

Incentive Zoning

Request:

Consideration of amending the Dallas Development Code to create regulations for incentive zoning.

Updates:

This case report has been updated to include changes to:

- MF-3(A) and MU-3
- Housing program implementation and compliance (page 19)
- Clarification throughout that the development bonus is intended to incentivize housing production

Background/Prior City Actions

In June 2006, City Council adopted a comprehensive plan called **forwardDallas!** The vision document for **forwardDallas!** reports that workshop attendees wanted “more housing near jobs within the city.” Throughout the plan, implementation measures call for a better connection between jobs and housing:

- Implementation Measure 2.1.1.7 (Economic Element) calls for encouraging “a range of housing options through zoning regulations while being transparent and predictable to property owners and prospective developers.”
- Policy 1.1.2 says “It is important to create a balance between jobs and housing, improve public transit opportunities and promote high quality development.”
- Implementation Measure 1.2.2.2 (Land Use) says “Guide private development toward zoning that: Maintains a healthy balance of jobs and households...and emphasizes 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.

- Settlement Action 1 in the HUD voluntary compliance agreement required the city to:
 - Develop a strategy to encourage: (i) the development of affordable housing throughout the City, including housing for low- and very-low-income residents; and (ii) the creation of greater economic opportunity in [areas] that are concentrated by poverty...”
 - Develop the strategy as part of the City’s Assessment of Fair Housing and its obligation to affirmatively further fair housing

On October 7, 2015, City Council adopted the **Neighborhood Plus Plan**.

- Goal 6.1: Raise the quality of rental property through better design standards...
- Goal 6.2: Expand affordable housing options and encourage its distribution throughout the city and region.
 - 6.2.3: Develop, adopt and implement a new policy and guidelines through a variety of incentives which may include projects requesting increased development rights through zoning changes, to receive density bonuses in proportion to the number of affordable residential units provided; waiver of fees; parking reductions; tax abatements; zoning incentives; and other solutions utilized nationally.”
- Goal 6.3: Align planning, funding, and community investment within ¼ mile of DART stations.

Housing Committee Briefings Related to Housing Policy

- On November 2, 2015, Betsy Spencer from the City of Austin presented Austin’s Strategies to Promote Affordability to the City Council Housing Committee.
- On February 16, 2016, representatives from The Real Estate Council (TREC) presented A Toolkit of Options to Encourage Mixed Income Housing to the City Council Housing Committee.
- On February 28, 2016, the Urban Land Institute presented their Planning Advisory Services Report on Affordable Housing and Mixed Income Strategies to City Council members, City staff, and interested parties.
- On April 4, 2016, representatives from Inclusive Communities Project presented recommended elements for the City to include in the City’s proposed housing policy to the City Council Housing Committee.
- On April 4, 2016, Council Member Lee Kleinman presented Marketable Housing Certificates to the City Council Housing Committee.
- On August 29, 2016, the City Council Housing Committee reviewed an update on City of Dallas housing policies.

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- On August 29, 2016, staff briefed the City Council Housing Committee on Affordable Housing Policy: TIF Districts and Public Private Partnership Program.
 - On May 16, 2016; August 1, 2016; and May 15, 2017, staff briefed the City Council Housing Committee on voluntary inclusionary zoning (now called incentive zoning).
 - On April 17, 2017, City Council Housing Committee received an executive summary of the City of Dallas Housing Policy.
 - On March 19, 2018, staff briefed the City Council Economic Development and Housing Committee on the proposed Housing Policy. (In August 2017, the Housing Committee and the Economic Development Committee merged to form one joint committee.)
 - On April 5, 2018, the City Council Economic Development and Housing Committee held a stakeholder forum for the proposed Housing Policy.

City Council briefings and actions related to the Housing Policy

- On May 2, 2018, staff briefed the full City Council on the proposed Housing Policy.
- On May 9, 2018, City Council approved the Housing Policy.

