-Site Option 2:[37]

- Rental: 12% of total units averaging up to 70% AMI serving households with incomes from 50% to 80% AMI
- Ownership: 12%[38] of total units averaging up to 90% AMI serving households with incomes from 60% to 100% AMI

Note: The affordable units shall be of an equivalent value, quality, size, and bedrooms to the market rate units.

See the DRMC Public Review Draft Section 27-223 for more details. The forthcoming Rules and Regulations will provide further regulation relating to the process and frequency for updating these areas and market distinctions.

Notable Change Made in Response to Feedback

Given stakeholder feedback calling for more ownership housing opportunities, staff reduced the percent of ownership units required to align with rental development. As a result, the ownership requirements have greater financial feasibility.

Additionally, community stakeholders called for the program to serve both lower-income households and a greater range of household incomes. Therefore, staff has made additional revisions to on-site option two to serve households up to 80% AMI but resulting in an effective average up to 70% AMI. The result will enable the program to serve lower incomes and provide greater flexibility of options for applicants. The following represent different examples to reach a 70% AMI effective average for a 250 unit development requiring 30 income restricted units: 5 units at 30% AMI and 5 units at 70% AMI and 20 units at 80% AMI; or 5 units at 30% AMI, 5 units at 40%, 5 units at 50% AMI, 5 units at 60% AMI, and 5 units at 70% AMI, and 10 units at 80% AMI; or 30 units at 70% AMI. The AMI mix will be determined at the time of the affordable housing compliance plan and will be maintained for the duration of the affordability period.

See DRMC Public Review DRAFT 27-323 for additional details.

[33] Per stakeholder feedback and additional analysis, the percent of affordable units required for ownership developments has been decreased from 12% to 10% to align with rental.

[34] Per stakeholder feedback and additional analysis, option 2 has been revised to allow for a one-time (not annually) unit average to serve a broader range of incomes that the previously determined split between 60 and 80% AMI.

[35] Per stakeholder feedback and additional analysis, the percent of affordable units required for ownership developments has been decreased from 18% to 15% to align with rental.

[36] Per stakeholder feedback and additional analysis, the percent of affordable units required for ownership developments has been decreased from 10% to 8% to align with rental.

[37] In alignment with the changes for option 2 in high-cost areas, the same changes have been made for typical cost areas.

[38] Per stakeholder feedback and additional analysis, the percent of affordable units required for ownership developments has been decreased from 15% to 12% to align with rental.

Relation to Feasibility Findings

As outlined in the Financial Feasibility report, rental residential prototypes maintain financial feasibility thresholds under inclusionary housing policy with the following requirements:

- 50% AMI: 5% of units in typical-cost areas and 8% in high-cost areas
- 60% AMI: 8% of units in typical-cost areas and 10% in high-cost areas
- 70% AMI: 10% of units in typical-cost areas and 12% in high-cost areas
- 80% AMI: 12% of units in typical-cost areas and 15% in high-cost areas

Given the well documented need for rental housing at and below 60% AMI outline in the above section Current Housing Needs. The City's preferred priority outcome is to serve households below 60% AMI who are most cost burdened, at risk of displacement and commonly communities of color. Additionally, by focusing market resources to fill this gap, local resources can be prioritized to serve households earning less than 50% AMI households. This On-Site Rental Option 1 was determined to be economically feasible across all residential development prototypes studied in the Feasibility Analysis.

However, given feedback received throughout the stakeholder engagement process, summarized on the following page, the city is also providing On-Site Option 2. Per the Feasibility Analysis, Option 2 was found to be less economically feasible than Option 1 across all residential prototypes studied, however is close to feasibility (within a tenth of a percentage point) in many prototypes and may become more feasible in the future as the markets shift.

As outlined in the Financial Feasibility report, ownership residential prototypes maintain financial feasibility thresholds under inclusionary housing policy with the following requirements:

- 60% AMI: 8% of units in typical-cost areas and 10% in high-cost areas
- 70% AMI: 8% of units in typical-cost areas and 10% in high-cost areas
- 80% AMI: 10% of units in typical-cost areas and 12% in high-cost areas
- 100% AMI: 12% of units in typical-cost areas and 15% in high-cost areas
- 120% AMI: 15% of units in typical-cost and high-cost areas

Regarding ownership, the need is clearly documented at and below 80% AMI in the above section Current Housing Needs.

Similar to the rental approach, the City's priority is to serve ownership households at or below 80% who are unable to access affordable homeownership opportunities. This On-Site Ownership Option 1 as revised exceeds economically feasible across all residential development prototypes studied in the Feasibility Analysis.

Ultimately, it is up to each applicant developer to do its own analysis and decide which on-site option is a better fit for the proposed development. Applicants may also choose to pursue Alternative Compliance (see page 23 for more detail).

Additional financial evolution in response to feedback received

Given concerns around the impact of these policies to market-rate rents or sale prices, city staff had Root Policy study the potential impacts of the policy to market-rate rents. However, as with all regulatory and market-driven changes, local development economics are likely to adjust in response to regulatory changes. These adjustments commonly include shifts in land values as well as construction labor costs, development amenities or finish level, unit size/configuration, market-rate rents, and/or investor expectations.

The most likely scenario is some combination of the above market adjustments rather than solely placing the "added cost" on the market-rate rents/sale price. In reality, asking rents are not set only as a function of costs; they depend on a variety of market factors often separate from the actual development costs and fluctuate based on vacancy rates, demographic trends, competition, renter demographics, etc.

The findings of this supplemental analysis are provided in a Memo dated January 27, 2022 from Root Policy can be found on the project website.

Responding to Feedback

Throughout the process, we heard that these programs should serve those with the greatest housing needs (specifically those earning less than 60% AMI), however we also heard a desire to serve a greater mix of incomes and/or more "missing middle" (income) housing that can fill the gap between traditional affordable housing and market rate housing. Additionally, we heard that there was a need to balance predictability with flexibility and choice of options. Therefore, we are providing a clear set of requirements that clearly address housing needs at a mix of incomes.

