

Mixed Income Housing Development Bonus (MIHDB)

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Request:

Consideration of amending the Dallas Development Code Chapter 51A-4.1100 Mixed Income Housing, to support and align with the ***One Dallas Options*** program within the City of Dallas Comprehensive Housing Policy.

New Information:

On December 14, 2021, the Housing and Homelessness Solutions (HHS) Committee of City Council was briefed on the One Dallas Options program and related amendments to various chapters of city code and the Comprehensive Housing Policy.

The HHS Committee had similar questions to ZOAC concerning the option to pay a fee in lieu of providing reserved units on-site. The amount of fee is still under discussion with stakeholders. Except for questions about parking, the HHS Committee did not have concerns with the proposed amendments to Chapter 51A or the development bonuses in general.

Concerns from members of the HHS Committee

The HHS Committee asked questions regarding the fee-in-lieu option, as well as the proposed One Dallas Fund and its use. Staff reiterated the objective of setting the fee at a level that incentivizes on-site reservation of units for all but the most expensive developments. However, staff has received comments from stakeholders (developers) that the current amount under discussion (a sliding scale centering around \$10 / gross square foot of residential development) is too high. Ultimately, the fee amount and the uses of the One Dallas Fund are still under discussion.

An HHS Committee member discussed the possibility of a master-sublease program, in which the City would lease units directly from a property, and in turn sublease those units to qualified tenants, including housing voucher holders, thereby reducing potential friction in the leasing process. Department of Housing & Neighborhood Revitalization Staff recommended adding the development of such a program to the 2022 work plan to further support voucher acceptance. Except for making voucher acceptance easier, this program would have no relation to the Mixed Income Housing Development Bonus program or the development bonuses proposed under One Dallas Options.

One member of the HHS Committee asked if the parking reduction bonus for Type 3 developments would be limited to developments with close proximity to transit. Staff is recommending that the parking reduction bonuses be applicable to all developments participating in the One Dallas Options program. Staff expects that the flexibility given by the reduction in required spaces will allow developers to make nuanced decisions about parking in response to market demand and the specific details of the individual project. There is more to be considered aside from transit proximity when discussing changes to parking requirements. The Dallas – Fort

Worth chapter of the Urban Land Institute hosted an event on December 9, 2021 entitled “Out and About: How We’ll Get There & Where We’ll Park.” One presenter stated, “Perhaps surprisingly, there seems to be faith [among ULI survey respondents] that projects with access to shared mobility, bicycling routes, and micromobility can have even more of an impact on supporting lower parking amounts than proximity to transit.”¹

Concerns from members of ZOAC

There has been further discussion on the currently proposed five unit minimum that is required to qualify for the proposed One Dallas Options program. The main concern is that this would discourage or simply eliminate participation in mixed income housing development from smaller developers and projects. This is not the intent of the One Dallas Options program. Staff continues to recommend a minimum of 5% units to be reserved and now recommends maintaining the original language requiring a minimum of one unit.

As mentioned in previous presentations, the proposed parking reductions for Type 3 developments would apply to all uses except those specifically listed (see proposed conditions). After further discussion, many of the listed uses that do not qualify for parking reductions also share peak usage times with residential. To that end, staff recommends that the spaces required for the listed uses (that cannot be reduced by the bonus) be reserved for those uses to prevent conflict between residential and non-residential parking needs.

At the November 18, 2021 ZOAC meeting, the Committee discussed design standards, such as urban form setback and lot coverage, for Type 3 developments. While it is possible to include these standards in Section 51A-4.1100, staff believes it is more appropriate for those specific design decisions to be made through the review process of the Planned Development District. Because PDs are intended for use where existing conditions create a need for more nuanced design and building standard regulation, that process is better equipped for those needs than a blanket regulation for all Type 3 developments.

At the same meeting there was some discussion of incentivizing redevelopment of historic properties. Parking regulations are one of the key constraints to historic preservation and adaptive reuse of historic properties. One Dallas Options offers a 100% parking reduction, removing this barrier to historic preservation. In addition, once funds are available in the proposed One Dallas Fund, all program participants, including historic properties, will have the opportunity to apply for gap funding. The City also has an active historic tax exemption program designed to incentivize the reuse and preservation of historic properties. In addition to parking constraints and funding issues, staff recognizes that some historic properties may not meet the design regulations in Chapter 51A-4.1107 and recommends the creation of an administrative exemption for these properties.

Review of context and background included in previous reports:

On March 27, 2019, City Council approved amendments to Chapter 51A of the Dallas Development Code to allow by-right development bonuses to incentivize new mixed-income rental development. These by-right bonuses are available in MF – Multifamily Districts and MU – Mixed Use Districts, specifically MF-1(A), MF-2(A), and MF-3(A) Multifamily Districts and MU-1, MU-2, and MU-3 Mixed Use Districts. Today, these districts represent approximately 15,000 acres across the city.

¹ William Zeh Herbig, Senior Director, ULI Building Healthy Places – Presentation to ULI DFW on 12/9/2021.

Council also approved a new Chapter 20A-II - Mixed Income Housing which outlined requirements for managing mixed income developments approved using the Mixed Income Housing Development Bonus (MIHDB).

The MIHDB is a regulatory framework that trades additional development rights (height, stories, FAR, density, lot coverage, etc.) for a development reserving a certain percentage of the residential units for households at a certain percentage of the area median family income. For example, in MF-1(A) districts, a developer could build to 51' and 80% lot coverage (rather than 36' and 60% lot coverage) in exchange for reserving 5% of the units for households within a certain income band, such as 61-80% AMFI.

The by-right bonuses in Chapter 51A and the requirements in Chapter 20A-II also provided a framework for new and amended planned development districts to offer a base plus a negotiated bonus. Regulatory bonuses and the reserved unit requirements are specified in the PD, along with references to the administrative procedures in Division 51A-4.1100 and by reference the procedures in Chapter 20A-II.

Summary of One Dallas Options proposal

The proposed One Dallas Options and associated clarifying amendments to Div. 51A-4.1100 are designed to expand and enhance the current mixed income housing development bonus (MIHDB).