Zoning Ordinance Advisory Meetings related to incentive zoning.

- On June 22, July 20, August 3, August 17, September 7, and September 28, 2017, and on June 7, June 21, August 2, and August 16, 2018, staff briefed the City of Dallas Zoning Ordinance Advisory Committee on voluntary inclusionary zoning (now called incentive zoning).

Background/General Information

Incentive zoning was previously discussed under the name “voluntary inclusionary zoning.” The concept is the same: provide development incentives to encourage additional housing and also encourage a portion of the units to be reserved for families within a certain income band.

Incentive zoning can provide a wider variety of housing options to a wider variety of people in a wider variety of areas by encouraging the inclusion of residential units reserved for families making less than the area median income in otherwise market-rate developments.

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 off-set 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 of high opportunity 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 adopted Comprehensive Housing Policy (adopted May 9, 2018).

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 the 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 2015 American Community Survey, more than 20,000 households in Dallas earn \$35,000 - \$75,000 and still pay more than 30%

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/>

of their income in rent. Overall, more than 130,000 households in the city are rent burdened. See chart in the appendix.

- 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
 - 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
 - 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. Market conditions constrain those families to aging developments built before 1990 or newer developments in a limited number of lower-income areas.
 - However, as of late 2017, occupancy was above 94% 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.

Historical patterns of segregation

- Dallas is one of many American cities to continue to see the effects of historical segregation and redlining.
- Between 1935 and 1940, during the New Deal, the Home Owners’ Loan Corporation (HOLC), as an agency of the federal government, created “maps that color-coded credit worthiness and risk on neighborhood and metropolitan levels. Through HOLC, real estate appraisers used the apparent racial and cultural value of a community to determine its economic value.” (Mapping Inequality website) As can be seen on maps digitized by Mapping Inequality (link below), those areas that were marked “hazardous” or “definitely declining” in 1935-1940 correspond with

areas of Dallas that have rebounded only in the past two decades (partially as a result of significant city investment) or are still transitioning toward strength. Data and maps here: <https://tinyurl.com/RedliningDallas>

Moving to Opportunity and other benefits

- The US Department of Housing and Urban Development (HUD) began a randomized social experiment in the 1990s to determine if helping impoverished families move to low-poverty areas would improve outcomes. In general, women and young children who moved to low-poverty areas improve health, happiness, and future outcomes like earning potential, family stability, and college attendance.
- Raj Chetty and his Equality of Opportunity Project studied data from the Moving to Opportunity project and have shown that there is a strong correlation between the quality of a neighborhood and the likelihood of success of that neighborhood's children, separate from the strength of the individual family. That is, when impoverished families moved to low-poverty neighborhoods with good schools, those children did better on multiple fronts, including earning power as adults, college attendance, quality of college attended, single parenthood, and neighborhood poverty in adulthood.
 - The policy lesson: 1) increase the ability of impoverished families to move to high opportunity areas and 2) improve impoverished neighborhoods by concentrating on factors that affect children (like school quality and income mix).
 - The papers are available here (under The Effects of Neighborhoods on Intergenerational Mobility):
<http://www.equality-of-opportunity.org/documents/>

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://dallassdc.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 MF-1(A), MF-2(A), MU-1 and MU-2 districts
- Adopt design principles to encourage walkability, reduce the need for parking, and require open space.

Staff has updated the proposal to incorporate the market value analysis (MVA) and the Council direction in the Housing Policy.

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 “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. (Source: PNV, draft data)

Staff Proposal - Updated

Four-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 constraints 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 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) Amend existing Standard Affordable Housing (SAH) districts to match changes to standard districts for development bonuses.
- 3) Amend Division 51A-4.1100 to update procedural rules for development bonuses.
- 4) Amend Chapter 20A to add housing program implementation regulations for development bonuses.

Development bonuses

- Differentiate provision of set-aside units based on whether the property is in a:
 - 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.

