



City of Austin

University Neighborhood Overlay Density Bonus Guide to Income Determination, Rents, Compliance, and Monitoring

Effective Date: October 1, 2015

Revised: June 15, 2022

The City of Austin's University Neighborhood Overlay (UNO) Density Bonus Program allows developments to achieve greater height and density or a reduction in parking requirements in exchange for providing affordable housing and other community benefits.

The purpose of this document is to provide an overview of the requirements for Income Determination, Rents, Compliance, and Monitoring for projects developed under the UNO Ordinance, as amended, in the West Campus area. Please note that income and rent limits guidelines for all other Development Incentive Programs may be found in a separate document entitled "Development Incentive and Agreements Guide to Income Determination, Rents, Compliance and Monitoring."

This guide may be found on the Housing and Planning Department (HPD) Department website under Monitoring and Compliance Guidelines and Documents:

<http://austintexas.gov/page/development-incentives-and-agreements>

The City of Austin's HPD monitors all properties with an affordable housing requirement for the duration of the required affordability period.

The Income Determination, Rents, Compliance, and Monitoring Guidelines are not intended to address every circumstance that may be encountered, nor are they a verbatim restatement of all requirements. Omission of any requirements does not relieve the City or the Property Owner/Manager from their respective obligations that may be required under the approved University Neighborhood Overlay, Density Bonus Program, as amended.

The Owner is the responsible party for ensuring compliance with the applicable rules, regulations and policies that govern the development incentive and shall make certain that all requirements are met on an on-going basis. Fair Housing training and compliance training is highly recommended on a continuous basis because of the frequent staff changes.

Guideline changes as a result of local regulatory or legal requirements may be implemented immediately by HPD. Revision of the guidelines usually occurs annually, however, additional revisions can be initiated by the HPD Director at any time.

For additional information or questions, please visit the HPD website at <http://www.austintexas.gov/departments/housing-developer-assistance>, call (512) 974-3100, or email HPD@austintexas.gov.

PRE-DEVELOPMENT REQUIREMENTS

Letters of Affordability & Restrictive Covenants

Any housing development project that wishes participate in the UNO Density Bonus Program must submit a completed application to HPD separate and apart from any application made to the Development Services Department. If the application is approved, an Affordability Certification Letter will be issued summarizing the affordability requirements applicable to the development. If project details change during development or a project certified prior to February 25, 2014 “opts-in” to rent by the bedroom, the applicant must contact HPD to be issued a revised Affordability Certification Letter.

HPD will place an administrative hold on all building permits and no final Certificate of Occupancy will be issued for any building in the project until any required fee-in-lieu has been paid and an HPD-approved land use restriction containing the below details has been executed by the landowner and filed in the official public records of the Travis County clerk.

- Which of the three UNO program variations applies to the project;
- The Median Family Income (MFI) requirements for eligible tenants;
- The number of required affordable units;
- Whether a fee-in-lieu is being paid to satisfy part of the affordability requirements;
- The required rent limit; and
- The required affordability period (based on the number of compliant years)

Please note that the new developments must declare that rental will be by the “bedroom” or the “unit” prior to the Affordability Certification Letter being issued.

COMPLIANCE

A determination of compliance is subject to:

- 1) Verification of Eligible Households**
- 2) Implementation of Required Rent Limits**

1. **Project Occupancy Restrictions:** Property Owners/Managers must ensure the minimum set-aside requirement for affordable units/bedrooms are maintained throughout the affordability period.
2. **Lease Agreement Requirements:** Each lease or rental agreement that the property uses

must contain provisions(s) that inform the resident that the Property Owners/Managers have relied on the Income Certification and supporting documents provided by the applicant/resident that establish their eligibility for residency in one of the affordable units/bedrooms. A statement must also be present that informs the applicant/resident that any material misstatement in such certification (whether intentional or not) may be cause for immediate termination of the lease. The lease must also inform the resident that their residency is also subject to annual recertification. Lease agreements must be a minimum of 12 months to meet the compliance provisions of the City of Austin's affordability requirements.

3. **Fees:** Non-Optional fees are fees for services, amenities, views, or any charges that are considered to be mandatory. These fees **must** be included in the maximum rent published by HPD with the exception of the following:

Utilities:

- Gas Service
- Electric Service
- Water Service
- Wastewater Service
- Clean Community Service
- Solid Waste Services
- Drainage Service
- Street Service

4. **Tenant File:** The property owner or manager shall maintain a tenant file for each required affordable unit/bedroom. The file, at a minimum, must contain the following and be retained on-site for a period of no less than 4 years after the date the lease has expired.