Specific Advisory Committee Discussion

At the Advisory Committee meeting held in late July of 2021, staff asked the Committee members to select which affordability level and percent of affordability they would prioritize given the feasibility findings. Prior to any discussion, more than half of the members suggested a program targeted at 70% AMI for rental housing. Following robust discussion with the committee, staff asked Committee members to respond to the same question. This time, many of the responses shifted towards a 60% AMI target. Some members wanted to see greater flexibility to serve a mix of incomes. Others wanted to have options that better met housing needs but may not be feasible. Additionally, some members felt that overall unit generation (even at higher incomes) was the greatest priority. Given the conversation and various priorities within the committee, we feel that the proposal balances the guiding principles (equity, predictability and market-based) along with the feedback received and additional data specific to housing needs.

The complete meeting summary can be found on the project website.

Relation to Key Considerations

- ✓ Create mixed-income housing
- ✓ Create affordable housing that serves unmet needs
- ✓ Promote clarity and predictability
- ✓ Create market-based requirements
- ✓ Complement existing programs and funding sources for affordable housing

Length of Affordability

Policy Objective

To ensure that these programs not only create affordable units, but promotes long-term affordability, the affordability term is key to long term outcomes. Additionally, longer affordability terms support the city's preservation goals.

Staff Recommendation

For both rental and ownership developments produced through EHA policies, staff recommends a 99-year affordability requirement. Consistent with the city's Preservation Ordinance (DRMC chapter 27-49), these properties would have long-term affordability restrictions and therefore would not be subject to right-of-first-refusal (ROFR) requirements upon sale.

Relation to Key Considerations

- ✓ Promote clarity and predictability
- ✓ Create long-term affordability

Addressing Areas Vulnerable to Displacement

Blueprint Denver offers three major concepts to consider for future policies and investments. Integrating these concepts into planning and implementation will help to create a more equitable Denver.

- Improving Accessing to Opportunity: Creating more equitable access to quality-of-life amenities, health and quality education.
- Reducing Vulnerability to Displacement: Stabilizing residents and businesses who are vulnerable to involuntary displacement due to increasing property values and rents.
- Expanding Housing and Jobs Diversity: Providing better and more inclusive range of housing and employment options in all neighborhoods.

While this policy needs to look at all three measures of equity, we have heard a particular need for special attention to outcomes in areas identified as vulnerable to displacement[39].

To measure vulnerability to displacement, the city uses a vulnerability to displacement index from Denver Economic Development & Opportunity (DEDO) and Blueprint Denver. The index includes three components:

- Median household income – is it lower than Denver's median household income?
- Percent of renters – is it higher than Denver's percent of renters citywide?
- Percent of population with less than a bachelor's degree – do fewer people have a bachelor's degree than the citywide percentage?

For purposes of this policy, if a neighborhood hits all three indicators, the neighborhood is considered vulnerable to displacement.

Staff Recommendation

For neighborhoods that are vulnerable to displacement, the following additional requirements would apply.

- **Fee-in-Lieu funds generated in Areas Vulnerable to Displacement** will be prioritized for the creation and preservation of affordable housing including rental assistance. See DRMC Public Review Draft Section 27-217 for additional details.
- **Prioritization Policy[40] for all affordable units.** A prioritization policy would provide priority to residents who are at risk of displacement or who have been displaced for newly developed affordable homes. A prioritization policy for housing increases the likelihood that residents who are at risk of displacement will obtain affordable housing. It could, for example, set aside a portion of newly developed affordable units for prioritized applicants for a set amount of time. Prioritization factors can include whether the household has already been displaced, is at risk of displacement, includes a household member with a disability, or is a family with children in school. Additionally, as a part of the prioritization policy, it's likely that affirmative marketing will be required for all affordable units. Affirmative Marketing aims to reach underserved populations through community contacts and other direct methods of advertising to residents within the community, minority communities, or other targeted populations. Affirmative marketing ensures that those who are typically underserved have access to the new affordable housing units.

Notable Change Made in Response to Feedback

Given stakeholder feedback seeking stronger considerations for communities vulnerable to displacement, the proposed DRMC draft sets forth requirements to prioritize funds received in areas vulnerable to displacement to be re-invested into these areas to create and/or preserve housing.

Additionally, through the proposed incentives, particularly height incentives, which produce a higher number of both market rate housing and affordable housing, will inherently increase the number, proportion, and availability of affordable units in areas of the city where adopted plans call for notable growth of housing and/or employment.

[39] Data Source from ACS 1-year estimates. Most up to date map can be found here: https://geospatialdenver.maps.arcgis.com/apps/MapSeries/index.html?appid=3d4e30b0f2f048aeb0c3ae394ff011ff

[40] The prioritization policy was identified in the HOST 5-Year Strategic Plan and is a near term priority, however the policy development is ongoing and may follow the implementation of the Mandatory Affordable Housing program. As such, a refence to this requirement is not currently included in the DRMC draft.

Alternative Compliance

Policy Objectives

Per the requirements of HB21-1117, the city must also provide at least one alternative to building affordable units on site.

- Top Priority: Meet the requirements of House Bill 21-1117 while still encouraging the creation of on-site affordable units, which is the primary goal of the mandatory housing program
- Secondary Priority: Increase funding for affordable housing creation, preservation and administration through the collection of monetary fees assessed in-lieu of providing units on-site.

Data Background

Two methods to determine a justifiable fee-in-lieu were evaluated in the Inclusionary Housing section of the Feasibility Report. The analysis includes:

Development cost method—fee based on the actual cost to develop affordable units. This method takes into account the land cost, hard cost, soft costs, financing and contingency. As such, these are notably high figures. The following averages are provided from the feasibility report figure III -10.

