



- 34 4. VMU building includes VMU1 building and VMU2 building except as  
35 otherwise defined.  
36

37 **PART 2.** Section 4.3.3.F. of Chapter 25-2, Subchapter E is amended to read as follows:

38 **F. [Affordability Requirements] Exemption and Bonus Requirements.** To be  
39 eligible for the dimensional or parking standards exemptions, or building height  
40 bonus if applicable, in Subsection E of this section, the residential units in a VMU  
41 building shall meet the following [~~affordability~~] requirements, which shall run with  
42 the land. This ordinance does not amend or repeal graphics or pictures that are used  
43 to illustrate various code requirements in the published version of [Chapter 25-2,](#)  
44 Subchapter E (*Design Standards and Mixed Use*).

45  
46 1. Affordability Requirements for Owner-Occupied Units.

47  
48 a. ~~[Five percent of the residential units in the VMU building shall be~~  
49 ~~reserved as affordable, for not less than 99 years from the date a~~  
50 ~~certificate of occupancy is issued, for ownership and occupancy by~~  
51 ~~households earning no more than 80 percent of the current Annual~~  
52 ~~Median Family Income for the City of Austin Metropolitan Statistical~~  
53 ~~Area as determined by the Director of Neighborhood Housing and~~  
54 ~~Community Development Department.] A building qualifies as a~~  
55 VMU1 building when a minimum of ten percent of the residential  
56 units within the building are reserved as affordable, for at least 99  
57 years from the date of initial sale, for ownership and occupancy by  
58 households earning 80 percent or less of the current Austin-Round  
59 Rock Metropolitan Statistical Area Medium Family Income as  
60 determined by the Director of the Housing and Planning Department.

61 b. ~~[In addition, five percent of the residential units in the VMU building~~  
62 ~~shall be reserved, for not less than 99 years from the date a certificate~~  
63 ~~of occupancy is issued, for ownership and occupancy by households~~  
64 ~~earning no more than 100 percent of the Annual Median Family~~  
65 ~~Income.] A building qualifies as a VMU2 building when a minimum~~  
66 of 12 percent of the residential units within the building are reserved  
67 as affordable, for at least 99 years from the date of initial sale, for  
68 ownership and occupancy by households earning 80 percent or less of  
69 the current Austin-Round Rock Metropolitan Statistical Area Medium  
70 Family Income as determined by the Director of the Housing and  
71 Planning Department.  
72

73 c. An applicant for a proposed owner-occupied housing development  
74 may elect to meet the affordability requirement without providing  
75 income-restricted units onsite by paying a fee in-lieu to the Housing  
76 Trust Fund. At a minimum the fee-n-lieu shall be equivalent to the  
77 required percentage of the total residential units, including the mix of  
78 bedrooms required in Section 4.3.5.c., at the rate set in the fee  
79 schedule at the time of final site plan submission.  
80

81 [e]d. The city in its sole discretion may elect to subsidize [~~an~~] additional  
82 [~~ten percent of the~~] for-sale residential units in the building, at an  
83 affordability level consistent with criteria and procedures established  
84 by the Director of the Housing and Planning Department.  
85

86 2. Affordability Requirements for Rental Units.  
87

88 a. [~~Ten percent of the residential units in the VMU building shall be~~  
89 ~~reserved as affordable, for a minimum of 40 years following the~~  
90 ~~issuance of the certificate of occupancy, for rental by households~~  
91 ~~earning no more than 80 percent of the Annual Median Family~~  
92 ~~Income.] A building qualifies as a VMU1 building when a minimum  
93 of ten percent of the residential units within the building are reserved  
94 as affordable, for at least 40 years from the date of issuance of the  
95 certificate of occupancy, for lease and occupancy by households  
96 earning 60 percent or less of the current Austin-Round Rock  
97 Metropolitan Statistical Area Medium Family Income as determined  
98 by the Director of the Housing and Planning Department.  
99~~

100 b. A building qualifies as a VMU2 building:  
101

102 (i) When a minimum of 12 percent of the residential units within  
103 the building are reserved as affordable, for at least 40 years  
104 from the date of issuance of the certificate of occupancy, for  
105 lease and occupancy by households earning 60 percent or less  
106 of the current Austin-Round Rock Metropolitan Statistical Area  
107 Medium Family Income as determined by the Director of the  
108 Housing and Planning Department; or  
109

110 (ii) When a minimum of ten percent of the residential units within a  
111 VMU building are reserved as affordable, for at least 40 years  
112 from the date of issuance of the certificate of occupancy, for  
113 lease and occupancy by households earning 50 percent or less

114 of the current Austin-Round Rock Metropolitan Statistical Area  
115 Medium Family Income as determined by the Director of the  
116 Housing and Planning Department.