Under the current MIHDB, developers in MF and MU districts and developers in PDs with bonus language may use the bonuses by right if they provide units on site.

Under the proposed One Dallas Options, the MIHDB program is modified to add:

- A third type of zoning bonuses. Applicants for new or amended PDs can request additional development rights in the new PD. If the request is for more development rights than staff is comfortable recommending approval of, the applicant can negotiate participation in the One Dallas Options program and access a set menu of additional development rights. This menu builds in flexibility so that as market conditions change between zoning approval and permit submission, the developer can pick bonuses (and required affordability) from the menu rather than a pre-selected, narrow group of bonuses. As with any PD, during the zoning process limitations on the menu of options could be set if needed, based on land use considerations.
- Additional pathways for compliance. In addition to on-site provision of units, developers in MF and MU districts and in all PDs that reference compliance with Div. 51A-4.1100 can trade additional development rights for payment of a fee in lieu of on-site provision of units or land dedication.
- A clearer path to request funding to fill any documented financial gaps created by on-site provision of reserved dwelling units.
- A One Dallas Fund, which may be used to off-set the cost of providing reserved dwelling units on-site, to provide gap funding for other mixed income developments, and to otherwise increase the production and preservation of housing units not otherwise produced by the market. The proposed policy language for the One Dallas Fund seeks to balance the need for reserved units in stronger residential markets and the need for investment and equitable revitalization in weaker markets.

In addition, the following minor clarifications are proposed:

- A path forward for developments in MF and MU districts that propose to use the bonus but that have deed restrictions
- Clarification that transit proximity is measured radially
- Fractions of a reserved dwelling unit will be rounded up
- Required registration with one or more local providers of housing vouchers
- A reference to Chapter 20A to allow for the on-site provision to be met by alternative methods as provided in Chapter 20A (land dedication and fee in lieu).
- Clarification that parking is reduced to 1.25 per unit (1 per unit with transit proximity), *or per code, whichever is less.*

Current and Ongoing Status of Mixed Income Housing in Dallas

A total of seven new mixed income multifamily communities are currently under construction and using the negotiated bonus, for a total of 1,673 units, 104 of which are reserved dwelling units. Eight more mixed income multifamily communities are in the pre-development phase, totaling 1,707 units, 124 of which are reserved dwelling units. Another 16 zoning cases have been approved recently with a mixed income component and an expectation that the bonus will be used.

Another five communities are using the by-right bonus and are in various stages of planning, pre-development, or construction, for a total of more than 1,200 units.

In total, the current MIHDB program has more than 4,580 units under construction or in pre-development.

The proposed enhancements to this program are expected to incentivize additional development in the coming years.

Overview of Current Div. 51A-4.1100 Regulations

Div. 51A-4.1100 regulates the development code portion of the MIHDB. Among other things, this division lays out the following items:

- The development bonus period
- Details regarding the permitting process, including minimum units required, phasing, and procedures to obtain a certificate of occupancy
- Development requirements, including requirements related to the unit mix and the finish out of the reserved units
- Design standards, including requirements for pedestrian amenities, fencing, parking locations, sidewalk width, lighting, frontages, and open space requirements

Overview of Chapter 20A

Article 20A-II regulates the fair housing portion of the MIHDB by specifying requirements related to the management of the properties, rental rates, tenancy, and other items related to the residents. Among other things, this article includes the following items:

- Definitions related to income, rent, area median family income, eligible households, voucher requirements, and references to certain federal documents and requirements.
- Procedures related to obtaining a development bonus, including requirements for the restrictive covenant.

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- Procedures related to eligibility determination, wait lists, over/under occupancy, income limits, affordable rents, certification of eligibility, tenant selection, marketing, and compliance

Proposed changes to Chapter 20A

City Council will review proposed changes to regulations in Chapter 20A, including regulations regarding:

- Alternative methods of compliance with the requirements in Div. 51A-4.1100, including fee in lieu and land dedication.
- Financial incentives to encourage on-site development of reserved units
- Enhanced procedures to ensure that developments do not discriminate against voucher holders

Proposed changes to the Comprehensive Housing Policy (CHP) to provide for One Dallas Options and the One Dallas Fund

The One Dallas *Options* program statement in the CHP provides the details of program administration and points to Div. 51A-4.1100 and Art. 20A-II for regulatory language.

In addition, the One Dallas *Fund* program statement provides guidance for the use of the fund, including the fund's goals, eligible activities, applicant eligibility, and process for award of funding.

To support the goals of the CHP, the fund will work to attract affordable housing to strong neighborhoods (Market Value Analysis (MVA) Categories A, B, and C), to attract mixed income communities and reduce displacement in gentrifying and transitioning areas (MVA Categories D, E, and F), and to support equitable revitalization in weaker market areas (MVA Categories G, H, and I).

The fund will be split between:

- Creating and preserving reserved dwelling units and increasing affordability in MVA Categories A, B, and C and rapidly gentrifying D, E, and F
- Equitable revitalization in D through I, including incentivizing new market-rate units in mixed income communities, renovating existing affordable units (whether naturally-occurring or not), and preventing further decline.
- Additional funding for expansion of programs in the CHP and funding for neighborhood infrastructure in support of new and existing development in Categories D through I.
- Administration

The City will use an equity lens to award funding through the City's existing development funding application process in the Department of Housing & Neighborhood Revitalization.

New information

Based on comments from ZOAC members during the November 4, 2021 meeting, staff has addressed the following:

Design Standards for a Type 3 Development

As described below, a Type 3 Development is a new or amended Planned Development (PD) district that references compliance with the One Dallas Options. Typically, PDs that include a

mixed income housing bonus (Type 2) have a clause that exempts the development from the design standards contained in Section 51A-4.1107, but include a set of design standards unique to that development. There is often a development plan requirement in the PD as well, which requires a development plan (and sometimes a landscape plan) be approved by CPC and City Council and incorporated into the PD conditions as an exhibit. Staff has added language to the Design Standards section of the mixed income housing section (1107) that reflects this possibility and requires that if a Type 3 development PD provides an exemption from section 1107, it must also require a development or other relevant plan, that would be subject to approval by City Council after CPC recommendation. See Section 51A-4.1107(a)(3).

