

FILE NUMBER: DCA 156-008

DATE INITIATED: December 1, 2015

TOPIC: Incentive Zoning

CITY COUNCIL DISTRICTS: All

CENSUS TRACTS: All

PROPOSAL: Consideration of amending Chapters 51 and 51A of the Dallas Development Code to create regulations for mixed income housing development bonuses.

SUMMARY: The amendment proposes to encourage the development of mixed-income housing in MF - Multifamily and MU – Mixed Use zoning districts by offering development bonuses in return for providing a percentage of units to be reserved for families within certain income bands.

ZOAC RECOMMENDATION: Approval

STAFF RECOMMENDATION: Approval

BACKGROUND

- In June 2006, City Council adopted the **forwardDallas!** comprehensive plan calling for a better connection between jobs and housing; a range of housing options through zoning regulations; and mixed-use development, especially around transit stations.
- On November 22, 2013, the Department of Housing and Urban Development issued a **finding** of non-compliance with federal discrimination laws to the City of Dallas related to a proposed multifamily project at 1600 Pacific Avenue in downtown.
- On November 5, 2014, the Department of Housing and Urban Development and the City of Dallas signed a voluntary compliance agreement (**HUD VCA**) to encourage the development of housing at a wide variety of price points and to create greater economic opportunity in areas of concentrated poverty. The agreement expired on November 5, 2017.
- On October 7, 2015, City Council adopted the **Neighborhood Plus Plan**, which called for 1) raising the quality of rental property through better design standards; 2) expanding affordable housing options and encouraging the distribution of affordable housing throughout the city and region; and 3) developing, adopting and implementing an incentive zoning policy to increase development rights through zoning changes and to allow density bonuses in proportion to the number of affordable residential units provided.
- On May 9, 2018, City Council approved the Housing Policy.
- The Zoning Ordinance Advisory Committee (ZOAC) considered this amendment at 12 public meetings: June 22, July 20, August 3, August 17, September 7, and September 28, 2017, and June 7, June 21, August 2, August 16, September 6, and on September 20, 2018 recommended the proposal move to City Plan Commission.
- On September 20, 2018, the City Plan Commission received an initial briefing on the proposal.

GENERAL INFORMATION/STAFF ANALYSIS

Incentive zoning provides development incentives to encourage additional housing and encourage a portion of the units to be reserved for families within a certain income band.

HUD rules require the City to affirmatively further fair housing, and one way to do that is to actively encourage housing at a wide variety of price points throughout the city.

Incentive zoning can, with appropriate controls:

- Provide an additional tool to create mixed-income housing throughout the city, without additional financial subsidies.
- Reduce sprawl by encouraging additional pedestrian-oriented and multi-modal adjacent development in targeted areas.
- Encourage development on under-utilized tracts of land.
- Begin to produce market-rate housing and more housing choices in under-invested areas of the city as well as in racially and ethnically concentrated areas of poverty.

In Texas, cities cannot mandate inclusionary zoning, but *can* create incentives, contract commitments, density bonuses, or other voluntary programs to increase the supply of moderate or lower-cost housing units.

Staff research shows that few developers utilize the City's lower-density multifamily and mixed-use districts.

- More than 65,000 units originally built in the 1970s and 1980s currently exist on property in MF-1(A) and MF-2(A) districts, as compared to less than 5,000 units built after 2010 in those same districts.
- These districts can be used to incentivize additional mixed-income communities.

An incentive zoning code amendment should:

- Incentivize additional housing available to families at a wide variety of income levels in a wide variety of locations, helping to create mixed income neighborhoods
- Encourage urban and pedestrian-oriented mixed-income development with appropriate amenities in targeted areas
- Be financially viable for the developer: Benefits of development bonuses should offset the costs of providing the affordable units
- Continue to encourage new residential development at all price points, benefitting all current and new residents of Dallas. Increased supply can lower unit price or at least reduce the rate of increase
- Be designed to fit well within the context of existing neighborhoods and districts
- Differentiate provision of reserved units based on the base zoning district and the strength of the surrounding residential real estate market
- Encourage market-rate development in under-invested areas.

Additional density should

- Be targeted to areas near transit, jobs, and services;
- Be disbursed throughout the city;
- Encourage mixed-income neighborhoods;
- Strengthen distressed areas; and

- Be consistent with **forwardDallas!**, Neighborhood Plus, and the City's Comprehensive Housing Policy.

Development bonuses under this proposal are voluntary. If a developer does not want to take advantage of the bonus, he or she can:

- Utilize the existing zoning without the bonus
- Apply for a zoning change

Summary of Issues

Housing shortage, lack of affordable units, and filtering as a partial fix

- "A recent Freddie Mac market commentary noted that the total number of housing starts (single family plus multifamily) in 2015 was 30 percent below the historical average between 1970 and 2007. The National Association of Realtors estimates that the nationwide supply of for-sale and rental units combined is 3 million units short of current demand."¹
- The city has a housing shortage of 20,000 units according to some estimates. The supply of housing has not kept pace with the population and job growth in the Dallas area, and wages have not kept pace with rising housing costs.
- The theory of filtering says that when new rental units and single-family homes are added to an area, those with means will move to these newer units, leaving a vacancy that others can move into (absorb). This continues down to the lowest-quality housing, which is then abandoned and demolished or renovated and re-populated.
 - Filtering is less efficient in areas that are short on housing supply.

