

- (g) [CPI-U or Consumer Price Index](#)
- (h) [Director](#)
- (i) [Dwelling Unit](#)
- (j) [Eligible Household](#)
- (k) [Gross Floor Area or GFA](#)
- (l) [High Market Area](#)
- (m) [High Impact Development](#)
- (n) [HOST](#)
- (o) [HOST Strategic Plan](#)
- (p) [IRU or Income-Restricted Unit](#)
- (q) [On-Site](#)
- (r) [Ownership Development](#)
- (s) [Rental Development](#)
- (t) [Residential Development](#)
- (u) [Structure](#)
- (v) [Townhouse](#)
- (w) [Typical Market Area](#)

Additionally, for the purposes of these rules:

Affordable Housing Programs means programs designed to preserve and increase the supply of affordable housing available to Low- and Moderate-Income Households.

Concept Plan or *Concept Site Development Plan* or *Concept SDP* refers to the Pre-Application Concept Plan Review submittal and process per Denver Zoning Code Sec. 12.4.3 or the initial plan submittal for a Development Plan, Site Plan, or Special Zone Lot Plan for Planned Building Groups as referenced in Former Chapter 59.

Formal Site Development Plan or *Formal SDP* refers to the Site Development Plan Review Application submittal and process per Denver Zoning Code Sec. 12.4.3 or similar Development Plan, Site Plan, or Special Zone Lot Plan for Planned Building Groups as referenced in Former Chapter 59.

Household means i) a single person; (ii) any number of persons bearing to each other the relationship of: husband, wife, mother, father, grandmother, grandfather, son, daughter, brother, sister, stepson, stepdaughter, stepbrother, stepsister, stepmother, stepfather, grandson, granddaughter, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, uncle, aunt, nephew or niece, living together as a single nonprofit housekeeping unit; or (iii) two (2) unrelated adults over the age of eighteen (18) years plus, if applicable, any persons bearing to either of the two (2) unrelated adults the relationship of son, daughter, stepson, stepdaughter, mother, father, grandmother, grandfather, grandson, granddaughter, sister, brother, living together as a single nonprofit housekeeping unit.

Income-Restricted Ownership Unit or *IROU* means an affordably priced unit constructed under the terms of the Linkage Fee Ordinance, a voluntary affordable housing agreement, or an Affordable Housing Plan and these rules and regulations that includes the following:

Section 3: Compliance Options and Submittal Requirements for Mandatory Affordable Housing (MAH)

Alongside submittal of a Formal SDP, or at the time of Concept SDP in the case of zone lot amendment applications for lots proposed to contain single-unit and/or two-unit dwellings, the Owner shall submit information sufficient to determine [MAH applicability](#), to calculate [MAH compliance requirements](#), and to indicate a plan for MAH compliance. The Owner shall, at a minimum, provide the following information through CPD's online submittal platform:

- (a) Site location;
- (b) Proposed uses;
- (c) Number of units;
- (d) Planned compliance option:
 - i. [On-Site construction of Income-Restricted Units](#);
 - ii. [Payment of Fee-in-Lieu](#);
 - iii. [High Impact Development](#); or
 - iv. [Negotiated Alternative](#);
- (e) Linkage fee, if applicable;
- (f) Whether the project is requesting an [exception from the MAH requirement](#); and
- (g) Whether the project is seeking use of [zoning incentives](#).

CPD shall review and verify the required documentation provided by the Owner in coordination with HOST or other agencies as appropriate.

Should CPD determine that the [linkage fee requirement](#) applies to some or all of the project, the Owner must comply with the linkage fee requirement and [Sections 6, 7, and 8](#) of these rules and regulations prior to the issuance of a Building Permit, excluding a permit for excavation/shoring.

An Owner subject to the [MAH requirement](#) shall demonstrate steps toward compliance throughout the SDP review and Building Permit approval processes. Those steps vary based on the compliance option selected by the Owner, and details about submittal requirements for each compliance option are included below.

If CPD, in consultation with other agencies as appropriate, determines a project to be a [High Impact Development](#), the Owner will follow the compliance steps outlined in [Section 3.IV](#) of these rules and regulations.

If a project involves phased construction resulting in multiple Building Permit applications, the Owner will follow the compliance requirements described in [Section 13](#) of these rules and regulations.

I. ON-SITE COMPLIANCE

If an Owner elects to [build affordable units on-site](#) to fulfill the MAH requirement, [per DRMC Sec. 27-224](#), CPD will refer the Owner to HOST for preparation of an [Affordable Housing Plan](#), to be submitted during the Formal Site Development Plan process. Details about AHPs can be found in [Section A](#) below. In general, AHPs represent a commitment by the Owner to provide a portion of units in the development as IRUs. A template AHP will be available on [CPD's website](#). The Owner will fill in the appropriate information and sign the completed AHP in alignment with the selected On-Site compliance options. HOST will review the AHP for compliance with the Mandatory Housing Ordinance and these rules and regulations. If the AHP satisfies the MAH requirement, HOST will approve the AHP. For purposes of this compliance pathway, an AHP is considered "approved" once the Owner and the HOST Executive Director or their designees have signed the document. If the AHP does not satisfy the MAH requirement, HOST will work with the Owner to resolve any issues to ensure compliance with the Mandatory Housing Ordinance and these rules and regulations. Following AHP approval, HOST will record the AHP against the property and provide CPD with a copy of the recorded AHP.