Minor Changes

Staff removed language in Section 1106 referring to the ability of different development types to access administrative and financial incentives. This enabling language will be located in Chapter 20A or the Comprehensive Housing Policy as appropriate.

Green Elements

Department of Housing and Neighborhood Revitalization staff proposal to potentially include green elements as a point of study for 2022 work plan.

Information from November 4, 2021 ZOAC Meeting:

Based on comments from ZOAC members at the October 21, 2021 meeting, staff has addressed the following:

Off-site Provision of Reserved Units

The option to provide reserved units at a site other than that receiving a development bonus is complex and requires the consideration of many factors, including the zoning of the alternate site, its MVA category, and the surrounding land use context. For these reasons, staff is now proposing that units be required to be provided on-site, with the option to pay a fee in lieu or (with Council approval) dedicate land as previously proposed. Provision of off-site units may be considered in future updates to **One Dallas Options** and the Comprehensive Housing Policy.

Public Deed Restrictions

Currently, under MIHDB, if a development site is subject to public deed restrictions that do anything other than limit allowed uses of the property, the site is ineligible to receive any development bonus for providing mixed income housing. However, some sites have base zoning and a stakeholder-driven deed restriction involving development standards. This type of deed restriction would currently disqualify the development from taking advantage of *any* development bonus for providing mixed income housing, even if mixed-income housing was the purpose of the most recent zoning change.

Staff is proposing to remove this restriction from the eligibility criteria and make explicit that the most restrictive standards control, whether they are included in the development code or public deed restrictions.

Parking Reduction

Parking is regulated differently depending on whether the site is a Type 1, 2, or 3.

Currently under MIHDB (Type 1 and Type 2 developments), minimum parking for multifamily units is reduced to 1.25 spaces per unit. Staff recommends adding language that allows parking per the reduction bonus or per code, whichever is less.

Under the proposed One Dallas Options program (Type 3, new/amended PDs), the parking reduction is applicable to all uses except:

- Alcoholic beverage establishments,
- Commercial amusement (inside),
- Commercial amusement (outside),
- Restaurant without drive-in or drive-through service, and
- Restaurant with drive-in or drive-through service.

This parking reduction allows developments to use available resources to produce housing rather than produce parking in excess of market needs.

Development Bonus Applicability

Under the proposed One Dallas Options program, the dwelling unit and FAR bonus only applies to residential uses. The height / stories bonus applies to all uses. The parking reduction applies to all uses except those listed above.

H-Team Process

The City currently offers an alternative plan review process, called the Q-Team, that allows applicants to pay for an accelerated plan review. Q-Team reviews are done in a meeting setting with the development team and Q-Team members present. During the meeting, consultants and staff review the proposed development with a goal of being able to issue the permit after the meeting. Generally, however, the applicant leaves with a specific list of deficiencies and receives a permit after addressing the deficiencies. This process can be much faster than the normal plan review process.

Staff proposes a similar team that would be dedicated to reviewing developments that incorporate residential uses. This new team, nicknamed the H-Team, would provide a prioritized alternative review process for participants in the One Dallas Program. Implementation of this team may require amendments to Chapter 52 and funding from the Development Services Enterprise Fund or the future One Dallas Fund (replenished through One Dallas Options fee in lieu payments).

Fee-in-Lieu

As part of the menu of options for fulfilling the requirements of the bonus, all three types of developments (1, 2, and 3) may pay a fee in lieu of providing on-site reserved dwelling units. Daedalus Advisory Services, a consultant with experience in helping cities craft programs like One Dallas, is currently under contract to specify the fee in lieu amount. The fee will be set at a level that preferences on-site provision for all but the most expensive developments. This fee would also help to inform a future potential modification to One Dallas that allows non-residential construction to access bonuses in exchange for paying into the One Dallas Fund.

The fee in lieu payments would be deposited into a new One Dallas Fund. The use of this fund would be guided by a policy statement in the Comprehensive Housing Policy. At least half of the available funds would be focused on three activities in MVA Categories A, B, C and rapidly gentrifying Categories D, E, and F: 1) creating affordable housing, 2) preserving affordable housing, and 3) increasing affordability in mixed income developments. The remaining funds

may be used to support equitable revitalization in MVA Categories D through I, including incentivizing new market-rate units in mixed income communities, renovating existing affordable units (whether naturally-occurring or not), and preventing further decline. The ODF would also pay the administration costs of operating the One Dallas Options Program and administering the fund.

One Dallas Bonuses (Type 3)

The menu of bonuses listed for Type 3 developments is only available in new or amended planned development districts that expressly reference compliance with the proposed **One Dallas Options** mixed income housing development bonus. This menu of bonuses provides flexibility for future developments to meet the needs of the market at the time of construction. As with the existing MIHDB, staff and CPC can recommend to Council conditions that address the specific needs of the site, including setting parking minimums, limiting bonus height, or providing other modifications of the One Dallas Options menu of bonuses.

Background:

These proposed changes to Chapter 51A are part of a larger initiative supported by the City Manager and staff to create a program called **One Dallas Options**. This program, essentially an expansion of the existing Mixed Income Housing Development Bonus (MIHDB) program, adds additional incentives to encourage market-rate developers to build mixed income housing or to contribute to a new One Dallas Fund to be used to further the goals of the Comprehensive Housing Policy.

One Dallas Options provides a set of incentives – regulatory, administrative, and financial – in exchange for on-site provision of reserved dwelling units, off-site provision, land dedication, or a fee paid in lieu of providing the required units.

Information from October 21, 2021 ZOAC Meeting:

The paragraphs below contain minor clarifying changes to the information presented at the October 21, 2021 ZOAC meeting.

Regulatory Incentives

The regulatory incentives are proposed to reside in Chapter 51A and provide a set of specific increases in development rights. In the multifamily and mixed use base zoning districts and in existing planned development districts, the existing regulatory bonuses, if any, remain unchanged, but developers will be able to access the administrative and financial bonuses in the new **One Dallas Options** program. New or amended planned development districts that reference the amended Chapter 51A-4.1100 would be able to access a set menu of additional development rights in exchange for a set percentage of reserved units at a variety of income levels and would also be able to access the administrative and financial bonuses in the new program. The specific bonuses are in the case report below.