Rent burden

- Families that spend more than 30% of total income on housing (including utilities) are considered cost-burdened.
 - Across all income groups, between 45% and 60% of Dallas residents are cost-burdened.
 - According to the 2016 American Community Survey, more than 20,000 households in Dallas earn \$35,000 - \$75,000 and still pay more than 30% of their income in rent. Overall, nearly 130,000 households in the city are rent burdened.
- This rent burden comes from a variety of sources, including issues with the underlying housing market, such as
 - Disinvestment in areas with lower market returns

¹ Stockton Williams, ULI. Understanding the Scope of the Housing Shortage in the U.S. 8/22/2016. <https://urbanland.uli.org/development-business/housing-shortage-u-s/>

- In strong markets, displacement of families due to loss of “naturally” occurring affordable housing combined with development that does not keep pace with population growth and does not help to replace those lost units.
 - Naturally occurring affordable housing is housing that is affordable because of age and quality of the housing unit
 - Lack of affordability for families, particularly for lower income families who have fewer housing choices to start.
- To avoid being rent-burdened, families making 60% to 80% of area median income (AMI) would need to pay less than \$1,000 a month for rent. On average, market conditions constrain those families to aging developments built before 1990 or newer developments in a limited number of lower-income and outlying areas.
 - However, as of late 2017, occupancy was above 95% in nearly every submarket. 95% is considered essentially full.
- The area median income has remained essentially flat for the past 10 years, whereas average rents as reported by MPF Research in the Dallas area have risen from just under \$800 a month in 2008 to more than \$1,100 a month in 2017, a 42% increase.

Access to transit and walkable neighborhoods

- Transportation costs can be an additional burden not only on households but on city infrastructure.
- Additional density can spur transit service, and improved pedestrian infrastructure can make walking easier and more pleasant for residents near existing transit service.

Real estate finance fundamentals

Because this proposal must be voluntary, the cost of reserving units for families making less than a certain percentage of median income must be off-set by benefits to the development’s cost structure.

- Any incentive zoning ordinance must have enough flexibility to encourage development at a wide variety of price points.
- Even with a City subsidy, such as in Dallas’ tax increment finance districts, if the policy is too strict, developers will choose other paths.
- Neighborhood Plus Goal 6.2.3 acknowledged that any incentive must be in proportion to the number of affordable units provided.

Comprehensive Housing Policy

On May 9, 2018, the City Council adopted a Comprehensive Housing Policy. The policy is based on a Market Value Analysis (MVA) conducted in 2017 and 2018 which identified

strong, transitioning, and weak neighborhoods throughout the city. The MVA map and variables used to determine the housing categories are here:

<https://dallasdc.maps.arcgis.com/apps/MapSeries/index.html?appid=2aece5efc034dd89376c6138152729d>

The Housing Policy directed the creation of voluntary inclusionary zoning (now known as incentive zoning).

The document stated:

In addition to development subsidies, the City may also incentivize the production of rental units via voluntary inclusionary zoning. Voluntary inclusionary zoning is a strategy by which the City can provide development bonuses to encourage the construction of mixed-income housing in multi-family and mixed-use zoning districts. At a future date, staff will seek council approval to amend the Development Code to allow for by-right development bonuses, including increases in maximum height and lot coverage, for developments that provide mixed-income housing in MF-1, MF-2, MU-1 and MU-2 districts. While these development bonuses would be available regardless of whether the MF-1, MF-2, MU-1 or MU-2 district is in a Reinvestment area, the City could layer in development subsidies for projects in Redevelopment and Stabilization areas to encourage more income stratification or a higher-percentage of affordable units. Furthermore, this strategy, as it has already been briefed to the Dallas Zoning Ordinance Advisory Committee (ZOAC), will encourage such mixed-income housing developments to adopt design principles that encourage walkability, reduce the need for parking, and require the provision of more open space.

This direction distills down to four bullets:

- Incentivize rental units using by-right development bonuses
- Encourage mixed-income housing in multi-family and mixed-use districts through incentive zoning strategies
- Make the incentive available throughout the city in multifamily and mixed-use zoning districts
- Adopt design principles to encourage walkability, reduce the need for parking, and require open space.

Potential for Development

Based on preliminary analysis:

- The city has approximately 1,250 acres of land without structures (vacant or parking lots) in these low-density zoning districts.
 - These properties, if built out at an average of 60 units an acre, could produce 75,000 additional units over time, including 3,750 to 7,500 reserved units (assuming 5%-10% set aside).

- In the absence of this proposed code amendment, these parcels may remain vacant or go through a zoning change to produce *market-rate* units, but it is unlikely that they will produce any *reserved* units.
- The city has approximately 1,565 acres of land that is either vacant or that has multifamily structures rated by Dallas Central Appraisal District as “poor”, “very poor”, or “unsound” in these low-density zoning districts.
 - These properties, if built out at approximately 95 units an acre, could produce more than 100,000 new units over time, including 4,572 to 9,143 set-aside units (assuming 5%-10% set aside), replacing over time the 7,228 existing naturally affordable (but potentially unsafe) units on these parcels.
 - In the absence of this proposed code amendment, these parcels may become (and then remain) vacant, or they may go through a zoning change to produce *market-rate* units, but it is unlikely that they will produce any *reserved* units at any level of affordability.

PROPOSAL:

Three-pronged approach:

- 1) Provide development bonuses in multifamily and mixed-use zoning districts for the provision of mixed-income housing.
 - Allow for increased height and lot-coverage, and remove minimum lot-size regulations in MF-1, MF-1(A), MF-2, MF-2(A), MF-3, and MF-3(A) districts
 - Allow for additional density and remove floor area ratio regulations for residential uses in MU-1, MU-2, and MU-3 districts.
 - Incorporate parking reductions that incentivize larger residential units designed for families by requiring a minimum number of parking spaces per unit rather than per bedroom.
 - Residential proximity slope of 1:3 remains applicable.
- 2) Create Division 51A-4.1100 to develop regulations for development bonuses.
- 3) Amend Chapter 20A to add housing program implementation regulations for development bonuses.