A. AFFORDABLE HOUSING PLAN ELEMENTS

An approved AHP shall contain the following elements and shall be signed by all entities that own property within the boundary of the SDP:

- (a) Contact information for Owner;
- (b) Project information:
 - i. Project name/address;
 - ii. Relevant record numbers;
 - iii. Market area determination (High Market Area/Typical Market Area);
 - iv. Type of development (Multi-Unit, Townhome, Single or Two-Unit, etc.); and
 - v. Total number of Dwelling Units anticipated;
- (c) Compliance Option election (On-Site, Fee-In-Lieu, etc.);
- (d) A percentage of IROUs and/or IRRUs to be constructed (if applicable);
 - i. Percentages shall align with one of the On-Site compliance options provided in [DRMC Sec. 27-224](#). The available options vary based on the tenure of units, the market area of the development (which will be determined by CPD upon Formal SDP submittal), and whether the Owner plans to leverage enhanced incentives.
- (e) Owner's eligibility for incentives, as set forth in [DRMC Sec. 27-224](#);
- (f) A phasing plan for the project (if applicable) that indicates when the IRUs will be provided, as well as additional documentation, such as a site plan used for permitting, that identifies the specific units that will be income restricted;
- (g) A site plan with specific addresses of IRUs, if known at the time of SDP for any development issuing single building permits (e.g., single-unit, two-unit, or townhouse) and/or any other ownership developments;
- (h) Acknowledgment that the Owner will use a [fair and equitable system to select Eligible Households to occupy or own the IRUs](#);
- (i) A legal description of the property where the development is located;
- (j) A copy of the city's [form\(s\) of covenant](#) to encumber the IRUs; and
- (k) Such other information as HOST requires to determine the Owner's compliance with the Mandatory Housing Ordinance and these rules and regulations.

B. REQUIREMENTS OF INCOME-RESTRICTED UNITS (IRUs)

HOST shall review the Owner's AHP for compliance with the applicable provisions of the Mandatory Housing Ordinance and these rules and regulations. Such review shall include, but not be limited to, verification of the following elements:

i. NUMBER OF IRUs REQUIRED

Owners must commit a specified portion of the units in a development to be designated as IRUs under [DRMC Sec. 27-224](#). The required percentage of IRUs will vary depending on the tenure of the residential units in the development, as well as whether the development is in a Typical or High Market Area. Market area designation will be determined by CPD at time of the Formal SDP submittal.

ii. AMI LEVEL SERVED

1. RENTAL DEVELOPMENTS

Owners shall set rental rates for IRRUs according to the AMI levels designated in [DRMC Sec. 27-224](#). Details about the determination of rental rates at a given AMI level can be found in [Section 3.I.C.I](#) below.

2. OWNERSHIP DEVELOPMENTS

Owners shall set Initial Sale Prices for IROUs according to the AMI levels designated in [DRMC Sec. 27-224](#). Details about the calculation of Initial Sale Prices at given AMI levels can be found in [Section 3.I.C.II](#) below.

iii. UNIT MIX

The IRUs in a development shall contain a mix of bedroom counts (e.g. studio units, one-bedroom units, two-bedroom units, etc.) in a ratio mirroring that of the market-rate units as closely as possible, beginning with the most prevalent unit type and progressing toward the least prevalent.

For example, if a development is required to provide 7 IRUs, and the overall unit mix includes 30% 1-Bedroom units, 50% 2-Bedroom units, and 20% 3-Bedroom units, the appropriate distribution of IRUs would be:

- (2) 1-Bedrooms
- (4) 2-Bedrooms
- (1) 3-Bedrooms

If the development includes one or more unique unit types (a penthouse, for example) that would be unreasonable to incorporate as IRUs, the most comparable typical unit may be utilized.

If only one IRU is required, then the IRU shall have the same bedroom count, or more, as the most prevalent market-rate unit type.

iv. DISTRIBUTION

IRUs shall be reasonably distributed among the market-rate units and shall not be concentrated to a specific area (for example, a designated “affordable wing” or “affordable floor”) within the project.

In developments containing IRRUs, the Income-Restricted designation may “float” among all units of a similar type in the project. Under the “floating” system, if a tenant loses their eligibility to rent an IRRU due to an increase in income or some other reason, then the Owner can transfer the Income-Restricted status of the unit to the next available unit with a similar bedroom count. See [Section 5.I.A](#) of these rules and regulations for further detail on the transfer of Income-Restricted status among rental units.

v. DESIGN / QUALITY / ACCESS

The IRUs in a development shall be of comparable size, quality, and design to market-rate units.

IRUs shall also be functionally equivalent to market-rate units. For example, if the market-rate units in a development include certain appliances or amenities (refrigerator, countertops, washer and dryer, closets, light fixtures, etc.), then the IRUs shall also include those appliances or amenities, though the brand of appliance need not be the same across all units. Similarly, residents of IRUs shall have full access to all amenities and services available to residents of market-rate unit (e.g. gyms, pools, parks, storage units, points of entry, parking, etc.).

vi. ACCESSIBILITY REQUIREMENTS

The Owner shall provide IRUs that are also considered accessible Dwelling Units under [Appendix R of the Denver Building and Fire Code](#), as may be amended from time to time, in a ratio equal to or greater than that of market-rate accessible Dwelling Units in the project.

C. AFFORDABLE RENTAL AND SALES PRICE METHODOLOGIES

i. MAXIMUM RENTAL CALCULATION AND METHODOLOGY

HOST will post a [table of maximum allowable rents](#) for IRRUs on its website. The maximum allowable rents are calculated annually using the Maximum Allowable LIHTC Rents published and updated annually by the Department of Housing and Urban Development.

In order to set the rental rates for their IRRUs, Owners must start with these maximum allowable rents posted on HOST’s website, then subtract the [applicable Utility Allowance published annually by the Colorado Department of Local Affairs \(DOLA\)](#), as well as any other “non-optional” fees charged to residents.

