

How-To and Guide for the Proposed Affordable Housing Bonus Program

The LDC Draft proposes to create a bonus program that can be used across the city, increasing opportunities to generate affordable housing in all parts of town and in different types of housing structures.

How does the proposed Affordable Housing Bonus Program work?

1. Identify the property's zoning from the [zoning map](#)
2. Find the property's base and bonus entitlements in the [code](#)

Whether or not a property can participate in the Affordable Housing Bonus Program is determined by its zoning. Bonuses are available in certain zones, but not in all zones. Article 23-3C (Zones) in the LDC Draft describes each of the proposed zones and contains information on whether bonuses are available. Types of bonuses offered include: height, numbers of units, and floor-to-area ratio (FAR) increases. The type and size of available bonuses are uniquely calibrated to each zone, taking into account the size and scale of the resulting buildings.

3. Find the property's affordable unit set-aside requirement - [Rental Maps](#) or [For Sale Maps](#)

The number of units that must be set aside as affordable differs by location, zone, and whether the units will be sold or rented. This is because: 1) the market value of residential units varies across the city and, 2) the economics of a development are different if the units are planned to be sold versus rented. The number of units that must be set aside as affordable also differs based on the zone because the size and value of the bonus differs by zone. The affordable unit set-aside amounts are shown in Table 23-4E-1040(B) in the LDC Draft (Section 23-4E-1040). These tables refer to maps that City Council will adopt by ordinance and will be updated as needed to account for changes in the market. The maps show groups of similar zones mapped across the city. A developer can find the required number of affordable units by using the map for his/her development's zone and locating the property on the map.

The affordable unit set-aside requirements are depicted as a percentage of bonus area. This is because a requirement calculated based on the total area would require a developer to deliver a significant portion of the building as affordable units even if the developer utilizes only a small square footage of bonus area or only one bonus unit. The cost of delivering affordable units would far outweigh the small benefit of the bonus and the developer would be unlikely to ever build partial bonuses. Because developers may only want to take advantage of a small part of the bonus they are offered, there could be very little bonus uptake in many circumstances. In other words, tying the affordability requirement to the bonus rather than the building more

effectively allows the developer to scale the building to the site, which allows for greater total program participation if only a portion of the bonus area can be built. This has been a problem in some of Austin's existing bonus programs: there is no incentive to take a partial bonus so the only participants in the program are those who can make developments financially feasible with an entire bonus. Depicting the affordable unit requirement as a percentage of bonus area, rather than total area, allows for greater flexibility and enhances the likelihood of participation in more cases.

- 4. Determine the proposed development's bonus area. Maximum entitlements with a bonus are listed for each zone with a bonus in the [code](#).**

Use the table in the code to help calculate the proposed development's bonus area:

Table 23-4E-1040(A) Bonus Calculation ¹		
Incentive	Non-Residential Bonus Square Feet ²	Residential Bonus Units ^{2, 3}
Additional Units in Main Building (max.) (See Figure (1))	N/A	Number of units that exceed the maximum units allowed by base entitlements Proposed Units – Allowed Base Units
Additional Dwelling Units per Acre (DUA) (See Figure (2))	N/A	Number of units that exceed the maximum units allowed by base entitlements $\text{Proposed Units} \times \left(\frac{\text{Proposed Development DUA} - \text{Allowed Base DUA}}{\text{Proposed Development DUA}} \right)$
Additional Floor Area Ratio (FAR) (See Figure (3))	Non-residential gross floor area ⁴ multiplied by the proportion of gross floor area that exceeds the maximum gross floor area allowed by base entitlements $\text{Non-residential Gross Floor Area} \times \left(\frac{\text{Proposed Development FAR} - \text{Allowed Base FAR}}{\text{Proposed Development FAR}} \right)$	Number of units multiplied by the proportion of gross floor area that exceeds the maximum gross floor area allowed by base entitlements $\text{Proposed Units} \times \left(\frac{\text{Proposed Development FAR} - \text{Allowed Base FAR}}{\text{Proposed Development FAR}} \right)$
Additional Height (Stories/Feet) (See Figure (4))	Non-residential gross floor area ⁴ multiplied by the proportion of Comprehensive Floor Area (CFA) ⁵ that exists above the height allowed by base entitlements $\text{Non-residential Gross Floor Area} \times \left(\frac{\text{Comprehensive Floor Area of any space above the base height limit}}{\text{Comprehensive Floor Area}} \right)$	Number of units multiplied by the proportion of Comprehensive Floor Area (CFA) ⁵ that exists above the height allowed by base entitlements $\text{Proposed Units} \times \left(\frac{\text{Comprehensive Floor Area of any space above the base height limit}}{\text{Comprehensive Floor Area}} \right)$

