

Memorandum



CITY OF DALLAS

DATE April 28, 2022

TO Honorable Mayor and Members of the City Council

SUBJECT **Mixed Income Housing Development Bonus Expansion Briefing to City Council, April 20, 2022: Responses to Questions**

On April 20, 2022, the Department of Housing & Neighborhood Revitalization staff briefed the City Council on the proposed Mixed Income Housing Development Bonus (MIHDB) code amendments and accompanying amendments to the Comprehensive Housing Policy (CHP).

Previously briefed as One Dallas Options, the current proposal is an expansion and refinement of the current MIHDB program, which offers development bonuses on a voluntary basis in return for providing a percentage of units to be reserved for eligible households within certain income bands.

During the City Council briefing, City Council members asked the following questions:

1. Please explain, in general, how the MIHDB fund is proposed to be used.

Proposed language in Chapter 20A-33 (**Exhibit A**) regulates use of the fund. The MIHDB fund may only be used to fund:

- Programs authorized by the CHP that affirmatively further fair housing.
- Data and analysis in support of housing programs.
- Staff and expenses for management and administration of the MIHDB and the MIHDB fund.

Proposed language in the CHP (**Exhibit B and Exhibit C**) further focuses the use of the fund:

- Developers may apply for MIHDB funding through the New Construction and Substantial Rehabilitation Program, which will be updated this summer to accommodate this new revenue source. (Please see **Exhibit D** for more information on this program.)
- To the extent possible, federal funds should be maximized prior to using MIHDB funds. All funding is subject to Fair Housing review.
- Tax credit projects are not eligible for MIHDB funding except as needed to support on-site market-rate housing units.
- Developments paying the fee in lieu are not eligible for financial incentives from the MIHDB Fund.

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The goal of the MIHDB fund is to help address systemic inequities by providing housing that is affordable to a broad range of income levels in all areas of the city.

The fund will be used to:

- Create affordable housing in strong neighborhoods (Market Value Analysis (MVA) Categories A, B, and C).
- Create mixed income communities and reduce displacement in gentrifying and transitioning areas (MVA Categories D, E, and F).
- Create market rate housing and support housing-related infrastructure in weaker market areas (MVA Categories G, H, and I).

Priority will be given to development in categories D through I that advances racial equity.

2. Please further explain how the fund will be used for administration of the program.

Administration expenses fall generally into three categories: 1) expenses related to the program such as an update to the Market Value Analysis, 2) additional data and analysis in support of housing programs (such as real estate market data), and 3) staffing for management and administration of the MIHDB program and MIHDB fund.

Staff will be assigned primarily to run the program and deliver new housing units with support provided by existing compliance and monitoring, finance, inspections, administration, and management staff. Because the support staff is primarily paid through the City's federal grants, MIHDB funds are needed to off-set responsibilities and work that are not eligible to be paid with federal grant funds.

Administration costs will be capped at ten percent of deposits each fiscal year or \$300,000.00, whichever is greater.

3. How will the program support development in the Southern Sector and in MVA categories F through I?

The program supports development through two paths. First, the program supports Southern Sector developments that need the development bonuses provided in the program. Second, once the fund is established, the City will actively invest in projects through the New Construction and Substantial Rehabilitation Program,

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which allows for gap financing and funding for infrastructure related to housing construction.

4. How does the proposed fee structure compare to fees charged in other cities?

Please see the attached **Exhibit E** for a comparison of fee and bonus structure to the proposed fee for Dallas.

5. What steps will the City take to ensure that voucher holders will have an opportunity to live in reserved units created by the MIHDB program?

Proposed language in Section 20A-4.1 Housing Voucher Incentives (**Exhibit A**) says that all housing accommodations that benefit from a subsidy (including the MIHDB bonus) or financial award shall not discriminate against voucher holders and shall comply with additional procedural requirements as follows:

- Section 20A-28(2) – Tenant selection and other policies must...prioritize holders of housing vouchers...for lease and occupancy of reserved units.
- Section 20A-31(e) – An owner shall submit quarterly status reports...[that] include...(6) certification that the development:
 - (A) has maintained vendor registration with one or more local providers of housing vouchers;
 - (B) has reported available units to one or more local providers of housing vouchers each quarter; and
 - (C) that the development will pass the provider’s required inspections...
- Section 20A-31(g) - An affirmative fair housing marketing plan designed to attract renters of all majority and minority groups, including voucher holders.

6. For projects receiving City funding, what are you changing in Section 20A-4.1 Housing Voucher Incentives, which requires that projects receiving City funding set aside ten percent of their units and lease them solely to voucher holders?

This section of the Dallas City Code was amended in 2016 and essentially stopped the use of City funding for housing projects in the tax increment financing program. Developers have reported that they are unwilling to take the risk that ten percent of a development’s units might remain vacant.

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Proposed language in Section 20A-4.1 Housing Voucher Incentives adds best efforts language and then defines best efforts as compliance with the additional procedural requirements listed above.

See the attached **Exhibit A** for details.

7. Where has the MIHDB program been used already?

Please see the attached **Exhibit F** – Location and Status of MIHDB Projects.

8. How many projects or zoning cases have been approved by City Council with a base and a bonus but are unlikely to produce on-site reserved affordable units?

Housing staff is currently tracking seven high-rise zoning cases approved between the end of 2019 and August 2021 that have not begun the MIHDB application process.