DOLA's Utility Allowance is used to account for any utilities a resident is required to pay other than telephone, cable, or internet. If an Owner wishes to substitute DOLA's Utility Allowance for another means of calculating utility costs (for example, an actual usage estimate, a public housing authority schedule, or the HUD utility schedule), such a substitution may be allowed on a case-by-case basis. The Owner must get approval for the substitution from HOST prior to implementation.

If an Owner elects to satisfy the MAH requirement by providing IRRUs at a specified AMI level through income averaging, the Owner may use the [online calculator](#) provided on CPD's website to determine an allowable AMI mix for the proposed IRRUs. A maximum of three (3) different AMI levels may be used for the purposes of income averaging. The designated AMI level for each IRRU shall persist throughout the covenant period.

Per the MAH requirement, prior to receiving a Temporary Certificate of Occupancy (if requested) or Certificate of Occupancy, the Owner must record a covenant, running with the land, which states that the Dwelling Unit will not be rented for an amount that exceeds the rent limits determined by HOST throughout the covenant period.

ii. **MAXIMUM INITIAL SALE PRICE CALCULATION AND METHODOLOGY**

HOST will post a table of [maximum Initial Sale Prices](#) for IROUs on its website. The maximum sales price formula takes into consideration the target AMI, the market, and additional fees as outlined below. Transfer fees shall never be charged for transfer of an IROU and shall not be permitted to be included in any IROU pricing calculation.

The following assumptions regarding number of bedrooms, Household size, and AMI shall be used to calculate sales prices on an annual basis:

- (a) A maximum down payment of 5.0%
- (b) Current Year [AMI thresholds](#) adjusted for Household size and income as published by HUD to accommodate a price point aligned to the prospective pool of qualified buyers:
 - i. Household size is assumed to be the number of bedrooms + 1 person. For example, for a one-bedroom IROU, a calculation of the sales price will use income of a two (2) person Household.
 - ii. AMI threshold used will be the maximum AMI of the unit with a fifteen (15) percentage point reduction. For example, for an IROU restricted at 80% AMI, a calculation for the sales price will use income of a 65% AMI Household.
- (c) Average interest rate for a 30-year fixed rate mortgage based on a federal data source (e.g. Freddie Mac or Fannie Mae)
- (d) 30-year mortgage term
- (e) Maximum sales price shall include any homeowner fees as calculated by HOST

D. REQUIREMENTS FOR APPROVAL OF SITE DEVELOPMENT PLAN AND BUILDING PERMIT

An AHP must be approved by HOST prior to Formal SDP approval. HOST shall provide the approved AHP to CPD as evidence of Owner's compliance with MAH requirements.

i. DETERMINATION AND APPLICATION OF INCENTIVES

Owner must request the use of specific zoning incentives during Formal SDP submission to CPD.

Every project that complies with the MAH requirement by providing On-Site units shall be eligible for the base incentives listed in [DRMC Sec. 27-224\(b\)](#), including Building Permit fee reductions, reduced minimum vehicle parking requirements (further described in [DZC 10.4.5.2](#)), and exemptions to the linkage fee for ground floor commercial, sales, service, and repair uses. Additionally, as specified in [DRMC Sec. 27-224\(b\)\(2\)](#), a residential project that is approved for an exception set forth in [DRMC Sec. 27-222\(c\)](#) or (d) through the process described in [Section 4](#) of these rules and regulations may receive the base incentives. For example, a project committing fifty (50) percent of its units to be IRUs for persons earning at or below sixty (60) percent AMI may also use all base incentives. Regarding the application of the building permit fee reduction, a project that is providing more IRUs than required, such as those that are excepted per [DRMC Sec. 27-222\(c\)](#) or (d), is eligible to receive a permit fee reduction based on the total number of IRUs being provided that meet the AMI requirements, however, the cap of 50% of the total value of the Building Permit still applies.

Every project that complies with the MAH requirement by meeting the On-Site affordability requirements for enhanced incentives as described in [DRMC Sec. 27-224\(c\)](#) shall be eligible for the base incentives and enhanced incentives.

Eligibility for enhanced incentives, and specifically height incentives for residential projects, shall comply with the minimum enhanced On-Site compliance requirements as described in [DRMC Sec. 27-224\(c\)\(1\)\(b\)](#), must be located within an applicable zone district, and must use an applicable building form as further described in [DZC 10.12.1.1](#). Note that additional standards, such as protected district standards or historic districts, may further limit the height incentive applicability. Eligibility for a vehicle parking exemption requires residential projects to comply with the minimum enhanced On-Site compliance requirements as described in [DRMC Sec. 27-224\(c\)\(1\)\(b\)](#), be located within an applicable zone district, and located within proximity to transit as further described in [DZC 10.4.5.1.E](#).

An SDP shall not be approved by CPD until the AHP has been approved by HOST. All incentives, including zoning incentives, shall be noted on the AHP. All zoning incentives utilized shall be noted on the SDP cover sheet in general notes.

An Owner may apply for a Building Permit, including relevant incentives, prior to SDP approval, but a Building Permit will not be approved until CPD verifies a Building Permit request matches the SDP.

E. REQUIREMENTS FOR APPROVAL OF CERTIFICATE OF OCCUPANCY

Prior to receiving a Temporary Certificate of Occupancy (if requested) or Certificate of Occupancy, the Owner must sign and record a [covenant](#) that confirms the Owner's commitment to designate a percentage of residential units as IRRUs, or to restrict specific units as IROUs as outlined in the approved AHP. The covenant(s) shall confirm or update the terms that were outlined in the approved AHP during the SDP review process, as well as provide that penalties will apply for any violation of the covenant, the Ordinances, or these rules and regulations.