Development bonuses

- The development bonuses use the Market Value Analysis to differentiate the provision of reserved units based on whether the property is in a strong (A, B, or C), transitioning (D, E, or F), or weak (G, H, or I) market.
 - Market category A, B, or C
 - Housing units with median sales price equivalents of \$390,500 and up
 - Higher than average rates of new construction and rehabilitation

- Lower than average rates of subsidized units, code violations, vacancy, and foreclosure filings
- Market category D, E, or F
 - Housing units with median sales price equivalents between \$117,600 to \$267,100
 - Average rates of new construction, rehabilitation, and subsidized units
 - Slightly lower rates of code violations and vacancy, but slightly higher rates of foreclosure.
- Market category G, H, or I
 - Housing units with median sales price equivalents between \$41,500 and \$91,300
 - Lower than average rates of new construction and rehabilitation
 - Higher than average rates of subsidized units, code violations, vacancy, and foreclosure filings
- The MVA also collected information on owner occupancy. Owner occupancy is highest in the B and C categories, but otherwise market strength has little correlation with owner occupancy rates.
- The MVA map and variables used to determine the housing categories are here: <https://dallasdc.maps.arcgis.com/apps/MapSeries/index.html?appid=2aeece5efc034dd89376c6138152729d>

Proposed development bonus details for each zoning district:

MF-1(A) and MF-2(A) Districts								
	Current	Category A, B, C			Category D, E, F			Cat. G, H, I
		5% at 51-60%	5% at 51-60% & 5% at 61-80%	5% at 51-60% & 5% at 61-80% & 5% at 81-100%	5% at 61-80%	10% at 61-80%	10% at 61-80% & 5% at 81-100%	5% at 80-100%
Setbacks	10-15'	no changes						
Max units per acre	none	no change						
Floor area ratio	none	no change						
Height	36'	51'	66'	85'	51'	66'	85'	85'
Max stories	no max	no changes						
Lot coverage (res)	60%	80%	80%	85%	80%	80%	85%	85%
Min lot size unit	varies	remove requirements						
Res. Proximity Slope	required	no changes						
Parking requirements	1 per bdrm.	1 1/4 space per unit. Of the required parking, at least 15 percent must be available for guest parking. No additional parking is required for accessory uses that are limited principally to residents.						
Transit Oriented Development		Max lot coverage of 85%. One parking space per unit. Of the required parking, at least 15 percent must be available for guest parking.						

MF-3(A) Districts								
	Current	Category A, B, C			Category D, E, F			Cat. G, H, I
		5% at 51-60%	5% at 51-60% & 5% at 61-80%	5% at 51-60% & 5% at 61-80% & 5% at 81-100%	5% at 61-80%	10% at 61-80%	10% at 61-80% & 5% at 81-100%	5% at 80-100%
Setbacks		10-20 setbacks, Urban form: 20', Tower spacing: 30'						
Max unit per acre	90	100	120	150	100	120	150	150
Floor area ratio	2.0	maintain requirements; apply to non-residential uses only						
Height	90'	90	105	120	90	105	120	120
Max stories	no max	no changes						
Lot coverage (res)	60%	80%	80%	85%	80%	80%	85%	85%
Min lot size unit	varies	remove requirements						
Res. Proximity Slope	required	no changes						
Parking	1 per bdrm.*	1 1/4 space per unit. Of the required parking, at least fifteen percent must be available for guest parking. No additional parking is required for accessory uses that are limited principally to residents.						
Transit Oriented Development		For MF-3, max lot coverage of 85%. One parking space per unit. Of the required parking, at least fifteen percent must be available for guest parking.						

MU-1 District								
	Current	Category A, B, C			Category D, E, F			Cat. G, H, I
		5% at 51%-60%	5% at 51-60% & 5% at 61-80%	5% at 51-60% & 5% at 61-80% & 5% at 81-100%	5% at 61-80%	10% at 61-80%	10% at 61-80% & 5% at 81-100%	5% at 80-100%
Setbacks	0-20'	no changes						
Max units per acre	15-25	current + 65= 80 to 90	current + 80= 95 to 105	current + 105= 120 to 130	current + 65= 80 to 90	current + 80= 95 to 105	current + 105= 120 to 130	current + 105= 120 to 130
FAR (total dev)	0.8-1.1	maintain requirements; apply to non-residential uses only						
Height	80-120	no change						
Stories	7-9	no change						
Lot coverage	80%	no change						
min lot size/bdrm	n/a	no change						
Res. Proximity Slope	required	no changes						
Parking requirements	1 per bdrm.	1 1/4 space per unit. Of the required parking, at least 15 percent must be available for guest parking. No additional parking is required for accessory uses that are limited principally to residents.						
Transit Oriented Development		For MU-1, additional 15 units/acre on density and max lot coverage of 85%. One parking space per unit. Of the required parking, at least 15 percent must be available for guest parking.						

MU-2 District								
	Current	Category A, B, C			Category D, E, F			Cat. G, H, I
		5% at 51%-60%	5% at 51-60% & 5% at 61-80%	5% at 51-60% & 5% at 61-80% & 5% at 81-100%	5% at 61-80%	10% at 61-80%	10% at 61-80% & 5% at 81-100%	5% at 80-100%
Setbacks	0-20'	no changes						
Max unit density	50-100	current + 40 = 90-140	current + 60 = 110-160	current + 80 = 130-180	current + 35 = 85-135	current + 55 = 105-155	current + 75 = 125-175	current + 75 = 125-175
FAR	1.6-2.25	maintain requirements; apply to non-residential uses only						
Height	135-180	no change						
Stories	10-14	no change						
Lot coverage	80%	no change						
min lot size/bdrm	n/a	no change						
Res. Proximity Slope	required	no changes						
Parking requirements	1 per bdrm.	1 1/4 space per unit. Of the required parking, at least 15 percent must be available for guest parking. No additional parking is required for accessory uses that are limited principally to residents.						
Transit Oriented Development		For MU-2, additional 15 units on density and max lot coverage of 85%. One parking space per unit. Of the required parking, at least 15 percent must be available for guest parking.						