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 60%	5% at 60% & 5% at 80%	5% at 60% & 5% at 80% & 5% <100%	5% at 80%	10% at 80%	10% at 80% & 5% at 100%	none required
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 60%	5% at 60% & 5% at 80%	5% at 60% & 5% at 80% & 5% <100%	5% at 80%	10% at 80%	10% at 80% & 5% at 100%	none required
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 commercial 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 60%	5% at 60% & 5% at 80%	5% at 60% & 5% at 80% & 5% <100%	5% at 80%	10% at 80%	10% at 80% & 5% at 100%	none required
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	Remove FAR requirement for residential 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 60%	5% at 60% & 5% at 80%	5% at 60% & 5% at 80% & 5% <100%	5% at 80%	10% at 80%	10% at 80% & 5% at 100%	none required
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	Remove FAR requirement for residential 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 60%	5% at 60% & 5% at 80%	5% at 60% & 5% at 80% & 5% < 100%	5% at 80%	10% at 80%	10% at 80% & 5% at 100%	none required
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
- 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:

- For MF-1(A), Section 51A-4.116(a)(5) says this regarding parking: “Consult the use regulations (Division 51A-4.200) for the specific off-street parking requirements for each use. Consult the off-street parking and loading regulations (Divisions 51A-4.300 et seq.) for information regarding off-street parking and loading generally.”
 - Similar language for MF-2(A), MU-1, and MU-2
- 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.
- TOD area defined as ½ mile radius from a fixed-line transit station, including transfer centers, transfer locations, and transit centers. Definition to include any fixed line station, including DART light rail, TRE, high speed rail, trolley stop, and transit or transfer centers with climate-controlled waiting areas, etc., but not bus stops.
- For transit-oriented development (TOD) areas: 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.
- See Design Standards below for additional regulations regarding parking.

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:

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- Minimal parking and only minimal drive aisles in front of the building (between the front façade of building and street) unless configured as indented parking.
 - Ground-floor entrances should generally open 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.
- Note: PDs used as examples/sources: PD Nos. 193, 298, 714, 745, 758, 763, 773, 811, 860, 970

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.
 - Bicycle racks, utility equipment, landscape and tree planters, sculptures, and awnings
 - Maximum four-foot-high fence 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.

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- 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 and parking spaces, parking lots, and drive aisles are not considered open space.
 - Except for emergency vehicles, on-site open space cannot be parked or driven upon.
 - Open spaces shall be maintained at no public expense. The owner of the property on which the open space is located shall maintain it by keeping the area clean and free of litter and keeping in a healthy state any plant material that is provided. Conditions intended to assure continued maintenance of the open space for the actual lifetime of the building giving rise to the open space requirement may be imposed.
 - Landscape areas that fulfill the requirements of Article X may also fulfill these requirements if all conditions are met.
- Height
 - Residential proximity slope remains applicable
 - Elements such as railings, parapet walls, trellises and unoccupiable structures may project through the slope less than 12 feet.
 - Off-street parking and loading
 - Surface parking
 - Except when configured as indented parking, no on-site surface parking, parking lot, or parking surface is permitted between the street-facing front façade and the back of curb. For buildings with more than one street-facing front façade, only two street-facing front facades are subject to this requirement.
 - A maximum of 10 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.
 - Commercial Loading
 - Service entries, loading areas and loading docks should be screened and located away from the facade facing the front yard.
 - Passenger loading
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- Each building site must provide one off-street or on-street passenger loading space.
- Passenger loading areas may be configured as circular or loop drives.
- Urban design and structure facade standards
 - A minimum of 60 percent of the street-level, street-facing dwelling units in each building site must have individual entries that access the street with an improved path connecting to the sidewalk.
 - Street-fronting facades must have at least one window and at least one 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 an 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.
 - Sidewalks must be located in an area parallel to and within two feet to 15 feet of the back of the projected street curb, with a minimum two-foot-wide landscape buffer between the sidewalk and the back of the street curb
 - Pedestrian lighting must be provided along the sidewalks to provide minimum required lighting measured in footcandles.