- A. Rental Application
- B. Current Lease and Subsequent Lease Renewals
- C. Income Eligibility/Verification Forms, including source documentation and household income calculation
- D. Annual, lease renewal income recertification, including Income Eligibility/Verification Forms, income source documentation and household income calculation
- E. HPD-approved Household Income Documentation Forms
- F. HUD Median Family Income (MFI) Chart for original determination and subsequent renewals
- G. HPD published Rent Rate Chart used for establishing original base rent and subsequent renewals
 - i. Approved affordable base rents must include any "non-optional" fees.
 - ii. Any "optional" fees must be itemized separately and added to the approved affordable base rent.

5. **Immigration Status:** HPD does not require proof of citizenship, legal residency or immigration status as criteria for qualifying for an affordable Unit. Property Owners/Managers who require Social Security Numbers from applicants in order to run a credit and/or criminal background check are advised to accept alternatives to traditional credit such as payment histories from utilities, rent, tuition, etc. Those requiring proof of identity must accept any government-issued identification.

6. Determining Household Eligibility: A household is defined as the total number of residents who occupy a unit or bedroom on an ongoing basis. Household gross annual income may not exceed the percent of the Median Family Income (MFI) identified in the development's affordability certification letter. The Restrictive Covenant summarizes the affordability requirements for the property, including the number of required affordable units, income limits, and the length of time the units must remain affordable.

A. Additional Household Members – If a tenant residing in an affordable unit/bedroom wants to add an additional person to the household, the property owner/manager must collect the required income documentation to determine if the household continues to qualify under the income requirements.

i. All occupants of an affordable unit/bedroom, must be income eligible.

The income limit is based on a percentage of the Austin-Round Rock Metropolitan Statistical Area Median Family Income (MFI). The MFI limits are determined and published annually by the United States Department of Housing and Urban Development (HUD) Department. The current HUD chart may be obtained at: www.austintexas.gov/housing. It is the responsibility of the property owner and manager to be aware of the MFI limits in effect at the time a lease is signed. Eligibility must be determined prior to signing each new lease or lease renewal and/or annually.

It is important that management give clear consideration and have sound practices in place when applicants are rejected. The policy should state the reason for the denial. The rejection letter stating the reason for denial must be a part of the applicant's file as proof that the household was notified of the decision.

MEDIAN FAMILY INCOME LIMIT TABLE

2022 HUD-issued Income Limits for the Austin-Round Metropolitan Statistical Area (effective 6/15/2022):

Median Family Income	1-Person Household	2-Person Household	3-Person Household	4-Person Household	5-Person Household
50%	\$38,650	\$44,150	\$49,650	\$55,150	\$59,600
60%	\$46,380	\$52,950	\$59,580	\$66,180	\$71,520
65%	\$50,200	\$57,350	\$64,550	\$71,700	\$77,450
80%	\$61,800	\$70,600	\$79,450	\$88,250	\$95,350
120%	\$92,650	\$105,900	\$119,100	\$132,350	\$142,950

- A. Calculating Income:** Income refers to a household's gross annual income and is calculated using the full amount of income from all sources before any payroll deductions. Tuition-related payments must be reported, but will not be counted as student income.
- B. Documentation and Verification of Income for Rental Housing:** It is the responsibility of the property owner or manager to collect and maintain the documentation necessary to determine income eligibility of the applicant(s). The documentation must be kept in the tenant file and retained on-site for a minimum of 4 years from the expiration date of the lease. Use of HPD-approved Income Determination Forms is required. All sources of regular continuing income for all adult household members must be declared by the applicant. All income determinations used to determine initial household income eligibility must not be more than six months older than the date the initial lease takes effect or any subsequent lease is renewed.

OPTION 1: Financial Aid Statement Verification Process

Students who have been awarded an approved need-based financial aid (per list provided to the City of Austin by The University of Texas Financial Aid Office) shall automatically be determined to be income eligible to qualify for an affordable unit or bedroom. Documentation of the award must support this determination. No additional income documentation is required for this option. The need-based financial aid list is updated annually.

When pre-leasing to students for future semesters eligibility will be determined based on the most current documentation available from the university at the time the lease is signed. For students who have previously never received financial aid, future need-based financial aid may be used. Confirmation of need based financial award shall be made using the university's CASH (Check Aid Status Here) page and placed in each tenant's file.