In addition, staff estimates at least another three projects in the zoning process that are likely to use the fee in lieu of on-site development.

9. Please further explain the implementation timeline

If the proposal is approved May 11, 2022:

- Within two weeks after City Council approval:
 - Both ordinances (Div. 51A-4.1100 amendments and Chapter 20A amendments) will take effect immediately upon passage and publication of the ordinance. It generally takes a few days to publish the ordinance changes.
 - Once approved, developers will immediately be able to make zoning decisions based on the new zoning bonus menu and the schedule of fees.
- By Fall 2022 (earlier if possible):
 - Create a program manual, including additional specific guidance for the fund.
 - Begin to collect fee in lieu payments once the mechanism is established.
 - Hire staff.

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- Update the Market Value Analysis.
- Modify the New Construction and Substantial Rehabilitation Program.
- Create applications.
- Create training sessions for developers and staff.
- Create program evaluation criteria.
- Report updates to City Council.
- Spring 2023:
 - Deploy the fund through investments in CHP programs.
- Summer 2023:
 - Report updates and progress to City Council.

10. How will you refine the program in the future, and what additional elements are expected to be added?

Staff regularly collects feedback from developers interested in using the program and incorporates that feedback into future iterations of the program.

The current workplan for the Strategy Team includes expanding the program to for-sale housing and to commercial land uses. Both expansions will require support from additional departments and will be required to follow the regular code amendment process, including research, stakeholder conversations, Zoning Ordinance Advisory Committee meetings, City Plan Commission input, and City Council committee review.

In addition to the questions asked by City Council during the briefing, staff has fielded additional questions from stakeholders.

1. Clarify the base zoning underlying the proposed Type 3 development bonus menu. For example, could the base zoning be set to the greater of the site's existing zoning, MU-3, or MF-3?

Staff does not recommend following this suggestion because not every location is appropriate for MU-3 or MF-3(A) zoning. (See **Exhibit G** for the proposed amendments to Chapter 51A-4.1100.)

The base zoning is whatever the developer negotiates as the base through the typical planned development process. That is, a developer could apply for zoning

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through the normal application process and propose, for example, any of the following:

- A PD with a base of MU-3, plus:
 - access to the Type 3 menu of bonuses.
 - custom bonuses.
 - no bonuses.
- A PD with a completely custom base that sets out specific requirements for land use, setbacks, height, stories, lot coverage, floor area ratio, residential proximity slope, tower spacing, landscape requirements, etc., plus:
 - access to the Type 3 menu of bonuses.
 - custom bonuses.
 - no bonuses.
- A PD with a base of any of the existing base zoning districts that allow multifamily uses, plus:
 - access to the Type 3 menu of bonuses.
 - custom bonuses.
 - no bonuses.
- A general zoning change to one of the MF(A) - Multifamily or MU – Mixed Use districts. Once approved, the development could use the existing by-right bonuses in the yard, lot, and space regulations of the applicable zoning district.

This request would then be reviewed by staff and City Plan Commission before going to City Council for review and consideration.

Staff recommends proceeding with the currently proposed structure.

- 2. Could the City pursue a code amendment that allows all existing PDs that reference a base zoning code to access the new zoning bonus proposed in Ch. 51A-4.1106(j)? Along the same lines, please consider adding an expedited zoning review process for developments that include mixed income housing.**

Staff recommends the currently proposed solution.

If an existing PD development wants to use the new menu of bonuses, the PD must be amended to reference compliance with Section 51A-4.1106(j).

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The Dallas Development Code supports this answer:

Sec. 51A-4-702(a)(1) Purpose. The purpose of the PD is to provide flexibility in the planning and construction of development projects by allowing a combination of land uses developed under a uniform plan that protects contiguous land uses and preserves significant natural features.

That is, planned development districts are designed to address the needs of their specific location, with carefully crafted development and design standards that ensure compatibility with their location and local context.

Regarding an expedited zoning approval process, the City is required to follow state law regarding timelines and deadlines for zoning applications.

The long-term answer to both questions lies in the comprehensive planning process followed by a future land use map and updated zoning that addresses the needs of the city.

3. In the Type 3 bonus chart, height and stories are expressed in terms of a percentage increase. Please explain.

Staff recommends proceeding with the currently proposed structure.

The bonus charts are designed to respond to the needs of low-, mid-, and high-rise developments. Adding a set number of stories, such as two additional stories, would be a large increase in low-rise developments and a very small increase in high rise developments. Per the menu of options, any height or story bonus leading to a fraction of an additional story is rounded to the next higher story.

As needed, like with any other element in the Development Code, specific bonuses that differ from this chart can be written into the new PD, subject to City Council approval.

4. Some stakeholders recommend reducing the fee in lieu structure by 15%.

Staff recommends proceeding with the current fee structure and will report back to City Council regularly regarding utilization.

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The current proposed fee structure has been carefully calibrated to encourage on-site provision of affordable units in low and mid-rise developments and allow a financially viable alternative for expensive high-rise developments.

Lowering the recommended fee would incentivize paying the fee rather than providing units on site.

Should you have any questions, please contact David Noguera, Director, Department of Housing & Neighborhood Revitalization, at david.noguera@dallascityhall.com or (214) 670-3619.



