CHAPTER 20A

FAIR HOUSING AND MIXED INCOME HOUSING

ARTICLE I.

FAIR HOUSING

ARTICLE II.

MIXED-INCOME HOUSING

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FAIR HOUSING

SEC. 20A-1. SHORT TITLE.

This chapter may be cited as the Dallas Fair Housing ordinance. (Ord. Nos. 13456; 14809; 20652; 20780)

SEC. 20A-2. DECLARATION OF POLICY.

It is the policy of the city of Dallas, through fair, orderly, and lawful procedures, to promote the opportunity for each person to obtain and maintain habitable housing without regard to race, color, sex, religion, handicap, familial status, national origin, or source of income. This policy is grounded upon a recognition of the right of every person to have access to adequate habitable housing of the person's own choice, and to maintain the same free from the denial of this right because of race, color, sex, religion, handicap, familial status, national origin, or source of income, which denial is detrimental to the health, safety, and welfare of the inhabitants of the city and constitutes an unjust deprivation of rights, which is within the power and proper responsibility of government to prevent. (Ord. Nos. 13456; 14809; 20652; 20780; 30246; 32157)

SEC. 20A-3. DEFINITIONS.

In this chapter, unless the context requires a different definition:

(1) ACCESSIBLE means that an area of a housing accommodation can be approached, entered, and used by a person with a physical handicap.

(2) ACCESSIBLE ROUTE means a continuous unobstructed path connecting accessible elements and spaces in a housing accommodation that can be negotiated by a person with a severe disability using a wheelchair and that is also safe for and usable by a person with other disabilities.

(3) ADMINISTRATOR means the administrator of the fair housing office designated by the city manager to enforce and administer this chapter and includes the administrator’s designated representative.

(4) AGGRIEVED PERSON means a person claiming to be injured by a discriminatory housing practice.

(5) BUILDING ENTRANCE ON AN ACCESSIBLE ROUTE means an accessible entrance to a covered multi-family dwelling that is connected by an accessible route to public transportation stops, to accessible parking and passenger loading zones, or to the public streets or sidewalks, if available.

(6) COMPLAINANT means a person, including the administrator, who files a complaint under Section 20A-7.

(7) COVERED MULTI-FAMILY DWELLING means:

(A) a building consisting of four or more dwelling units if the building has one or more elevators; and

(B) a ground floor dwelling unit in any other building consisting of four or more dwelling units.

(8) DEFENSE means a defense to criminal prosecution in municipal court as explained in the Texas Penal Code. Defense also means, where specifically provided, an exemption from a civil action.

(9) DISCRIMINATORY HOUSING PRACTICE means conduct that is an offense under Section 20A-4 of this chapter.

(10) DWELLING UNIT means a single unit of residence for a family.

(11) FAMILIAL STATUS means the status of a person resulting from being:

(A) pregnant;

(B) domiciled with an individual younger than 18 years of age in regard to whom the person:

(i) is the parent or legal custodian; or

(ii) has the written permission of the parent or legal custodian for domicile with the individual; or

(C) in the process of obtaining legal custody of an individual younger than 18 years of age.

(12) FAMILY includes a single individual.

(13) FINANCIAL AWARD means a public subsidy matter, as that term is defined in Section 12A-15.2 of this code, as amended, or any loan, grant, tax abatement, or monies awarded by the city.

(14) HANDICAP:

(A) means:

(i) a physical or mental impairment that substantially limits one or more major life activities;

(ii) a record of an impairment described in Subparagraph (i) of this paragraph; or

(iii) being regarded as having an impairment described in Subparagraph (i) of this paragraph; and

(B) does not mean a current, illegal use of or addiction to a drug or illegal or federally-controlled substance.

(15) HOUSING ACCOMMODATION means:

(A) any building, structure, or part of a building or structure that is occupied, or designed or intended for occupancy, as a residence for one or more families; or

(B) any vacant land that is offered for sale or lease for the construction or location of a building, structure, or part of a building or structure described by Paragraph (A) of this subsection.

(16) PERSON means an individual, corporation, partnership, association, labor organization, legal representative, mutual company, joint-stock company, trust, unincorporated organization, trustee, receiver, or fiduciary or any employee, representative, or agent of the person.

(17) RENT means lease, sublease, or otherwise grant for a consideration the right to occupy premises that are not owned by the occupant.

(18) RESIDENCE does not include a hotel, motel, or similar public accommodation where occupancy is available exclusively on a temporary, day-to-day basis.

(19) RESIDENTIAL REAL ESTATE-RELATED TRANSACTION means:

(A) the making or purchasing of loans or the providing of other financial assistance:

(i) for purchasing, constructing, improving, repairing, or maintaining a housing accommodation; or

(ii) secured by residential real estate; or

(B) the selling, brokering, or appraising of residential real property.

(20) RESPONDENT means a person identified in a complaint or charge as having committed a discriminatory housing practice under this chapter.

(21) SOURCE OF INCOME means lawful, regular, and verifiable income from whatever source derived (including housing vouchers and other subsidies provided by government or non-governmental entities, child support, or spousal maintenance), except as prohibited by Texas Local Government Code, Section 250.007, as amended. For purposes of housing accommodations that benefit from a subsidy approved by the city council on or after the effective date of this ordinance, source of income includes housing choice vouchers and other federal, state, and local housing subsidies.

(21.1) SEX means a person's biological gender as well as a person's sexual orientation and gender identity.

(22) SUBSIDY means a public subsidy matter, as that term is defined in Section 12A-15.2 of this code, as amended, or a density bonus, and that was approved by city council. (Ord. Nos. 13456; 14809; 20652; 20780; 30246; 30489; 32157)

SEC. 20A-4. DISCRIMINATORY HOUSING PRACTICES.

(a) A person commits an offense if he, because of race, color, sex, religion, handicap, familial status, national origin, or source of income:

(1) refuses to negotiate with a person for the sale or rental of a housing accommodation or otherwise denies or makes unavailable a housing accommodation to a person;

(2) refuses to sell or rent, or otherwise makes unavailable, a housing accommodation to another person after the other person makes an offer to buy or rent the accommodation; or

(3) discriminates against a person in the terms, conditions, or privileges of, or in providing a service or facility in connection with, the sale or rental of a housing accommodation.

(b) A person commits an offense if he, because of race, color, sex, religion, handicap, familial status, national origin, or source of income:

(1) represents to a person that a housing accommodation is not available for inspection, sale, or rental if the accommodation is available;

(2) discriminates against a prospective buyer or renter in connection with the showing of a housing accommodation; or

(3) with respect to a multiple listing service, real estate brokers' organization, or other business relating to selling or renting housing accommodations:

(A) denies a person access to or membership in the business; or

(B) discriminates against a person in the terms or conditions of access to or membership in the business.

(c) A person commits an offense if he:

(1) for profit, induces or attempts to induce another person to sell or rent a housing accommodation by a representation

that a person of a particular race, color, sex, religion, handicap, familial status, national origin, or source of income is in proximity to, is present in, or may enter into the neighborhood in which the housing accommodation is located;

(2) makes an oral or written statement indicating a policy of the respondent or a person represented by the respondent to discriminate on the basis of race, color, sex, religion, handicap, familial status, national origin, or source of income in the selling or renting of a housing accommodation; or

(3) prints or publicizes or causes to be printed or publicized an advertisement that expresses a preference or policy of discrimination based on race, color, sex, religion, handicap, familial status, national origin, or source of income in the selling or renting of a housing accommodation.

(d) A person who engages in a residential real estate-related transaction commits an offense if he, because of race, color, sex, religion, handicap, familial status, national origin, or source of income, discriminates against a person:

(1) in making a residential real estate-related transaction available; or

(2) in the terms or conditions of a residential real estate-related transaction.

(e) A person commits an offense if he:

(1) discriminates in the sale or rental of a housing accommodation to any buyer or renter because of a handicap of:

(A) that buyer or renter;

(B) a person residing in or intending to reside in the housing accommodation after it is sold, rented, or made available; or

(C) any person associated with that buyer or renter; or

(2) discriminates against any person in the terms, conditions, or privileges of sale or rental of a housing accommodation, or in the provision of services or facilities in connection with the housing accommodation, because of a handicap of:

(A) that person;

(B) a person residing in or intending to reside in the housing accommodation after it is sold, rented, or made available; or

(C) any person associated with that person.