Development Guidelines

Procedures

- Developer meets with the city's Housing Department to request a letter of MVA verification and information about compliance requirements for the incentive zoning program
- Developer begins the permit application process
 - Zoning letter of verification (if needed)
 - Submit all items required for a building permit
 - Begin the deed restriction 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 deed restriction.
- Sustainable Development and Construction sends to Housing a monthly 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 Property and may not be clustered in one building or a limited number of buildings.
 - may float within each dwelling unit type.
 - be of identical finish-out and materials as the market rate dwelling units and must be made available to eligible households on identical lease

terms, except rent amount, as are available to 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.

Appendix

Other Cities:

- Austin – Variety of incentive programs (SMART housing, overlays, density programs, etc.) have created more than 3,782 units at 60% to 120% of AMFI, while producing 10,996 market rate units since 2000. Another 11,258 affordable units and 31,451 market rate units are under construction. Allows fee in lieu in some instances.
 - Vertical Mixed Use (2007) – density bonus and parking standards exemptions in exchange for 10% of rental units (5% owner) designated as affordable
 - University Neighborhood Overlay (2004) – alternative dimensional standards for developers who set aside 10% of units at 60% of AMFI and 10% of units at 50% of AMFI
 - Downtown Density Bonus (2013) - 10 bonus square feet for each 1 square foot set-aside at 80% of AMFI for rental (120% AMFI for owner-occupied)
 - Planned Unit Developments (2013) – If a developer chooses to request a PUD, 10% of all single family and multifamily units in that PUD must be set aside for those at 60% of AMFI for rental (80% AMFI for owner-occupied) for 40 years and the development must accept vouchers.
 - *Examples shown only. Austin has multiple incentive programs, including SMART housing, TOD, micro unit density bonus, and area-specific incentives.
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- San Antonio offers a density bonus for units for households at 50% and 80% of AMFI.
 - 5% of units set aside at 50% of AMFI allows a 10% density bonus
 - 10% of units set aside at 80% of AMFI allows a 20% density bonus
- Houston does not have zoning and thus does not have inclusionary zoning.
- Fort Worth has encouraged density and a variety of housing types through its development standards and base zoning, not through inclusionary zoning.
- **Portland** - Two of the plan districts that control the zoning for specific areas offer density bonuses for provision of affordable housing.
 - Central City Plan District - for each square foot of floor area set aside for middle-income families, an additional 3 square feet may be built. At least 30% of the units must be set aside for those making less than 150% of AMI.
 - Northwest Plan District – increase in FAR and height in return for setting aside 10% of the units at 30% AMI, 20% at 60% AMI, or 40% at 80% AMI

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- **Philadelphia** – Allows for a variety of floor area and height bonuses in certain districts in exchange for public art, mixed income housing, public space, etc. 10% of the base units are set aside for 80-100% of AMI for 15 years. Payment in lieu allowed.
 - **Chicago** – Affordable Requirements Ordinance and Downtown Density Program. Applies when developments require certain zoning changes, include land purchased from the city, receive financial incentives, or are within a PD in downtown. 10%-20% set aside at 60-120% of AMI. Nearly 20,000 units have been created since the program was created in 2003.
 - **New York City: Grandfathered tenants.** An occupant of an affordable housing unit may include a tenant of a building on an inclusionary housing site that has been demolished for construction of an inclusionary housing development, even if the tenant's household income exceeds the income qualifications for the new affordable unit.
(<http://www1.nyc.gov/assets/planning/download/pdf/about/cpc/160051.pdf>)