Majed A. Al-Ghafry, P.E.
Assistant City Manager

Attachments:

- Exhibit A – Chapter 20A Proposed Amendments
- Exhibit B – MIHDB Program Statement
- Exhibit C – MIHDB Fund Statement
- Exhibit D – Notice of Funding Availability information
- Exhibit E – MIHDB Fee Comparison Table
- Exhibit F – Map – Location and Status of MIHDB Projects
- Exhibit G – Chapter 51A-4.1100 Proposed Amendments

c: T. C. Broadnax, City Manager
Chris Caso, City Attorney
Mark Swann, City Auditor
Biliera Johnson, City Secretary
Preston Robinson, Administrative Judge
Kimberly Bizzor Tolbert, Deputy City Manager
Jon Fortune, Deputy City Manager

M. Elizabeth (Liz) Cedillo-Pereira, Assistant City Manager
Robert Perez, Interim Assistant City Manager
Carl Simpson, Interim Assistant City Manager
M. Elizabeth Reich, Chief Financial Officer
Genesis D. Gavino, Chief of Staff to the City Manager
Directors and Assistant Directors

Exhibit A: Chapter 20A DRAFT Proposed Amendments

4-26-22

ORDINANCE NO. _____

An ordinance amending Chapter 20A, “Fair Housing and Mixed Income Housing,” of the Dallas City Code by amending Sections 20A-4.1, 20A-5, 20A-23, 20A-24, 20A-25, 20A-26, 20A-27, 20A-28, 20A-29, 20A-30, 20A-31, 20A-32, and 20A-33 and adding new Sections 20A-23.1 and 20A-34; providing clarification regarding housing voucher incentives; providing a defense to prosecution; providing a fee in lieu; providing definitions; providing revised regulations and fees for the One Dallas Options program; providing a penalty not to exceed \$500; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, 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 Section 20A-4.1, “Housing Voucher Incentives,” within Article I “Fair Housing,” within Chapter 20A, “Fair Housing and Mixed Income Housing,” of the Dallas City Code is amended to read as follows:

“SEC. 20A-4.1. HOUSING VOUCHER INCENTIVES.

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

Exhibit A: Chapter 20A DRAFT Proposed Amendments

(a) Subsidy or financial award. All housing accommodations that benefit from a subsidy or financial award, as defined in Section 20A-3, approved by the city council on or after the effective date of this ordinance (1) shall not discriminate against holders of any housing vouchers, including vouchers directly or indirectly funded by the federal government and (2) shall comply with Section 20A-28 regarding tenant selection criteria, Section 20A-31(e)(6) regarding registering as a vendor with local providers of housing vouchers, and Section 20A-31(g) regarding compliance with an affirmative fair housing marketing plan.

(b) Financial award. Multifamily housing accommodations that benefit from a financial award approved by the city council on or after the effective date of this ordinance shall set aside at least 10 percent of the dwelling units and shall make best efforts to [solely] lease those dwelling units to holders of housing vouchers, including vouchers directly or indirectly funded by the federal government, for a minimum of 15 years from the date of the initial issuance of the housing accommodation's certificate of occupancy. Multifamily has the meaning assigned in Section 51A-4.209(b)(5) of the Dallas Development Code, as amended. In this section, best efforts means compliance with Section 20A-4.1(a) and compliance with the incentive agreement related to the financial award.

SECTION 2. That Subsection (h) within Section 20A-5, "Defenses to Criminal Prosecution and Civil Action," within Article I "Fair Housing," within Chapter 20A, "Fair Housing and Mixed Income Housing," of the Dallas City Code is amended to read as follows:

"(h) It is a defense to criminal prosecution or civil action under Sections 20A-4 regarding source of income and under 20A-4.1 that the following are leased to housing voucher holders: ~~[at least 10 percent of the dwelling units in a multifamily use, as defined in Section 51A-4.209(b)(5) of the Dallas Development Code, as amended, are leased to housing voucher holders.]~~

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

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

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

Exhibit A: Chapter 20A DRAFT Proposed Amendments

SECTION 3. That Article 20A, “Mixed Income Housing,” of the Dallas City Code is amended by adding a new Section 20A-23.1, “Alternative Methods of Provision and Incentives,” to read as follows:

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

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

- (1) provide the required units on the same building site as the market rate units;
- (2) provide the units as part of a phased development as provided in Section 51A-4.1105(e); or
- (3) pay a fee in lieu of on-site or phased development; or

(b) On-site provision and phased on-site provision. Units provided on-site must comply with all requirements in Division 51A-4.1100 unless specifically exempted in the applicable zoning district.

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

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

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

(d) Financial Incentives.

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

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

Exhibit A: Chapter 20A DRAFT Proposed Amendments

SECTION 4. That Section 20A-24, “Definitions and Interpretations,” within Article II “Mixed-Income Housing,” within Chapter 20A, “Fair Housing and Mixed Income Housing,” of the Dallas City Code is amended to read as follows:

“SEC. 20A-24. DEFINITIONS AND INTERPRETATIONS.

(a) Definitions. In this article:

(1) ~~[ADJUSTED INCOME has the definition assigned to that term in 24 CFR §5.611, as amended.~~

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

(3) AFFORDABLE RENT means: (i) a monthly rental housing payment, ~~[less an allowance for utilities, that does not exceed 30 percent of an eligible household's adjusted income divided by 12,]~~ in compliance with a rent and income schedule produced annually by the department, or (ii) the voucher payment standard for voucher holders.