(f) A person commits an offense if he:

(1) refuses to permit, at the expense of a handicapped person, reasonable modifications of existing premises occupied or to be occupied by the handicapped person, if the modifications may be necessary to afford the handicapped person full use of the premises; except that, in the case of a rental, the landlord may, where reasonable to do so, condition permission for modification on the renter's agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;

(2) refuses to make reasonable accommodations in rules, policies, practices, or services when the accommodations may be necessary to afford a handicapped person equal opportunity to use and enjoy a housing accommodation;

(3) fails to design or construct a covered multi-family dwelling, for first occupancy after March 13, 1991, to have at least one building entrance on an accessible route, unless it is impractical to do so because of the terrain or unusual characteristics of the site; or

(4) fails to design and construct a covered multi-family dwelling, for first occupancy after March 13, 1991, that has a building entrance on an accessible route in such a manner that:

(A) the public and common use areas of the dwelling are readily accessible to and usable by a handicapped person;

(B) all the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by a handicapped person in a wheelchair; and

(C) all premises within a dwelling unit contain the following features of adaptive design:

(i) an accessible route into and through the dwelling unit;

(ii) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

(iii) reinforcements in the bathroom walls to allow later installation of grab bars; and

(iv) usable kitchens and bathrooms that allow a person in a wheelchair to maneuver about the space.

(g) A person commits an offense if he coerces, intimidates, threatens, or otherwise interferes with any person in the exercise or enjoyment of, or on account of that person having exercised or enjoyed, or on account of that person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this chapter.

(h) A person commits an offense if he retaliates against any person for making a complaint, testifying, assisting, or participating in any manner in a proceeding under this chapter. (Ord. Nos. 13456; 14809; 20652; 20780; 21055; 30246)

SEC. 20A-4.1. HOUSING VOUCHER INCENTIVES.

In accordance with Section 250.007(c) of the Texas Local Government Code, as amended, the city hereby creates and implements the following voluntary program to encourage acceptance of housing vouchers, including vouchers directly or indirectly funded by the federal government.

(a) Subsidy or financial award. All housing accommodations that benefit from a subsidy or financial award, as defined in Section 20A-3, approved by the city council on or after the effective date of this ordinance must:

(1) not discriminate against holders of any housing vouchers, including vouchers directly or indirectly funded by the federal government; and

(2) comply with Section 20A-28 regarding tenant selection criteria, Section 20A-31(e)(6) regarding registering as a vendor with local providers of housing vouchers, and Section 20A-31(g) regarding compliance with an affirmative fair housing marketing plan.

(b) Financial award. Multifamily housing accommodations that benefit from a financial award approved by the city council on or after the effective date of this ordinance must make best efforts to lease up to 10 percent of the dwelling units to holders of housing vouchers, including vouchers directly or indirectly funded by the federal government, for a minimum of 15 years from the date of the initial issuance of the housing accommodation's certificate of occupancy. Multifamily has the meaning assigned in Section 51A-4.209 (b)(5) of the Dallas Development Code, as amended. In this section, best efforts means compliance with Section 20A-4.1 (a), compliance with the incentive agreement related to the financial award, and submission of the evidence of compliance to the director of the department administering the financial award. (Ord. Nos. 30246 ; 32195)

SEC. 20A-5. DEFENSES TO CRIMINAL PROSECUTION AND CIVIL ACTION.

(a) It is a defense to criminal prosecution or civil action under Section 20A-4 that:

(1) the housing accommodation is owned, controlled, or managed by:

(A) a religious organization, or a nonprofit organization that exists in conjunction with or is operated, supervised, or controlled by a religious organization, and the organization sells or rents the housing accommodation only to individuals of the same religion as the organization; except that, this defense is not available if:

(i) the offense involves discrimination other than on the basis of religion;

(ii) the organization owns, controls, or manages the housing accommodation for a commercial purpose; or

(iii) membership in the religion is limited to individuals on the basis of race, color, sex, handicap, familial status, national origin, or source of income.

(B) a nonprofit religious, educational, civic, or service organization or by a person who rents the housing accommodation to individuals, a predominant number of whom are associated with the same nonprofit religious, educational, civic, or service organization, and the organization or person, for the purposes of privacy and personal modesty, rents the housing accommodation only to individuals of the same sex or provides separate accommodations or facilities on the basis of sex; except that, this defense is not available if the offense involves:

(i) discrimination other than on the basis of sex; or

(ii) a sale of the housing accommodation; or

(C) a private organization and, incidental to the primary purpose of the organization, the organization rents the housing accommodation only to its own members; except that, this defense is not available if:

(i) the organization owns, controls, or manages the housing accommodation for a commercial purpose; or

(ii) the offense involves a sale of the housing accommodation; or

(2) compliance with this chapter would violate a federal, state, or local law restricting the maximum number of occupants permitted to occupy a dwelling unit.

(b) It is a defense to criminal prosecution or civil action under all of Section 20A-4 except Section 20A-4(c)(2) and (3) that the housing accommodation is:

(1) a single-family dwelling owned by the respondent; except that, this defense is not available if the respondent:

(A) owns an interest or title in more than three single-family dwellings, whether or not located inside the city, at the time the offense is committed;

(B) has not resided in the dwelling within the preceding 24 months before the offense is committed; or

(C) uses the services or facilities of a real estate agent, or any other person in the business of selling or renting real estate, in connection with a sale or rental involved in the offense; or

(2) occupied or intended for occupancy by four or fewer families living independently of each other, and the respondent is the owner of the accommodation and occupies part of the accommodation as a residence; except that, this defense is not available if the offense involves a sale of all or part of the housing accommodation.

(c) It is a defense to criminal prosecution or civil action under Section 20A-4 as it relates to handicap that occupancy of a housing accommodation by the aggrieved person would constitute a direct threat to the health or safety of another person or result in physical damage to another person's property.

(d) It is a defense to criminal prosecution or civil action under Section 20A-4 as it relates to familial status that the housing accommodation is:

(1) provided under a state or federal program that is specifically designed and operated to assist elderly persons, as defined in the state or federal program;

(2) intended for, and solely occupied by, a person at least 62 years of age, except that:

(A) an employee of the housing accommodation who performs substantial duties directly related to the management or maintenance of the housing accommodation may occupy a dwelling unit, with family members in the same unit; and

(B) a person under age 62 years residing in the housing accommodation on September 13, 1988 may occupy a dwelling unit, provided that all new occupants following that date are persons at least 62 years of age; and

(C) all vacant units are reserved for occupancy by persons at least 62 years of age; or

(3) intended and operated for occupancy by at least one person 55 years of age or older per dwelling unit, provided that:

(A) the housing accommodation has significant facilities and services specifically designed to meet the physical and social needs of an older person or, if it is not practicable to provide such facilities and services, the housing accommodation is necessary to provide important housing opportunities for an older person;

(B) at least 80 percent of the dwelling units in the housing accommodation are occupied by at least one person 55 years of age or older per dwelling unit; except that a newly constructed housing accommodation for first occupancy after March 12, 1989 need not comply with this requirement until 25 percent of the dwelling units in the housing accommodation are occupied; and

(C) the owner or manager of the housing accommodation publishes and adheres to policies and procedures that demonstrate an intent by the owner or manager to provide housing to persons at least 55 years of age.

(e) It is a defense to criminal prosecution or civil action under Section 20A-4(d) that the person, in the purchasing of loans, considered factors that were justified by business necessity and related to the transaction's financial security or the protection against default or reduction in the value of the security, but were unrelated to race, color, religion, sex, handicap, familial status, national origin, or source of income.

(f) It is a defense to criminal prosecution under Section 20A-4 that the aggrieved person has been convicted by a court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined by Section 481.002 of the Texas Health and Safety Code, as amended, or by Section 802, Title 21 of the United States Code Annotated, as amended.

(g) It is a defense to criminal prosecution under Section 20A-4(d) that the person was engaged in the business of furnishing appraisals of real property and considered factors other than race, color, religion, sex, handicap, familial status, national origin, or source of income.

