

The draft ordinance amending Title 25 of City Code to create a residential affordable housing development bonus program was initiated by City Council with Resolution 20190221-027 “in order to increase the number of affordable units and to most effectively utilize 2018 Affordable Housing Bond funds and other public funds and resources.”

In response to this resolution, staff brings forward a draft ordinance for City Council consideration that incorporates the development regulation waivers and modifications, applicability, and affordability requirements enumerated in the resolution.

**Who will use the proposed program?**

The draft ordinance requires high percentages of affordable units at lower income levels, meaning it is very likely that the proposed program will be used almost exclusively by affordable housing providers with subsidies. This makes the proposed program different from the City’s other density bonuses, which are designed to be used by market-rate developers.

The proposed program will allow affordable housing providers to build more units in their developments, making more effective use of City and federal subsidies and Low Income Housing Tax Credits to produce long-term affordable units.

**What does the draft ordinance include?**

- **Applicability.** The draft ordinance applies in commercial and residential base zoning districts, regulating plan areas, combining or overlay districts, and special purpose base zoning districts (except agricultural and aviation).
  - Special Purpose Base Districts include:
    - Planned Unit Development District (PUD) [§ 25-2-144]
    - Transit Oriented Development District (TOD) [§ 25-2-147]
    - North Burnet/Gateway District (NBG) [§ 25-2-148]
    - East Riverside Corridor District (ERC) [§ 25-2-149]
  - Combining/Overlay Districts include:
    - Neighborhood Conservation Combining District (NCCD) [§ 25-2-173]
    - Planned Development Area District (PDA) [§ 25-2-174]
    - Neighborhood Plan Combining District (NP) [§ 25-2-176]
- **Redevelopment Requirements.** In cases where a proposed development would require the redevelopment of existing multifamily units, the applicant must do all of the following:
  - Meet the affordability requirements described below
  - Show that the existing multifamily structure requires extensive repairs, for which rehabilitation costs exceed 50% of the market value, as determined by the City’s Building Official
  - Replace all existing units that were affordable to households at or below 80% of the median family income (MFI), both income-restricted and market-rate affordable. Ensure the new units have at least as many bedrooms as the existing units they are replacing.
  - Provide existing tenants with notice about the proposed redevelopment and relocation benefits consistent with the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act
  - Grant existing tenants the option to lease a comparable unit in the new development

- **Affordability Requirements.** The draft ordinance provides for two levels of development bonuses depending on the level of affordability provided.

Type 1 Requirements:

- 50% of all units must be affordable (all units must be affordable for developments of 1-2 units)
  - For rental developments: these units must serve households whose incomes average 60% of the median family income (MFI) or below. These units must be affordable for a minimum of 40 years.
  - For ownership developments: these units must serve households whose incomes average 80% MFI or below. These units must be affordable for a minimum of 99 years.
- At least 20% of all units must serve households with incomes at 50% MFI or below
- At least 25% of the affordable units include two or more bedrooms, supportive housing, housing for older persons, or any combination of the three *[Recommended by the Planning Commission]*
- For rental developments, applicants must include lease provisions consistent with:
  - U.S. Department of Housing & Urban Development's Housing Choice Voucher Program provisions related to termination of tenancy by owner
  - lease addendums required by City of Austin or Austin Housing Finance Corporation funding programs *[Recommended by the Planning Commission]*
  - 24 C.F.R. Section 245.100 related to a tenant's right to organize
- Applicants may not discriminate based on a prospective renter's source of income

Type 2 Requirements:

- Applicants must comply with all the affordability requirements listed above, and meet one or more of the following:
  - For rental developments, at least 75% of the total units must be affordable to households whose incomes average 60% MFI or below
  - For ownership developments, at least 75% of the total units must serve households whose incomes average 80% MFI or below
  - For rental developments, at least 10% of the affordable units serve households with incomes at 30% MFI or below
  - At least 50% of the affordable units include two or more bedrooms
  - The development is located within a quarter-mile of an Imagine Austin Activity Corridor served by transit
- **Compliance.** Compliance with program requirements will be addressed through:
  - Certification from Neighborhood Housing & Community Development (NHCD) that the proposed development meets the affordability requirements and that program documents have been executed, before a development permit application can be processed. Because a discretionary approval is not required to access the bonuses granted in this program, this certification involves NHCD in the process before development begins.
  - Program documents: a contract and instrument recorded in the real property records that document the affordability requirements
  - Monitoring by NHCD
  - If compliance with affordability requirements cannot be verified, the affordability period is extended.
  - The contract will also address non-compliance issues.

- **Development Bonuses.** The draft ordinance waives or modifies the following development regulations:
  - Waives height and setback requirements of Article 10 (Compatibility Standards)
  - Waives maximum floor-to-area ratio (FAR) for the site's base zoning district (Section 25-2-492, Site Development Regulations)
  - Waives Subchapter F (Residential Design and Compatibility Standards)
  - Waives Section 25-2-773 (Duplex Residential Use)
  - Waives minimum site area requirements *[Recommended by the Planning Commission]*
  - Reduces front yard and rear setbacks by 50%
  - For Type 1 developments, increases height limit to 1.25 times the site's base zoning height limit; for Type 2 developments, increases height limit to 1.5 times the site's base zoning height limit
  - For Type 1 developments, increases the number dwelling units to the greater of 1.5 times the site's base zoning limit, or 6 units; for Type 2 developments, increases the number of dwelling units to the greater of 2 times the site's base zoning limit, or 8 units
- **Parking.** The draft ordinance modifies parking requirements by waiving parking minimums, while adding requirements for accessible parking for people with disabilities.
  - If no parking is being provided, at least 1 off-street accessible parking space must be provided
  - If parking is provided, the number of required accessible parking spaces is the greater of:
    - the number of accessible spaces required by the Building Code based on 20% of the parking required by City Code Appendix A (Tables of Off-Street Parking and Loading Requirements), or
    - the number of accessible spaces required by the Fair Housing Act or Americans with Disabilities Act, as appropriate *[Recommended by the Planning Commission]*
  - The Austin Transportation Department (ATD) Director may waive the accessible parking requirement when no parking is being provided if:
    - The applicant pays a fee-in-lieu to be used to construct and maintain accessible parking in the vicinity of the development
    - The accessible space cannot be provided and the site is ineligible to pay a fee-in-lieu
    - An off-site or on-street accessible parking space is located within 200 feet of the qualifying development
  - To fully implement the fee-in-lieu option: City staff will need to conduct a cost of service study to determine the appropriate fee amount (which Council will need to adopt), and establish a program to collect and administer the fee
- **Screening and Design Requirements.** The draft ordinance applies some of the screening and design requirements of Article 10 to qualifying developments in base zoning districts of SF-5 and more restrictive. These requirements continue to apply to developments in less restrictive zones, as they do today. *[Recommended by the Planning Commission]*