In addition to all other relevant requirements, no Temporary Certificate of Occupancy (if requested) or Certificate of Occupancy for residential Dwelling Units subject to an AHP shall be issued until HOST verifies MAH compliance through a compliance inspection overseen by HOST. The Owner must also complete compliance training as outlined in this section. Any Temporary Certificate of Occupancy or Certificate of Occupancy issued in error for a project that fails to follow applicable provisions or the Mandatory Housing Ordinance or these rules and regulations may be suspended or revoked upon request to CPD by HOST.

i. COMPLIANCE TRAINING AND INSPECTIONS

Prior to preleasing or sale of the property, the Owner must request training(s) for the Income Verification process and, if applicable, for the reporting of tenant qualifications for IRRU(s). After an AHP has been approved and prior to construction completion, Owner must also contact HOST inspection staff to schedule an initial Housing Quality Standards (HQS) inspection for the property and its IRUs. In order to pass a Housing Quality Standards Inspection, an IRRU must meet the performance and acceptability requirements of 24 [CFRSection 982.401](#).

Provision of a Temporary Certificate of Occupancy, if requested, or Certificate of Occupancy is contingent on the Owner's successful completion of the compliance training and passage of the compliance inspection.

II. FEE-IN-LIEU

As an alternative means to satisfy the MAH requirement, an Owner may provide a [fee-in-lieu](#) for each IRU that would be required by option T-1B of the build On-Site requirement, as described in [DRMC Sec. 27-225](#). Fees will be due at the time of Building Permit issuance, except for a permit for excavation/shoring.

No incentives are allowed if the Owner opts to pay a fee-in-lieu, rather than build affordable units On-Site.

A. FEE-IN-LIEU CALCULATION

The amount of fee-in-lieu is determined based on the number of IRUs that would be required by the build On-Site compliance option T-1B (H-1B for High Market Areas) for the MAH requirement as well as the tenure of IRUs that would be required. A table detailing the fee schedule and fee calculation details can be found in [DRMC Sec. 27-225](#).

If a project will include both rental and ownership units, then CPD will assess the fee-in-lieu based on the predominant tenure of units. For example, if a project will include forty (40) rental units and sixty (60) ownership units, then the fee-in-lieu would be calculated by assessing the current ownership fee-in-lieu for each IRU that would be required by option T-1B (H-1B for High Market Areas) of the build On-Site requirement, as described in DRMC Sec. 27-225.

If a project will include both rental and ownership units in equal proportion, then CPD will calculate the fee-in-lieu based on the current rental fee-in-lieu for each IRU that would be required by option T-1B (H-1B for High Market Areas) of the build On-Site requirement, as described in DRMC Sec. 27-225.

For the purposes of determining the number of stories for the fee-in-lieu calculation, CPD will refer to the International Building Code or any Denver-specific amendments to definitions for 'story above grade plane' and 'story'. Only those stories above grade plane shall count when determining the applicable number of stories for certain project types when determining the appropriate fee-in-lieu amount to assess. Mechanical and elevator penthouses, as well as mezzanines, are not considered a story for the purpose of determining the number of stories above grade plane.

B. METHODOLOGY FOR CPI-U INCREASE OR DECREASE

In recognition of evolving development costs, fees-in-lieu under the MAH requirement are updated annually to account for changes in inflation.

i. UPDATES

Per [DRMC Sec. 27-225\(d\)](#), CPD shall maintain a publicly accessible current list of the fee-in-lieu amounts to be updated annually in accordance with the DRMC to reflect any percentage change from the previous calendar year according to the Consumer Price Index for all Urban Consumers (CPI-U), all items, for the Denver-Aurora-Lakewood, Colorado metropolitan area (1982-84=100).

ii. METHODOLOGY

CPD shall consult the U.S. Bureau of Labor Statics for the Consumer Price Index for all Urban Consumers (CPI-U), all items, for the Denver-Aurora-Lakewood, Colorado metropolitan area (1982-84=100).

CPD shall multiply the U.S. Bureau of Labor Statics' percent increase or decrease over the past twelve months from January of the prior year to January of the update year by the existing fee.

For example, if the existing fee is \$250,000 per IRU required and the percent increase was 5%, the fee would be calculated by multiplying \$250,000 by 1.05 to result in a new fee of \$262,500.

iii. TIMING AND POSTING

CPD shall publicly post the updated fee schedule no later than thirty (30) days prior to the new fees going into effect on July 1 of that year.

C. REQUIREMENTS FOR APPROVAL OF SITE DEVELOPMENT PLAN

If an Owner elects to fulfill the MAH requirement by paying a fee-in-lieu, the Owner must indicate their intent to pay a fee-in-lieu at time of Formal SDP submittal.

D. REQUIREMENTS FOR APPROVAL OF BUILDING PERMIT

When an Owner applies for a Building Permit, excluding a permit for excavation/shoring, CPD will review the Building Permit application to determine the fee-in-lieu contribution, which will be due to CPD prior to Building Permit approval.

i. PAYMENT OF FEES

All fees-in-lieu shall be paid in full prior to the issuance of any Building Permit, excluding a permit for excavation/shoring.

III. NEGOTIATED ALTERNATIVES

As an alternative means to satisfy the MAH requirement, an Owner may elect to [negotiate an alternative](#) with HOST pursuant to [DRMC Sec. 27-226](#), which better fulfills the goals of City adopted plans, such as the [HOST Five-Year Strategic Plan](#), [HOST Annual Action Plans](#), [Comprehensive Plan](#) goals, and any small area plan applicable to the development site at the time of approval of the negotiated alternative.