(h) It is a defense to criminal prosecution or civil action under Sections 20A-4 regarding source of income and under 20A-4.1 regarding housing voucher incentives that the following are leased to housing voucher holders:

(1) the minimum required percentage or number of reserved dwelling units as defined in Section 20A-24, as required by the applicable zoning district;

(2) the minimum required percentage or number of affordable dwelling units, as required by the subsidy or financial award; or

(3) if neither (1) nor (2) applies, at least 10 percent of the dwelling units in a multifamily use, as defined in Section 51A-4.209(b)(5) of the Dallas Development Code, as amended.

(i) Nothing in this chapter prohibits:

(1) conduct against a person because of the person's conviction by a court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined by Section 481.002 of the Texas Health and Safety Code, as amended, or by Section 802, Title 21 of the United States Code Annotated, as amended; or

(2) a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, color, religion, sex, handicap, familial status, national origin, or source of income. (Ord. Nos. 13456; 14809; 20652; 20780; 21055; 30246; 32195)

SEC. 20A-6. FAIR HOUSING ADMINISTRATOR.

(a) The administrator shall implement and enforce this chapter and may establish such rules and regulations as are determined necessary to perform the duties of that office.

(b) The administrator is encouraged to cooperate with the Secretary of Housing and Urban Development and the

Attorney General of the United States in the enforcement of the Fair Housing Act of 1968, 42 U.S.C. § 3601, et seq., as amended, and may assist the secretary or attorney general in any way consistent with the policy of this chapter. The administrator is encouraged to cooperate with the Texas Commission on Human Rights in the enforcement of the Texas Fair Housing Act, Article 1f, Vernon's Texas Revised Civil Statutes, as amended, and may assist the commission in any way consistent with the policy of this chapter.

(c) The administrator may order discovery in aid of investigations under this chapter. Such discovery may be ordered to the same extent and is subject to the same limitations as would apply if the discovery were ordered in aid of a civil action in a state district court of Dallas County, Texas. (Ord. Nos. 13456; 14809; 17393; 20652; 20780)

SEC. 20A-7. COMPLAINT AND ANSWER.

(a) An aggrieved person, or any authorized representative of an aggrieved person, may report a discriminatory housing practice to the administrator and file a complaint with the administrator not later than one year after an alleged discriminatory housing practice has occurred or terminated. A complaint may also be filed by the administrator, not later than one year after an alleged discriminatory housing practice has occurred or terminated, if the administrator has reasonable cause to believe that a person has committed a discriminatory housing practice.

(b) The administrator shall treat a complaint referred by the Secretary of Housing and Urban Development or the Attorney General of the United States under the Fair Housing Act of 1968, 42 U.S.C. § 3601, et seq., as amended, or by the Texas Commission on Human Rights under the Texas Fair Housing Act, Article 1f, Vernon's Texas Revised Civil Statutes, as amended, as a complaint filed under Subsection (a). No action will be taken under this chapter against a person for a discriminatory housing practice if the referred complaint was filed with the governmental entity later than one year after an alleged discriminatory housing practice occurred or terminated.

(c) A complaint must be in writing, made under oath or affirmation, and contain the following information:

(1) Name and address of the respondent.

(2) Name, address, and signature of the complainant.

(3) Name and address of the aggrieved person, if different from the complainant.

(4) Date of the occurrence or termination of the discriminatory housing practice and date of the filing of the complaint.

(5) Description and address of the housing accommodation involved in the discriminatory housing practice, if appropriate.

(6) Concise statement of the facts of the discriminatory housing practice, including the basis of the discrimination (race, color, sex, religion, handicap, familial status, national origin, or source of income).

(d) Upon the filing of a complaint, the administrator shall, in writing:

(1) notify the complainant, and the aggrieved person if different from the complainant, that a complaint has been filed; and

(2) advise the complainant, and the aggrieved person if different from the complainant, of time limits applicable to the complaint and of any rights, obligations, and remedies of the aggrieved person under this chapter.

(e) Not more than 10 days after the filing of a complaint, the administrator shall, in writing:

(1) notify the respondent named in the complaint that a complaint alleging the commission of a discriminatory housing practice has been filed against the respondent;

(2) furnish a copy of the complaint to the respondent;

(3) advise the respondent of the procedural rights and obligations of the respondent, including the right to file a written, signed, and verified informal answer to the complaint within 10 days after service of notice of the complaint; and

(4) advise the respondent of other rights and remedies available to the aggrieved person under this chapter.

(f) Not later than the 10th day after service of the notice and copy of the complaint, a respondent may file an answer to the complaint. The answer must be in writing, made under oath or affirmation, and contain the following information:

(1) Name, address, telephone number, and signature of the respondent or the respondent's attorney, if any.

(2) Concise statement of facts in response to the allegations in the complaint and facts of any defense or exemption.

(g) A complaint or answer may be amended at any time before the administrator notifies the city attorney under Section 20A-12 of a discriminatory housing practice upon which the complaint is based. The administrator shall furnish a copy of each amended complaint or answer, respectively, to the respondent or complainant, and any aggrieved person if different from the complainant, as promptly as is practicable.

(h) The administrator may not disclose or permit to be disclosed to the public the identity of a respondent before the administrator notifies the city attorney under Section 20A-12 of a discriminatory housing practice alleged against the respondent in a complaint or while the complaint is in the process of being investigated and prior to completion of all negotiations relative to a conciliation agreement.

(i) A complaint, except a referred complaint described in Subsection (b) of this section, shall be finally disposed of either through dismissal, execution of a conciliation agreement, or issuance of a charge within one year after the date on which the complaint was filed unless it is impracticable to do so, in which case, the administrator shall notify the complainant, the aggrieved person if different from the complainant, and the respondent, in writing, of the reasons for the delay. (Ord. Nos. 13456; 14809; 20652; 20780; 30246)

SEC. 20A-8. INVESTIGATION.

(a) Not more than 30 days after the filing of a complaint by an aggrieved person or by the administrator, the administrator shall commence an investigation of the complaint to determine whether there is reasonable cause to believe a discriminatory housing practice was committed and the facts of the discriminatory housing practice.

(b) The administrator shall seek the voluntary cooperation of any person to:

(1) obtain access to premises, records, documents, individuals, and any other possible source of information;

(2) examine, record, and copy necessary materials; and

(3) take and record testimony or statements of any person reasonably necessary for the furtherance of the investigation.

(c) The administrator, in consultation with the city attorney, may, at the administrator's discretion or at the request of the respondent, the complainant, or the aggrieved person if different from the complainant, issue a subpoena or subpoena duces tecum to compel the attendance of a witness or the production of relevant materials or documents in accordance with Section 2-8 of Chapter 2 of the city code. Violation of a subpoena issued under this subsection is punishable by the same fines and penalties for contempt as are authorized before the county court.

(d) An investigation shall remain open until a reasonable cause determination is made under Section20A-12, a conciliation agreement is executed and approved under Section 20A-10, or the complaint is dismissed under Section20A-13. Unless impracticable to do so, the administrator shall complete the investigation within 100 days after the date of filing of the complaint. If the administrator is unable to complete the investigation within the 100-day period, the administrator shall notify the complainant, the aggrieved party if different from the complainant, and the respondent, in writing, of the reasons for the delay.

(e) This section does not limit the authority of the administrator to conduct such other investigations or to use such other enforcement procedures, otherwise lawful, as the administrator considers necessary to enforce this chapter.

(f) The administrator shall prepare a final investigative report showing:

(1) the names of and dates of contact with witnesses;

(2) a summary, including dates, of correspondence and other contacts with the aggrieved person and the respondent;

(3) a summary description of other pertinent records;

(4) a summary of witness statements; and

(5) answers to interrogatories. (Ord. Nos. 13456; 14809; 20652; 20780; 32157)

SEC. 20A-9. TEMPORARY OR PRELIMINARY RELIEF.

(a) If at any time following the filing of a complaint the administrator concludes that prompt judicial action is necessary to carry out the purposes of this chapter, the administrator may request the city attorney to initiate a civil action in the state district court of Dallas County, Texas for appropriate temporary or preliminary relief pending final disposition of the complaint.