OPTION 2: Standard Income Verification Process

This process involves collecting documentation from an applicant to determine the household income. To determine eligibility, the following documents must be obtained for verification.

Employment	• At minimum, 2 months' worth of consecutive paystubs. Pay dates must have occurred within the last 90 days. • Letter from Employer may be used if an applicant will be a new employee. The tenant will be required to follow up with the next two months' worth of pay stubs. If pay stubs reflect tenant is over income, then that unit is no longer considered an affordable unit. • Previous year's W-2 if less than 6 months old, a signed copy of the IRS return for each member along with the Affidavit of Unemployment if applicable. <u>This documentation is only to be used if the 2 months' worth of consecutive paystubs are not available.</u>
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Social Security or Supplemental Social Security (SSI)	• Current award letter(s) for benefits and/or dual entitlement benefits for deceased spouses, etc.), if applicable. • The income is not attributed to payee. It is attributed to the individual eligible for the benefit.
Regular Pension/Retirement Benefits	• Bring the latest check stub from the issuing institution or most recent account statement displaying gross benefit.
Spousal or Child Support	• Copy of court order. • Printouts are acceptable from the court or agency responsible for enforcing support payments or other evidence indicating the frequency and amount of support payments actually received. • If paid child support is not court-ordered, bring name, address, and phone number of individual providing the support, along with a signed certification from that individual indicating the amount of monthly support being paid.
Unemployment	• Copy of the unemployment letter or online benefits printout. • This includes monthly benefits paid on debit cards. Do Not include as income the following two forms of unemployment assistance: • Federal Pandemic Unemployment Compensation (FPUC), which provided individuals who were collecting regular unemployment compensation (UI), to receive an additional \$600 in federal benefits per week. • Presidential Memorandum (PM) Unemployment Income. PM benefits were temporary income resulting from a presidentially declared emergency according to the Stafford Act. It authorized the Secretary of Labor to approve a Lost Wages Assistance program allowing a state to provide \$400 per week to eligible recipients: a \$300 federal contribution plus a \$100 state contribution.
Regular Cash Contributions and Gifts, from persons not living in the unit	• Statement or affidavit signed and dated by the person providing the assistance; giving the purpose, date(s), and value of each gift. • Full copies of the last 6 months of consecutive bank statements should be requested for review of cash deposits. • This source of income <u>must not exceed 30%</u> of the household's total gross annual income

Student Financial Aid, from The University of Texas at Austin approved list	- Financial Aid Award Letters indicating those loans/grant accepted - Documentation must identify the student name, the total amount awarded and accepted, as well as the portion of monies spent on tuition.
Overtime, Tips, Bonuses and Commission	When calculating income based on paystubs, overtime pay, tips, bonuses and commission will be annualized unless the applicant can provide documentation from the employer verifying that such income was a one-time occurrence. In this case, the amount will be removed from the annualization of the income and added in one time to the total annual income that is determined.
Self-Employment (this includes rideshare and food delivery drivers)	- Six (6) consecutive months' worth of personal and/or business bank statements. - This information is used to determine the net income from operation of a business. - Each bank statement must include the name of the applicant/resident, name of the banking establishment, the reporting period and all pages. - These statements will be used to document income in combination with other documentation, as needed. 2 months' worth of consecutive summary payments reports, if applicable.
Non-Traditional Income	- Calculation standards to the income from capital gains, dividends and interests and add it to the Household's total annual income. - Cryptocurrency must be reported from the applicants IRS Form 8949. If no IRS Form 8949 is available, applicant must provide written and signed documentation of the last years gains and losses. The net gain will be added to applicant's income. - Negative losses are not counted and will not be deducted from income.

7. Calculating Gross Annual Income: The following equations must be used when calculating annual income. The equation used is dependent on the frequency that income is received.

- Paid Weekly
 - Hourly wage x average # hours per week x 52 weeks a year = Annual income
 - Weekly gross salary x 52 weeks a year = Annual income
- Paid Bi-Weekly (every other week)
 - Hourly wage x average # hours per bi-weekly period x 26 pay periods = Annual income
 - Bi-weekly gross salary x 26 pay periods a year = Annual income
- Paid Semi-monthly (twice a month)
 - Hourly wage x average # hours per semi-monthly period x 24 pay periods = Annual income

- Semi-monthly gross salary x 24 pay periods = Annual income
- Paid Monthly
 - Monthly gross salary x 12 months = Annual income

8. **Rent Limits:** Rent Limits are the maximum rents that can be charged for a unit or bedroom based on the MFI limit stipulated in the UNO program variation that governs the development. **Local, State or Federal funding maximum rent requirements will supersede these published rates.**

HPD will set and publish the rental rates by bedroom count in these guidelines annually based on HUD's current income limits, unless project funding requires different rent rates.