- Ownership residential: $613,575 development cost per unit in typical markets, $637,709 development cost per unit in high-cost markets.
- Rental residential: $363,654 development cost per unit in typical markets, $392,880 development cost per unit in high-cost markets.

Affordability gap method—fee based on the difference in price between market-rate units and affordable units (note for rentals this method reflects the difference in the capitalized value of market rate units and affordable units).

- Ownership residential: $408,509 per unit in typical markets, $478,445 per unit in high-cost markets.
- Rental residential: $268,370 per unit in typical markets,
- $311,192 per unit in high-cost markets.

Staff Recommendation for Alternative Compliance

Fee-In-Lieu

Fee-in-lieu would be calculated for each affordable unit required under the build-onsite option #1[41]. Therefore, if the mandatory requirement would have required 10 units, the developer would be required to pay the fee-per-unit multiped by 10. The fee-in-lieu would be adjusted by market area (high-cost v. typical cost) and by tenure (ownership v. rental). While funding is not the desired outcome of the inclusionary program, it does lead to increased funds for the creation of affordable housing.

Through a review of other city programs and determination of fee methodology, staff is recommending the use of the affordability gap method along with some additional refinements made in response to stakeholder feedback to set the proposed fees.

Notable Changes Made in Response to Feedback

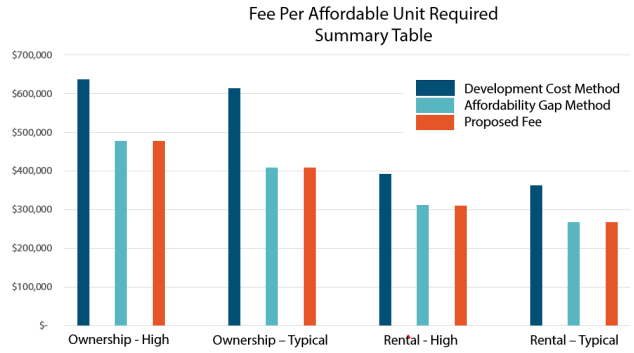
Staff received feedback detailing the impacts of fees in-lieu to smaller for-sale developments, and especially for townhome developments. Additionally, some expressed concern over the option of a fee-in-lieu and wanted to ensure that these fees were calibrated in accordance with the policy objective to promote the construction of mixed-income housing.

Therefore, instead of taking an average of the different development prototypes, the DRMC draft includes greater nuance for the fee structure based on development type. As such, the fee-in-lieu for townhomes, both rental and ownership, has been significantly reduced to $250,000 per affordable unit required. Fees-in-lieu for rental developments of 1-7 stories has been decreased to $250,000 per required affordable unit and increased to $295,000 for rental development of 8+ stories. No changes have been made to ownership fee-in-lieu amount, however since the fee-in-lieu is based on the on-site option one requirement which has been decreased from ten to eight percent, the overall effect on fee-in-lieu for ownership development has been decreased.

[41] As the on-site requirements for ownership developments were reduced, this will result in a lower requirement of fee in-lieu to ownership developments.

Proposed Fee-In-Lieu		
	High Market Areas	**Typical Market Area**
Rental	$311,000 per affordable unit required	Rental buildings 1 -7 stories: $250,000[42] per affordable unit required Rental buildings 8+ stories: $295,000[43]
Ownership	$478,000 per affordable unit required	Townhomes: $250,000[44] per affordable unit required $408,000 per affordable unit required
Unit Requirement	10%[45] of total units	8%[46] of total units

See DRMC Public Review DRAFT Section 26-224 for more details.



Similar to the linkage fee, the fees-in-lieu would be adjusted for inflation in an amount equal to the percentage change from the previous year in the national Consumer Price Index for All Urban Consumers (CPI-U).

[42] Per stakeholder feedback and additional analysis, created a new fee category for rental developments of 1-7 units and decreased from $268,000 to $250,000

[43] Per stakeholder feedback and additional analysis, created a new fee category and increased from $265,000 - $295,000 to better calibrate fee-in-lieu impacts to different development types.

[44] Per stakeholder feedback and additional analysis, decreased from $408,000 to $250,000

[45] Per stakeholder feedback and additional analysis, ownership decreased from 12% to 10% in High Market Areas alignment with the rental requirement.

[46] Per stakeholder feedback and additional analysis, ownership decreased from 10% to 8% in Typical Market Areas in alignment with the rental requirement.

Alternatives

While a fee-in-lieu provides a clear and predictable alternative means of compliance, there may be instances when an alternative to the standard requirement is appropriate. Negotiated alternatives can enable creative outcomes that result in the creation of affordable housing in alignment with these program requirements and overall HOST housing goals as articulated in HOST's Five-Year Strategic Plan.

Negotiated alternatives will generally fall into two categories:

- "High Impact" developments, or
- Discretionary agreements.

"High Impact" Developments

When a large scale and/or highly complicated development is proposed that necessitates additional consideration from the city, such as Tax Increment Financial (TIF) and/or Metropolitan District financing, a negotiated development agreement and/or other legal contracts, enumerating a variety of commitments on behalf of the developer for the benefit of the surrounding community, is likely to be more appropriate and effective than applying a citywide standard. In lieu of meeting the standard Mandatory Affordable Housing Agreement, the applicant must submit an affordable housing compliance plan that demonstrates how the proposed development meets or exceeds the standards set forth the standard program and furthers the goals of the city's five-year housing plan, comprehensive plan goals, and any small area plan applicable to the area of high impact development at the time of execution of the plan.

Additional refinement made in response to community feedback.

Community members called for greater consideration for community needs and equity considerations. While this is not appropriate for all development, when a larger development is proposed and is leveraging city funding, additional community engagement and responsiveness is appropriate. Therefore, community outreach and responsiveness to identified housing needs is a requirement to the compliance plans for high-impact developments.