(b) On receipt of the administrator’s request, the city attorney shall promptly file the action in the state district court. Venue is in Dallas County, Texas.

(c) A temporary restraining order or other order granting preliminary or temporary relief under this section is governed by the applicable Texas Rules of Civil Procedure. (Ord. 20780)

SEC. 20A-10. CONCILIATION.

(a) During the period beginning with the filing of a complaint and ending with the issuance of a charge under Section20A-12, the dismissal of the complaint under Section 20A-13, or the dismissal of the criminal action in municipal court, the administrator shall try to conciliate the complaint. In conciliating a complaint, the administrator shall try to achieve a just resolution and obtain assurances that the respondent will satisfactorily remedy any violation of the aggrieved person’s rights and take action to assure the elimination of both present and future discriminatory housing practices.

(b) If a conciliation agreement is executed under this section, a party to the agreement may not be prosecuted in municipal court, nor may the administrator issue a charge against a party, for the discriminatory housing practice specified in the agreement under Subsection (d)(1) unless the administrator determines that the agreement has been violated and notifies the city attorney in writing of the violation.

(c) A conciliation agreement must be in writing in the form approved by the city attorney and must be signed and verified by the respondent, the complainant, and the aggrieved person if different from the complainant, subject to approval of the

administrator who shall indicate approval by signing the agreement. A conciliation agreement that is not executed before the expiration of 100 days after the date the complaint is filed must include the approval of the city attorney. A conciliation agreement is executed upon its signing and verification by all parties to the agreement.

(d) A conciliation agreement executed under this section must contain:

(1) an identification of the discriminatory housing practice and corresponding respondent that gives rise to the conciliation agreement under Subsection (a) and the identification of any other discriminatory housing practice and respondent that the parties agree to make subject to the limitation on prosecution in Subsection (b);

(2) an identification of the housing accommodation subject to the conciliation agreement; and

(3) a statement that each party entering into the conciliation agreement agrees:

(A) not to violate this chapter or the conciliation agreement; and

(B) that the respondent shall file with the administrator a periodic activity report, in accordance with the following regulations, if the discriminatory housing practice giving rise to the conciliation agreement under Subsection (a) involves a respondent who engages in a business relating to selling or renting housing accommodations; a housing accommodation occupied or intended for occupancy on a rental or sale basis; or a violation of Section 20A-4(d):

(i) Unless the discriminatory housing practice involves a violation of Section20A-4(c)(1), the activity report must state, with respect to each person of the specified class (the race, color, sex, religion, handicap, familial status, national origin, or source of income alleged as the basis of discrimination in the complaint on the discriminatory housing practice) who in person contacts a party to the conciliation agreement concerning either sale, rental, or financing of a housing accommodation or a business relating to selling or renting housing accommodations, the name and address or telephone number of the person, the date of each contact, and the result of each contact.

(ii) If the discriminatory housing practice involves a violation of Section20A-4(c)(1), the activity report must state the number and manner of solicitations concerning housing accommodations made by the party and the approximate boundaries of each neighborhood in which the solicitations are made.

(iii) The party who prepares the activity report must sign and verify the report.

(iv) An activity report must be filed each month on the date specified in the conciliation agreement for a period of not less than three months nor more than 36 months, as required by the conciliation agreement.

(e) In addition to the requirements of Subsection (d), a conciliation agreement may include any other term or condition agreed to by the parties, including, but not limited to:

(1) monetary relief in the form of damages, including humiliation and embarrassment, and attorney fees; and

(2) equitable relief such as access to the housing accommodation at issue, or to a comparable housing accommodation, and provision of services and facilities in connection with a housing accommodation.

(f) Nothing said during the course of conciliation may be made public or used as evidence in a subsequent proceeding under this chapter without the written consent of any person concerned.

(g) A conciliation agreement shall be made public, unless the aggrieved person and the respondent request nondisclosure and the administrator determines that disclosure is not required to further the purposes of this chapter. Notwithstanding a determination that disclosure of a conciliation agreement is not required, the administrator may publish tabulated descriptions of the results of all conciliation efforts.

(h) If the aggrieved person brings a civil action under a local, state, or federal law seeking relief for the alleged discriminatory housing practice and the trial in the action begins, the administrator shall terminate efforts to conciliate the complaint unless the court specifically requests assistance from the administrator. The administrator may also terminate efforts to conciliate the complaint if:

(1) the respondent fails or refuses to confer with the administrator;

(2) the aggrieved person or the respondent fails to make a good faith effort to resolve any dispute; or

(3) the administrator finds, for any reason, that voluntary agreement is not likely to result. (Ord. Nos. 13456; 14809; 20652; 20780; 30246)

SEC. 20A-11. VIOLATION OF CONCILIATION AGREEMENT.

(a) A person commits an offense if, after the person executes a conciliation agreement under Section20A-10, he violates any term or condition contained in the agreement.

(b) It is no defense to criminal prosecution in municipal court or to civil action in state district court under this section that, with respect to a discriminatory housing practice that gave rise to the conciliation agreement under Section 20A-10:

(1) the respondent did not commit the discriminatory housing practice; or

(2) the administrator did not have probable cause to believe the discriminatory housing practice was committed.

(c) If the administrator determines that a conciliation agreement has been violated, the administrator shall give written

notice to all parties subject to the agreement.

(d) When the administrator has reasonable cause to believe that a respondent has breached a conciliation agreement, the administrator shall refer the matter to the city attorney's office with a recommendation that a civil action be filed under Section 20A-14 for the enforcement of the agreement. The administrator shall also file a criminal action in municipal court for a violation of the agreement. (Ord. Nos. 13456; 14809; 20652; 20780)

SEC. 20A-12. REASONABLE CAUSE DETERMINATION AND CHARGE.

(a) Upon notification by the administrator that a conciliation agreement has not been executed by the complainant and the respondent and approved by the administrator in accordance with Section 20A-10, the city attorney, within the time limits set forth in Subsection (b), shall determine whether, based upon all facts known at the time of the decision, reasonable cause exists to believe that a discriminatory housing practice has occurred. In making the reasonable cause determination, the city attorney shall consider whether the facts concerning the alleged discriminatory housing practice are sufficient to warrant the initiation of a criminal action in municipal court or a civil action in state district court.

(b) The city attorney shall make a reasonable cause determination within 100 days after the filing of a complaint unless it is impracticable to do so. If the city attorney is unable to make the determination within the 100-day period, the administrator shall notify the complainant, the aggrieved person if different from the complainant, and the respondent, in writing, of the reasons for the delay.

(c) Upon determination by the city attorney that reasonable cause exists to believe that a discriminatory housing practice has occurred, the administrator shall immediately issue a charge on behalf of the aggrieved person. The administrator may also file a criminal action in municipal court. Not more than 20 days after the administrator issues the charge, the administrator shall notify the complainant, the aggrieved person if different from the complainant, and the respondent, in writing, of the issuance of a charge and include a copy of the charge.

(d) A charge issued by the administrator:

(1) shall consist of a short and plain written statement of the facts upon which the city attorney has found reasonable cause to believe that a discriminatory housing practice has occurred;

(2) shall be based on the final investigative report; and

(3) need not be limited to the facts or grounds alleged in the complaint filed under Section 20A-7 of this chapter.

(e) If the city attorney determines that no reasonable cause exists to believe that a discriminatory housing practice has occurred, the city attorney shall issue to the administrator a short and plain written statement of the facts upon which the city attorney based the no reasonable cause determination.

(f) The administrator may not issue a charge and the city attorney may not bring or maintain a civil action in state district court for an alleged discriminatory housing practice after the aggrieved person has brought a civil action under local, state, or federal law seeking relief for the alleged discriminatory housing practice and the trial in the action has begun. If a charge may not be issued by the administrator or a civil action may not be brought or maintained by the city attorney because of the trial of a civil action brought by the aggrieved party, the administrator shall notify the complainant, the aggrieved person if different from the complainant, and the respondent, in writing. (Ord. Nos. 13456; 14809; 20652; 20780; 21055)

SEC. 20A-13. DISMISSAL OF COMPLAINT.