1. Where multiple bonuses are applicable, the maximum calculated bonus area or bonus units apply.
2. An applicant may pay a fee in lieu of providing on-site affordable units in compliance with Subsection 23-4E-1050(C) (Housing Fee-In-Lieu) and Section 23-4E-1060 (Non-Residential and Mixed Use Bonus Fee).
3. Bonus unit calculations round up to the nearest whole number of units.
4. Non-residential gross floor area includes the total gross floor area occupied by non-residential uses.
5. CFA includes the total enclosed area of all floors in a building with a clear height of more than six feet, measured to the outside surface of the exterior walls and deducting atria airspace. Includes underground facilities, loading docks, parking facilities, and enclosed communication paths.

5. Multiply the affordable unit set-aside percentage by the number of bonus units to determine the number of affordable units required

Or, if the proposed development contains non-residential space, multiply the bonus area by the non-residential bonus fee.

What other requirements are there?

The Affordable Housing Bonus Program contains requirements on:

- Dispersing affordable units throughout the development
- Ensuring affordable units are reached by the same routes and entries as market-rate units and have access to the same common areas and amenities
- Ensuring that affordable units are functionally equivalent to market-rate units
- Requiring affirmative marketing and outreach
- Incentivizing the mix of units by number of bedrooms to be equal for affordable units and market-rate units
- Entering into a contract with the City of Austin to ensure compliance and enforcement in building and maintaining the affordable units

Where can I find more information?

You can read the entire Affordable Housing Bonus Program code text in Article 23-4E. Find out more about the policy objectives of the program in the guide below.

Affordable Housing Bonus Program Guide

What is an affordable housing bonus program?

An affordable housing bonus program is a voluntary program that grants additional building entitlements (for example, more height, units, or bulk/floor-to-area ratio) in exchange for providing affordable housing. Because Texas law prohibits rent control or mandatory affordable housing requirements, there are very few ways to prevent housing prices and rents from increasing unchecked in Texas. However, voluntary affordable housing bonus programs are one tool the City of Austin can use to encourage developers to create housing that must remain affordable for an extended period of time. Because the City cannot require developers to provide affordable housing in their developments, in order to generate affordable units, the program must be carefully calibrated to the market so that developers will find it attractive to participate. Otherwise, development could occur that would not include any affordable units.

The City of Austin already administers about a dozen affordable housing bonus programs. Most are tied to specific parts of town, like Downtown, the University Neighborhood Overlay area in West Campus, the East Riverside Corridor, or Transit-Oriented Development Districts like Plaza Saltillo. The LDC Draft proposes to create a bonus program that can be used across the city, increasing opportunities to generate affordable housing in all parts of town and in different types of housing structures.

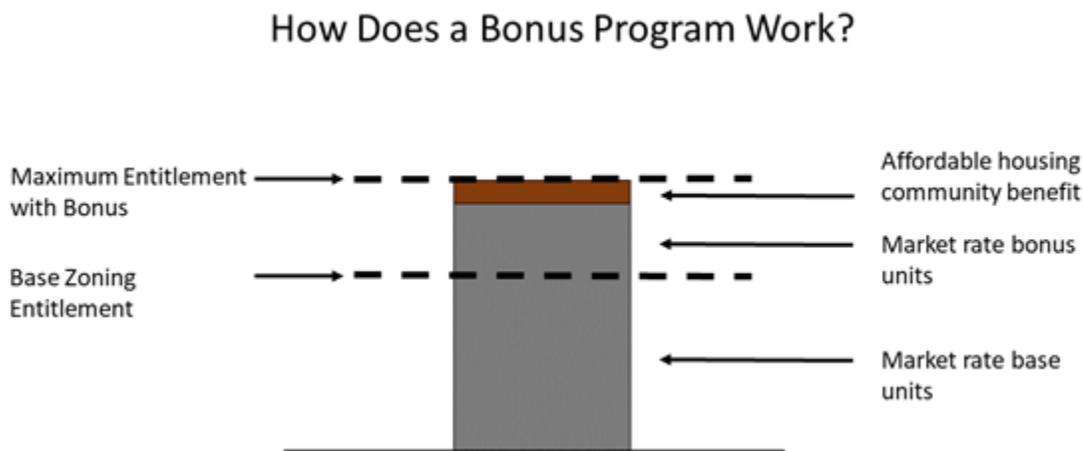
How does it work?