Administrative Incentives

In answer to a long-standing request for faster permit review for housing developers, staff is recommending adding a new team, nicknamed the H-Team, that would function the same as the existing Q-Team. This new team would be focused on residential (single family, duplex, and multifamily) development. As with the Q-Team, the H-Team would meet with the applicant and all other parties with responsibilities relating to the development project. The applicant would be required to be prepared to finalize all plans on the date of the H-Team meeting. Once all issues are resolved, the team would approve the plans and issue the required construction permits.

If approved, the H-Team would potentially process permits in the following order of priority: **One Dallas Options** Program participants and other mixed income projects, then market-rate residential projects, then projects referred from Q Team.

This would create a prioritized and expedited review process for mixed income projects and those paying into the One Dallas Fund. The faster permit review reduces costs and addresses the city's housing shortage more quickly. The details of the prioritized plan review and the financial incentives will be included in a new **One Dallas Options** program statement in the Comprehensive Housing Policy.

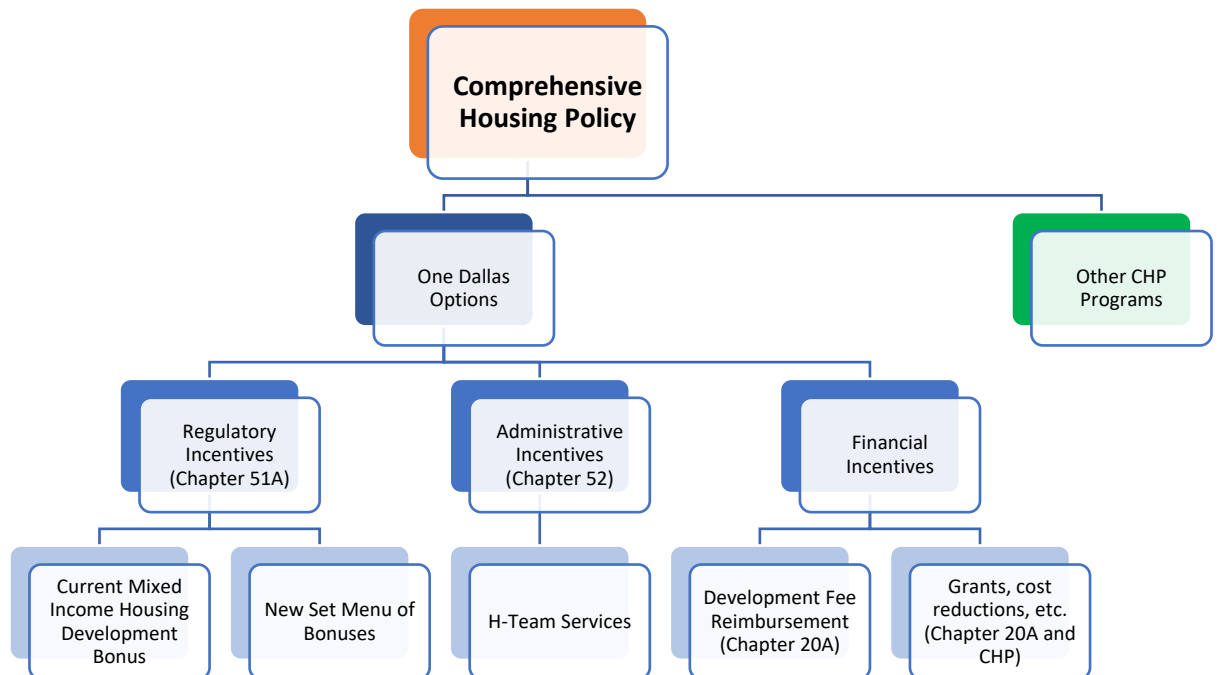
Funding for the H-Team is yet to be determined but may come from the new One Dallas Fund or from the Development Services Enterprise Fund.

Financial Incentives

Participants in the program may apply for financial incentives, including reimbursement of certain development fees. Application would be made through the Department of Housing & Neighborhood Revitalization's standing Notice of Funding Availability process and would be subject to the requirements of the Comprehensive Housing Policy, including Fair Housing review as needed.

Because these incentives are not related to land use or development standards, administrative and financial incentives are not included or otherwise referred to in the proposed amendments to Chapter 51A.

The chart below illustrates the relationship between the Comprehensive Housing Policy and the new **One Dallas Options** program.



Recommendations:

Review the zoning provisions regarding the Mixed Income Housing Development Bonus in order to align Chapter 51A-4.1100 with ***One Dallas Options***.

One Dallas Options is a proposed housing program of the City of Dallas Comprehensive Housing Policy intended to encourage the development of mixed income housing through various incentives. The regulatory bonuses within the current Mixed Income Housing Development Bonus program will remain unchanged and included in the ***One Dallas Options*** program. The items for review include:

1. Alignment of Chapter 51A with ***One Dallas Options***
 - a) Add specific One Dallas bonuses
 - b) Include references to Chapter 20A to allow for alternative methods of meeting the reserved unit requirement, such as dedicating land, paying a fee in lieu of onsite provision, or another alternative method approved by Council.
 - c) Increase the minimum number of reserved units from one unit to five units or five percent, whichever is higher
 - d) Align Chapter 51A with Department of Housing & Neighborhood Revitalization policies for project qualification.
2. Minor non-substantive amendments to Chapter 51A-4.1100
 - a) Address method for rounding fractions of a required reserved unit
 - b) Amend parking requirements to align with future parking amendments
 - c) Other text amendments

1. Alignment of Chapter 51A with *One Dallas Options*

- a) ***Add One Dallas Options bonuses***

The proposed ***One Dallas Options*** program includes a set of bonuses that may be accessed by Planned Development Districts that reference compliance with Section 51A-4.1100. The use of these new development bonuses replaces the current practice under which a PD contains a unique set of mixed income housing development bonuses.