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

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

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

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

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

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

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

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

Exhibit A: Chapter 20A DRAFT Proposed Amendments

(11[12]) ELIGIBLE HOUSEHOLDS means households with an ~~adjusted~~ income within the required income band or voucher holders regardless of income.

(12[13]) FAMILY means family as defined in 24 CFR §5.403, "Definitions," as amended.

(13[14]) HANDBOOK means the HUD Handbook 4350.3: Occupancy Requirements of Subsidized Multifamily Housing Programs, as periodically revised and published by HUD.

(14[15]) HUD means the United States Department of Housing and Urban Development.

(15[16]) INCOME means income as defined by 24 CFR §5.609, "Annual Income."

(16[17]) INCOME BAND means the range of household adjusted incomes between a pre-determined upper limit and a pre-determined lower limit generally stated in terms of a percentage of area median family income adjusted for family size.

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

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

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

(17[18]) MARKET VALUE ANALYSIS ("MVA") means the most recent official study that was commissioned by and prepared for the city to assist residents and policy-makers to understand the elements of their local residential real estate markets.

(18[19]) MIXED-INCOME HOUSING PROGRAM means a program administered by the department in which each owner using a development bonus participates.

(19[20]) MIXED-INCOME HOUSING RESTRICTIVE COVENANT means the instrument securing the terms and enforcement of this division.

(20[21]) OPTIONAL AMENITIES means services or features that are not included in the monthly rent, including access to premium parking and concierge services, among other services.

Exhibit A: Chapter 20A DRAFT Proposed Amendments

(21[22]) OWNER means the entity or person who owns the development or Property during the rental affordability period, including the owner's employees, agents, or contractors.

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

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

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

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

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

~~[(27) UTILITY ALLOWANCE means the reasonable allowance for tenant-furnished utilities and other services as published annually by the Dallas Housing Authority.]~~

(27[28])VOUCHER HOLDER means a holder of a housing voucher, including vouchers directly or indirectly funded by the federal, state, or local government.

(28[29])VOUCHER PAYMENT STANDARD means the maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

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

Exhibit A: Chapter 20A DRAFT Proposed Amendments

SECTION 5. That Section 20A-25, “Market Value Analysis Category and Reserved Dwelling Unit Verifications,” within Article II “Mixed-Income Housing,” within Chapter 20A, “Fair Housing and Mixed Income Housing,” of the Dallas City Code is amended to read as follows:

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

(a) In general. Before applying for a permit for construction, a[A]n owner shall comply with this section.

(1) Submit an application to the department detailing the proposed project, and the application shall include the following information:

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

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

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

(2) O[~~o~~]btain a certified verification of the building site’s market value analysis (“MVA”) category [~~verification~~].

(3) S[~~and shall s~~]ign a reserved dwelling unit verification form provided by the department where the owner acknowledges [~~acknowledging~~] receipt of information regarding the minimum and maximum percentage of reserved dwelling units for that category, states the intended pro-rata distribution of the reserved dwelling units, if applicable, and provides any other pertinent information requested by the director [~~as a precondition to participating in the mixed-income housing program~~].

(4) Acknowledge intent to participate in the Mixed Income Housing Development Bonus program.

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

Exhibit A: Chapter 20A DRAFT Proposed Amendments

(c) ~~[Procedure for obtaining a market value analysis category, and reserved dwelling unit verification.~~

~~(1) An owner shall attend an in-person meeting to review the terms of the mixed-income housing program, including the MVA category and reserved dwelling unit verification.~~

~~(2) Before the meeting, the owner shall disclose the following information on a form provided by the director:~~

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

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

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

~~(3) At the close of the meeting, the director shall sign and date the MVA category verification and the owner shall sign and date the reserved dwelling unit verification for the Property. Copies of the signed verifications will be provided to the owner.]~~

~~In the case of a conflict between the documents required in this section and the requirements of:~~

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

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

~~(d) Expiration of market value analysis category, reserved dwelling unit, and participation verifications. [MVA category and reserved dwelling unit] V[v]erifications expire one year after the date of issuance if the owner has not filed a mixed-income restrictive covenant in the real property records related to the property for which the [MVA category and reserved dwelling unit] verifications were issued and made reasonable progress, as defined in Section 311.3 of Chapter 52 of the Dallas City Code, on the Property that will be subject to the mixed-income restrictive covenant.”~~

Exhibit A: Chapter 20A DRAFT Proposed Amendments

SECTION 6. That Section 20A-26, “Mixed-Income Restrictive Covenant,” within Article II “Mixed-Income Housing,” within Chapter 20A, “Fair Housing and Mixed Income Housing,” of the Dallas City Code is amended to read as follows:

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

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

- (1) be signed by all owners of the Property;
- (2) be signed by all lienholders, other than taxing entities, having an interest in the Property;
- (3) contain a legal description of the Property;
- (4) specify the number of any required reserved dwelling units and the income band applicable to each unit;
- (5) be a covenant running with the land;
- (6) be for a term of 20 years with one-year [five-year auto-renewals] automatic renewals (to allow for periods of noncompliance until the full 20-year term is met) and it is [unless] terminated by a subsequent written instrument;
- (7) state that all signatories agree to defend, indemnify, and hold harmless the City of Dallas from and against all claims or liabilities arising out of or in connection with the instrument;
- (8) state that it may only be amended or terminated by a subsequent written instrument that is:
 - (A) signed by all owners of the Property and all lienholders, other than taxing entities;
 - (B) approved by the director;
 - (C) approved as to form by the city attorney; and
 - (D) recorded and made a part of the deed records of the county or counties in which the Property is located;
- (9) state that the owner agrees to comply with all the requirements of this article, including the submission of quarterly unit status reports, maintaining the development in