Negotiated alternatives that align with the HOST Strategic Plan and Comprehensive Plan goals may include:

- (a) Dedication of land for the provision of affordable housing. At a minimum, the market value of the land must exceed the total [fee-in-lieu](#) that would be required for the Residential Development and must have residential or mixed-use zoning entitlement in place to enable for the provision of affordable housing. HOST will coordinate with relevant City agencies, including the Division of Real Estate within the Department of Finance or its successor, to evaluate land contribution proposals in compliance with [Executive Order 100](#). Initial documentation required from an Owner for evaluation of a land contribution will at a minimum include an appraisal, Phase I environmental, survey, and title report conducted for the site(s) within the previous six (6) months. Additional and/or updated documentation may be required by the Director of HOST on a case-by-case basis.
- (b) An AHP that would provide fewer IRUs On-Site but at lower maximum AMI levels. In any such negotiated alternative, at a minimum, the total percentage of IRUs shall not be less than five (5) percent of total Dwelling Units, and the majority of IRUs must serve Households earning fifty (50) percent or less of AMI.

- (c) An AHP that would provide fewer IRUs On-Site, but the IRUs would have a greater number of bedrooms than would otherwise be required. In any such negotiated alternative, at a minimum, the total percentage of IRUs shall not be less than five (5) percent of total Dwelling Units, and the majority of IRUs must be two (2), three (3), or four (4) bedroom units. Any such development must also contain family-friendly services and amenities. Amenities may include, but are not limited to, child-care facilities; a play area; a community garden; and other On-Site amenities to serve families.
- (d) An agreement to provide off-site IRUs concurrently with the construction of the Residential Development within the same statistical neighborhood or within a ¼ mile radius of the site. In any such negotiated alternative, the total percentage of IRUs that must be provided across all parcels shall not be less than the enhanced On-Site compliance requirement, as set forth in [DRMC Sec. 27-224](#), and the Owner will be required to record an AHP against the parcel(s) providing the IRUs.

A. REQUIREMENTS FOR APPROVAL OF SITE DEVELOPMENT PLAN

If an Owner elects to fulfill the MAH requirement by negotiating an alternative with HOST, the Owner must provide CPD with documentation indicating its intent to pursue a negotiated alternative, as well as a draft of the alternative proposal, at Formal SDP submittal. CPD shall transmit the draft alternative proposal to HOST for review.

HOST and the Owner will negotiate the alternative proposal. The Executive Director of HOST must approve a negotiated alternative prior to Formal SDP approval.

If the Executive Director does not approve the negotiated alternative, then the Owner must pursue a different MAH compliance option, following the compliance and submittal requirements detailed in [Section 3](#) of these rules and regulations.

i. AFFORDABLE HOUSING PLAN

If a negotiated alternative between the Owner and HOST results in a commitment by the Owner to record an Affordable Housing Plan, then the Owner must follow the compliance guidelines detailed in [Section 3.1](#) of these rules and regulations.

ii. DETERMINATION AND APPLICATION OF INCENTIVES

Owner must request the use of specific zoning incentives during Formal SDP submission to CPD.

If a negotiated alternative results in the construction of IRUs On-Site, per an approved AHP, Owner shall be eligible for base incentives for On-Site compliance set forth in [DRMC Sec. 27-224\(b\)](#), including Building Permit fee reductions, reduced minimum vehicle parking requirements (further described in [DZC 10.4.5.2](#)), and exemptions to the linkage fee for ground floor commercial, sales, service, and repair uses. Additionally, as specified in [DRMC Sec. 27-224\(b\)\(2\)](#), a residential project that is approved for an exception pursuant to [DRMC Sec. 27-222\(c\)](#) or (d) through the process described in [Section 4](#) of these

rules and regulations may receive the base incentives. For example, a project committing fifty (50) percent of its units to be IRUs for persons earning at or below sixty (60) percent AMI may also use all base incentives.

Negotiated alternatives shall not be eligible for enhanced incentives.

A Formal SDP shall not be approved by CPD until the negotiated alternative has been approved by HOST. The Owner may proceed with an application for Building Permit, assuming enhanced incentives, provided HOST has received a draft AHP committing to enhanced affordability levels and CPD has determined zoning eligibility.

All zoning incentives used shall be noted on the SDP cover sheet in general notes. All incentives including zoning incentives shall be noted on the approved AHP.

B. REQUIREMENTS FOR APPROVAL OF BUILDING PERMIT

For negotiated alternatives involving dedication of land and/or off-site satisfaction of affordable housing requirements, and at the sole discretion of the Executive Director of HOST, the Owner may be required to encumber parcel(s) designated to provide IRUs in order to demonstrate compliance with the MAH requirement prior to Building Permit issuance on the project requesting the negotiated alternative. This requirement shall be documented in the negotiated alternative.

C. REQUIREMENTS FOR APPROVAL OF CERTIFICATE OF OCCUPANCY

If a negotiated alternative results in a commitment to build IRUs, either On-Site or off-site, the Owner must sign [covenant\(s\)](#), as well as verify passage of compliance inspection(s), prior to issuance of a Temporary Certificate of Occupancy, if requested, or Certificate of Occupancy. The Owner must follow the compliance guidelines detailed in [Section 3.I.E](#) of these rules and regulations.

IV. HIGH IMPACT DEVELOPMENTS

Owners who submit site development plans for [High Impact Developments](#) will be required to prepare a High Impact Development Compliance Plan pursuant to [DRMC Sec. 27-229](#), which demonstrates the project's compliance with the Mandatory Housing Ordinance or Linkage Fee Ordinance, as applicable, as well as these rules and regulations. This High Impact Development Compliance Plan may be included as part of any agreement for the High Impact Development. The approved High Impact Development Compliance Plan shall be signed by the Owner(s) of the entire subject property and shall be recorded with the Office of the Clerk and Recorder of the City and County of Denver by HOST.