Additionally, comments requesting that any development leveraging TIF or Metro districts should be subject to the High-Impact development process.

Additionally, the developer must conduct outreach to the effective communities and detail how the proposed housing compliance plan is responsive to community needs. See DRMC Public Review Draft Section 27 –219 for the definition and applicability for high impact developments. See DRMC Public Review Draft Section 27-226 for additional details.

Negotiated Alternatives

To allow for needed flexibility, any negotiated agreements under this category would be at the discretion of the HOST Executive Director and only available in unique instances where an alternative outcome may be deemed by HOST to be more valuable to the city and/or more appropriate given identified neighborhood needs than the otherwise standard mandatory housing requirements. Examples of such limited agreements may include one or more of the following components:

- Land dedication for new affordable housing development
- Units restricted at a greater depth of affordability
- Developments providing larger unit formats and associated family-friendly amenities.
- Concurrent off-site development of affordable housing

See DRMC Public Review Draft Section 27 – 225 for additional details and standards related to negotiated agreements.

Relation to Key Considerations

- ✓ Create market-based requirements
- ✓ Create affordable housing that serves unmet needs
- ✓ Complement existing programs and funding sources for affordable housing

Incentives

Common to nearly all comparable mandatory housing programs, incentives can be used to increase affordable housing requirements beyond the minimum standards and/or offset some of the cost of providing the affordable units. Additionally, incentives can be utilized to make building the affordable units on-site more economically attractive than alternative compliance, including fee-in-lieu.

Policy Objective

Pair incentives with mandatory requirements to promote the construction of affordable units on-site and use enhanced incentives to increase the supply of both market rate and affordable housing.

The incentives include:

- Increases in allowed building height (zoning tool)
- Parking reductions (zoning tool)
- Permit fee reductions (financial tool)
- Affordable housing review team (process permitting tool)

Staff Recommendation for Incentives

Staff recommend establishing two separate types of incentives available to all developments providing affordable units on-site (not paying the fee-in-lieu). Incentives are designed to operate administratively and therefore would not require a rezoning or other public process.

- **Base incentives**[47] to make building the affordable units on-site more attractive than alternative compliance options and partially off-set the cost of providing the affordable units. These proposed incentives are:
  - **Commercial Construction Permit Fee Reduction:** $6,500 per affordable unit[48] in Typical Markets, and $10,00[49] per affordable unit in High-cost Markets. Permit fee reduction will not exceed 50% of the commercial construction permit fee.
  - **Parking Reduction:** Reduced minimum parking requirement for all residential units by 0.5 spaces per unit. For example, in the Suburban zoning context, the current requirement is 1.25 spaces per dwelling unit. This incentive would reduce the requirement to 0.75. In the Urban Center zoning context, the current requirement is 0.75 spaces per dwelling unit. This incentive would reduce the requirement to 0.25 in this context.
  - **Ground Floor Commercial Use Exemption** Exempt ground floor commercial, sales and service use as defined by the Denver Zoning Code from the linkage fee when providing affordable units on site.

See DRMC Public Review DRAFT Section 27-223(b) and DZC Public Review Draft Article 10 for additional details.

Notable changes in response to feedback.

Staff received additional feedback seeking greater incentives to minimize the financial impacts of these programs. Therefore, the draft includes three enhancements to the incentives. First, the applicability of the permit fee reduction has been expanded to all affordable units, not just those at the lower AMI designations. Second, the permit fee reduction per unit in high market areas has been increased to $10,000 per affordable unit. Lastly, a new incentive to exempt ground floor commercial uses from the linkage fee has been introduced. For example, a mixed-use development providing affordable units on site and 6,000 sf of ground floor retail, would receive a linkage fee exemption of $36,000.

[47] Base incentives do not have geographic applicability and are avaliable city-wide.

[48] Per stakeholder feedback and further analysis, the permit fee reduction has expanded to all income restricted units, not just those at 60% AMI.

[49] Per stakeholder feedback and further analysis, the permit fee reduction in high-cost market areas has increased from $7,500 to $10,000.

- **Enhanced incentives** to increase the supply of housing, both market rate and affordable, by meaningfully changing the economics of the project, as well as partially offsetting the cost of providing the affordable units. These incentives would be available only to projects that, at a minimum, increase the percentage of on-site affordable units by the following standards:

Enhanced Incentive Requirements		
Applicant Option	**Typical Market Areas**	**High Market areas**
Enhanced Option 1	Rental: 10% of total units at 60% AMI	Rental: 12% of total units at 60% AMI
	Ownership: 10% of total units at 80% AMI	Ownership: 12% of total units at 80% AMI
Enhanced Option 2	Rental: 15% of total units averaging up to 70% AMI serving households with incomes up to 80% AMI	Rental: 18% of total units averaging up to 70% AMI serving households with incomes up to 80% AMI
	Ownership: 15% of total units averaging up to 90% AMI serving households with incomes up to 100% AMI	Ownership: 18% of total units averaging up to 90% AMI serving households with incomes up to 100% AMI

- These proposed enhanced incentives include:
  - **Increase in allowed building height by-right** for sites with the following zoning: Mixed-Use (MX); Main Street (MS); Commercial Corridor (CC); Multi-Unit (MU), Residential Office (RO), and Residential Mixed Use (RX) of 3 or more stories.

Height Incentives		
Existing Height in stories (per zoning)	**By-Right Incentive Height Bonus in stories**	**Height in stories with Incentive**
3	1	4
5	2	7*
8	4	12*
12	4	16*
16	6	22*
20	10	30*
See Denver Zoning Code Draft Division 10.12 for more details. *Note additional standards apply when within 175-feet of a protected district that may limit applicability of the incentive height. See the building form tables in the DZC Public Review Draft for more details.		