Exhibit A: Chapter 20A DRAFT Proposed Amendments

compliance with the city's health and safety ordinances, full cooperation with any audits and inspections conducted pursuant to the mixed-income housing program including providing access to all records required to be maintained in accordance with this article and allowing the physical inspection of the property, compliance with the city's ~~[Mixed Income Housing]~~ Program Manual maintained by the ~~d[Department of Housing and Neighborhood Revitalization]~~, and continued compliance with maintenance of the physical attributes of the property in accordance with this article;

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

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

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

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

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

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

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

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

Exhibit A: Chapter 20A DRAFT Proposed Amendments

SECTION 7. That Section 20A-27, “Administration of the Mixed-Income Housing Program,” within Article II “Mixed-Income Housing,” within Chapter 20A, “Fair Housing and Mixed Income Housing,” of the Dallas City Code is amended to read as follows:

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

(a) Compliance~~[with the handbook]~~. Except as provided in this ~~[subsection]~~ division, ~~[the intent of the mixed-income housing program is that]~~ the owner shall provide reserved units and conduct eligibility determinations in accordance with the handbook, 24 CFR Part 5, “General HUD Program Requirements; Waivers,” and the department’s program manual. Where the program manual provides specific exceptions to the handbook or to 24 CFR Part 5, the program manual shall control with respect to the Mixed-Income Housing Program.

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

- (1) inquiries regarding or documentation of the immigration status of an applicant or eligible household;
- (2) use of HUD forms, unless specifically required in this division;
- (3) compliance with HUD requirements that are specific to a HUD program and are not generally-applicable; and
- (4) use of the Enterprise Income Verification (EIV) system.

(c) ~~[Eligibility determinations in general. In accordance with the handbook and 24 CFR Part 5, an An owner shall determine whether an applicant is eligible to lease and occupy a reserved dwelling unit before approving the applicant for tenancy and thereafter on an annual basis.~~

(d) ~~Eligibility determination prior to approving an applicant for tenancy. An owner shall determine:~~

- (1) ~~family size in accordance with the handbook;~~
- (2) ~~annual income and adjusted income in accordance with the handbook and 24 CFR Part 5;~~
- (3) ~~whether the applicant's adjusted income is within the income bands applicable to the reserved dwelling units in the property; and~~

Exhibit A: Chapter 20A DRAFT Proposed Amendments

~~(4) if the applicant's adjusted income is within the income bands applicable to the reserved dwelling units in the property, whether there are any reserved units at the property that are currently available for lease to and occupancy by an applicant and are dwelling units of adequate size, per the owner's general occupancy standards that must:~~

~~(A) take into account all persons residing in the household and follow the guidelines set forth in the handbook and in accordance with the Fair Housing Act;~~

~~(B) prevent both over occupancy and under occupancy of units. In general, a two person per bedroom standard is appropriate; and~~

~~(C) take into account the specific size of bedrooms and units, configuration of the unit, and age of children who may be occupying the unit (if any), among other factors.~~

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

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

~~(e[g]) Income bands.~~

~~(1) An owner shall ensure that reserved dwelling units are only leased to and occupied by eligible households in accordance with the development bonus restrictive covenant. [For the mixed income housing program, units must be reserved for families with adjusted annual incomes within the following bands, except that voucher holders may be selected to occupy any reserved dwelling unit:~~

~~(1) Income band 1: 81-100 percent of AMFI;~~

~~(2) Income band 2: 61-80 percent of AMFI; and~~

~~(3) Income band 3: 51-60 percent of AMFI.]~~

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

Exhibit A: Chapter 20A DRAFT Proposed Amendments

(f[h]) Affordable rents.

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

~~(2) [An owner is responsible for calculating the affordable rent before approving the applicant for tenancy and on an annual basis based on the eligible household's adjusted income reported during the annual certification.]~~

~~(A) After completing the annual eligibility certification process, the owner shall adjust the rent upwards or downwards so that it remains an affordable rent.~~

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

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

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

~~(1) [Except as provided in Paragraph (2), eligible households leasing reserved dwelling units may satisfy the annual certification process by self-certifying their eligibility using a form provided by the director. For reserved dwelling units subject to Subsection (i)(2), this paragraph does not apply.]~~

~~(2) Every six years during the property's affordability period, the owner shall conduct the annual certification of each eligible household leasing a reserved dwelling unit in accordance with Subsection (d), regardless of the number of years the eligible household has leased a reserved dwelling unit.~~

~~(3) Annual certification must be completed at least 30 days before the annual anniversary of the initial lease date.~~

~~(4) An owner shall send at least one written notice to the eligible household at least 90 days in advance of the annual anniversary of the initial lease date requesting all information needed to conduct the annual certification in compliance with this division.]~~

~~(5) An owner shall not conduct a certification on less than an annual basis unless requested to do so by an eligible household. An owner shall conduct the interim certification in the same manner as conducting an annual certification. An owner may charge a reasonable fee to cover the administrative costs associated with conducting an interim certification.~~

Exhibit A: Chapter 20A DRAFT Proposed Amendments

~~(2[6])~~ If an owner fails to complete the annual certification within 120 days of the lease anniversary date, the reserved dwelling unit will be considered out of compliance and the mixed-income restrictive covenant term will be extended for the period of non-compliance. The non-compliance can be cured by completing the annual certification or designating another unit as a reserved dwelling unit and leasing it to an eligible household.