MU-3 District								
	Current	Category A, B, C			Category D, E, F			Cat. G, H, I
		5% at 51-60%	5% at 51-60% & 5% at 61-80%	5% at 51-60% & 5% at 61-80% & 5% at 81-100%	5% at 61-80%	10% at 61-80%	10% at 61-80% & 5% at 81-100%	5% at 80-100%
Setbacks	0-20	no change						
Max unit density	none	No max unit density						
FAR	3.2-4.5	+0.5	+1	+1.5	+0.5	+1	+1.5	+1.5
Height	270	no change						
Stories	20	no change						
Lot coverage	80%	80%	85%	85%	80%	85%	85%	85%
min lot size/bdrm	none	no change						
Res. Proximity Slope	required	no changes						
Parking requirements	1 per bdrm.*	Residential uses: 1 1/4 space per unit. Of the required parking, at least fifteen percent must be available for guest parking. No additional parking is required for accessory uses that are limited principally to residents. All other uses parked per code.						
Transit Oriented Development		For MU-3, additional 1 FAR and max lot coverage of 90%. One parking space per unit. Of the required parking, at least fifteen percent must be available for guest parking.						
Notes:		Additional FAR is added to the residential FAR only						

Notes on charts:

- Projects must include residential uses to be eligible for incentive zoning bonuses.
- All residential development utilizing incentive zoning must reserve the required percentage of total units regardless of the tenancy of the units within the development.
- All percentages are portions of the total units developed on the site.

Parking reductions

Current requirements:

- Section 51A-4.209(b)(5)(c): Required off-street parking for multifamily uses: “One space per bedroom with a minimum of one space per dwelling unit. An additional one-quarter space per dwelling unit must be provided for guest parking if the required parking is restricted to resident parking only. No additional parking is required for accessory uses that are limited principally to residents.”
- Section 51A-2.102(9): “BEDROOM means any room in a dwelling unit other than a kitchen, dining room, living room, bathroom, or closet. Additional dining rooms and living rooms, and all dens, game rooms, sun rooms, and other similar rooms are considered bedrooms.”
- Section 51A-4.301 governs off-street parking and outlines ratios, location, and other regulations.

Recommended requirement:

- 1 1/4 space per unit. Of the required parking, at least 15 percent must be available for guest parking. No additional parking is required for accessory uses that are limited principally to residents.
- For developments with transit proximity: 1 space per unit. Of the required parking, at least 15 percent must be available for guest parking. No additional parking is required for accessory uses that are limited principally to residents.
 - Transit proximity defined as ½ mile radius from a transit station.
 - Includes 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, TRE, high speed rail, and trolley service.

Design standards

Overview

- Additional design controls can reduce auto dependency, reduce the need for parking, encourage alternative modes of transit, and improve transit accessibility, particularly for transit-dependent residents. Some design goals:
 - Minimal parking between the front façade of building and street
 - Ground-floor entrances should generally connect directly to the sidewalk or open space
 - Pedestrian amenities such as wide sidewalks and street trees.
 - Require minimum amount of ground floor transparency.
 - Only short fences with pedestrian gates allowed between the front of the building and the street.
 - Provide a minimum of 10 percent of the property as open space intended to provide active or passive recreation, to provide landscaping area, or to enable

groundwater recharge, for example. Open space is not intended to be driven or parked upon and does not include sidewalks.

Specific requirements

- Additional provisions for yard, lot, and space regulations:
 - Encroachments allowed
 - 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 front, side, and rear yards.
 - Landscape planters, sculptures, and awnings
 - Maximum four-foot-high fence or hand rail in the front yard.
 - Open space
 - At least ten percent of the lot must be reserved as open space for activity such as active or passive recreation, playground activity, groundwater recharge, or landscaping.
 - Open space is defined as an area that is unobstructed to the sky and contains 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.
 - Open space may contain primarily grass or vegetation, may be primarily used as a ground-water recharge area, may be a playground area, and may contain pedestrian amenities such as fountains, benches, paths, or shade structures.
 - On-site 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.
 - Private balconies, sidewalks, parking spaces, parking lots, drive aisles, and areas primarily intended for vehicular use are not considered open space.
 - Except for emergency vehicles, on-site open space cannot be parked or driven upon.
 - 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.
 - Landscape areas that fulfill the requirements of Article X may also fulfill these requirements if all conditions of both are met.

- Height
 - Residential proximity slope remains applicable
 - Elements such as railings, parapet walls, and trellises may project through the slope less than 4 feet.
- Off-street parking and loading
 - Surface parking
 - Surface parking is prohibited between the street-facing façade and the property line. For buildings with more than one street frontage, only two street frontages are subject to this requirement.
 - For buildings fronting on a thoroughfare, surface parking is prohibited in the setback
 - A maximum of 15 percent of the total on-site parking may be provided as surface parking in a side yard.
 - Parking structures.
 - The street-facing facades of all aboveground multi-story parking structures must have a use other than parking or have a facade that is similar in materials and appearance to the facade of the main structure the parking serves.
 - Assigned parking spaces allotted for reserved units must be dispersed and distributed amongst all other assigned parking for similar units.
 - Commercial Loading
 - Service entries, loading areas and loading docks should be screened and located away from the facade facing the front yard.
 - Passenger loading
 - Each building site must provide at least one off-street or on-street passenger loading space.
 - Passenger loading areas may be configured as circular or loop drives.
 - 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.
- Urban design and structure facade standards
 - 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.
 - Street-fronting and open-space fronting facades must have at least one window and at least one common primary entrance facing the street.
 - No more than 25 continuous linear feet of street-fronting façade may lack a transparent surface.

- Individual entries may be gated, and private front yards may be separated from the public space with a maximum four-foot high fence.
- Non-required fencing along a street or trail must be a minimum of 50% open and allow visibility between three and six feet above grade.
- Street and sidewalk standards
 - Sidewalks and buffers
 - A sidewalk with a minimum average width of six feet must be provided along all street frontages. All sidewalks must be clear and unobstructed for a minimum of five feet in width within the required area. 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.
 - Sidewalks must be located in an area parallel to and within two feet to 15 feet of the back of the projected street curb.
 - Pedestrian lighting must be provided along the sidewalks to provide minimum required lighting measured in footcandles.
 - Exterior lighting sources, if used, must be oriented down and onto the property they light and generally away from adjacent residential properties.