The principle underlying an affordable housing bonus is that the City is willing to let something “extra” (i.e. beyond what a site’s base zoning allows) be built because of the public benefit of affordable housing that is provided by developers in exchange for the bonus development capacity. Because it is a regulatory relaxation, an affordable housing bonus is one way to generate affordable housing without an infusion of public money or subsidy.

If a developer chooses to participate in the affordable housing bonus program, he/she can build more units or a larger building in exchange for setting aside a portion of the units as affordable. To make a bonus program attractive to a developer, it must be calibrated so that the cost of providing the affordable units is offset by the increased revenue the developer can make from the additional market-rate units he/she is able to build through the bonus (in general, affordable units rent for less than they cost to finance and operate, and must be sold for less than they cost to build). If providing the affordable units would cost more than just building a market-rate development without a bonus, the developer will probably not participate in the bonus program, and no affordable housing will be provided. This calibration is done by looking at the costs to construct units in different building types and at the rents and sale prices these units can

command in the market. Calibration must also take into account location because rents and sale prices can differ across the city.

The figure below shows an example of how a bonus program works. A developer can build a certain number of units by right under a property's base zoning entitlement. These units are called "base units" and will be rented or sold at market rates. If the developer chooses to participate in the bonus program, he/she can build more units above what the property's base zoning allows. The amount that can be built with the bonus program is shown as the "maximum entitlement with bonus." Within that bonus area, the developer must set aside a certain number of units as affordable ("affordable housing community benefit"). The remainder of the units in the bonus can be rented or sold at market rates ("market rate bonus units").



Because affordable housing bonus programs pay for the affordable units from the additional value generated by the bonus, they are especially well suited to creating more units at income levels in the workforce housing portion of the affordability spectrum (i.e. 60-80% of the median family income, or 3-person households earning \$51,120 – \$67,950 annually). A bonus program can be crafted to create affordable units at deeper levels of affordability, but the amount of money needed to cross-subsidize these deeper affordable units is greater, and therefore a development needs more market-rate units to cover the cost of these affordable units.

By its nature, an affordable housing bonus program works in areas where development is occurring because it focuses on opportunities to infuse affordable housing units into new developments as they are being constructed.

What are the objectives of the Affordable Housing Bonus Program proposed in the LDC?

The goal of the Affordable Housing Bonus Program proposed in the LDC Draft is to create a bonus program calibrated to make participation in the program the most attractive option as much as possible.

To accomplish this, the program has been calibrated to the Austin market and takes into account the fact that the value of the bonus entitlements differs by zone and by location, and that the cost to provide an affordable unit differs by location, construction type, and whether the unit will be sold or rented. This calibration recognizes that requiring too many affordable units in a development will disincentivize participation in the program and could result in sites being developed under base entitlements with no affordable units or contributions to affordable housing.

What are the details of the proposed Affordable Housing Bonus Program?

Zones and Available Bonuses

Whether or not a property can participate in the Affordable Housing Bonus Program is determined by its zoning. Bonuses are available in certain zones, but not in all zones. Article 23-3C in the LDC Draft describes each of the proposed zones and contains information whether bonuses are available. Types of bonuses offered include: height, numbers of units, and floor-to-area ratio (FAR) increases. The type and size of available bonuses are uniquely calibrated to each zone, taking into account the size and scale of the resulting buildings.