See DRMC Public Review DRAFT Section 27-223(c) for more details.

Height and FAR increases for areas with existing incentive systems.

The city has several areas with existing incentive systems including the 38th and Blake Station Area Incentive Overlay (IO-1), Downtown Core and Theater District (D-C, D-TD), , Golden Triangle (D-GT), Arapahoe Square (D-AS, D-AS-12/20+), and Central Platte Valley-Auraria (D-CPV-T/R/C). The proposed draft brings these areas with unique incentive systems into a more consistent citywide system for mandatory housing requirements and incentives. As such, the entire DRMC section 180-188.5 are proposed to be repealed along with the DZC Incentive Overlay section in Article 9.

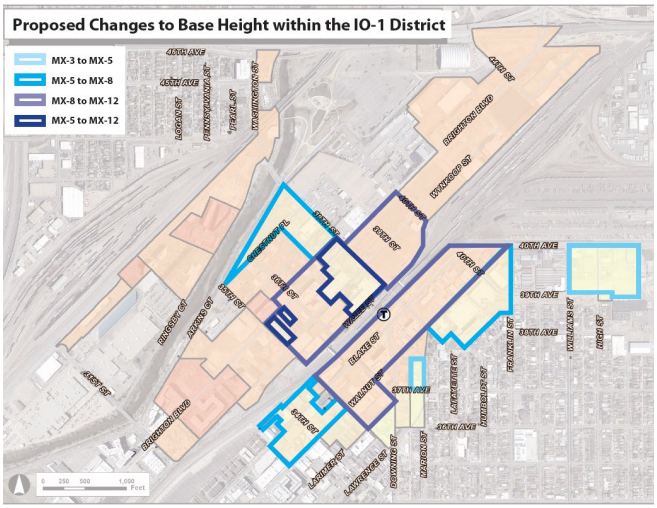
For **Downtown context zone districts**, the proposal applies the new mandatory affordable housing requirements to existing base/incentive structures and enables projects to qualify for increased FAR or height by meeting the enhanced affordable housing ratios described above and/or increased linkage fees. Existing FAR bonuses such as rehabilitation of historic structures, public art, and transfer of development rights (TDR) will be maintained along with a fee-based incentive for commercial projects. For example, a residential project in the Downtown Core (D-C) zone district may

exceed the maximum of 10.0 FAR and develop up to the maximum with incentives of 20.0 FAR by meeting the enhanced affordable housing requirement to provide 12% of total dwelling units at 60% AMI. The same project could also use TDR for a portion of the total gross floor area. The TDR portion would still be required to meet the mandatory affordable housing requirement to provide 10% of dwelling units at 60% AMI. See DZC draft Article 8 for more details.

For the **38th and Blake Station Area Incentive Overlay**, two actions are proposed. (1) the existing incentive overlay (IO-1) will be removed and replaced by the citywide system proposed above for incentives. (2) some sites within the overlay area will be rezoned to maintain the existing incentive heights. For example, if a current site has a base height of five stories but can access incentives up to 16 stories, the site would be rezoned to a standard district of 12 stories and could still achieve the incentive height of 16 stories by providing a greater level of affordability per the enhanced incentive requirements.

The following map identifies the area in different shades of blue proposed for a map amendment concurrent to the adoption of the DRMC and DZC amendments.

Further details on the specific Map Amendment can be found online.



- **Vehicle parking exemption** for sites with existing zoning (Mixed Use Commercial Zone Districts; Multi Unit (MU), Residential Office (RO), and Residential Mixed Use (RX)) within 1/4 mile of a Rail Transit Station Platform. See DZC Draft Division 10.4 for more details.
- Potential to have the project's SDP (including related DOTI submittals) and building permit review completed by the **Affordable Housing Review Team** (AHRT). This is a new team recently funded in the 2022 budget that would allow developments to be reviewed by a specialized team focused on reducing the number of review cycles to move more quickly through the review process. Workload for this team will be capped to ensure the team is able to provide a higher level of customer service. Prior to concept SDP submittal, a project may apply for inclusion in the AHRT program.

What about projects that are fully affordable (e.g., Low Income Housing Tax Credit or LIHTC)?

As these projects would be building affordable units on site and exceeding the requirements for the enhanced incentives, all base incentives (permit fee reduction, parking reduction) and enhanced incentives where geographically appropriate (increased building height, parking exemption, AHRT review) would be available to these affordable housing projects. See DRMC Public Review Draft Section 27-223(c)(2).

Relation to Key Considerations

- ✓ Create mixed-income housing
- ✓ Create affordable housing that serves unmet needs
- ✓ Pair incentives with mandatory requirements

Mandatory Housing Summary Table

		On-Site Affordability Requirement		Base Incentives Available Citywide			Enhanced Incentive Affordability Requirement		Enhanced Incentives Geographically Limited		Enhanced Incentives Available Citywide
		High-cost Markets	Typical Markets	Permit Fee Reduction	Parking Reduction	Linkage Fee Exemption	High-cost Markets	Typical Markets	Height Bonus	Parking Exemption	Affordable Housing Review Team
Option #1	Rental	10% of total units up to 60% AMI	8% of total units up to 60% AMI	✓	✓	✓	12% of total units at 60% AMI	10% of total units at 60% AMI	✓	✓	✓
	Ownership	10% of total units up to 80% AMI	8% of total units up to 80% AMI	✓	✓	✓	12% of total units at 80% AMI	10% of total units at 80% AMI	✓	✓	✓
Option #2	Rental	15% of total units averaging up to 70% AMI serving households with incomes up to 80% AMI	12% of total units averaging up to 70% AMI serving households with incomes up to 80% AMI	✓	✓	✓	18% of total units averaging up to 70% AMI serving households with incomes up to 80% AMI	15% of total units averaging up to 70% AMI serving households with incomes up to 80% AMI	✓	✓	✓
	Ownership	15% of total units averaging up to 90% AMI serving households with incomes up to100% AMI	12% of total units averaging up to 90% AMI serving households with incomes up to 100% AMI	✓	✓	✓	18% of total units averaging up to 90% AMI serving households with incomes up to 100% AMI	15% of total units averaging up to 90% AMI serving households with incomes up to 100% AMI	✓	✓	✓*
Fee In -Lieu	Rental	$311,000 per affordable unit required	Buildings 1- 7 stories: $250,000 per affordable unit required Buildings 8+ stories: $295,000	✗	✗	✗	✗	✗	✗	✗	✗
	Ownership	$478,000 per affordable unit required	Townhomes: $255,000 All other: $408,000 per affordable unit required	✗	✗	✗	✗	✗	✗	✗	✗