Development Guidelines

Procedures

- Developer meets with the City's Housing Department to request a letter of MVA category verification and can also request information about compliance requirements for this program.
- Developer begins the permit application process
 - Zoning letter of verification (if needed)
 - Submit all items required for a building permit
 - Begin the land use covenant process, including review by Sustainable Development and Construction, Housing, and City Attorney's Office.
- Prior to the issuance of a building permit, developer submits an official copy of the executed and filed land use covenant.
- Sustainable Development and Construction regularly sends to Housing a report of the building permits issued under incentive zoning.
- Developer begins construction.
- Prior to beginning leasing, developer begins compliance process, including marketing the property according to fair housing rules, reserving units, etc.
- Developer completes construction and submits documentation for a final certificate of occupancy. City reviews for compliance with all aspects of the permit and, if complete, issues final CO.

- Developer (and all subsequent owners) submits compliance paperwork regularly during period of compliance. Requirements stay with the development, not the ownership.

Program Operation

- Term of affordability will be 15 years
- Term of affordability, required number of affordable units, required income bands and other program requirements will be stated in a restrictive covenant that the owner must file in the real property records of the county in which the property is located.

Program requirements related to unit type and location

- Affordable units will:
 - be provided on-site.
 - be dispersed throughout the residential floor area of each building.
 - be dispersed throughout all residential portions of the building site, may not be clustered in one building or a limited number of buildings and may float within each dwelling unit type.
 - be of comparable finish-out and materials as the market rate dwelling units and must be equally available to eligible households or voucher holders as other market rate dwelling unit tenants.
 - with limited exceptions, be dispersed pro-rata among the unit types so that not all the affordable units are the same unit type.
- Eligible households occupying affordable units may not be restricted in any way from common areas and amenities within the property unless such restrictions apply to all tenants.

Compliance and Operation of the Housing Program

Regulations regarding income bands, affordable rents, certification of families, leasing and lease termination procedures, and compliance and oversight will be placed in Dallas City Code Chapter 20A - Fair Housing.

Chapter 51

Staff recommends parallel changes to the language in Chapter 51. See the attached ordinance for details.

ORDINANCE NO. _____

An ordinance amending Chapter 51, “Dallas Development Code: Ordinance No. 10962, as amended,” [and/or] Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code by amending Section ____; providing (description of amendment); providing a penalty not to exceed \$2,000; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, the city plan commission and the city council, in accordance with the Charter of the City of Dallas, the state law, and the ordinances of the City of Dallas, have given the required notices and have held the required public hearings regarding this amendment to the Dallas City Code; Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Subsection (a), “General provisions,” of Section 51-4.404, “Minimum Lot Area for Residential Use,” of Division 51-4.400, “Yard, Lot, and Space Regulations,” of Article IV, “Zoning Regulations,” of Chapter 51, “Dallas Development Code: Ordinance No. 10962, as amended,” of the Dallas City Code is amended to read as follows:

“(a) General provisions.

(1) A person shall not reduce a lot below the minimum area requirements of this section, unless:

(A) the lot is replatted for a community unit development; or

(B) the city or other governmental agency reduces the lot size by widening an abutting street. In this situation the minimum lot area is computed on the basis of the original lot size before the street widening.

(2) The area requirements in a planned development district are controlled by the planned development district regulations.

(3) The minimum lot area for residential use does not apply for a development using a mixed income development bonus in Division 51-4.900.

SECTION 2. That Subsection (c), “Schedule of Maximum Lot Coverage,” of Section 51-4.407, “Maximum Lot Coverage,” of Division 51-4.400, “Yard, Lot, and Space Regulations,” of Article IV, “Zoning Regulations,” of Chapter 51, “Dallas Development Code: Ordinance No. 10962, as amended,” of the Dallas City Code is amended to read as follows:

“(c) Schedule of maximum lot coverage.

(1) Except as provided in this section, a person shall not erect, alter, or convert any structure or part of a structure to cover a greater percentage of a lot than is allowed in Section 51-4.410.

(2) The maximum lot coverage for MF-1, MF-2, and MF-3 districts may be altered by the use of a mixed income development bonus in Division 51-4.900 and the following:

(A) In an MF-1 district, lot coverage may vary as allowed in Section 51A-4.116(a)(4)(I).

(B) In an MF-2 district, lot coverage may vary as allowed in Section 51A-4.116(b)(4)(I).

(C) In an MF-3 district, lot coverage may vary as allowed in Section 51A-4.116(c)(4)(I).”

SECTION 3. That Subsection (b), “Schedule of Maximum Building Heights,” of Section 51-4.408, “Maximum Building Height,” of Division 51-4.400, “Yard, Lot, and Space Regulations,” of Article IV, “Zoning Regulations,” of Chapter 51, “Dallas Development Code: Ordinance No. 10962, as amended,” of the Dallas City Code is amended to read as follows:

“(b) Schedule of maximum building heights.

(1) Except as provided in this section, a person shall not erect, alter, or convert any structure or part of a structure to exceed the maximum height standards in Section 51-4.410.

(2) The maximum building height for MF-1 and MF-2 districts may be altered by the use of a mixed income development bonus in Division 51-4.900 and the following:

(A) In an MF-1 district, maximum building height may vary as allowed in Section 51A-4.116(a)(4)(I).

(B) In an MF-2 district, maximum building height may vary as allowed in Section 51A-4.116(b)(4)(I)."

SECTION 4. That Subsection (a), "General provisions," of Section 51-4.409, "Maximum Floor Area Ratio," of Division 51-4.400, "Yard, Lot, and Space Regulations," of Article IV, "Zoning Regulations," of Chapter 51, "Dallas Development Code: Ordinance No. 10962, as amended," of the Dallas City Code is amended to read as follows:

“(a) General provisions.

(1) Reserved.

(2) A basement is not counted in the computation of floor area ratio.

(3) The maximum floor area ratio requirements in a planned development district are controlled by the planned development district regulations. The maximum floor area ratio in a matrix district is established by the city council at the time the district is created.

(4) Reserved.

(5) The maximum floor area ratio in the CA-1-CP and CA-1-SP districts may be increased to 24 to 1 by the use of the building setback bonus provisions in the front yard regulations.