~~(h[j])~~ ~~[Over and under income eligible households. This subsection is intended to provide a reasonable time period for eligible households and owners to respond to an eligible household's changing economic circumstances.~~

~~(1)~~ If an eligible household's adjusted income at the annual certification exceeds the highest income for which the unit is reserved, the unit remains in compliance until the next annual certification so long as the owner continues to charge an affordable rent.

~~(2)~~ If an eligible household's adjusted income at the annual certification falls below the lowest income for which the unit is reserved, an owner shall provide written notice to the director so that the director can determine whether the eligible household is eligible for any available subsidies. The unit remains in compliance until the next annual certification so long as the owner continues to charge a rent amount that does not exceed the prior year's affordable rent.

~~(3)~~ If an eligible household's adjusted income either exceeds the highest income for which the reserved dwelling unit is reserved or falls below the lowest income for which the reserved dwelling unit is reserved at a consecutive annual recertification:

~~(A)~~ the owner may begin charging the household market rate rents and the unit is no longer a reserved dwelling unit. The next comparably sized unit to become available will be deemed a reserved dwelling unit; or

~~(B)~~ if the owner is required to provide reserved dwelling units to more than one income band and the eligible household's adjusted income falls within the income band for an alternative reserved dwelling unit, the owner may allow the household to lease an alternative reserved dwelling unit, if available or the owner may re-designate the eligible household's current reserved dwelling unit to the appropriate income band.]

~~(k)]~~ Additional requirements and prohibitions.

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

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

Exhibit A: Chapter 20A DRAFT Proposed Amendments

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

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

SECTION 8. That Section 20A-28, “Tenant Selection and Other Written Policies,” within Article II “Mixed-Income Housing,” within Chapter 20A, “Fair Housing and Mixed Income Housing,” of the Dallas City Code is amended to read as follows:

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

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

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

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

~~(3)~~(2) provide for the selection of tenants from a written waiting list in the chronological order of their application, insofar as is practicable;

~~(4)~~(3) give prompt written notification to any rejected applicant stating the grounds for the rejection; and

~~(5)~~(4) be consistent with this article.

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

(1) reasonable accommodations;

(2) affirmative marketing;

(3) applicant screening criteria;

(4) tenant selection criteria;

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

Exhibit A: Chapter 20A DRAFT Proposed Amendments

- (6) waiting list preferences, if any;
- (7) procedures for rejecting ineligible tenants;
- (8) occupancy standards;
- (9) non-renewal and termination notices; and
- (10) unit transfers.

(c) Owners may not reject an applicant only for reasons of credit history or prior rental payment history.”

SECTION 9. That Section 20A-29, “Applicant and Eligible Household Responsibilities,” within Article II “Mixed-Income Housing,” within Chapter 20A, “Fair Housing and Mixed Income Housing,” of the Dallas City Code is deleted.

“SEC. 20A-29. RESERVED[APPLICANT AND ELIGIBLE HOUSEHOLD RESPONSIBILITIES].

~~(a) Applicants and eligible households who lease a reserved dwelling unit shall timely provide the owner all documents and information required by this article to be used to determine income, adjusted income, and family size.~~

~~(b) An eligible household who is leasing a reserved dwelling unit at the time the director conducts an audit, upon written request by the director, shall timely provide the director with all documents and information required by this article to be used to determine annual income, adjusted income, and family size.~~

~~(c) An eligible household's failure to timely provide requested information and documents to the owner or director upon written request does not constitute an offense. However, if the director is unable to verify that the household is an eligible household, the reserved dwelling unit may be deemed non-compliant and the owner is no longer required by this ordinance to charge an affordable rent. The non-compliance can be cured by completing and providing any required documentation to the director.]”~~

Exhibit A: Chapter 20A DRAFT Proposed Amendments

SECTION 10. That Section 20A-30, “Non-Discrimination,” within Article II “Mixed-Income Housing,” within Chapter 20A, “Fair Housing and Mixed Income Housing,” of the Dallas City Code is amended to read as follows:

“SEC. 20A-30. NON-DISCRIMINATION.

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

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

SECTION 11. That Section 20A-31, “Compliance, Reporting, and Recordkeeping,” within Article II “Mixed-Income Housing,” within Chapter 20A, “Fair Housing and Mixed Income Housing,” of the Dallas City Code is amended to read as follows:

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

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

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

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

(d) Recordkeeping.