A minimum of five reserved units or 5% of the total units, whichever is higher, must be provided in order to access the development bonuses. The bonuses are determined by the MVA category of the development site and the Area Median Family Income (AMFI) Tier for which units are reserved.

The number of reserved units required is calculated based on the total number of dwelling units, after the density bonus is determined, the same as in the current MIHDB. The parking reduction may be affected by the ongoing parking amendments.

Other proposed amendments related to these new bonus categories include the division of sites with different zoning classifications into “types.” This is done in order to more clearly delineate between the developments and the bonuses for which they are eligible. This includes amendments to Sections 51A-4.1102 and 51A-4.1106

Type One developments include those located in MF(A) and MU districts (including those with public deed restrictions and PDs with MF(A) and MU base districts that only modify allowed uses). Type One developments are eligible to receive the current Mixed Income Housing Development Bonus, which remain unchanged, as well as Administrative and Financial Incentives.

Type Two developments include those located in Planned Development Districts that include an expressly-stated development bonus for providing mixed income housing. Type Two developments are eligible to receive the regulatory bonus that is provided in their respective PD, as well as Administrative and Financial Incentives.

Type Three developments include Planned Development Districts that expressly reference compliance with the proposed **One Dallas Options** mixed income housing development bonus. Type Three developments are eligible to receive the new One Dallas Options Regulatory Incentives, as well as Administrative and Financial Incentives.

b) Option to pay fee-in-lieu of providing reserved units onsite

This addition allows for a developer to pay a fee in lieu of developing reserved units on- or off-site. This fee would be deposited into the One Dallas Fund, a new restricted fund that will be used by the City of Dallas to provide and preserve affordable housing throughout the City. This fund would be managed by the Department of Housing & Neighborhood Revitalization.

The goal of One Dallas Options is to 1) create housing and 2) offer additional options for providing housing at a wide variety of price points. This additional flexibility allows Council to approve unique partnerships with non-profit organizations, for-profit developers, community housing development corporations, houses of worship, and other entities.

d) Increase minimum number of reserved units from one to five or five percent

This amendment increases the minimum number of reserved units from one to five.

e) Align Chapter 51A with Department of Housing & Neighborhood Revitalization policies

Several amendments are intended to align the requirements of Chapter 51A with Chapter 20A and Department of Housing & Neighborhood Revitalization policies. A definition of One Dallas Options has been included. In addition to certification of a site’s MVA and reserved dwelling unit verification, property owners must also obtain certified verification of participation in One Dallas. The specific form of verification will be determined by the Department of Housing & Neighborhood Revitalization.

The proposed amendments require that the development register with at least one local provider of housing vouchers and acknowledge that they must pass the providers’ inspections. This language strengthens the City’s requirement that participants in One Dallas Options shall not discriminate against voucher holders.

2) Minor non-substantive amendments to Chapter 51A-4.1100

The proposed amendments also include several small, non-substantive amendments to address rounding, parking, and other text/editorial items.

Proposed Amendments

Underlines and strikethroughs in black were present in the proposed amendments included in the November 18, 2021 ZOAC meeting.

Highlighted text represents a change from the November 18, 2021 ZOAC meeting.

Division 51A-4.1100. Mixed-Income Housing.

SEC. 51A-4.1101. PURPOSE.

This division 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. 31152)

SEC. 51A-4.1102. APPLICABILITY.

(a) In general. Development bonuses ~~apply to qualifying developments located in~~ as below:

(1) Type One developments include those in:

_____ (A~~1~~) MF-1(A), MF-2(A), and MF-3(A) Multifamily Districts;

_____ (2B) MU-1, MU-2, and MU-3 Mixed Use Districts;

_____ (3C) MF-1(A), MF-2(A), and MF-3(A) Multifamily Districts with public deed restrictions ~~that only limit allowed uses.~~ In the event of a conflict between a public deed restriction that modifies development standards and this division, the more restrictive standard controls;

_____ (D4) MU-1, MU-2, and MU-3 Mixed Use Districts with public deed restrictions ~~that only limit allowed uses.~~ In the event of a conflict between a public deed restriction that modifies development standards and this division, the more restrictive standard controls; and

_____ (E5) Planned development districts that ~~reference compliance with this division or planned development districts that default to MF-1(A), MF-2(A), MF-3(A), MU-1, MU-2, and MU-3 Districts as base zoning and only alter the allowed uses.~~

_____ (32) Type Two developments include those in planned development districts that specify mixed-income regulatory bonuses and that reference compliance with this division.

(3) _____ Type Three developments include those in planned development districts that reference compliance with this division and expressly reference compliance with Section 51A-4.1106(j). In the event of a conflict between the standards in a planned development district and this division, the planned development district conditions control.

(b) Market value analysis. Specific development bonus applicability is further determined based on the location of the development in a specific market value analysis category.

(c) Residential uses. To be eligible for development bonuses under this division, developments must include multifamily or retirement housing uses. (Ord. 31152)

SEC. 51A-4.1103. DEFINITIONS AND INTERPRETATIONS.

(a) Definitions. In this division:

(1) AFFORDABLE RENT means: (i) a monthly rental housing payment, less an allowance for utilities, that does not exceed 30 percent of an eligible household's adjusted income divided by 12, or (ii) the voucher payment standard.

(2) AFFIRMATIVE FAIR HOUSING MARKETING means a marketing strategy designed to attract renters of all majority and minority groups, regardless of race, color, national origin, religion, sex, age, disability, or other protected class under Title VIII of the Civil Rights Act of 1964 and all related regulations, executive orders, and directives.

(3) AREA MEDIAN FAMILY INCOME ("AMFI") means the median income for the Dallas Area Standard Metropolitan Statistical Area, adjusted for family size, as determined annually by the Department of Housing and Urban Development.

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

(5) INCOME means income as defined by 24 CFR §5.609.

(6) INCOME BAND means the range of household 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 (income bands descriptions are located in Chapter 20A).

(7) MARKET VALUE ANALYSIS ("MVA") means the official study that was commissioned by and prepared for the City of Dallas to assist residents and policy-makers in understanding the elements of their local residential real estate markets.

(8) MIXED-INCOME RESTRICTIVE COVENANT means a covenant running with the land that meets the requirements of this division and Chapter 20A.