117  
118 [b]c. As part of the one-time opt-in/opt-out process described in Section  
119 4.3.5., an applicable neighborhood association or neighborhood  
120 planning team may request that the affordable rental units be available  
121 for renters earning a lower percentage of the annual median family  
122 income, to as low as 60 percent of the median family income. VMU  
123 projects that file zoning or site plan applications after the effective  
124 date of the first interim VMU ordinance and prior to September 1,  
125 2006, will not be subject to this neighborhood affordability  
126 customization; and instead shall set aside affordable rental units as  
127 required by subsection 2.a. above or provide for affordable units as  
128 otherwise agreed to by an applicable neighborhood prior to September  
129 1, 2006, provided that VMU projects are allowed on the applicable  
130 site following the completion of the opt-in/opt-out process.

131  
132 [e]d. The city may elect to subsidize [an] additional [~~ten percent of the~~]  
133 residential units in the building for rental purposes for residents at any  
134 level of affordability pursuant to criteria and procedures established  
135 by the Director of the Housing and Planning Department.

136  
137 3. Affordability Definition. For purposes of this subsection, a unit is affordable  
138 for purchase or rental if the household is required to spend no more than 30  
139 percent of its gross monthly income on utilities and mortgage or rental  
140 payments for the unit as determined by the City's Neighborhood Housing  
141 and Community Development Department, based on the current Annual  
142 Median Family Income for the Austin Metropolitan Statistical Area.

143  
144 a. For purposes of this subsection, a unit is affordable for purchase when  
145 the unit is sold to an income-eligible household for an amount not to  
146 exceed the corresponding sales prices published annually by the Director  
147 of the Housing and Planning Department; and

148  
149 b. When determining the maximum affordable sales price, the Director of  
150 Housing and Planning Department may include an assumption that a  
151 homeowner will be required to pay an ownership association fee.

152  
153 c. For purposes of this subsection, a unit is affordable when the unit is  
154 leased to an income-eligible household for an amount not to exceed the

155 corresponding rental prices published annually by the Director of the  
156 Housing and Planning Department.

157  
158 4. Certification

- 159 a. In this section, director means the director of the Housing and  
160 Planning Department.
- 161 b. The director is responsible for certifying whether a proposed  
162 development meets the exemption and bonus requirements.
- 163 c. The applicant shall submit an application to the director  
164 demonstrating the proposed development meets the exemption and  
165 bonus requirements.
- 166 d. Before the director may certify the proposed development, the  
167 applicant shall execute:
- 168 (i) an agreement to preserve the minimum exemption and bonus  
169 requirements for the VMU building; and
- 170 (ii) a document for recording in the real property records providing  
171 notice of or preserves the exemption and bonus requirements for  
172 the VMU building.
- 173 e. The form of the document described in Section 4.3.4.d. must be  
174 approved by the city attorney.
- 175 f. If the director certifies a proposed development under this section, the  
176 accountable official is authorized to process a development  
177 application for a VMU building.
- 178 g. The applicant for a housing development shall pay all fees, provide  
179 documentation, and fulfill any pre-occupancy requirements prior to  
180 the issuance of a certificate of occupancy for the VMU building.

181 5. General Provisions.

- 182 a. In this section, the director means the Director of the Housing and  
183 Planning Department.
- 184 b. The agreement required in Section 4.3.4.d. must, at a minimum:
- 185 (i) Prohibit discrimination on the basis of an individual's source of  
186 income as defined in Section 5-1-13 (*Definitions*);
- 187 (ii) Require dispersion of affordable units throughout the residential  
188 units;



227 Housing and Urban Development regulations and approved by the  
228 Director of the Housing and Planning Department.

229  
230 6. Affordability Post-Construction Compliance and Penalty.

231  
232 a. In this section, director means the Director of the Housing and  
233 Planning Department.

234  
235 b. For a rental development, the owner of a VMU building with  
236 affordable for lease units shall provide the director with information  
237 that allows the director to verify compliance with the affordability  
238 requirements. The information shall be provided on an annual basis  
239 and on a form approved by the director.

240  
241 c. If, for any reason, the director is unable to confirm the VMU building  
242 affordability requirements were met during any 12-month period, the  
243 preceding 12 months may not be used to satisfy the VMU building  
244 affordability period.

245  
246 d. For an ownership affordable unit, each homebuyer at the time of  
247 purchase shall execute a resale restriction agreement in a form  
248 approved by the city attorney for recording in the real property  
249 records.

250  
251 e. A person commits an offense if the person fails to comply with the  
252 requirement in subsection (b). A culpable mental state is not required,  
253 and need not be proved. A person commits a separate offense for  
254 each day the person fails to provide the documentation. Each offense  
255 is punishable by a fine not to exceed \$500.

256  
257 [4] 7. Fee for Upper-Level Nonresidential Space. The developers of VMU  
258 buildings that contain nonresidential uses above the ground-floor shall pay a  
259 fee as set by the City Council for all climate-controlled nonresidential space  
260 above the ground floor. At the same time that it sets the amount of the fee,  
261 the City Council shall also identify a means by which fees paid pursuant to  
262 this section shall be reserved only for expenditure within the area of the City  
263 from which they were collected.

264  
265 [5]8. Monitoring and Enforcement. The City shall develop procedures to monitor  
266 and enforce this Section.  
267