MAXIMUM RENT LIMIT TABLES

Rent by the Unit (Pre - 2/25/2014)

Effective June 15, 2022

Median Family Income	Efficiency/ One Bedroom	Two Bedroom	Three Bedroom	Four Bedroom	Five Bedroom
50%	\$901	\$1,030	\$1,158	\$1,286	\$1,390
65%	\$1,171	\$1,338	\$1,506	\$1,673	\$1,807
80%	\$1,442	\$1,647	\$1,853	\$2,059	\$2,224

Opt-In Rent by the Bedroom (Pre – 2/25/2014)

Effective June 15, 2022

Median Family Income	Single Occupancy	Double Occupancy
50%	\$773	\$425/person
60%	\$1,236	\$680/person

Rent by the Bedroom (Post - 2/24/2014)

Effective June 15, 2022

Median Family Income	Single Occupancy	Double Occupancy

50%	\$773	\$425/person
60%	\$1,035	\$569/person

Rent by the Unit (Post - 2/24/2014)

Effective June 15, 2022

Median Family Income	Per Unit
50%	\$773
60%	\$1,035

Optional and Non-optional Fees:

- Approved affordable base rents must include any “non-optional” fees. See above list of approved non-optional fees. The approved non-optional fees must be itemized separately.
- Any “optional” fees must be itemized separately and added to the approved affordable base rent.

**Clarification on Renting by Unit and Bedroom
(Single Occupancy / Double Occupancy)
Issued March 21, 2019**

Property is by the Unit pre-2014, no Opt-In by Bedroom – Rents are established by the number of bedrooms in the unit. To meet the affordability definition, each occupant in an “affordable” unit must be income eligible. Project cannot rent by the bedroom or charge the post-2014 Single Occupancy or Double Occupancy Rents. Projects can only charge the post-2014 Single Occupancy or Double Occupancy Rents if there is a Land Use Restriction with City of Austin allowing the project to rent by the bedroom.

Property is by the Unit post 2014 - Projects can only charge the Single Occupancy rate. Double Occupancy rates are only allowed if there is a Land Use Restriction with City of Austin allowing the project to rent by the bedroom. To meet the affordability definition, each occupant in an “affordable” unit must be income eligible.

Example: *If the project only has the authority to rent by the unit and there is a two bedroom “affordable” unit that houses 4 occupants (4 separate leases - two occupants in each of the two bedrooms), the project can only charge the Single Occupancy Rate for the entire unit, not per occupant.*

Property is by the bedroom post 2014 or Opt-In - Double Occupancy rates are only allowed if there is a Land Use Restriction with City of Austin allowing the project to rent by the bedroom. To meet the affordability definition, each occupant in a bedroom must be income eligible. Bedrooms are defined by hard wall construction, not temporary partitions, curtains, etc. and cannot exceed the City of Austin's Occupancy requirements.

Example 1: *If the project has an "affordable" two bedroom unit with 2 individuals (1 person per room and each on their own lease) and each occupant is income eligible. Each person is charged the Single Occupancy rate. If that same two "affordable" bedroom has 2 occupants, per bedroom, then each occupant can be charged the Double Occupancy rate per occupant in the bedroom as long as each occupant is income eligible.*

Example 2: *If there is an "affordable" two bedroom unit that houses 4 occupants (4 separate leases - two occupants in each of the two bedrooms), the project can charge the Double Occupancy Rate per occupant as long as each occupant is income eligible.*

Example 3. *If there is a three bedroom unit that houses 6 occupants (6 separate leases - two occupants in each of the three bedrooms) and only one bedroom is designated as the "affordable" bedroom, then each occupant in that "affordable" bedroom must meet the income eligibility requirements and can be charged the Double Occupancy Rate.*

MONITORING

Monitoring of the University Neighborhood Overlay Density Bonus Program is a requirement. Monitoring will be carried out in a variety of formal or informal ways and methods. These include on-site reviews; desk reviews or other verbal and written exchanges with the property owner/manager or with tenants.