(6) In an SC district, the maximum floor area ratio for office uses, as defined in Section 51-4.210(1), is .75 to 1, and the maximum floor area ratio for all uses combined is 1 to 1.

(7) In an I-2 district, a specific use permit is required to authorize a floor area ratio greater than 4:1.

(8) For a development in an MF-3 district, that is using a mixed income development bonus in Division 51-4.900, the maximum floor area ratio includes non-residential uses only."

SECTION 5. That Article IV, “Zoning Regulations,” of Chapter 51, “Dallas Development Code: Ordinance No. 10962, as amended,” of the Dallas City Code is amended by adding a new Division 51-4.900, “Mixed Income Housing,” to read as follows:

“Division 51-4.900.

Mixed Income Housing.

This section incorporates by reference the language of Division 51A-4.1100 of Chapter 51A of the Dallas Development Code, as amended.”

SECTION 6. That Paragraph (4), “Yard, Lot, and Space Regulations,” of Subsection (a), “MF-1(A) and MF-1(SAH) Districts,” of Section 51A-4.116, “Multifamily Districts,” of Division 51A-4.110, “Residential District Regulation” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended by adding a new Subparagraph (I) to read as follows:

“(I) Development bonuses for mixed income housing. In an MF-1(A) district, lot coverage, lot size per bedroom, and height may vary depending on whether a development bonus is obtained in accordance with Division 51A-4.1100 as follows:

(i) Height and lot coverage bonuses.

	Set aside minimums (% of total residential units reserved in each income band, adjusted annually)	Maximum Height	Maximum Lot coverage (residential)
MVA Categories A, B, C	5% at 51-60%	51 ft.	80%
	5% at 51-60% & 5% at 61-80%	66 ft.	80%
	5% at 51-60% & 5% at 61-80% & 5% at 81-100%	85 ft.	85%
MVA Categories D, E, F	5% at 61-80%	51 ft.	80%
	10% at 61-80%	66 ft.	80%
	10% at 61-80% & 5% at 81-100%	85 ft.	85%
MVA Categories G, H, I	5% at 81-100%	85 ft.	85%

(ii) Residential proximity slope. In addition to the items listed in Section 51A-4.408(a)(2)(A), the following additional items may project through the residential proximity slope to a height not to exceed the maximum structure height, or four feet above the slope, whichever is less:

- (aa) railings;
- (bb) parapet walls;
- (cc) trellises; and
- (dd) structures such as wind barriers, wing walls, and patio dividing walls.

(iii) No minimum lot area per dwelling unit. No minimum lot area per dwelling unit is required for qualifying developments.

(iv) Developments with transit proximity. For a development with transit proximity as defined in Section 51A-4.1102, maximum lot coverage is 85 percent.”

SECTION 7. That Paragraph (4), “Yard, Lot, and Space Regulations,” of Subsection (b), “MF-2(A) and MF-2(SAH) Districts,” of Section 51A-4.116, “Multifamily Districts,” of Division 51A-4.110, “Residential District Regulation” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended by adding a new Subparagraph (I) to read as follows:

“(I) Development bonuses for mixed income housing. In an MF-2(A) district, lot coverage, lot size per bedroom, and height may vary depending on whether a development bonus is obtained in accordance with Division 51A-4.1100 as follows:

(i) Height and lot coverage bonuses.

	Set aside minimums (% of total residential units reserved in each income band, adjusted annually)	Maximum Height	Maximum Lot coverage (residential)
MVA Categories A, B, C	5% at 51-60%	51 ft.	80%
	5% at 51-60% & 5% at 61-80%	66 ft.	80%
	5% at 51-60% & 5% at 61-80% & 5% at 81-100%	85 ft.	85%
MVA Categories D, E, F	5% at 61-80%	51 ft.	80%
	10% at 61-80%	66 ft.	80%
	10% at 61-80% & 5% at 81-100%	85 ft.	85%
MVA Categories G, H, I	5% at 81-100%	85 ft.	85%

(ii) Residential proximity slope. In addition to the items listed in Section 51A-4.408(a)(2)(A), the following additional items may project through the residential proximity slope to a height not to exceed the maximum structure height, or four feet above the slope, whichever is less:

- (aa) railings;
- (bb) parapet walls;
- (cc) trellises; and
- (dd) structures such as wind barriers, wing walls, and patio dividing walls.

(iii) No minimum lot area per dwelling unit. No minimum lot area per dwelling unit is required for qualifying developments,

(iv) Developments with transit proximity. For a development with transit proximity as defined in Section 51A-4.1102, maximum lot coverage is 85 percent.”

SECTION 8. That Paragraph (4), “Yard, Lot, and Space Regulations,” of Subsection (c), “MF-3(A) Districts,” of Section 51A-4.116, “Multifamily Districts,” of Division 51A-4.110, “Residential District Regulation” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended by adding a new Subparagraph (I) to read as follows:

“(I) Development bonuses for mixed income housing. In an MF-3(A) district, lot coverage, lot size per bedroom, and height may vary depending on whether a development bonus is obtained in accordance with Division 51A-4.1100 as follows:

(i) Height and lot coverage bonuses.

	Set aside minimums (% of total residential units reserved in each income band, adjusted annually)	Maximum Unit Density per Acre	Maximum Height	Maximum Lot coverage (residential)
MVA Categories A, B, C	5% at 51-60%	100	90 ft.	80%
	5% at 51-60% & 5% at 61-80%	120	105 ft.	80%
	5% at 51-60% & 5% at 61-80% & 5% at 81-100%	150	120 ft.	85%
MVA Categories D, E, F	5% at 61-80%	100	90 ft.	80%
	10% at 61-80%	120	105 ft.	80%
	10% at 61-80% & 5% at 81-100%	150	120 ft.	85%
MVA Categories G, H, I	5% at 81-100%	150	120 ft.	85%

(ii) Residential proximity slope. In addition to the items listed in Section 51A-4.408(a)(2)(A), the following additional items may project through the residential proximity slope to a height not to exceed the maximum structure height, or four feet above the slope, whichever is less:

- (aa) railings;
- (bb) parapet walls;
- (cc) trellises; and
- (dd) structures such as wind barriers, wing walls, and patio dividing walls.