Glossary

- **Absorb** (an apartment) – move from vacant to occupied. When a family moves into a vacant unit, the real estate community says that unit has been “absorbed.” When developers build new apartments, they worry that the market will “absorb” these new units.
- **Affirmatively further fair housing** - “a legal requirement that federal agencies and federal grantees further the purposes of the Fair Housing Act. This obligation to affirmatively further fair housing has been in the Fair Housing Act since 1968 (for further information see Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3608 and Executive Order 12892). HUD's AFFH rule provides an effective planning approach to aid program participants in taking meaningful actions to overcome historic patterns of segregation, promote fair housing choice, and foster inclusive communities that are free from discrimination. As provided in the rule, AFFH means "taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to affirmatively further fair housing extends to all of a program participant's activities

and programs relating to housing and urban development." (<https://www.hudexchange.info/programs/affh/>)

- **Analysis of Impediments** – previous method by which cities documented and fulfilled their fair housing obligations
- **Assessment of Fair Housing** – new method by which cities document and fulfill their fair housing obligations. The Assessment of Fair Housing includes 1) Patterns of integration and segregation; 2) Racially or ethnically concentrated areas of poverty; 3) Disparities in access to opportunity; and 4) Disproportionate housing needs. The process includes data from HUD, analysis of this data, review and response from the jurisdictions, and incorporation into subsequent planning processes and action.
 - (<https://www.hudexchange.info/programs/affh/overview/>)
- **Area Median Family Income** (or Area Median Income) AMFI or AMI – The Department of Housing and Urban Development (HUD) uses Census data (specifically, the American Community Survey) to calculate income limits for the purposes of determining eligibility for rental assistance programs. Although HUD uses percentage of median income and family size as category labels, the actual income limits are calculated according to statutory regulations. They start with calculating the income limit for very low-income family of four at 50% of the estimated area median family income and adjusting it in a variety of ways. From there, they calculate incomes for extremely low-, low-, median-, etc. limits and then adjust for family size. For 2017, the 4-person very-low income limit for the Dallas area is \$36,700, and the 100% of median income limit for a family of four is \$73,400. See chart at end of page for estimated actual Dallas city incomes versus Dallas area incomes per the 2015 American Community Survey from the Census. <https://www.huduser.gov/portal/datasets/il/il17/IncomeLimitsBriefingMaterial-FY17.pdf>
<https://www.huduser.gov/portal/datasets/il/il2017/2017ILCalc3080.odn>
- **Dallas area** (for the purposes of calculating HUD's income limits) - Collin, Dallas, Denton, Ellis, Hunt, Kaufman, and Rockwall counties. This is the same as or similar to the Census definition of the Dallas-Plano-Irving, TX Metro Division of the DFW Metropolitan Statistical Area (MSA)
- **Demand** - the number of housing units needed in a particular time frame.
- **Filtering** - A housing economics term. When new rental units and single family homes are added to an area, those with the 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 (theoretically) abandoned and demolished or renovated and re-populated.
- **Floor area** – generally, the “total square feet of floor space in a building measured to the outside faces of exterior walls or to the omitted wall lines,

whichever produces the larger area,” with some exceptions. (See Sec. 51A-2.102 for details.)