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

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

Exhibit A: Chapter 20A DRAFT Proposed Amendments

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

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

- (1) the total number of dwelling units on the property;
 - (2) the total number of reserved dwelling units on the property;
 - (3) a list of all reserved dwelling units on the property, identified by unit number and unit type;
 - (4) for each reserved dwelling unit:
 - (A) the applicable income bands;
 - (B) the current affordable rent, utility allowance, and any fees charged;
 - (C) the occupancy status as of the last day of the previous month for the reporting period. For example, the report due October 10th should report occupancy as of September 30th of the same year;
 - (D) the [adjusted] income of the eligible household leasing and occupying the unit; and
 - (E) the most recent eligibility date for the eligible household leasing and occupying the unit;
 - (5) a signed statement by the owner acknowledging compliance with this division;
 - (6) certification that the development:
 - (A) has maintained vendor registration with one or more local providers of housing vouchers;
 - (B) has reported available units to one or more local providers of housing vouchers each quarter; and
 - (C) that the development will pass the provider's required inspections;
- and

Exhibit A: Chapter 20A DRAFT Proposed Amendments

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

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

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

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

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

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

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

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

(4) The affirmative fair housing marketing plan must be resubmitted annually or at the request of the administrator, during the rental affordability period, for review by the administrator. The resubmission must be approved or denied in the same manner as the original affirmative fair housing marketing plan.

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

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

Exhibit A: Chapter 20A DRAFT Proposed Amendments

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

(h) Audit and inspection.

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

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

(i) Consent to substitute.

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

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

SECTION 12. That Section 20A-32, “Violations, Corrective Action Period, and Penalty,” within Article II “Mixed-Income Housing,” within Chapter 20A, “Fair Housing and Mixed Income Housing,” of the Dallas City Code is amended to read as follows:

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

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

Exhibit A: Chapter 20A DRAFT Proposed Amendments

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

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

(1) For a violation other than a violation that poses an imminent hazard or threat to health and safety, the director shall provide written notice of a reasonable ~~[30-day]~~ corrective action period for failure to file a quarterly unit status report and a reasonable ~~[90-day]~~ corrective action period for other violations.

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

~~(3) [For a violation other than a violation that poses an imminent hazard or threat to health and safety, and only for good cause, the director may extend the corrective action period for up to three months from the date of the notice to the owner.]~~

~~(4)~~ If an owner fails to resolve all violations of this article during the corrective action period, the director may issue citations, seek relief provided in the deed restrictions, extend the mixed-income restrictive covenants term for the period equal to a term of non-compliance, and take any other actions allowed by law.”

SECTION 14. That Article 20A “Mixed Income Housing” of the Dallas City Code is amended by adding a new Section 20A-32.1 “Uses of the One Dallas Fund,” to read as follows:

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

(a) Use. The Mixed Income Housing Development Bonus Fund may only be used for the following purposes:

(1) Funding programs authorized by the Comprehensive Housing Policy that affirmatively further fair housing.

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

Exhibit A: Chapter 20A DRAFT Proposed Amendments

(3) Funding staff and expenses for management and administration of Mixed Income Housing Development Bonus Program and the Mixed Income Housing Development Bonus Fund.

(b) Administration. The Mixed Income Housing Development Bonus Fund will be administered by the Department of Housing & Neighborhood Revitalization.”

SECTION 14. That Section 20A-33, “Fees,” within Article II “Mixed-Income Housing,” within Chapter 20A, “Fair Housing and Mixed Income Housing,” of the Dallas City Code is renumbered and amended to read as follows:

“SEC. 20A-~~34~~33. FEES.

Program Participation Fees	Fee
Pre-application meeting	\$92.00
Initial first year activities (including receiving a development bonus, filing the mixed-income restrictive covenant, and initial leasing.)	\$625.00
Compliance monitoring during affordability period	\$3,736.00

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

Consumer Price Index adjustment. The fees in lieu will be increased yearly by a percentage equal to the percentage change in the Consumer Price Index statistics published by the United States Bureau of Labor. Comparisons will be made using the index entitled, “Housing in Dallas-Fort Worth-Arlington, TX, all urban consumers, not seasonally adjusted,” series ID CUURS37ASAH (1982-1984 = 100),” or similar comparable United States Bureau of Labor data on changes in the cost of living, if the initial index is no longer published. Beginning with January 2023, the change will be determined by comparison of the figure for the previous January with that of January of the current year. This calculation may not reduce the fee in lieu below the listed amount for the preceding year.

SECTION 15. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$500.

Exhibit A: Chapter 20A DRAFT Proposed Amendments

SECTION 16. That Chapter 20A 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.

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, City Attorney

By _____
Assistant City Attorney

Passed _____

Exhibit B - MIHDB Program Statement

Mixed Income Housing Development Bonus

~~Added December 11, 2019, Code amended March 27, 2019 by Resolution No. 19-0429~~

~~The mixed income housing development bonus (MIHDB) and the mixed income housing administrative requirements were approved by Ordinance No. 31152, on March 27, 2019. The MIHDB program was amended by Ordinance No. _____ and by Resolution 22-xxxx on xx, 2022.~~

Background

~~The goal of the MIHDB is to address systemic inequities by providing housing that is affordable to a broad range of income levels in all areas of the city. The program will create affordable housing in strong neighborhoods (Market Value Analysis (MVA) Categories A, B, and C); create mixed income communities and reduce neighborhood displacement in gentrifying and transitioning areas (MVA Categories D, E, and F); and support equitable revitalization¹ in weaker market areas (MVA Categories G, H, and I).² Likewise, the MIHDB Fund will be used to support the creation of housing least likely to be provided by the market.~~