(a) A complaint may be dismissed by the administrator:

(1) during the investigation and prior to referral to the city attorney when the administrator determines that:

(A) the complaint was not filed within the required time period;

(B) the location of the alleged discriminatory housing practice is not within the city's jurisdiction;

(C) the alleged discriminatory housing practice is not a violation of this chapter;

(D) the complainant or aggrieved person refuses to cooperate with the administrator in the investigation of the complaint or enforcement of the executed conciliation agreement;

(E) the complainant, or the aggrieved person if different from the complainant, cannot be located after the administrator has performed a reasonable search; or

(F) a conciliation agreement has been executed by the respondent, complainant, and aggrieved person if different from the complainant; or

(2) within 10 days after receipt of a statement of no reasonable cause from the city attorney.

(b) A criminal action may be dismissed by a municipal judge upon motion of the city attorney, if after the city attorney files the action charging a respondent with a discriminatory housing practice, a conciliation agreement is executed under Section 20A-10 before the trial begins in municipal court.

(c) The administrator shall notify the complainant, the aggrieved person if different from the complainant, and the respondent of the dismissal of the complaint, including a written statement of facts, and make public disclosure of the dismissal by issuing a press release, unless the respondent requests that no public disclosure be made. (Ord. Nos. 13456;

14809; 20652; 20780)

SEC. 20A-14. CIVIL ACTION IN STATE DISTRICT COURT.

(a) If a respondent has been found by the administrator and the city attorney to have breached an executed conciliation agreement or if the administrator has issued a charge under Section 20A-12, the city attorney, upon the request of the administrator, shall initiate and maintain a civil action on behalf of the aggrieved person in the state district court seeking relief under this chapter.

(b) An aggrieved person may intervene in the action.

(c) If the court finds in the civil action that the conciliation agreement has been violated or a discriminatory housing practice has occurred, the court may award to the plaintiff:

(1) actual and punitive damages;

(2) civil penalties payable to the city for vindication of the public interest in an amount that does not exceed:

(A) $10,000 if the respondent has not been adjudged by order of a court to have committed a prior discriminatory housing practice;

(B) except as provided by Subparagraph (D) of this paragraph, $25,000 if the respondent has been adjudged by order of a court to have committed one other discriminatory housing practice during the five-year period ending on the date of the filing of the charge; and

(C) except as provided by Subparagraph (D) of this paragraph, $50,000 if the respondent has been adjudged by order of a court to have committed two or more discriminatory housing practices during the seven-year period ending on the date of the filing of the charge.

(D) If the acts constituting the discriminatory housing practice that is the subject of the charge are committed by the same individual who has been previously adjudged to have committed acts constituting a discriminatory housing practice, the civil penalties in Subparagraphs (B) and (C) of this paragraph may be imposed without regard to the period of time within which any other discriminatory housing practice occurred;

(3) reasonable attorney's fees;

(4) costs of court; and

(5) any permanent or temporary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in the discriminatory housing practice or ordering appropriate affirmative action.

(d) If actual damages are sought for the benefit of an aggrieved person who does not intervene in the civil action, the court may not award the actual damages if the aggrieved person has not complied with discovery orders entered by the court.

(e) The city shall not be subject to orders for sanctions for the failure of the complainant, if other than the administrator, or aggrieved person to comply with discovery requests of the defendant or discovery orders of the court.

(f) Any resolution of a charge before a final order is signed by the state district court under this section requires the consent of the aggrieved person on whose behalf the charge is issued. (Ord. Nos. 20780; 21055; 32157)

SEC. 20A-15. ENFORCEMENT BY PRIVATE PERSONS.

(a) An aggrieved person may file a civil action in state district court not later than two years after the occurrence or termination of an alleged discriminatory housing practice or after the breach of a conciliation agreement entered into under this chapter, whichever occurs last, to obtain appropriate relief with respect to the discriminatory housing practice or the breach of the conciliation agreement. Except for civil actions due to the breach of a conciliation agreement, computation of the two-year period does not include any time during which an administrative proceeding under this article was pending with respect to a complaint or charge under this article based upon a discriminatory housing practice.

(b) An aggrieved person may file an action under this section whether or not a complaint has been filed under Section 20A-7 of this chapter and without regard to the status of any complaint filed under Section 20A-7 of this chapter.

(c) An aggrieved person may not file an action under this section for an alleged discriminatory housing practice that forms the basis of a charge issued by the administrator if:

(1) the administrator has obtained a conciliation agreement with the consent of the aggrieved person; or

(2) the city attorney has filed a civil action on the charge in state district court on behalf of the aggrieved person.

(d) In an action under this section, if the court finds that a discriminatory housing practice has occurred, the court may award to the plaintiff:

(1) actual and punitive damages;

(2) reasonable attorney's fees;

(3) court costs; and

(4) subject to Section 20(A)-16 of this chapter, any permanent or temporary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in the discriminatory housing practice or ordering appropriate affirmative action.

(e) A court in a civil action brought under this section may award reasonable attorney's fees to the prevailing party and assess court costs against the non- prevailing party. (Ord. Nos. 20780; 32157)

SEC. 20A-16. EFFECT OF CIVIL ACTION ON CERTAIN CONTRACTS.

Relief granted under Section 20A-14 or 20A-15 does not affect a contract, sale, encumbrance, or lease that:

(1) was consummated before the granting of the relief; and

(2) involved a bona fide purchaser, encumbrancer, or tenant who did not have actual notice of the filing of a complaint under this chapter or a civil action under Section 20A-17. (Ord. 20780)

SEC. 20A-17. SERVICE OF NOTICE AND COMPUTATION OF TIME.

(a) For purposes of this chapter, any notice, paper, or document required to be served on any person under this chapter may be served in person or by United States mail to the person's last known address.

(b) When service is by mail, three days will be added to the prescribed time period allowed under this chapter for timely filing.

(c) Service is complete and time periods begin to run at the time the required notice, paper, or document is delivered in person or deposited in a United States postal receptacle. (Ord. 20780)

SEC. 20A-18. ADDITIONAL REMEDIES.

The procedures prescribed by this chapter do not constitute an administrative prerequisite to another action or remedy available to the city or to an aggrieved person under federal or state law. (Ord. Nos. 13456; 14809; 20652; 20780)

SEC. 20A-19. EDUCATION AND PUBLIC INFORMATION.

The administrator may conduct educational and public information activities that are designed to promote the policy of this chapter. (Ord. Nos. 13456; 14809; 20652; 20780)

SEC. 20A-20. EFFECT ON OTHER LAW.

This ordinance does not affect any local, state, or federal restriction:

(1) on the maximum number of occupants permitted to occupy a dwelling unit; or

(2) relating to health or safety standards. (Ord. 20780)

SEC. 20A-21. CRIMINAL PENALTIES FOR VIOLATION.

(a) A person who violates a provision of Section 20A-4 or 20A-11 of this chapter commits a criminal offense. A person is guilty of a separate criminal offense for each day or part of a day during which a violation is committed, continued, or permitted.

(b) A criminal offense under this chapter is punishable in municipal court by a fine of not less than $250 nor more than $500. (Ord. Nos. 20652; 20780)

ARTICLE II.

MIXED-INCOME HOUSING.

SEC. 20A-22. PURPOSE.

This article is adopted to implement the provisions and goals of the comprehensive housing policy, affirmatively further fair housing, create and maintain available and affordable housing throughout Dallas, promote greater fair housing choices, and overcome patterns of segregation and concentrations of poverty. (Ord. Nos. 31142; 32195)

SEC. 20A-23. APPLICABILITY.

This article applies to developments seeking a development bonus under Division 51A-4.1100 and other properties enrolled in a mixed-income housing program. (Ord. Nos. 31142; 32195)

SEC. 20A-23.1. ALTERNATIVE METHODS OF PROVISION AND INCENTIVES.

(a) Alternative methods of provision. Developments seeking a bonus under this article may:

(1) provide the required units on the same building site as the market rate units;

(2) provide the units as part of a phased development as provided in Section 51A-4.1105(e); or

(3) pay a fee in lieu of on-site or phased development.