✓ - Incentive available
✗ - Incentive not available
* - Subject to staffing capacity

Effective Date

The project is anticipated to conclude in spring of 2022. The effective date by which projects must comply to the new regulations is an important element of the ordinance.

In considering the effective date, the city is balancing the immediate need for construction of affordable units with:

- Adequate time for existing projects to receive approval under current regulations, or decide to follow new regulations
- Adequate time for the city to create the systems needed to effectively implement the new EHA requirements, especially mandatory housing. This includes new staff, software and compliance systems.

Staff Recommendation for Mandatory Requirement or Linkage Fee (projects under SDP review)

- Concept site development plan submitted by June 30, 2022
- Must have final SDP approved by August 30, 2023 (14-month window)
- Project subject to Large Development Review (LDR) and/or subdivision, must have final SDP approved by December 31, 2023 (18-month window).

Staff Recommendation for Linkage Fee (projects under residential review)

- Building permit submitted by June 30, 2022 and all applicable plan review fees paid.
- Must have building permit approved and issued by December 30, 2022 (6-month window)

Responding to Feedback

Throughout the process, we heard the importance for predictable requirements along with predictable effective date and implementation. Many times, larger projects have spent over $1 million by the time they are at concept, which does not factor in the purchase of the land which is also in the millions. As substantial regulatory changes such as mandatory housing and linkage fee increases impact project returns and underwriting, it's important that applicants have sufficient time to understand and adjust to regulatory changes.

We heard a strong desire for the "cut-off" to be at time of concept, rather than formal SDP, as significant investments have been made by the applicant team to arrive at this point of concept submittal. Additionally, we wanted to provide sufficient time to allow for projects to successful move through the SDP or building permit process. As such, the review windows are based on the median review times.

Anticipated Outcomes

The mandatory affordable housing program and the linkage fee are intended to complement existing tools and funding resources to better meet Denver's growing housing needs. Together, the linkage fee and mandatory housing program will help Denver meet its affordable housing goals by providing funding and directly creating affordable units. The Department of Housing Stability's Five-Year Plan aims to create or preserve 7,000 units of affordable housing from 2022 to 2026, reduce housing cost burden among low- and moderate-income households (those earning at or below 80% of the area median income) from 59% to 51%, and increase the rate of homeownership among low- and moderate-income households from 36% to 41%.

The Linkage Fee provides critical funding to the Affordable Housing Fund, which also receives revenue from the Marijuana Sales Tax, Property Tax, and General Fund. For context, in 2022, the following funds are estimated as follows to support the affordable housing fund: Property Tax ($8.9M); MJ Sales & Use Tax ($12.3M); Linkage Fee ($14.1M)

As the **linkage fee** will no longer apply to all development (as developments of 10 or more units will be subject to mandatory affordable housing), there will be a smaller segment of developments paying into the linkage fee although at a higher rate. Given unpredictability of the private development market, and particularly for commercial developments, the city cannot provide a concrete estimation of future linkage fee funding generation.

The **new mandatory affordable housing program** is a market-based tool; therefore, the production of affordable units is dependent on the markets ability to produce units. As such, it's difficult for staff to identify a set outcome of affordable that will be produced through this program. Additionally, it is important to note that the city is not only defining success through the number of units produced, but we are also tracking the AMI levels served, the household served, and the overall development market. Therefore, the following estimate is a projected range. This was informed by historical development trends[50], feasibility modeling of likely outcomes[51], and industry feedback[52].

Assuming the Denver housing market remains strong, this program will likely directly produce 200 to 400 income restricted units annually and $2 – 10 million in fee-in-lieu funds annually, which could result fund additional unit creation and preservation.

Factors impacting these estimates include:

- **Overall housing production.** For this program to be successful, the housing market must remain strong and produce thousands of new units annually. Housing production has varied significantly over the past 10 years ranging from 1,232 units to 10,052 and the peak. We anticipate 4,000 – 6,000 units are likely to be created on an annual basis in the near future, however unanticipated market forces could impact overall production.
- **Number of units subject to the Mandatory Affordable Housing Requirements.** Many areas of the city such as Green Valley Ranch or Central Platte Valley have pre-existing housing agreements that include housing commitments and will not provide affordable units through this specific program. Additionally, smaller infill projects of 9 or fewer units will pay the linkage fee and not produce units directly as a part of an individual development.
- **Proportion of development occurring in different market areas.** The requirements for affordable units vary by these market areas, therefore if more development occurs in areas such as downtown, a greater proportion of units will be created as compared to other market areas.
- **Developer choice of options.** The proposed policy provides developers with three standard options. The two build on-site options provide a tradeoff on depth of affordability compared to percent of units. Therefore, if more developers select option one focused at lower AMIs, fewer overall units will be developed, but these will be at a lower AMI. Alternatively, if the developer selects option two, this will produce more units, however at a different range of AMIs. Additionally, if developers opt to pay the fee, this will reduce the number of units directly produced through this program but will produce funding for units serving other income levels.
- **Developer use of incentives.** The proposed policy provides a set of incentives. The use of both parking reductions/exemptions and height-based incentives will also drive up the overall supply of housing and provide more income restricted units.