(iii) No minimum lot area per dwelling unit. No minimum lot area per dwelling unit is required for qualifying developments.

(iv) Floor area ratio. Maximum floor area ratio includes non-residential uses only.

(v) Developments with transit proximity. For developments with transit proximity as defined in Section 51A-4.1102, maximum lot coverage is 85 percent.”

SECTION 9. That Paragraph (4), “Yard, Lot, and Space Regulations,” of Subsection (d), “MU-1 and MU-1(SAH) Districts,” of Section 51A-4.125, “Mixed Use Districts,” of Division 51A-4.120, “Nonresidential District Regulation” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended by adding a new Subparagraph (I) to read as follows:

“(I) Development bonuses for mixed income housing. In an MU-1 district, certain regulations vary depending on whether a development bonus is obtained in accordance with Division 51A-4.1100 as follows:

(i) Maximum unit density bonuses.

	Set aside minimums (% of total residential units reserved in each income band, adjusted annually)	Additional Maximum Unit Density: 51A- 4.125(d)(4)(C), plus:
MVA Category A, B, C	5% at 51-60%	65 per acre
	5% at 51-60% & 5% at 61-80%	80 per acre
	5% at 51-60% & 5% at 61-80% & 5% at 81-100%	105 per acre
MVA Category D, E, F	5% at 61-80%	65 per acre
	10% at 61-80%	80 per acre
	10% at 61-80% & 5% at 81-100%	105 per acre
MVA Categories G, H, I	5% at 81-100%	105 per acre

(ii) Residential proximity slope. In addition to the items listed in Section 51A-4.408(a)(2)(A), the following additional items may project through the residential proximity slope to a height not to exceed the maximum structure height, or four feet above the slope, whichever is less:

- (aa) railings;
- (bb) parapet walls;
- (cc) trellises; and
- (dd) structures such as wind barriers, wing walls, and patio dividing walls.

(iii) Floor area ratio. In calculating the maximum floor area ratios in Subparagraph (D) residential uses are not included.

(iv) Developments with transit proximity. For developments with transit proximity as defined in Section 51A-4.1102, an additional bonus of 15 dwelling units is allowed and the maximum lot coverage is 85 percent.”

SECTION 10. That Paragraph (4), “Yard, Lot, and Space Regulations,” of Subsection (e), “MU-2 and MU-2(SAH) Districts,” of Section 51A-4.125, “Mixed Use Districts,” of Division 51A-4.120, “Nonresidential District Regulation” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended by adding a new Subparagraph (I) to read as follows:

“(I) Development bonuses for mixed income housing. In an MU-2 district, certain regulations vary depending on whether a development bonus is obtained in accordance with Division 51A-4.1100 as follows:

(i) Maximum unit density bonuses.

	Set aside minimums (% of total residential units reserved in each income band, adjusted annually)	Additional Maximum Unit Density: 51A-4.125(e)(4)(C), plus:
MVA Categories A, B, C	5% at 51-60%	40 per acre
	5% at 51-60% & 5% at 61-80%	60 per acre
	5% at 51-60% & 5% at 61-80% & 5% at 81-100%	80 per acre
MVA Categories D, E, F	5% at 61-80%	35 per acre
	10% at 61-80%	55 per acre
	10% at 61-80% & 5% at 81-100%	75 per acre
MVA Categories G, H, I	5% at 81-100%	75 per acre

(ii) Residential proximity slope. In addition to the items listed in Section 51A-4.408(a)(2)(A), the following additional items may project through the residential proximity slope to a height not to exceed the maximum structure height, or four feet above the slope, whichever is less:

- (aa) railings;
- (bb) parapet walls;

(cc) trellises; and

(dd) structures such as wind barriers, wing walls, and patio dividing walls.

(iii) Floor area ratio. In calculating the maximum floor area ratios in Subparagraph (D) residential uses are not included.

(iv) Developments with transit proximity. For developments with transit proximity as defined in Section 51A-4.1102, an additional bonus of 15 dwelling units is allowed and the maximum lot coverage is 85 percent.”

SECTION 11. That Paragraph (4), “Yard, Lot, and Space Regulations,” of Subsection (f), “MU-3 and MU-3(SAH) Districts,” of Section 51A-4.125, “Mixed Use Districts,” of Division 51A-4.120, “Nonresidential District Regulation” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended by adding a new Subparagraph (I) to read as follows:

“(I) Development bonuses for mixed income housing. In an MU-3 district, certain regulations vary depending on whether a development bonus is obtained in accordance with Division 51A-4.1100 as follows:

(i) Maximum development bonuses.

	Set aside minimums (% of total residential units reserved in each income band, adjusted annually)	Floor Area Ratio: 51A-4.125(f)(4)(D), plus:	Maximum Lot coverage (residential)
MVA Categories A, B, C	5% at 51-60%	0.5	80%
	5% at 51-60% & 5% at 61-80%	1.0	85%
	5% at 51-60% & 5% at 61-80% & 5% at 81-100%	1.5	85%
MVA Categories D, E, F	5% at 61-80%	0.5	80%
	10% at 61-80%	1.0	85%
	10% at 61-80% & 5% at 81-100%	1.5	85%
MVA Categories G, H, I	5% at 81-100%	1.5	85%

(ii) Residential proximity slope. In addition to the items listed in Section 51A-4.408(a)(2)(A), the following additional items may project through the residential proximity slope to a height not to exceed the maximum structure height, or four feet above the slope, whichever is less:

(aa) railings;

(bb) parapet walls;

(cc) trellises; and

(dd) structures such as wind barriers, wing walls, and patio dividing walls.

(iii) Floor area ratio. The floor area ratio bonuses in this paragraph are limited to residential uses only.