(9) ONE DALLAS means the One Dallas Options program of the Comprehensive Housing Policy of the City of Dallas as described in Chapter 20A.

(~~9~~10) OWNER means the entity or person using the development bonus as well as all other owners or operators of the development during the rental affordability period.

(~~40~~11) PASSENGER LOADING ZONE means a space that is reserved for the exclusive use of vehicles during the loading or unloading of passengers. A passenger loading zone is not a taxicab stand for purposes of Section 28-101, "Restricted Use of Bus Stops and Taxicab Stands."

(~~41~~12) PEDESTRIAN SCALE LIGHTING means lighting that emanates from a source that is no more than 14 feet above the grade of the sidewalk or an equivalent pedestrian light fixture approved by the director of transportation.

(~~42~~13) RENTAL AFFORDABILITY PERIOD means the 20 year period that the reserved dwelling units may only be leased to and occupied by eligible households or voucher holders.

(~~43~~14) RESERVED DWELLING UNIT means the rental units within a development available to be occupied or currently occupied by eligible families or voucher holders and are leased at affordable rents set according to this division.

(~~44~~15) STOOP means a small porch leading to the entrance of a residence.

(~~45~~16) TRANSIT PROXIMITY means development within one-half mile, measured radially, of a transit station, including trolley stops, train stations, transfer centers, transfer locations, transit centers, and any transit stop with a climate-controlled waiting area. Transit agencies served include Dallas Area Rapid Transit, Trinity Railway Express, and trolley service.

(~~46~~17) VOUCHER HOLDER means a holder of a housing voucher, including vouchers directly or indirectly funded by the federal government.

(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. 31152)

SEC. 51A-4.1104. DEVELOPMENT BONUS PERIOD.

(a) Any development bonus provided in this division is only applicable to structures built during the rental affordability period or according to the terms of the mixed-income restrictive covenant.

(b) Structures built during the term of the mixed-income restrictive covenant may retain their bonuses until they are destroyed by an intentional act of the owner.

(c) Structures built during the term of the mixed-income restrictive covenant may retain their bonuses and be rebuilt if they are destroyed by other than an intentional act of the owner, or owner's agent, if the development continues to meet the requirements of this division. (Ord. 31152)

SEC. 51A-4.1105. PROCEDURES TO OBTAIN A DEVELOPMENT BONUS.

(a) In general.

(1) The owner must comply with the requirements of Chapter 20A, as amended.

(2) In accordance with this division and Section 20A-25, owners shall

(A) Owners shall obtain a certified verification of the building site's MVA category; and

(B) shall sign a reserved dwelling unit verification; before applying for a permit for construction; and

(C) obtain certified verification of participation in One Dallas Options before applying for a permit for construction. in accordance with this division and Section 20A-25.

(b) Building permit application. An application for a building permit using a development bonus must include the following:

(1) the date, names, addresses, and telephone numbers of the applicant and all property owners;

(2) the legal description, the current zoning classification, the market value analysis category, and the census tract of the building site for which the development bonus is requested;

(3) the total number of dwelling units proposed, the number of reserved dwelling units provided, and the number of reserved dwelling units required as a result of receiving the development bonus;

(4) the total number of one-bedroom dwelling units, two-bedroom dwelling units, etc. being proposed;

(5) a copy of the signed market value analysis verification from the director of housing and neighborhood revitalization; ~~and~~

(6) any other reasonable and pertinent information that the building official determines to be necessary for review; ~~and~~

(7) <Reserved for additional requirements as referred by Building Inspections>

(c) Building permit issuance. Before the issuance of a building permit, the mixed-income restrictive covenant must be recorded in the county in which the building site is located, and an official copy of the executed and recorded mixed-income restrictive covenant must be submitted to the building official.

(d) Minimum units required.

(1) A development using a development bonus in this division must provide a minimum of ~~one~~ **five one** reserved dwelling units regardless of the percentage of total units required.

(2) In this article, Fractions of a required reserved dwelling unit will be rounded up to the next whole number.

(3) A development using a development bonus in this ~~division~~ article shall 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 of housing and neighborhood revitalization and authorized by the city council that furthers the public purposes of the city's housing policy and affirmatively furthers fair housing.

(e) Phasing.

(1) To obtain a development bonus for a phased development, a project plan must be submitted to the building official with the initial building permit application.

(2) For a phased development:

(A) the first phase must independently qualify for the development bonus; and

(B) each subsequent phase combined with all previous phases already completed or under construction must also qualify for the development bonus.

(3) A project taking advantage of a development bonus may consist of two or more building sites if they are developed under a project plan. The project plan must be:

(A) signed by all property owners; and

(B) approved by the building official.

(f) Certificate of occupancy. Before the issuance of a final certificate of occupancy for a multifamily or retirement housing use, the owner must submit to the building official any additional information needed to ensure compliance with the terms of the building permit and the mixed-income restrictive covenant, including:

(1) The approved affirmative fair housing marketing plan described in Section 20A-31(g);~~;~~

(2) A letter from the director of housing and neighborhood revitalization certifying that the development complies with the mixed-income restrictive covenant;~~;~~ and (Ord. 31152)

(3) A letter from the director of housing and neighborhood revitalization certifying that the development has provided proof that the development has registered with one or more

local providers of housing vouchers and has acknowledged that the development must pass the provider's required inspections.

SEC. 51A-4.1106. ~~DEVELOPMENT REQUIREMENTS~~ REGULATIONS.