Affordable Unit Set-Aside Requirements

The number of units that must be set aside as affordable differs by location, zone, and whether the units will be sold or rented. This is because: 1) the market value of residential units varies across the city and, 2) the economics of a development are different if the units are planned to be sold versus rented. The number of units that must be set aside as affordable also differs based on the zone because the size and value of the bonus differs by zone. The affordable unit set-aside amounts are shown in Table 23-4E-1040(B) in the LDC Draft (Section 23-4E-1040). These tables refer to maps that City Council will adopt by ordinance and will be updated as needed to account for changes in the market. The maps show groups of similar zones mapped across the city. A developer can find the required number of affordable units by using the map for his/her development's zone and locating the property on the map.

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some of Austin’s existing bonus programs: there is no incentive to take a partial bonus so the only participants in the program are those who can make developments financially feasible with an entire bonus. Depicting the affordable unit requirement as a percentage of bonus area, rather than total area, allows for greater flexibility and enhances the likelihood of participation in more cases.

The proposed affordable unit set-aside requirements are shown in Table 23-4E-1040(B) in the LDC Draft and are copied below.

Proposed Affordable Unit Set-Aside Requirements^{1, 2, 3}

5%
7%
10%
12%
15%
17%
20%
25%
30%
40%
50%

1. For a dwelling unit to qualify as “affordable,” a unit must comply with Subsection 23-4E-1090(A).
2. All unit set-aside calculations resulting in fractional units must be rounded up to the next whole number.
3. The set-aside is shown as a percentage of bonus units. For zones with “-A” in the zone name, all residential dwelling units are bonus units.

The required affordable rental and ownership unit set-asides will be defined for all zones that offer an Affordable Housing Bonus Program bonus option. Rental and ownership unit set-asides are displayed in the maps linked below. Please note that the unit set-asides may be changed in the future to reflect changing market conditions.

[Map of Rental Affordable Unit Set-Asides](#)

[Map of For Sale Affordable Unit Set-Asides](#)

Affordable Housing Rent Rates and Sale Prices

Rental

Under the proposed Affordable Housing Bonus Program, an affordable rental unit must be offered for rent at a price affordable to a household earning at or below 60% of the Austin area's median family income (MFI). To be "affordable" to that household, the rent must be no more than 30% of the average gross monthly income for a household at that income limit. The unit must remain affordable for 40 years.

Ownership

An ownership unit must be offered for sale at a price affordable to a household earning at or below 80% MFI. To be "affordable" to a household at that income limit, the sale price must be no more than 3 times the household's annual income (or 3.5 times the household's income if someone in the household has completed approved homebuyer counseling or education). The unit must remain affordable for 99 years. Ownership units are also subject to an equity cap, where the homeowner's equity can increase up to 2 percent per year for 30 years (at which point no additional equity can be earned). This allows the homeowner to gain some appreciation at resale, while also preserving the affordability of the home for future income-eligible homebuyers.

Median family income limits are published by the US Department of Housing and Urban Development (HUD) annually for the Austin-Round Rock metropolitan statistical area. Using these limits, the City of Austin's Neighborhood Housing & Community Development Department (NHCD) annually sets rental rates and sale prices for affordable housing units and publishes these amounts in program guidelines available online. For more detailed information on how NHCD sets rents and sale prices for affordable units and determines income eligibility of tenants or buyers see *Development Incentives and Agreements: Income Determination, Rents, Compliance & Monitoring Guidelines* at www.austintexas.gov/page/development-incentives-and-agreements.

Options for Meeting the Affordability Requirements

The provision of on-site affordable units will be incentivized over alternative methods of meeting the affordability requirements: applications selecting this option will undergo a faster review process. However, in order to ensure the highest possible participation in this voluntary program, the program offers applicants options to meet their affordability requirements. Applicants can meet their obligation by providing affordable units on-site, or they may request to use one of the following alternatives: building affordable units off-site, dedicating land for future affordable housing, or paying a fee in lieu of building units. To meet an affordability requirement

through an option other than on-site affordable units, an applicant must receive approval from NHCD.

Why are alternatives to on-site units offered?

Developers are not all the same. Some may not be able to provide affordable housing in their developments and others may simply prefer not to, thus they would not deliver bonus housing on-site. Attracting participation to this voluntary program is especially important since, by law, Austin cannot require developers to build affordable units or pay linkage fees to fund affordable units elsewhere.

Furthermore, some of the alternatives have advantages. For example, the City of Austin can use fees paid in lieu of providing onsite units in a variety of ways. Fees can be used to preserve affordable housing, promote family-friendly units, or to build new units serving the lowest income populations in the City.