- **Floor area ratio (FAR)** – ratio of floor area to lot area.
- **ForwardDallas!** – the City’s comprehensive plan. Available here: <http://dallascityhall.com/departments/pnv/strategic-planning/Pages/comprehensive-plan.aspx>
- **Front yard** - that portion of a lot which abuts a street and extends across the width of the lot between the street and the setback line.
- **HUD** - U.S. Department of Housing and Urban Development (HUD) – the arm of the federal government whose mission is “to create strong, sustainable, inclusive communities and quality affordable homes for all. HUD is working to strengthen the housing market to bolster the economy and protect consumers; meet the need for quality affordable rental homes; utilize housing as a platform for improving quality of life; build inclusive and sustainable communities free from discrimination, and transform the way HUD does business.”
- **High opportunity areas** - In Dallas, Dallas Census tracts with a poverty rate of less than 20% that are also in the attendance zone of an elementary school that has a state accountability rating of “Met standard” from the Texas Education Agency
- **Income limits** – The highest amount of money a family can earn and still qualify for a particular housing unit. For example, in tax increment financing districts (TIF districts) in Dallas, some apartments are set aside for those making 80% of the area median family income (AMFI). In 2017, 80% of AMFI for a family of four is \$58,700.
- **Lot area** - the total square feet contained within lot lines.
- **Market Value Analysis** – The City has engaged Reinvestment Fund to study its real estate market to determine which areas in the city are strong markets, which are distressed, and which are transitioning up (or down). “The Reinvestment Fund believes that cities should use scarce public resources to build from areas of strength in order to enlarge those nodes of strength. The MVA is a data-based tool to inform community revitalization and manage neighborhood change; it identifies different types of markets, and those places where public intervention and larger public investment activities can stimulate private market activity. It is a unique approach using spatial and statistical analysis to identify and characterize local conditions throughout a locality, creating an internally-referenced index of residential real estate markets.”
 - [\(https://www.reinvestment.com/policy-solutions/market-value-analysis/](https://www.reinvestment.com/policy-solutions/market-value-analysis/)
 - <https://dallassdc.maps.arcgis.com/apps/MapSeries/index.html?appid=2aece5efc034dd89376c6138152729d>

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- **Neighborhood Plus** – adopted plan to improve housing in Dallas, available at <http://dallascityhall.com/departments/pnv/strategic-planning/DCH%20Documents/Web%20-%20Neighborhood%20Plus%20Plan%20-%20Adopted%2010-07-2015.pdf>
 - **Qualifying family** – a family that meets the eligibility requirements for an affordable unit.
 - **Racially and ethnically concentrated areas of poverty (R/ECAP)** – Dallas Census tracts with a non-white population of 50 percent or more and a poverty rate that exceeds 40% or is three or more times the average tract poverty rate for the metropolitan area, whichever threshold is lower
 - **Rent burdened** – A family is considered “rent burdened” when it spends more than 30% of total income on housing (including utilities).
 - **Rent limits** – the maximum rent that can be charged a qualifying family. For example, if units are set aside for families at 80% of area median family income, the maximum monthly rent that can be charged for a two-bedroom unit for that family in 2017 in Dallas is \$1,139, excluding utilities.
 - **Return on cost** – total cost of a development divided by net operating income (gross income minus operating expenses including taxes). This is one of many metrics developers use to determine whether a project is viable.
 - **Set aside** – the number of housing units in a development that are designated for families making less than a particular income level
 - **Setback line** - a line marking the minimum distance a building may be erected from a street, alley, or lot line (also called the “building line”)
 - **Standard Affordable Housing (SAH)** – as defined in Dallas City Code 51A-4.900: a dwelling unit of adequate size: (1) leased or offered for lease to a lower income family for an amount equal to or less than the SAH rental rate; or (2) that satisfies all necessary criteria, as determined by the appropriate federal or state governmental authority, for low income family occupancy to qualify a project for federal or state tax relief or other housing or financial assistance under a program established by and administered in accordance with federal or state law for the purpose of aiding low income families in obtaining a decent place to live.
 - **Story** - that portion of a building between any two successive floors or between the top floor and the ceiling above it.
 - **Supply** – the number of housing units ready for occupancy in a particular time frame.
 - **Transit Oriented Development (TOD)** – specific definitions can vary, but TOD is generally compact, walkable development within ¼ to ½ mile of transit facilities, such as a bus stop or a train station. Development near a transit facility that does not provide a walkable connection to the transit facility is known as transit adjacent development.
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- **Voluntary Compliance Agreement (VCA)** – agreement between two parties reached voluntarily instead of continuing court or government enforcement action. When HUD investigates whether an organization is in compliance with its regulations, it issues a Letter of Findings. In response to that Letter, HUD and the organization can come to an agreement about how the organization will proceed. That agreement is often known as a voluntary compliance agreement.
- **Voluntary Inclusionary Zoning (VIZ)** - a type of zoning that incentivizes developments to provide housing at a wide variety of income levels to help overcome historic patterns of segregation and promote fair housing choice

City of Dallas incomes versus Dallas Area incomes versus HUD-calculated Dallas Area incomes

Note: HUD uses 2014 ACS data and adjusts it for inflation to calculate 2017 income limits.