- (a) Except as provided in Section 51A-4.1105(e) and in this section, all reserved dwelling units must be provided on the same building site as the market rate units.
- (b) Reserved dwelling units must be dispersed throughout the residential floor area of each building.
- (c) Reserved dwelling units must not be segregated or concentrated in any one floor or area of any buildings but must be dispersed throughout all residential buildings.
- (d) Reserved dwelling units may float within each dwelling unit type.
- (e) Reserved dwelling units must be of comparable finish-out and materials as the market rate dwelling units and must be equally available to eligible families or voucher holders as other market rate dwelling unit tenants.
- (f) Except as provided in Section 20A-31(i), reserved dwelling units must be dispersed substantially pro-rata among the total unit types so that not all the reserved dwelling units are efficiency or one-bedroom units. For example, if 10 percent of the total dwelling units are reserved dwelling units, 10 percent of the efficiency units, 10 percent of the one-bedroom units, 10 percent of the two-bedroom units, 10 percent of the three-bedroom units (and so on, if applicable) must be reserved dwelling units.
- ~~—(1) A maximum 10 percent of the total units may be specialty units including club suites and penthouse suites and are not required to be part of the dispersal of reserved dwelling units by type; however, the overall 10 percent requirement is calculated based on the total number of all units.~~
- ~~—(2) In determining the required number of reserved dwelling units, fractional units are counted to the nearest whole number, with one half counted as an additional unit, but a minimum of one unit is required.~~
- (g) Eligible families or voucher holders occupying reserved units may not be restricted from common areas and amenities unless the restrictions apply to all dwelling unit occupants.
- (h) Type One developments are eligible to receive the mixed income housing development bonuses as outlined in the respective district regulation section of this Chapter and are eligible to participate in the One Dallas Options administrative and financial incentives in accordance with Chapter 20A-xxx and the comprehensive housing policy, as amended.
- (i) Type Two developments are eligible to receive mixed income housing development bonuses as outlined in the respective planned development district conditions and are eligible to

participate in the One Dallas Options administrative and financial incentives in accordance with Chapter 20A-xxx and the comprehensive housing policy, as amended.

(j) Type Three developments are eligible to receive the following mixed income housing development bonuses with the reservation of a minimum of 5% of total units with a minimum of 51 reserved units according to the following <subsection> and in accordance with Chapter 20A-xxx and the comprehensive housing policy, as amended.

(1) Dwelling Unit Bonus. The number of reserved units required is calculated based on the total number of dwelling units, after the dwelling unit bonus is determined.

<u>MVA Category</u>	<u>Tier 1</u> <u>(<= 50% of AMFI)</u>	<u>Tier 2</u> <u>(51 – 80% of AMFI)</u>	<u>Tier 3</u> <u>(81 – 100% of AMFI)</u>
<u>MVA A – F</u>	<u>20%</u>	<u>10%</u>	<u>5%</u>
<u>MVA G - I</u>	<u>40%</u>	<u>30%</u>	<u>20%</u>

(2) Floor Area Ratio Bonus. This bonus applies only to residential floor area ratio.

<u>MVA Category</u>	<u>Tier 1</u> <u>(<= 50% of AMFI)</u>	<u>Tier 2</u> <u>(51 – 80% of AMFI)</u>	<u>Tier 3</u> <u>(81 – 100% of AMFI)</u>
<u>MVA A – F</u>	<u>+1.5</u>	<u>+1.0</u>	<u>+0.5</u>
<u>MVA G - I</u>	<u>+2.5</u>	<u>+2.0</u>	<u>+1.0</u>

(3) Height Bonus. This bonus applies to any use. The bonus applies to building height as measured in the relevant planned development district. Any fractional units are rounded to the nearest whole number, with one half unit being rounded to the next greater whole number.

<u>MVA Category</u>	<u>Tier 1</u> <u>(<= 50% of AMFI)</u>	<u>Tier 2</u> <u>(51 – 80% of AMFI)</u>	<u>Tier 3</u> <u>(81 – 100% of AMFI)</u>
<u>MVA A – F</u>	<u>25%</u>	<u>15%</u>	<u>5%</u>
<u>MVA G - I</u>	<u>45%</u>	<u>35%</u>	<u>20%</u>

(4) Parking Reduction. This bonus applies to the total number of parking spaces required for all uses except alcoholic beverage establishments, commercial amusement (inside), commercial amusement (outside), restaurant without drive-in or drive-through service, and restaurant with drive-in or drive-through service.

<u>MVA Category</u>	<u>Tier 1</u> <u>(<= 50% of AMFI)</u>	<u>Tier 2</u> <u>(51 – 80% of AMFI)</u>	<u>Tier 3</u> <u>(81 – 100% of AMFI)</u>
<u>MVA A – F</u>	<u>100%</u>	<u>50%</u>	<u>20%</u>
<u>MVA G - I</u>	<u>100%</u>	<u>70%</u>	<u>40%</u>

(k) The requirements for on-site reserved units in this division may be met by alternative methods as provided in Chapter 20A-xxxx (Ord. 31152)

SEC. 51A-4.1107. DESIGN STANDARDS.

(a) In general.

(1) Except as provided in this section, To obtain a development bonus under this division, a qualifying development must meet the requirements of this section, where applicable.

(2) Except as provided in this section, the board of adjustment may not grant a variance or special exception to the standards in this section.

(3) Type 3 development may deviate from this section, subject to the following conditions:

(A) The planned development district conditions must require that a development plan be submitted, approved, and added to the conditions prior to issuance of a building permit.

(B) The planned development district conditions must require that a landscape plan be submitted, approved, and added to the conditions prior to issuance of a building permit.

(C) A development plan, landscape plan, or any other plans required by the planned development conditions in accordance with this subsection must be reviewed in accordance with the standards in this section. A development plan, landscape plan, or any other plan required by this section must meet or exceed the standards in this section.

(4) At the discretion of the director, historic properties or buildings may be exempt from portions of the requirements of this section.

(b) Yard, lot, and space standards.

(1) Encroachments. The following additional items are permitted to be located within the required front, side, and rear yards:

(A) Seat walls, retaining walls, stoops, porches, steps, unenclosed balconies, ramps, handrails, safety railings, and benches all not exceeding four feet in height and extending a maximum of five feet into the required minimum yards.

(B) Landscape planters.

(C) Sculptures.

(D) Awnings

(2) Front yard fences. A maximum four-foot-high fence is allowed in a front yard. A maximum four-foot-high handrail may be located on retaining walls in a front yard.

(3) Height. Maximum height is controlled by the development bonus provisions and must comply with residential proximity slope regulations if applicable.

(c) Off-street parking and loading.

(1) In general. Except as provided in this section, consult the use regulations in Division 51A-4.200 for the specific off-street parking and loading requirements for each use.