A. APPLICABILITY

A High Impact Development is a development that includes any combination of residential, mixed-use residential, non-residential, and mixed-use non-residential Structures that are built as a part of a development where the development will be built on:

- (a) Ten (10) or more acres; OR
- (b) Is leveraging a city approved financing tool such as tax increment financing or a metropolitan district that was approved by City Council after June 30, 2022.

CPD, in consultation with other agencies and the Denver Urban Renewal Authority as appropriate, will determine whether to designate a development as a High Impact Development upon Owner's submission of a Concept SDP, large development review application, preliminary plat application or similar application. If an Owner applies for a new metropolitan district and/or tax increment financing support on or after July 1, 2022, the request for those tools will be considered a qualification for the High Impact Development designation. The Owner is required to notify CPD of any such application to ensure compliance with DRMC and these rules and regulations.

B. WAIVERS OF HIGH IMPACT DESIGNATION

The Executive Director of HOST may waive the High Impact Development requirement if the Owner demonstrates that circumstances unique to the proposed development limit or eliminate the practical application of [DRMC Sec. 27, Article X, Division 3](#), or if the Director otherwise determines that the scale of development and/or investment of city approved financing does not justify the High Impact Development process.

Owners may apply for a waiver of the High Impact Development requirement by submitting a [High Impact Development Waiver Form](#) to CPD upon Formal SDP submittal. Any such application must provide documentation to demonstrate that circumstances unique to the proposed development limit or eliminate the practical application of [DRMC Sec. 27, Article X, Division 3](#). An application for a waiver shall be evaluated by HOST on a case-by-case basis, and HOST shall provide written confirmation to the Owner and CPD when a waiver of the High Impact Development requirement has been approved or denied.

If a waiver of the High Impact Development requirement is approved, Owner will be subject to standard MAH requirements, as outlined in [DRMC Sec. 27, Article X, Division 2](#), and [Section 3](#) of these rules and regulations, including On-Site construction of IRUs, payment of a fee-in-lieu, negotiation of an alternative agreement, payment of linkage fees, or request for an exception to the MAH and/or linkage fee requirements.

C. REQUIREMENTS FOR APPROVAL OF SITE DEVELOPMENT PLAN

Upon Formal SDP submittal, the Owner must provide CPD with a draft High Impact Development Compliance Plan proposal. CPD shall provide the draft plan to HOST for review.

HOST and the Owner will negotiate the draft High Impact Development Compliance Plan. Once an agreement is reached, the Compliance Plan must be signed by the Owner and by the Executive Director of HOST. HOST shall provide the approved High Impact Development Compliance Plan to CPD as evidence of Owner's compliance with MAH requirements.

CPD shall not approve a Formal SDP until a High Impact Development Compliance Plan has been approved by the Owner and HOST.

i. HIGH IMPACT DEVELOPMENT COMPLIANCE PLAN

The approved High Impact Development Compliance Plan must demonstrate how the proposed development will satisfy or exceed the applicable MAH and/or linkage fee requirement and the goals of City adopted plans to further affordable housing.

High Impact Development Compliance Plans shall include, at a minimum, the following elements:

- (a) Description of how the Owner will satisfy the High Impact Development requirement, per the compliance options set forth in [DRMC Sec. 27-229](#);
- (b) Narrative detailing how the Owner's compliance plan is consistent with criteria set forth in [DRMC Sec. 27-229](#);
- (c) Evidence of public outreach and engagement, as described in [Section 3.IV.C.II](#) below. At a minimum, the Owner must demonstrate written notice to the following parties:
 - i. Holders and tenants of any real property located within 400 feet of the proposed project;
 - ii. The City Council member in whose district the project is proposed;
 - iii. Any neighborhood organizations registered according to [DRMC Sec. 12-94](#), whose boundaries encompass or are within 400 feet of the proposed project; and

- iv. Other community organizations that are either located within 400 feet of the proposed project or operate within the statistical neighborhood that contains the proposed project site. Owners shall use reasonable efforts to identify such organizations, examples of which may include schools, religious assemblies, and other community-based nonprofit organizations.
- (d) A summary of how the high impact compliance plan is responsive, or is not responsive and why, to the information gathered during the public outreach and engagement process.

The Director shall collaborate with the Denver Urban Renewal Authority and other agencies as appropriate when reviewing the High Impact Development Compliance Plan and waiver requests. The Executive Director of HOST shall review and approve, approve with conditions, or reject the High Impact Development Compliance Plan. The Owner shall continue to submit High Impact Development Compliance Plans until such a Plan is approved.

ii. PUBLIC OUTREACH AND ENGAGEMENT

To meet community needs and priorities, the High Impact Development Compliance Plan must be informed by an equitable and inclusive outreach process that engages a representative community population. Minimum guidelines include, but are not limited to, the following:

- (a) Prior to conducting the required public outreach, the Owner must attend a pre-application meeting with HOST staff, which will cover the following topics:
 - i. Expectations for public engagement, including target demographics and organizations, as well as outreach methods;
 - ii. Relevant guidance from existing neighborhood plans, small area plans, and other City planning efforts; and
 - iii. Whether childcare or translation services must be provided during the community engagement process.
- (b) The Owner must organize multiple opportunities for community engagement, made available to all interested community members and organizations. Example engagement opportunities include:
 - i. Community meetings, including Community Information Meetings otherwise required by code
 - ii. Focus group discussions
 - iii. Stakeholder interviews
 - iv. Site tours
 - v. Formal presentations to community groups, registered neighborhood organizations, or other groups that represent the impacted community, including at community events
 - vi. Online presentations and surveys
- (c) The Owner must notify the community a minimum of two (2) weeks prior to any engagement opportunity through methods of email, flyers, posters, posting on online forums, or other similar methods. Notifications must, at minimum, include the following information:

- i. Project site address
- ii. Location and date of engagement opportunity
- iii. Details about the engagement opportunity (e.g. “Focus group discussion about the proposed Affordable Housing Plan”)

Following public outreach and engagement efforts, the High Impact Development Compliance Plan must include documentation of the following information:

- (a) A complete list of community organizations engaged, including, but not limited to, non-profits, registered neighborhood organizations, schools, churches, and other community serving groups;
- (b) The methods used to notify community members of engagement opportunities, including flyers, emails, online postings, etc.;
- (c) The number and type of engagement opportunities offered, including community meetings, focus group discussions, group interviews, site tours, online presentations, surveys, etc.;
- (d) The number of participants reached, language access offered, and demographics of participants;
- (e) Survey materials and meeting notes; and
- (f) A summary of the input received from the community, including how the proposed High Impact Development Compliance Plan aligns with the community’s input.

The engagement and notification requirements of this section are expressly not jurisdictional defects. The failure to adhere to the requirements shall not confer standing on any person, but the Executive Director of HOST, at their sole discretion, may require an Owner to engage in additional engagement to comply with the intent of this section.

iii. **DETERMINATION AND APPLICATION OF INCENTIVES**

The Owner must request the use of base and/or enhanced incentives during the creation of the High Impact Development Compliance Plan. The Executive Director of HOST, in consultation with CPD and DURA, if appropriate, shall grant access to base incentives per [DRMC Sec. 27-229\(a\)\(4\)](#), provided IRUs are provided within the area of the high impact development, and/or enhanced incentives per [DRMC Sec. 27-229\(a\)\(5\)](#), provided the relevant affordability requirements are met or exceeded.

The approved High Impact Development Compliance Plan or development agreement shall identify which incentives are available and, if relevant, the areas of the High Impact Development in which the incentives are applicable

All zoning incentives shall be noted on the SDP cover sheet in general notes.

D. REQUIREMENTS FOR APPROVAL OF BUILDING PERMIT

For High Impact Development Compliance Plans involving dedication of land and/or off-site satisfaction of affordable housing requirements, the Owner may be required, at the sole discretion of the Executive Director of HOST, to encumber parcel(s) designated to provide IRUs prior to Building Permit issuance on the project. This requirement shall be documented in the High Impact Development Compliance Plan.

E. REQUIREMENTS FOR APPROVAL OF CERTIFICATE OF OCCUPANCY

If a High Impact Development Compliance Plan results in a commitment to build IRUs, the Owner must sign [covenant\(s\)](#), as well as verify passage of compliance inspection(s), prior to issuance of a Temporary Certificate of Occupancy, if requested, or Certificate of Occupancy for any buildings containing IRUs. The Owner must follow the compliance guidelines detailed in [Section 3.I.E](#) of these rules and regulations.

Section 4: Exceptions to Mandatory Affordable Housing

An Owner applying for an exception to the Mandatory Affordable Housing requirement shall provide documentation necessary to demonstrate that the project complies with one of the allowed exceptions.

I. SUBMITTAL REQUIREMENTS AT TIME OF SITE DEVELOPMENT PLAN

Each letter below corresponds to an exception listed in [DRMC Sec. 27-222](#). The list below describes the minimum documentation required to request each exception, as well as the agency or department responsible for approving the exception. Documentation shall be submitted to CPD at time of Formal SDP submittal for an initial review, and, if applicable, must be resubmitted with any updates at the time of Building Permit submittal. If a project is not subject to a site development plan, then the exception request and associated documentation shall be submitted with the Building Permit application.

- (a) A copy of the recorded Affordable Housing Plan, contractual commitment, development agreement, or covenant, to be reviewed by HOST.
- (b) The ordinance number of the zoning ordinance that contains the applicable zoning obligation, including any waivers and conditions or PUD, to be reviewed by HOST.
- (c) Evidence that the proposed development has applied for and/or been awarded federal, state, or local financial resources and a summary of the legally enforceable instrument(s) that would serve to ensure long-term affordability of no less than thirty (30) years and the anticipated timing of when the instrument would become enforceable, to be reviewed by HOST.
- (d) Evidence of the charitable, religious, or nonprofit status of the organization and a summary of the legally enforceable instrument(s) that would serve to ensure long-term affordability of no less than thirty (30) years and the anticipated timing of when the instrument would become enforceable, to be reviewed by HOST.
- (e) Evidence of involuntary demolition or destruction such as an insurance report, report from Denver Fire, report from Denver Police, or similar, to be reviewed by CPD.
- (f) Documentation of a High Impact Development as specified by [DRMC Sec. 27-229](#) and [Section 3.IV](#) of these Rules & Regulations, to be reviewed by CPD and HOST.

II. DETERMINATION OF INITIAL APPROVAL OF EXCEPTION

Based on documentation submitted by Owner for an exception to the MAH requirement, HOST and CPD shall notify Owner of its initial approval or denial of exception request upon such determination.

If the initial exception request is approved, Owner may proceed with site development plan process, if applicable, and, if necessary, provide additional documentation required at time of Building Permit submittal to receive the requested exception.

If the initial exception request is denied, Owner must either provide additional documentation/evidence as requested to proceed under an exception request or proceed under the requirements of the Mandatory Housing Ordinance and these rules and regulations.