1. **Monitoring:** The project may be monitored initially within twelve (12) months from the date of issuance of the Certificate of Occupancy. After the initial lease-up period, the project may be monitored annually or as needed to ensure continuing compliance with project's affordability requirements. Monitoring may take the form of a desk review or on-site review.

HPD or its designee, reserves the right to examine all income eligibility records and reserves the right to request additional, supplemental documentation to determine eligibility.

2. **Records Retention:** All tenant files, pertaining to the affordable units, must be retained for a period of no less than four (4) years after the date the lease or lease renewal has expired.
3. **Monitoring Notice:** A notice will be provided at least 14 days in advance of the scheduled monitoring visit.
4. **Follow-up Monitoring Letter:** A follow-up monitoring letter will be completed and mailed no later than 30 days from the date of the monitoring visit. The monitoring letter is utilized to document any findings, deficiencies, or concerns identified by the reviewer. It is important to explain if some items are more important than others.

- i. A "finding" is issued if it is discovered that the property owner/manager has materially been out of compliance with any major requirements. Each finding will be adequately described and documented and accompanied by date specific remedies.
- ii. A "deficiency" is somewhat less serious than a finding. Like a finding, it will be clearly described, and the property owner/manager will be given a specified amount of time to correct the deficiency.
- iii. A "concern" is the least serious of the three categories. It is often used to "head off trouble," alerting the property owner/manager that this is an area that should be given some attention.

5. Program Noncompliance:

- A.** Performance review: If the determination is that the Property Owner/Manager has not met the program requirements, the Property Owner/Manager will be given notice of this determination and an opportunity to demonstrate, within the time prescribed by HPD (not to exceed 30 days) and on the basis of substantial facts and data, that it has done so.
- B.** Corrective and Remedial Actions: Corrective or remedial actions for a performance deficiency (failure to meet program requirements) will be designed to prevent a continuation of the deficiency; mitigate, to the extent possible, its adverse effects or consequences; and prevent its recurrence. HPD may instruct the Property Owner/Manager, depending upon the severity of non-compliance, to submit and comply with proposals for action to correct, mitigate and prevent a performance deficiency, including but not limited to:
 - 1. Request the Property Owner/Manager to submit additional information;
 - 2. Issue a letter of warning that advises the Property Owner/Manager of the deficiency and puts them on notice that more serious actions will be taken if the deficiency is not corrected or if it is repeated;
 - 3. Prepare and follow a schedule of actions for carrying out the affected activities, consisting of schedules, timetables, and milestones necessary to implement the affected activities;
 - 4. Establish and follow a corrective action plan that assigns responsibilities for carrying out the remedial actions; and
 - 5. Take other remedies that may be legally available.
- C.** Correction Periods: After a notice of noncompliance is received, a Property Owner/Manager shall have up to 30 days to correct the finding. All noncompliance violations must be cleared within the timeframe allowed.

GENERAL REQUIREMENTS

- 1. Compliance with Fair Housing and Equal Opportunity Laws:** All properties must comply with applicable federal, state, local fair housing, and anti-discrimination laws in the marketing and provision of housing
 - A.** Occupants of affordable housing units/bedrooms shall have access to all on-site amenities available to market-rate units/bedrooms, including the same access to common areas and facilities afforded to occupants of market-rate units/bedrooms.

2. **Verification Forms:** Use of the City of Austin Income Verification Forms is required. All income documentation to support household income eligibility must be kept in each tenant file.
3. **Renewals:** Verification of household income eligibility is required upon execution of each lease renewal or annually. Tenant's must complete a new Income Verification Form upon lease renewal and/or annually.
4. **On-going Qualified Unit/Bedroom and Tenant:** A unit/bedroom occupied by an eligible household will continue to be counted as an affordable unit/bedroom until it is determined that the household's annual income exceeds 120% MFI. If, upon lease renewal, the household's income is determined to exceed 120% MFI, the unit/bedroom is no longer considered an affordable unit/bedroom and the property owner/manager must ensure the next unit/bedroom available is leased to an income-eligible household.

Rental amounts may be adjusted for residents who renew and whose income exceeds the required income limit for the property. The renewal rental rate may not exceed 28% for of the household's average gross monthly income. The rental rate cannot exceed the market rate for a comparable unit.

5. **Affordability Period:** The affordability period is determined by the applicable variation of the UNO Density Bonus Program which the development was certified under and shall be outlined in the Restrictive Covenant.

The project will be released from the affordability obligation after compliance has been achieved for the required number of years in the affordability period.

These guidelines will remain in effect until further notice.