(b) On-site provision and phased on-site provision. Units provided on-site must comply with all requirements in Division

51A-4.1100 unless specifically exempted in the applicable zoning district.

(c) Fee in lieu. The requirement for reserved dwelling units may be satisfied by making a payment to the city's Mixed Income Housing Development Bonus Fund established by Resolution No. 22-0744.

(1) If the floor area devoted to non-residential uses is more than 20 percent of the total floor area, the fee is calculated by multiplying the applicable per square foot amount in Section 20A-34 by the total floor area as floor area is defined in Section 51A-2.102(38); otherwise the fee is calculated by multiplying the applicable per square foot amount in Section 20A-34 by the residential floor area as floor area is defined in Section 51A-2.102(38).

(2) The amount of the fee applies to each building using the bonus separately and will vary by the number of stories in that building according to Section 20A-34.

(3) After payment is received, the director shall issue a letter confirming that the development has met the affordability requirements of Division 51A-4.1100 to receive a mixed income housing development bonus. This letter must be recorded and made a part of the deed records of the county or counties in which the Property is located. The recorded letter will serve as the restrictive covenant required in Section 51A-4.1105 and in this article.

(4) Compliance with Sections 20A-26, 20A-27, 20A-28, 20A-29, and 20A-31 is not required.

(d) Financial incentives.

(1) Developments that use the on-site or phased on-site provisions in Section 51A-4.1105(e) may also qualify for financial incentives.

(2) Financial incentives are not available to developments that choose the fee in lieu option. (Ord. 32195)

SEC. 20A-24. DEFINITIONS AND INTERPRETATIONS.

(a) Definitions. In this article:

(1) AFFIRMATIVE FAIR HOUSING MARKETING PLAN means a marketing strategy designed to attract renters of all majority and minority groups, regardless of race, color, religion, sex, disability, familial status, national origin, or source of income.

(2) AFFORDABLE RENT means: (i) a monthly rental housing payment, in compliance with a rent and income schedule produced annually by the department, or (ii) the voucher payment standard for voucher holders.

(3) ANNUAL INCOME has the definition assigned to that term in 24 CFR §5.609, "Annual Income," as amended.

(4) APPLICANT means a household applying to lease a reserved dwelling unit.

(5) AREA MEDIAN FAMILY INCOME ("AMFI") means the median income for the Dallas, TX HUD Metro Fair Market Rent Area, adjusted for family size, as determined annually by the Department of Housing and Urban Development.

(6) DEPARTMENT means the department of housing and neighborhood revitalization.

(7) DEVELOPMENT means the structure or structures located on the Property receiving a development bonus.

(8) DEVELOPMENT BONUS means yard, lot, and space bonuses that can be obtained by meeting the requirements in this division and Chapter 51A.

(9) DEVELOPMENT BONUS RESTRICTIVE COVENANT means a covenant running with the land that meets the requirements of this chapter.

(10) DIRECTOR means the director of the department of housing and neighborhood revitalization and includes representatives, agents, or department employees designated by the director.

(11) ELIGIBLE HOUSEHOLDS means households with an income within the required income band or voucher holders regardless of income.

(12) FAMILY means family as defined in 24 CFR §5.403, "Definitions," as amended.

(13) HANDBOOK means the HUD Handbook 4350.3: Occupancy Requirements of Subsidized Multifamily Housing Programs, as periodically revised and published by HUD.

(14) HUD means the United States Department of Housing and Urban Development.

(15) INCOME means income as defined by 24 CFR §5.609, "Annual Income."

(16) INCOME BAND means the range of household adjusted incomes between a pre- determined upper limit and a pre-determined lower limit generally stated in terms of a percentage of area median family income adjusted for family size.

(A) INCOME BAND 1 means an income between 81 and 100 percent of AMFI.

(B) INCOME BAND 2 means an income between 61 and 80 percent of AMFI.

(C) INCOME BAND 3 means an income between 51 and 60 percent of AMFI.

(17) MARKET VALUE ANALYSIS ("MVA") means the most recent official study that was commissioned by and

prepared for the city to assist residents and policy-makers to understand the elements of their local residential real estate markets.

(18) MIXED-INCOME HOUSING PROGRAM means a program administered by the department in which each owner using a development bonus participates.

(19) MIXED-INCOME HOUSING RESTRICTIVE COVENANT means the instrument securing the terms and enforcement of this division.

(20) OPTIONAL AMENITIES means services or features that are not included in the monthly rent, including access to premium parking and concierge services, among other services.

(21) OWNER means the entity or person who owns the development or Property during the rental affordability period, including the owner's employees, agents, or contractors.

(22) PROGRAM MANUAL means the guidebook published, maintained, and updated by the department that includes specific guidance for program implementation.

(23) PROPERTY means the land and all improvements as more particularly described in the mixed-income restrictive covenant.

(24) RENTAL AFFORDABILITY PERIOD means the period that the reserved dwelling units may only be leased to and occupied by eligible households.

(25) RESERVED DWELLING UNIT means the rental units in a development available to be leased to and occupied by eligible households, or which are currently leased to and occupied by eligible households and are leased at affordable rental rates.

(26) UNIT TYPE means the kind of unit broken out by number of bedrooms in the unit, or, if the unit is a specialty unit, a description of the type of specialty unit, such as efficiency, one bedroom, two bedroom, loft, penthouse, etc.

(27) VOUCHER HOLDER means a holder of a housing voucher, including vouchers directly or indirectly funded by the federal, state, or local government.

(28) VOUCHER PAYMENT STANDARD means the maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

(b) Interpretations. For uses or terms found in Chapter 51, the regulations in Section 51A-4.702 (a)(6)(C) apply in this division. (Ord. Nos. 31142 ; 32195)

SEC. 20A-25. MARKET VALUE ANALYSIS CATEGORY AND RESERVED DWELLING UNIT VERIFICATIONS.

(a) In general. An owner shall comply with this section before applying for a construction permit. An owner shall:

(1) submit an application to the department detailing the proposed project, which includes the following information:

(A) the legal description and address of the property;

(B) any restrictive covenants or contracts that will require the owner to lease dwelling units at a specific rent for a specific term of years, along with the number of units; and

(C) any other information determined by the director to be necessary to aid in the determination of whether the owner is eligible to participate in the mixed-income housing program;

(2) obtain a certified verification of the building site's market value analysis ("MVA") category;

(3) sign a reserved dwelling unit verification form provided by the department where the owner acknowledges receipt of information regarding the minimum and maximum percentage of reserved dwelling units for that category, states the intended pro-rata distribution of the reserved dwelling units, if applicable, and provides any other pertinent information requested by the director;

(4) acknowledge its intent to participate in the mixed income housing development bonus program.

(b) Reserved dwelling unit verification. A development using a mixed-income development bonus in Division 51A-4.1100 may reserve no more than 50 percent of the dwelling units in each development for households at or below 80 percent of Area Median Family Income. This maximum percentage of reserved dwelling units may be waived for developments that are enrolled in a program administered by the department and authorized by the city council that furthers the public purposes and goals of the city's housing policy.

(c) Conflicts. In case of a conflict between the documents required in this section and the requirements of:

(1) the base zoning district, the base zoning district controls; and

(2) the restrictive covenant, the restrictive covenant controls.

(d) Expiration of market value analysis category, reserved dwelling unit, and participation verifications Verifications expire one year after the date of issuance if the owner has not filed a mixed-income restrictive covenant in the real property

records related to the property for which the verifications were issued and made reasonable progress, as defined in Section 311.3 of Chapter 52 of the Dallas City Code, on the Property that will be subject to the mixed-income restrictive covenant. (Ord. Nos. 31142 ; 32195)

SEC. 20A-26. MIXED-INCOME RESTRICTIVE COVENANT.