(2) Multifamily parking. Except as provided in this ~~paragraph~~ division, one and one-quarter space per dwelling unit is required, or per the requirements of Division 51A-4.200 or a successor ordinance, whichever requires fewer spaces. ~~is required.~~

(A) At least 15 percent of the required parking must be available for guest parking.

(B) For developments with transit proximity, one space per dwelling unit is required, or per the requirements of Division 51A-4.200 or a successor ordinance, whichever requires fewer spaces. At least 15 percent of the required parking must be available for guest parking.

(3) Retirement housing. One space per dwelling unit is required, or per the requirements of Division 51A-4.200 or a successor ordinance, whichever requires fewer spaces.

(4) Parking locations.

(A) In general. Except as provided in this subparagraph, ~~S~~surface parking is prohibited between the street-facing facade and the property line. For buildings with more than one street frontage, only two street frontages are subject to this requirement.

(B) Thoroughfare frontage. For buildings fronting on a thoroughfare, surface parking is prohibited within the front setback.

(C) Surface parking. A maximum of 15 percent of the total on-site parking may be provided as surface parking in a side yard.

(D) Parking structures. That portion of the ground-level floor facing the street of any multi-floor parking facility must have an active use other than parking, with a minimum depth of 25 feet, or must have an exterior facade that is similar in materials, architecture, and appearance to the facade of the main structure. Exterior parking structure facade openings must provide solid screening a minimum 42 inches from the floor level within the parking structure to screen vehicles and vehicle headlights.

(E) Assigned parking. For assigned parking spaces, those spaces allotted for reserved dwelling units must be dispersed and distributed amongst all other assigned parking for similar units.

(5) Passenger loading.

(A) Each building site must provide at least one off-street or on-street passenger loading space. The board of adjustment may grant a variance to this subparagraph.

(B) On-street passenger loading zones, if provided, must be constructed in compliance with Architectural Barrier Act accessibility standards and must be approved by the director and by the director of public works.

(6) Screening of off-street loading spaces and service areas. Screening must be at least six feet in height measured from the horizontal plane passing through the nearest point of the off-street loading space and may be provided by using any of the methods described in Section 51A-4.602 (b)(3), except that screening around service areas for trash collection must be screened by a masonry wall with a solid gate.

(d) Street and open space frontages.

(1) Frontages. All street-fronting facades and open-space fronting facades must have at least one window and at least one common primary entrance facing the street or open space at street-level. The entrance must access the street or open space with an improved path connecting to the sidewalk. A transparent surface is required for every 25 linear feet of continuous street-fronting and open-space-fronting facade.

(2) Individual entries. Except as provided in this paragraph, a minimum of 60 percent of the street-level dwelling units adjacent to a street in each building must have individual entries that access the street with an improved path connecting to the sidewalk. For at-grade open space, a minimum of 60 percent of the open-space fronting dwelling units in each building must have individual entries that access the open space. EXCEPTION. This paragraph does not apply to retirement housing.

(e) Sidewalk, lighting, and driveway standards.

(1) Sidewalks.

(A) A sidewalk with a minimum average width of six feet must be provided along all street frontages.

(i) Except as provided in this subsection, all sidewalks must be clear and unobstructed for a minimum of five feet in width.

(ii) Tree grates do not count toward the minimum unobstructed sidewalk width.

(iii) If the building official determines that the location of a local utility or protected tree, as defined in Article X, would prevent a five-foot minimum width, the sidewalk may be reduced to four feet in width in that location.

(B) Sidewalks must be located in an area parallel to and between two feet and 15 feet of the back of the projected street curb.

(2) Lighting.

(A) Special lighting requirement. Exterior lighting sources, if used, must be oriented down and onto the property they light and generally away from adjacent residential properties.

(B) Pedestrian scale lighting. For a development greater than 20,000 square feet of floor area, pedestrian scale lighting that provides a minimum maintained average illumination level of 1.5 foot candles must be provided along public sidewalks and adjacent to public streets. The design and placement of both the standards and fixtures must be approved by the director of transportation. Unless otherwise provided, the property owner is responsible for the cost of installation, operation, and maintenance of the lighting.

(f) Open space requirements.

(1) At least 10 percent of the building site must be reserved as open space for activity such as active or passive recreation, playground activity, groundwater recharge, or landscaping.

(A) No structures except for architectural elements; playground equipment; structures that are not fully enclosed such as colonnades, pergolas, and gazebos; and ordinary projections of window sills, bay windows, belt courses, cornices, eaves, and other architectural features are allowed; otherwise, open space must be open to the sky.

(B) Open space may contain primarily grass, vegetation, or open water; be primarily used as a ground-water recharge area; or contain pedestrian amenities such as fountains, benches, paths, or shade structures.

(C) Open space may also be provided at or below grade or aboveground by an outside roof deck, rooftop garden, playground area, pool area, patio, or similar type of outside common area.

(D) Private balconies, sidewalks, parking spaces, parking lots, drive aisles, and areas primarily intended for vehicular use are not considered open space and do not count towards the open space requirement.

(E) Operation or parking of vehicles within on-site open space is prohibited. Emergency and grounds maintenance vehicles are exempt.

(F) Open spaces must be properly maintained in a state of good repair and neat appearance, and plant materials must be maintained in a healthy, growing condition.

(2) Landscape areas that fulfill the requirements of Article X may also fulfill these requirements if all conditions of this section and Article X are met.

(g) Non-required fences. Unless a use specifically requires screening, all fences for uses along a street or trail must have a surface area that is a minimum of 50 percent open, allowing visibility between three feet and six feet above grade. The exceptions for multifamily districts in Sections 51A-4.602 (a)(2) and 51A-4.602 (a)(4) which provide that a fence exceeding four feet above grade may be erected in a front yard in multifamily districts are not applicable. (Ord. 31152)

SEC. 51A-4.1108 BOARD OF ADJUSTMENT VARIANCES.

A development that is eligible to receive the bonuses in this division ~~must~~may either use the bonuses or go to the board of adjustment to seek a variance but may not do both for the same yard, lot, and space regulations. (Ord. 31152)