[50] Data on historical unit production provided by Colorado Department of Local Affairs (U.S. Census Bureau, Building Permits Survey)

[51] In typical development outcomes, build on-site option one is the most feasible, build-on site option one is the slightly less feasible, and the fee in lieu is the least feasible. Exceptions to this are high-end luxury condos and areas with significant projected rent growth.

[52] Per one-on-one discussions and focus group feedback, most developers indicated that per they were unlikely to pay the in-lieu fee for most projects.

These programs will play a critical role in meeting the projected housing needs identified earlier in the document, however these tools are not anticipated to be the only means of meeting our housing needs and other existing and new tools will need to be deployed.

Tracking and Reporting

Consistent with the Five-Year Strategic Plan, the city will provide regular access to the outcomes and successes of the City's efforts to expand access to affordable housing opportunities, which includes these programs, as well as other goals articulated in HOST's Five-Year Strategic Plan. This will include a dashboard reporting the program outcomes.[53]

Specific to the linkage fee, the city will track and report on the following annually:

- Amount of funding allocated to the Department of Housing Stability for affordable housing
- Use of funds including a summary of affordable housing projects and programs funded by the fee
- Projects granted and exception or reduction to the linkage fee

For the Mandatory Affordable Housing Program, the city will track and report the following annually:

- The options for compliance selected (e.g., on-site option1, on-site option 2, enhanced incentives, fee-in-lieu or negotiated alternative)
- The number of affordable housing units planned, approved, construction ready, under construction, and constructed and open.
- Units created by tenure (ownership/rental), AMI levels served, and bedroom mix.
- Amount of fee-in-lieu funds allocated to the Department of Housing Stability for affordable housing and summary of affordable housing investments supported by the fee

To oversee projects' compliance with the requirements established by these programs, HOST will perform ongoing internal monitoring and review data from properties on household characteristics such as demographics, association with Denver's prioritization policy, target income verifications and use of additional subsidies such as housing vouchers.

> To provide regular access to information on plan progress, HOST will employ a range of tools. First, HOST will create public-facing dashboards that track progress toward plan goals, as well as important contextual information like the affordable housing pipeline and HOST financial information. These will be updated on a regular basis at least quarterly. In addition, HOST will disseminate information on plan progress at City Council committee meetings and provide updates through the HOST website, newsletter, and press releases. To ensure information is accessible to interested community groups, HOST will provide updates on its progress to the Housing Stability Strategic Advisors. In addition, HOST will attend meetings with community groups that helped inform the strategic plan twice annually. These groups include Anti-displacement Policy Network, Homelessness Funders Collaborative, Homeless Leadership Council, and Neighborhood Development Collaborative. – HOST Five-Year Strategic Plan, Page 56

[53] Most reporting for these programs will be provided by the Department of Housing Stability in alignment with its Five-Year Strategic Plan. However, some measures are tracked by Community Planning and Development and may be reported separately.

Defined Terms

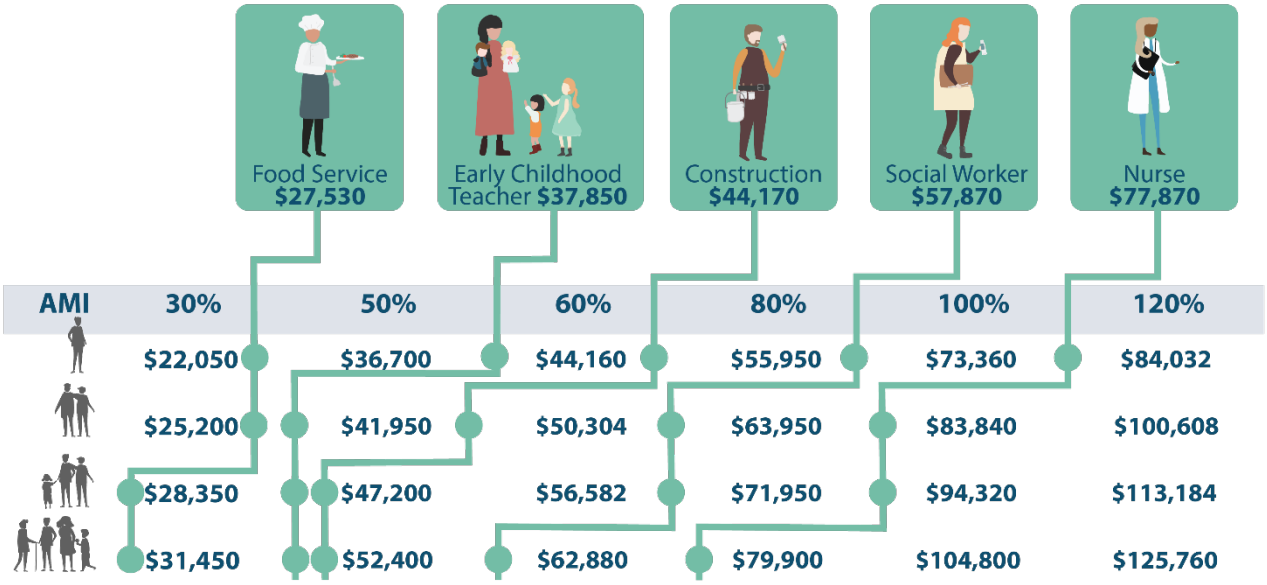
Affordability/affordable— Housing costs are "affordable" if they do not exceed 30 percent of a household's gross monthly income. The figure below shows affordable rents and home prices by AMI level.