(a) In general. A mixed-income restrictive covenant must be executed and recorded in accordance with this section on a form provided by the city. The instrument must:

(1) be signed by all owners of the Property;

(2) be signed by all lienholders, other than taxing entities, having an interest in the Property;

(3) contain a legal description of the Property;

(4) specify the number of any required reserved dwelling units and the income band applicable to each unit;

(5) be a covenant running with the land;

(6) be for a term of 20 years with one-year automatic renewals (to allow for periods of noncompliance until the full 20-year term is met) and it is terminated by a subsequent written instrument;

(7) state that all signatories agree to defend, indemnify, and hold harmless the City of Dallas from and against all claims or liabilities arising out of or in connection with the instrument;

(8) state that it may only be amended or terminated by a subsequent written instrument that is:

(A) signed by all owners of the Property and all lienholders, other than taxing entities;

(B) approved by the director;

(C) approved as to form by the city attorney; and

(D) recorded and made a part of the deed records of the county or counties in which the Property is located;

(9) state that the owner agrees to comply with all the requirements of this article, including the submission of quarterly unit status reports, maintaining the development in compliance with the city's health and safety ordinances, full cooperation with any audits and inspections conducted pursuant to the mixed-income housing program including providing access to all records required to be maintained in accordance with this article and allowing the physical inspection of the property, compliance with the city's Program Manual maintained by the department, and continued compliance with maintenance of the physical attributes of the property in accordance with this article;

(10) state that the owner agrees to maintain the property in compliance with all federal, state, and local health and safety regulations;

(11) state that the owner agrees to notify the city within 30 days of any change in ownership, default, foreclosure, or bankruptcy;

(12) state that it may be enforced by the City of Dallas;

(13) state that it shall be governed by the laws of the State of Texas; and

(14) be approved by the director and be approved as to form by city attorney.

(b) Commencement and termination of rental affordability period. The rental affordability period begins on the date the first reserved dwelling unit is occupied by an eligible household and continues until the expiration of the term of years stated in the mixed-income restrictive covenant, unless the term has been tolled and extended due to the owner's substantial noncompliance with the mixed-income housing program.

(c) Instrument to be recorded. A true and correct copy of the fully executed mixed-income restrictive covenant must be recorded in the deed records of the county or counties in which the property is located. The instrument will not be considered effective until it is recorded in the deed records in accordance with this article and a recorded copy of the instrument is filed with the director.

(d) Amendment of instrument. A recorded mixed-income restrictive covenant may be amended to adjust the number of reserved dwelling units in a development if the total number of dwelling units has changed. (Ord. Nos. 31142 ; 32195)

SEC. 20A-27. ADMINISTRATION OF THE MIXED-INCOME HOUSING PROGRAM.

(a) Compliance. Except as provided in this article, the owner shall provide reserved units and conduct eligibility determinations in accordance with the handbook, 24 CFR Part 5, "General HUD Program Requirements; Waivers," and the department's program manual. Where the program manual provides specific exceptions to the handbook or to 24 CFR Part 5, the program manual controls with respect to the mixed income housing development bonus program.

(b) Exceptions. The following mandatory items in the handbook do not apply to the mixed-income housing program:

(1) inquiries regarding or documentation of the immigration status of an applicant or eligible household;

(2) use of HUD forms, unless specifically required in this division;

(3) compliance with HUD requirements that are specific to a HUD program and are not generally-applicable; and

(4) use of the Enterprise Income Verification (EIV) system.

(c) Determination of family size. An owner shall use the broad definition of family as defined in 24 CFR §5.403, "Definitions," and may not engage in any discriminatory housing practices as defined in Section 20A-4 of this chapter.

(d) Rent and income limits. The department will annually publish rent and income limits to be used in determining an applicant's eligibility to lease a reserved dwelling unit or a household's eligibility to renew the lease on a reserved dwelling unit. The department shall use the income limits published annually by HUD for the Dallas, TX HUD Metro Fair Market Rent Area, adjusted for family size, as the basis for the department's income limits and use the nine percent housing tax credit limits published annually by the Texas Department of Housing and Community Affairs as the rent limits.

(e) Income bands.

(1) An owner shall ensure that reserved dwelling units are only leased to and occupied by eligible households in accordance with the development bonus restrictive covenant.

(2) Eligible households making less than the minimum AMFI for a particular income band, including voucher holders, may be counted for that income band provided that they are charged an affordable rent.

(f) Affordable rents.

(1) An owner shall ensure that an affordable rent is charged to eligible households occupying reserved dwelling units and shall re-certify eligibility and rent annually.

(2) An owner shall provide a minimum of 30 days written notice to the eligible household before a rent change. The notice must include a summary of how the change was calculated.

(3) The affordable rent must include all monthly charges or fees that are mandatory for all tenants but does not need to include charges or fees for optional amenities. The owner may not impose expenses or fees that are applicable only to reserved dwelling units.

(g) Annual certification of eligibility. An owner shall conduct an annual certification of household income and composition for each eligible household in accordance with the program manual.

(1) An owner shall not conduct a certification on less than an annual basis unless requested to do so by an eligible household. An owner shall conduct the interim certification in the same manner as conducting an annual certification. An owner may charge a reasonable fee to cover the administrative costs associated with conducting an interim certification.

(2) If an owner fails to complete the annual certification within 120 days of the lease anniversary date, the reserved dwelling unit will be considered out of compliance and the mixed-income restrictive covenant term will be extended for the period of non-compliance. The non-compliance can be cured by completing the annual certification or designating another unit as a reserved dwelling unit and leasing it to an eligible household.

(h) Additional requirements and prohibitions.

(1) The reserved dwelling unit for which an applicant is applying to lease, or for which an eligible household leases, must be the applicant's or eligible household's only residence.

(2) An owner may not allow an eligible household to sublease or otherwise accept compensation for allowing a person or persons who are not documented members of the eligible household, pursuant to the owner's lease agreement with the eligible household, to occupy a reserved dwelling unit, regardless of the terms or length of the occupancy.

(3) Any financial assistance that a student receives under the Higher Education Act of 1965, from private sources, or from an institution of higher education that is in excess of the amounts received for tuition shall be included in annual income, except if the student will live with his or her parents and his or her parents are voucher holders.

(4) The department shall conduct regular inspections and monitoring in accordance with the published program manual.

(Ord. Nos. 31142; 32195)

SEC. 20A-28. TENANT SELECTION AND OTHER WRITTEN POLICIES.

(a) Tenant selection and other policies must comply with the program manual and:

(1) be reasonably related to the mixed-income housing program eligibility criteria and the applicant's ability to perform the obligations of the lease;

(2) prioritize holders of housing vouchers, including vouchers directly or indirectly funded by the federal government, for lease and occupancy of reserved units;

(3) provide for the selection of tenants from a written waiting list in the chronological order of their application, insofar as is practicable;

(4) give prompt written notification to any rejected applicant stating the grounds for the rejection; and

(5) be consistent with this article.

(b) Owners shall create the following written policies and retain written records related to the following policies:

(1) reasonable accommodations;

(2) affirmative marketing;

(3) applicant screening criteria;

(4) tenant selection criteria;

(5) policies for opening and closing the waiting list;

(6) waiting list preferences, if any;

(7) procedures for rejecting ineligible tenants;

(8) occupancy standards;

(9) non-renewal and termination notices; and

(10) unit transfers. (Ord. Nos. 31142; 32195)

SEC. 20A-29. [RESERVED.]

SEC. 20A-30. NON-DISCRIMINATION.

(a) In general. Except as provided in this section, an owner receiving a mixed income development bonus under Division 51A-4.1100 shall not discriminate against holders of housing vouchers, including vouchers directly or indirectly funded by the federal government.

(b) Exception. It is a defense to criminal prosecution or civil action under this section that at least the minimum required percentage of reserved units are leased to eligible households and that all applicable requirements of this article have been met. (Ord. Nos. 31142 ; 32195)

SEC. 20A-31. COMPLIANCE, REPORTING, AND RECORDKEEPING.

(a) In general. An owner must comply with the city's mixed-income housing program during the term of the mixed-income restrictive covenant.

(b) Use of forms. If the director publishes mandatory forms to be used in the mixed-income housing program, which may be amended from time to time, the owner shall use those forms. The director may also publish non-mandatory forms that an owner may use.

(c) Management policies. An owner is responsible for ensuring that his or her employees and agents, including third-party management companies, are aware of and comply with the development bonus restrictive covenant and the mixed-income housing program.

(d) Recordkeeping.