2017 Incomes - Dallas Area (HUD)			
HH	60%	80%	100%
1	\$30,828	\$41,100	\$51,380
2	\$35,232	\$47,000	\$58,720
3	\$39,636	\$52,850	\$66,060
4	\$44,040	\$58,700	\$73,400
5	\$47,563	\$63,400	\$79,272
6	\$51,086	\$68,100	\$85,144

2015 American Community Survey 5-year estimates				
HH	City of Dallas	Dallas County	Dallas Metro. Div.	DFW MSA
total	\$43,781	\$50,270	\$60,394	\$59,946
1	\$33,174	\$34,353	\$36,182	\$34,967
2	\$57,790	\$61,576	\$68,585	\$67,842
3	\$48,728	\$57,008	\$72,932	\$72,395
4	\$46,098	\$57,402	\$81,510	\$81,145
5	\$44,020	\$53,394	\$71,183	\$71,287
6	\$44,545	\$52,920	\$65,290	\$64,058

*Dallas Metro Div includes Dallas, Collin, Denton, Hunt, Rockwall, Kaufman, and Ellis counties
 *Table B19019 - 2015 ACS 5-year estimates; income for actual household size

Rent burden broken down by income group

Renter Households - City of Dallas				
Percentage of Income Used for Rent + Utilities				
Income:	Total	< 20%	20-29%	>30%
Less than \$20,000:	64,389	1,359	3,361	59,669
\$20,000 to \$34,999:	61,135	2,338	10,675	48,122
\$35,000 to \$49,999:	49,465	7,953	26,032	15,480
\$50,000 to \$74,999:	48,688	20,290	22,221	6,177
\$75,000 or more:	51,995	40,464	10,078	1,453
Zero or negative:	9,070	-	-	-
No cash rent	5,766	-	-	-
total	290,508	72,404	72,367	130,901

Source: 2015 American Community Survey table B25106

MVA variables by market category

MVA Category	Median Sales Price	Variation Sales Price	Percent Owner Occupied	Percent new Construction	Percent Rehabilitation	Percent Subsidized Units	Percent Code Violations	Percent of Vacant Homes	Percent Foreclosure Filings	Household Density (reference only)
A (29 areas)	\$1,037,300	0.57	81%	2.6%	3.6%	1%	1%	2.4%	>1%	3.0
B (97 areas)	\$463,900	0.48	85%	1.2%	4.4%	2%	>1%	1.2%	>1%	3.7
C (87 areas)	\$390,500	0.40	31%	1.8%	1.2%	4%	1%	1.7%	1%	8.5
D (96 areas)	\$267,100	0.42	69%	0.5%	2.9%	4%	1%	1.8%	>1%	4.9
E (245 areas)	\$140,300	0.32	13%	1.1%	0.3%	13%	2%	2.3%	3%	15.6
F (124 areas)	\$117,600	0.44	73%	0.3%	1.5%	8%	2%	1.8%	3%	5.0
G (61 areas)	\$91,300	0.41	26%	0.4%	0.6%	63%	4%	3.8%	7%	12.3
H (124 areas)	\$72,400	0.55	60%	0.4%	1.3%	8%	6%	3.7%	4%	5.7
I (55 areas)	\$41,500	0.76	46%	0.7%	1.0%	17%	21%	7.5%	5%	7.1
Avg. Dallas Block Group	\$133,300	0.44	48%	0.9	1.6	12%	3%	2.6%	1%	8.5