Area Median Income (AMI)— The median income for a region as defined each year by the U.S. Department of Housing and Urban Development (HUD). Throughout the study, relevant data are presented by Area Median Income (AMI) brackets. For consistency purposes, AMI income brackets used in this study follow the 2020 income limits for a 2-person household, as maintained by the Denver Department of Housing Stability (HOST), as determined by HUD.54 These are calculated at the Denver-Aurora-Lakewood MSA level.[55] The 2-person Denver Area Median Income for 2020 is $80,000. Throughout this study, data for the number of households at each AMI range is estimated using the closest ACS income brackets.

Cost burden— A cost burdened household is one in which housing costs—the rent or mortgage payment, plus taxes and utilities—consume more than 30 percent of monthly gross income.

Severe cost burden— A severely cost burdened household is one in which housing costs consume more than 50 percent of monthly gross income.

Naturally Occurring Affordable Housing (NOAH) - Naturally occurring affordable housing is housing that may rent or sell at an affordable rate without public subsidy or affordability restrictions. The rents are more affordable because these properties are typically older properties, likely in need of renovation, and located in less desirable neighborhoods or on busy streets. While these factors keep rents low in NOAH properties. Continued market pressures can lead to rent increases that no longer serve the housing needs for households at lower incomes.



Source: HOST 2021 Income Limits
Bureau of Labor Statistics - Colorado (2020 Data)
35-2015 Cooks, Short Order; 25-2011 Preschool Teachers; 47-2141 Painters, Construction and Maintenance; 21-1022 Healthcare Social Workers; 29-1141 Registered Nurses

[54] A two-person household was chosen because it most closely reflects the average household size in Denver, which is was 2.24 as of 2019.

[55] The Denver-Aurora-Lakewood MSA median income is slightly higher than Denver's median income according to the ACS. Counties included in the Denver-Aurora-Lakewood MSA calculation are: Adams, Arapahoe, Broomfield, Clear Creek, Denver, Douglas, Elbert, Gilpin, Jefferson, and Park.

Appendix

Cost Burden by AMI, 2019

AMI	# of Households	# of Households Cost Burdened	# of Households Severely Cost Burdened	Total Cost Burden	% Cost Burden
50% and below	24,399	6,239	11,319	17,558	72%
51-60%	5,758	1,746	1,096	2,841	49%
61-80%	14,821	4,517	1,186	5,703	38%
81-100%	14,456	4,065	812	4,877	34%
101-120%	12,616	2,750	305	3,054	24%
120+	85,602	4,303	737	5,040	6%
TOTAL:	157,653	23,619	15,454	39,073	

Source: 2019 1-year ACS, Root Policy Research
Note: The HUD 2020 AMI for a two-person household of $80,000 was used

Denver Historical/Current Program Context

Applicability

The former Denver IHO program had an applicability of 30 ownership units or more. As a result of this high unit count, most of the new infill occurring in the city, and especially in high-opportunity areas was not subject to the former program. The high unit count, coupled with state law that limited the program to ownership units, led to the creation of very few affordable units in high-opportunity areas. See more in the Background Report on the IHO program outcomes.

Affordability Requirement

The former IHO generally required that 10% of ownership units be income restricted up to 80% AMI. In high-cost structures incomes up to 95% AMI could be served. The IHO did not apply to rental housing.

The current linkage fee offers the ability for a Build Alternative Plan which sets a formula to build the affordable units on-site or within ¼ mile of the site. The affordable units must serve households earning 80% AMI and below. While the outcomes vary, this commonly results in 1% of units at 80% AMI.

The current system that applies to the 38th and Blake incentive overlay district is also based on a requirement derived from the linkage fee formula, however it applies a higher multiplier. Affordable units must be restricted to 80% AMI and below and commonly result in an average of 5% affordable units. Similar systems that apply to Central Platte Valley-Auraria and Golden Triangle are relatively new and project data is not available. Potential project outcomes were modeled to be similar to 38th and Blake, with a slightly higher percentage of units at 80% AMI possible in Central Platte Valley-Auraria, and the same percentage of units but with a 60% AMI restriction in Golden Triangle.

The city has not had a formal program that required income restricted units on new rental developments. However, the city has recently entered into a series of voluntary affordable housing agreements commonly associated with a rezoning to increase development capacity. These commonly range from 60 – 80% AMI and range from 10-15% of total affordable units. The most common outcome is about 11% of units at 80% AMI.

Length of Affordability

The prior IHO had a fairly short affordability range of 15 to 30 -year affordability commitment. As a result, many of those units have covenants that are about to expire, and most of the preservation funds are focused on extending covenants that are about to expire.

The current affordable housing requirement is 60-years and requires a right-of-first refusal (ROFR) per the Preservation Ordinance. However, if a developer/owner commits to 99-years of affordability, the City waives its ROFR. Most developers who have recently negotiated voluntary affordable housing agreements with HOST have opted for the longer affordability period in exchange for removal of the ROFR.

Alternative Compliance

The former IHO included a fee-in-lieu, off-site construction, and land dedication as alternative compliance means. Initially the fee-in-lieu was not appropriately calibrated by market area. As a result, development subject to the IHO in high-cost areas such as downtown paid the fee. In a later revision to the ordinance, the fee-in-lieu along with the cash subsidy was increased for high-cost structures. This change resulted in more developers opting to build the affordable units on site rather than pay the fee. Therefore, careful calibration of the alternative fee-in-lieu will be necessary.

In the current 38th and Blake incentive overlay district, and similar systems in Central Platte Valley-Auraria and Golden Triangle, residential developments leveraging the incentive cannot pay a fee-in-lieu, however they can build the units off-site within the overlay area. To date, this option has not been utilized.

Incentives

The prior IHO provided a series of incentives to meet the minimum on-site requirement. These incentives included cash rebates, parking reductions, and a small density bonus.

The 38th and Blake incentive overlay district operates as a height-based incentive only program. The increase of height varies by site and ranges from 2-11 additional stories in exchanged for approximately 5% of units affordable 80% AMI. More details on this pilot program and the outcomes can be found in the Background Report.