Section 5: Ongoing Compliance for On-Site Options

An Owner, seller, or renter of an IRU must comply with the terms of the Ordinances, covenants, and these rules and regulations. To ensure compliance with the letter and spirit of the MAH requirement, HOST shall:

- (a) Maintain a list of all IRUs constructed, sold, or built under the MAH requirement;
- (b) Periodically confirm occupancy and ownership for IRUs, including through On-Site HQS inspections and monitoring;
- (c) Periodically request copies of any documentation relevant to ongoing Household residency for Households owning IRUs; and
- (d) Seek permission to enter an IRU for the purpose of On-Site property inspections.

I. INCOME AND EDUCATION VERIFICATION OF ELIGIBLE HOUSEHOLDS

A. INCOME-RESTRICTED RENTAL PROPERTIES

To be eligible to rent or lease an IRRU, Households entering into a lease contract for the IRRU must earn at or below the specified percentage of AMI included in the covenant, depending on Household size, at the time the initial lease is signed. A Household renewing a lease contract for an IRRU must earn at or below 140% of current income limit requirement at the time of lease renewal.

To determine the Household's income, the Income Verification process will generally follow the LIHTC requirements and will be maintained on [HOST's website](#). Documentation that demonstrates a Household's income must be provided to the Owner for each prospective resident of an IRRU. It is the responsibility of the Owner to assure that a Household is income eligible under the requirements of the Mandatory Housing Ordinance and these rules and regulations before executing a lease contract.

HOST will treat prospective tenants' financial information as confidential commercial and financial data under the [Colorado Open Records Act](#) and shall not release such information except as required by law.

In the event a renter of an IRRU no longer meets the eligibility criteria established by the covenant, as result of increased income or other factors, then at the end of the lease term, the unit will cease to be counted as an IRU, and the tenant will no longer be eligible for restricted rental rates. In this instance, the rental project would be considered temporarily out-of-compliance until the tenant moves out, the tenant's income decreases below the eligibility threshold established by the covenant, or the property manager transfers the income restriction to a comparable market-rate unit at the property.

Section 10: Amendments to Approved Site Development Plans

Previously approved SDPs or similar Development Plan, Site Plan, or Special Zone Lot Plan for Planned Building Groups as referenced in [Former Chapter 59](#) that request an amendment per [Denver Zoning Code Article 12](#) OR [Former Chapter 59](#) are subject to the MAH or linkage fee requirements for the area being amended. For example:

- (a) If the project in the application for an SDP or planned building group amendment paid the linkage and through the amendment is adding additional square footage, the project must pay additional linkage fees based on the additional square footage only.
- (b) If the amendment adds 10 or more residential units, then those residential units will be subject to the MAH requirement and must follow the rules and regulations above to obtain approval of the SDP or planned building group amendment.
- (c) If the amendment changes the use type to one which is subject to a different amount of linkage fees per square foot, and the project has not yet been occupied but a Building Permit has been issued and linkage fees paid, then CPD shall either assess additional fees if the new use type requires a higher amount of fees per square foot or issue a refund if the amount of linkage fees due would be less than what was previously paid.

If an Owner applies for a new SDP to replace an approved SDP for a project, and if the project is subject to the MAH requirement or linkage fee requirement, then the proposal will not be identified as an amendment, and instead the Owner must restart the compliance and submittal processes described in [Sections 3](#) through [8](#) of these rules and regulations.

Section 11: Applicability to Projects that Do Not Receive Approval Prior to the Grace Period

The amendments to [Chapter 27, DRMC](#), enacted in [Ordinance No. 20220426](#), will apply to a project being reviewed under the prior version of [Chapter 27, DRMC](#) that does not receive approval by the appropriate date in Section 4 of [Ordinance 20220426](#).

Section 12: Modified Drawing Submittals

Should a modified drawing to an approved and issued Building Permit add square footage or increase the number of residential units, then the Owner must comply with the provisions of [Article V, Chapter 27](#) and/or [Article X, Chapter 27](#) of the DRMC, if applicable. Compliance must be addressed prior to issuance of a Building Permit for the modified drawing submittal. Modified drawing submittals that do not increase square footage or add residential units are not subject to the requirements of [Article V, Chapter 27](#) or [Article X, Chapter 27](#) of the DRMC.

- v. Designating nonprofit organizations which may purchase and operate IROUs as affordable housing, unless prohibited by specific covenants. As such, these organizations may be designated by the Director as “Eligible Households” for the purpose of purchasing IROUs, and the units purchased will be considered IRUs.

Per [DRMC Sec. 27-230](#), HOST and CPD shall provide publicly available online resources to report on MAH outcomes, including, but not limited to, number and types of units created, fee-in-lieu fund revenues, and spending allocations.

B. RESPONSIBILITY UNDER THE LINKAGE FEE ORDINANCE

If an Owner seeks an exception to the linkage fee requirement, HOST shall collaborate with CPD to verify certain exceptions to the linkage fee requirement prior to Building Permit issuance. A list of exceptions to the linkage fee requirement can be found in [DRMC Sec. 27-154](#).

If an Owner seeks a reduction or waiver of the linkage fee requirement, HOST shall collaborate with CPD to verify certain reductions or waivers to the linkage fee requirement prior to Building Permit issuance, or within the threshold identified in [DRMC Sec. 27-157](#) after Building Permit issuance. A list of approved reasons for reducing or waiving the linkage fee payment can be found in [DRMC Sec. 27-157](#).

If an Owner elects to build or cause to be built IRUs to satisfy the linkage fee requirement under the Linkage Fee Ordinance, HOST shall collaborate with the Owner to draft, approve, and record an Affordable Housing Plan. HOST shall provide the approved AHP to CPD prior to issuance of a Building Permit, excluding a permit for excavation/shoring.

HOST shall implement and oversee investments made under the Linkage Fee Ordinance into housing development, preservation, or programs, per [Section 14](#) of these rules and regulations.