(1) An owner shall maintain documentation during the rental affordability period including, but not limited to, applications, waitlists, first-hand or third-party verification of income and assets, leases for reserved dwelling units, and rents and any fees charged for reserved dwelling units.

(2) An owner shall maintain all required documentation in the eligible household's file on site at the development or maintain the documentation in an electronic format as long as the documentation can be accessed by onsite employees and provided in a timely fashion to the director upon request.

(3) An owner shall maintain documentation of all income verification efforts and household composition reviews throughout the term of each eligible household's tenancy and for at least three years after the eligible household moves out.

(e) Quarterly status reports. An owner shall submit quarterly status reports on a form provided by the director, as described below, in January, April, July, and October on or before the 10th day of the month. The report must include:

(1) the total number of dwelling units on the property;

(2) the total number of reserved dwelling units on the property;

(3) a list of all reserved dwelling units on the property, identified by unit number and unit type;

(4) for each reserved dwelling unit:

(A) the applicable income bands;

(B) the current affordable rent, utility allowance, and any fees charged;

(C) the occupancy status as of the last day of the previous month for the reporting period. For example, the report due October 10th should report occupancy as of September 30th of the same year;

(D) the income of the eligible household leasing and occupying the unit; and

(E) the most recent eligibility date for the eligible household leasing and occupying the unit;

(5) a signed statement by the owner acknowledging compliance with this division;

(6) certification that the development:

(A) has maintained vendor registration with one or more local providers of housing vouchers;

(B) has reported available units to one or more local providers of housing vouchers each quarter; and

(C) that the development will pass the provider's required inspections; and

(7) any other information requested by the director that is reasonably related to the mixed-income housing program.

(f) First and final quarterly status reports. An owner shall submit:

(1) the first quarterly status report before the 10th day of the month following the end of the first quarter in which the affordability period began; and

(2) the final quarterly status report on the 20th anniversary of the beginning of the rental affordability period, or a date determined by the director due to the tolling of and extension of the rental affordability period. The director shall verify that the owner has completed all applicable requirements of this division. If all requirements are completed, the director shall sign the submitted final quarterly status report before it is filed with the building official.

(g) Affirmative fair housing marketing plan.

(1) In this subsection ADMINISTRATOR means the administrator of the fair housing division of the office of equity and inclusion or its successor.

(2) Before an eligible household leases and occupies a reserved dwelling unit, an owner shall create an affirmative fair housing marketing plan and shall follow the affirmative fair housing marketing plan at all times during the rental affordability period.

(3) The affirmative fair housing marketing plan shall be in writing and shall be submitted to and receive written approval from the director at least 30 days before an owner starts marketing a unit in the property for initial occupancy.

(4) The affirmative fair housing marketing plan must describe the advertising, outreach, community contacts, and other marketing activities that inform potential renters of the existence of the reserved dwelling units.

(5) The administrator shall approve or deny the affirmative fair housing marketing plan within 60 days after a complete plan is submitted to the director.

(A) Approval. The administrator shall approve the affirmative fair housing marketing plan if it complies with the requirements of this division.

(B) Denial. The administrator shall deny the affirmative fair housing marketing plan if it does not comply with this division. If the administrator denies the affirmative fair housing marketing plan, he or she shall state in writing the specific reasons for denial. If denied, the owner shall immediately submit a new affirmative fair housing marketing plan.

(h) Audit and inspection.

(1) Any report, policy, or procedure that is required to be created and maintained by this article may be reviewed and audited by the director. An owner shall provide the director with all documentation necessary for the director to verify the accuracy of the information included in the report, policy, or procedure.

(2) The director may also randomly, regularly, and periodically select a sample of tenants occupying reserved dwelling units for the purpose of income verification. Any information received pursuant to this subsection is confidential and may only be used for the purpose of verifying income to determine eligibility for occupancy of the reserved dwelling units.

(i) Consent to substitute.

(1) For properties with three-bedroom or larger dwelling units, if an owner cannot locate eligible households to lease three-bedroom or larger dwelling units, and if the director is satisfied that the owner has made best efforts to lease the three bedroom or larger dwelling units, if applicable, including full compliance with the affirmative fair housing marketing plan, with written consent from the director, an owner may from time to time substitute on a two-for-one basis additional two bedroom dwelling units and/or on a three-to-one basis additional one bedroom dwelling units to meet the pro rata distribution requirements described in Section 51A-4.1106(f).

(2) Before granting written consent, the director shall review and approve an amended affirmative fair housing marketing plan detailing how the owner will target marketing to larger households who could qualify to lease the three-bedroom dwelling units (and larger dwelling units, if applicable). The director's written consent must include a time period during which the agreed-upon substitutions satisfy the pro rata distribution requirements. (Ord. Nos. 31142; 32195)

SEC. 20A-32. VIOLATIONS, CORRECTIVE ACTION PERIOD, AND PENALTY.

(a) In general. An owner who fails to take an action required by this article or who takes an action prohibited by this division commits an offense.

(b) Form of notice. The director shall give an owner written notice any time the director determines that an owner is not in compliance with the mixed-income housing program or the mixed-income restrictive covenants.

(c) Corrective action period and extensions of mixed-income restrictive covenants

(1) For a violation other than a violation that poses an imminent hazard or threat to health and safety, the director shall provide written notice of a reasonable corrective action period for failure to file a quarterly unit status report and a reasonable corrective action period for other violations.

(2) During the corrective action period, an owner will have the opportunity to show that either the owner or the property was never in noncompliance or that the event of noncompliance has been corrected. Sufficient documentation of correction must be received by the director during the corrective action period for an event to be considered corrected during the corrective action period.

(3) If an owner fails to resolve all violations of this article during the corrective action period, the director may issue citations, seek relief provided in the deed restrictions, extend the mixed-income restrictive covenants term for the period equal to a term of non-compliance, and take any other actions allowed by law. (Ord. Nos. 31142; 32195)

SEC. 20A-33. MIXED INCOME HOUSING DEVELOPMENT BONUS FUND.

(a) Use. The mixed income housing development bonus fund may only be used for the following purposes:

(1) Funding programs authorized by the comprehensive housing policy that affirmatively further fair housing.

(2) Funding for data and analysis in support of housing programs authorized by the comprehensive housing policy that affirmatively further fair housing.

(3) Funding staff and expenses for management and administration of mixed income housing development bonus program and the mixed income housing development bonus fund.

(b) Administration. The mixed income housing development bonus fund will be administered by the department. (Ord. 32195)

SEC. 20A-34. FEES.

(a) Program participation fees.

(1) Effective until December 31. 2022. the following fees apply:

Program Participation Fees	**Fee**
Pre-application meeting	$92.00
Initial first year activities (including receiving a development bonus, filing the mixed-income restrictive covenant, and initial leasing.)	$625.00
Compliance monitoring during affordability period	$3,736.0 0

(2) Effective January 1, 2023, the following fees apply:

Program Participation Fees	**Fee**
Pre-application meeting	$1,390
Initial first year activities (including receiving a development bonus, filing the mixed-income restrictive covenant, and initial leasing.)	$485
Compliance monitoring during affordability period	$11,082

(b) Fees in lieu of on-site provision of units

Fees in Lieu of On-Site Provision of Units Fee to be multiplied by the square footage of floor area as specified in Section 20A-23.1	**Fee MVA Categories A-F**	**Fee MVA Categories G-I**
Under six stories	$3.07	$2.15
Between six and eight stories	$4.91	$3.44
Between nine and 12 stories	$6.14	$4.30
Over 12 stories	$7.98	$5.59

Consumer Price Index adjustment. The fees in lieu will be increased yearly by a percentage equal to the percentage change in the consumer price index statistics published by the United States Bureau of Labor. Comparisons will be made using the index entitled, "Housing in Dallas-Fort Worth-Arlington, TX, all urban consumers, not seasonally adjusted," series ID

CUURS37ASAH (1982-1984 = 100)," or similar comparable United States Bureau of Labor data on changes in the cost of living, if the initial index is no longer published. Beginning January 2023, the change will be determined by comparison of the figure for the previous January with that of January of the current year. This calculation may not reduce the fee in lieu below the listed amount for the preceding year. (Ord. Nos. 31142 ; 32195 ; 32310)