(iv) Developments with transit proximity. For developments with transit proximity as defined in Section 51A-4.1102, the maximum floor area ratio is increased by 1.0 above the FAR allowed in this section (for example: if the allowed FAR for a mixed use project is 4.0 and a development bonus of 1.5 is utilized, this transit proximity bonus allows an FAR of 6.5) and the maximum lot coverage is 90 percent.”

SECTION 12. That Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended by adding a new Division 51A-4.1100, “Mixed Income Housing,” to read as follows:

“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, and to encourage the provision of mixed income housing throughout the city.

SEC. 51A-4.1002. APPLICABILITY.

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

(1) MF-1(A), MF-2(A), MF-3(A);

(2) MU-1, MU-2, and MU-3 Districts; and

(3) planned development districts that require compliance with this division or default to the zoning districts in this subsection as a base district.

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

(c) Residential uses. To be eligible for development bonuses under this division, developments must include residential dwelling units.

SEC. 51A-4. 1102. DEFINITIONS AND INTERPRETATIONS.

(a) Definitions. In this division:

(1) **AFFORDABLE RENTAL RATE** means a tenant rent payment less an allowance for utilities that does not exceed 30 percent of the eligible household's adjusted income.

(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) **DEVELOPMENT BONUS RESTRICTIVE COVENANT** means a covenant running with the land that meets the requirements of this division and Chapter 20A.

(5) **ELIGIBLE HOUSEHOLDS** means households with an adjusted income within the required income band, families with rental assistance, or voucher holders, regardless of adjusted income.

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

(7) **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).

(8) **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 understand the elements of their local residential real estate markets.

(9) **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.

(10) **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."

(11) 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 public works and transportation.

(12) RENTAL AFFORDABILITY PERIOD means the 15 year period that the reserved units may only be leased to and occupied by eligible households or voucher holders.

(13) 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.

(14) STOOP means a small porch leading to the entrance of a residence.

(15) TRANSIT PROXIMITY means development within one-half mile of a transit station, including trolley stops, train stations, transfer centers, transfer locations, and transit centers and any transit stop with a climate-controlled waiting area. Transit agencies served include Dallas Area Rapid Transit, TRE, high speed rail, and trolley service.

(16) 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.

SEC. 51A-4.1103. DEVELOPMENT BONUS PERIOD.

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

(b) Structures built during the term of the development bonus 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 development bonus restrictive covenant may retain their bonuses and be rebuilt if they are destroyed by other than an intentional act of the owner if they meet the requirements of this division.

SEC. 51A-4.1104. PROCEDURES TO OBTAIN A DEVELOPMENT BONUS.

(a) In general. Owners must obtain verification of the building site's MVA category e before applying for a permit for construction in accordance with this division.

(b) Market value analysis verification. A person seeking a development bonus shall obtain a market value analysis category verification from the Department of Housing and Neighborhood Revitalization.

(c) 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 certified copy of the market value analysis verification from the Department of Housing and Neighborhood Revitalization; and

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

(d) Building permit issuance. Before the issuance of a building permit, the development bonus restrictive covenant must be filed in the county in which the building site is located, and an official copy of the executed and filed development bonus restrictive covenant must be submitted to the Building Official.

(e) Minimum units required.

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

(2) Fractions of a required unit will be rounded up to the next whole number.

(f) 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 approved by the building official. The plan must be:

- (A) signed by all property owners; and
- (B) approved by the building official.

(g) Certificate of occupancy. Before the issuance of a final certificate of occupancy for a multifamily 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 development bonus restrictive covenant, including:

(1) The approved affirmative fair housing marketing plan.

(2) A letter from the Department of Housing and Neighborhood Revitalization certifying that the development complies with the development bonus restrictive covenant.

SEC. 51A-4.1105. DEVELOPMENT REQUIREMENTS.

(a) Unless otherwise applicable, all reserved housing units shall be provided on the same building site as the market rate units.

(b) Reserved units must be dispersed throughout the residential floor area of each building.

(c) Reserved 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 units may float within each dwelling unit type.

(e) Reserved 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 this subsection, reserved units must be dispersed substantially pro-rata among the total unit types so that not all the reserved units are efficiency or one-bedroom units. For example, if 10 percent of the total dwelling units are reserved 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 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 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 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.

SEC. 51A-4.1106. DESIGN STANDARDS.

(a) In general.

(1) 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.

(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, one and one-quarter space per dwelling unit 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. At least 15 percent of the required parking must be available for guest parking.

(3) Parking locations.

(A) In general. 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 in the 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 units must be dispersed and distributed amongst all other assigned parking for similar units.

(4) 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.

(5) 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. A transparent surface is required for every 25 linear feet of continuous street-fronting and open-space-fronting facade.

(2) Individual entries. 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.

(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 public works and 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.

(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) Except for emergency vehicles, on-site open space cannot be parked or driven upon.

(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 exception for multifamily uses in Section 51A-4.602(a)(2) which provides that a fence exceeding four feet above grade may be erected in a front yard in multifamily districts is not applicable.

SEC. 51A-4.1107

ADDITIONAL PROVISIONS.

A development that is eligible to receive the bonuses in this division must 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.”

SECTION 13. That adjustments will be made to the section references in this ordinance for codification purposes only. A Dallas Development Code section reference containing the symbol “[A],” for example, “Section 51[A]-_____,” means that the letter “A” will appear in the Chapter 51A version only, and will not appear in the Chapter 51 version.

SECTION 14. That the director of sustainable development and construction shall revise the use charts to reflect the change in use regulations made by this ordinance, and shall provide these charts for publication in the Dallas Development Code

SECTION 15. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

SECTION 16. That Chapters 51 and 51A of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 17. That any act done or right vested or accrued, or any proceeding, suit, or prosecution had or commenced in any action before the amendment or repeal of any ordinance, or part thereof, shall not be affected or impaired by amendment or repeal of any ordinance, or part thereof, and shall be treated as still remaining in full force and effect for all intents and purposes as if the amended or repealed ordinance, or part thereof, had remained in force.

SECTION 18. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

DCA 156-008

SECTION 19. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

CHRISTOPHER J. CASO, Interim City Attorney

By _____
Assistant City Attorney

Passed _____