Finally, having alternative options makes the program more resilient. If markets or other policies change quickly, then offering alternatives to on-site housing may allow developers to pursue projects even when the on-site requirements are out of sync with the market.

How and when will the fee-in-lieu be calibrated?

Fees in lieu of affordable units are offered as an option for meeting affordability requirements, subject to approval by NHCD. Additionally, fees will be charged to non-residential developments utilizing a bonus. If the development is required to pay a fee in lieu of affordable units, or a fee for utilizing a bonus for a non-residential development, the fee must be paid to the City before the issuance of the development’s final certificate of occupancy.

As proposed, the Affordable Housing Bonus Program’s fees for residential development will be set so the fee covers the typical cost for NHCD to “buy down” a market-rate unit to make that unit affordable for the affordability period required by the program (40 years for rental units and 99 years for ownership units). Fees are calibrated based on market conditions in central Austin.

The fees will be included in a fee schedule that will continue to be re-calibrated up to adoption of the LDC revisions to reflect the most up-to-date market conditions. The proposed fees as of September 2019 can be found in the following table.

Proposed Fees in Lieu of Affordable Units under the Affordable Housing Bonus Program

Unit Type	Studio	1-Bedroom	2-Bedroom	3-Bedroom
Fee-in-Lieu	\$135,000	\$180,000	\$335,000	\$440,000

As proposed, the affordable housing fees charged for commercial developments that use bonus square footage would be \$2.00 per bonus square foot.

These fees would be codified in the City of Austin fee schedule, which is approved annually by City Council.

Program Reporting and Updating

NHCD will evaluate the previous year's Affordable Housing Bonus Program activity annually and, if necessary, may make recommendations to City Council for re-calibrating the unit set asides, fees, or geographies.

Enforcement Processes

To ensure that a development meets the affordability requirements, the City will execute a contractual agreement with the property owner before the development's site plan can be approved. This contract will commit the property owner to provide the required number of affordable units for the required affordability period. This is a new method of enforcement that is being added to strengthen the City's ability to ensure the affordable units are provided for the full term of the affordability period.

In addition to the contract, the City will place land use restrictions on the property before the final certificate of occupancy is issued to ensure that subsequent owners of the property recognize that the development must adhere to the program's affordability requirements.

Monitoring of Affordable Units

Rental Units

NHCD will create a Monitoring Plan for each rental development. The first monitoring assessment will occur within the first year of the development receiving its final Certificate of Occupancy. Monitoring involves reviewing a development's rent rolls as well as tenant income and lease documentation for a random sample of the affordable units to ensure that the correct number of units is being provided at the required income levels, and that the appropriate rents are being charged. If the monitoring assessment does not identify issues of non-compliance, monitoring continues on a rolling basis of at least every 3 years throughout the length of the required affordability period. If the monitoring assessment identifies issues of non-compliance, monitoring will be completed more frequently on the development. Working with the property owner or property manager, NHCD will design corrective or remedial actions for failure to meet program requirements to prevent a continuation of the deficiency; mitigate, to the extent possible, its adverse effects or consequences; and prevent its recurrence, up to and including adding additional years to the affordability period to ensure the full term of compliance is achieved. NHCD is considering additional possibilities for ongoing monitoring and enforcement of affordability requirements, including potentially requiring the payment of monitoring fees for

participating properties and/or instituting fines for non-compliance with affordability requirements.

Ownership Units

NHCD will conduct income eligibility determinations on any prospective homebuyers for ownership units. At the time of the sale of an affordable ownership unit, the qualified buyer must enter into a Resale Restriction Agreement and a Covenant Limitation on Resale Price and Buyer Income. These resale agreements ensure that if the buyer chooses to sell the unit in the future, the unit will be sold at an affordable price to another qualified buyer (who is also income certified by NHCD). The City of Austin can also exercise a Right of First Refusal to purchase the property. Monitoring involves desk audits of ownership inventory to verify occupancy through utility accounts and property tax records, and additional procedures as necessary.

Information on how NHCD monitors affordable units can be found in the *Development Incentives and Agreements: Income Determination, Rents, Compliance & Monitoring Guidelines* at www.austintexas.gov/page/development-incentives-and-agreements.