~~On March 27, 2019, City Council approved amendments to Chapter 51A of the Dallas Development Code to allow by-right development bonuses to incentivize new mixed-income rental development. These by-right bonuses are available in MF – Multifamily Districts and MU – Mixed Use Districts, specifically MF-1(A), MF-2(A), and MF-3(A) Multifamily Districts and MU-1, MU-2, and MU-3 Mixed Use Districts. Today, these districts represent³ As of 2019, these districts represented approximately 15,000 acres across the city.~~

~~The by-right bonuses in Chapter 51A provide a framework for new and amended planned development districts (PDs) offering a base plus a negotiated bonus. Regulatory bonuses and the reserved unit requirements are specified in the PD, along with references to the administrative procedures in Division 51A-4.1100 and by reference the procedures in Article 20A-II - Mixed Income Housing,” which outlines requirements for managing mixed income developments approved using the MIHDB.~~

~~On _____ xx, 2022, City Council approved amendments to Dallas City Code Chapters 51A and 20A. Together, these chapters, along with the Comprehensive Housing Policy (CHP), regulate the MIHDB.~~

Administration

~~Multiple departments administer portions of this program. Among other responsibilities and in general:~~

- ~~• The Department of Housing and Neighborhood Revitalization administers Dallas City Code Chapter 20A-II, administers the MIHDB fund, recommends percentages of reserved units and income bands in zoning cases, and monitors developments for compliance~~
- ~~• The Department of Planning and Urban Design administers zoning changes and participation in the bonus from a land use perspective~~
- ~~• The Department of Development Services reviews development applications for building permits and ensures compliance with the Dallas Development Code~~
- ~~• The Office of Equity and Inclusion administers the affirmative fair housing marketing plan.~~

¹ ~~Equitable revitalization means embedding equitable principles, practices, and measurements into program decisions to protect against displacement, to prevent further decline, and to create communities where all residents thrive.~~

² ~~See the Background Section of the CHP for more information on the MVA.~~

³ ~~These districts include: MF-1(A), MF-2(A), and MF-3(A) Multifamily Districts and MU-1, MU-2, and MU-3 Mixed Use Districts.~~

Exhibit B - MIHDB Program Statement

Program Benefits

The MIHDB provides program participants with a menu of incentive options, including additional development rights, parking reductions, and financial incentives in exchange for on-site provision of reserved dwelling units or a fee in lieu of provision of reserved dwelling units.

Regulatory Incentives

The MIHDB regulatory incentives vary depending on the zoning district in which the development is located and the classification of the development as Type One, Two, or Three. Regardless of the district, if compliance with Division 51A-4.1100 is referenced, the development is eligible for participation in the MIHDB. Types One, Two and Three, defined in Division 51A-4.1100, are summarized below:

- Type One developments are located in MF(A) and MU zoning districts.
- Type Two developments are located in PDs that include an expressly-stated development bonus for providing mixed income housing.
- Type Three developments are located in PDs that expressly reference compliance with Ch. 51A-4.1106(j).

Type One - By-Right Development Bonuses in Multifamily and Mixed-Use Districts

In these districts, the development bonus and number of reserved units required to attain that bonus vary by the location of the development under the City's Market Value Analysis (MVA) categories. Properties in A, B, and C stronger market categories are required to serve families/households at lower income levels than, and properties in G, H, and I weaker market categories are required to serve households at higher income levels, with the percent of reserved units related to the amount of the bonus requested and the income ranges depending on the MVA category.

- A, B, C: (stronger markets):
 - (1) 5% of units at 51%-60% Area Median Income (AMI),
 - (2) 5% of units at 51%-60% AMI & 5% at 61-80% AMI, or
 - (3) 5% of units at 51%-60% AMI & 5% at 61-80% AMI & 5% at 81-100% AMI
- D, E, F: (transitioning markets):
 - (1) 5% of units at 61%-80% AMI,
 - (2) 10% of units at 61%-80% AMI, or
 - (3) 10% of units at 61%-80% AMI & 5% at 81-100% AMI
- G, H, I: (weaker markets):
 - (1) 5% of units at 81-100% AMI

The bonuses vary by type of zoning district and by the additional development rights that would be most likely to incentivize development.

- In MF-1(A) and MF-2(A) Multifamily Districts, the percentage of reserved units required increases with height and lot coverage.
- In MF-3(A) Multifamily Districts, the percentage of reserved units required increases with height, lot coverage, and density.
- In MU-1 and MU-2 Mixed Use Districts, the percentage of reserved units increases with increases in density. Base floor area ratios (FAR) apply to non-residential use only.
- In MU-3 Mixed Use Districts the percentage of reserved units increases with an increase in FAR and a small increase in lot coverage.

In all Type One districts:

Exhibit B - MIHDB Program Statement

- Building heights are subject to residential proximity slopes, where applicable, and existing setbacks are maintained.
- ~~For multifamily uses, parking is reduced to 1¼ space per unit (versus one space per bedroom in Chapter 51A) and at least 15 percent must be available for guest parking.~~
- Participation in the MIHDB reduces the minimum parking required.
- Developments with transit proximity may receive an additional parking reduction and additional lot coverage.
- Reserved units must be provided on-site, dispersed throughout the development and the unit mix, and be comparable to the market rate units.

Design standards in Type One districts

Additional design standards can reduce auto dependency, reduce the need for parking, encourage alternative modes of transit, and improve transit accessibility, particularly for transit-dependent residents. Design goals include:

- Minimal surface parking, mostly in the side and rear of the lot
- Ground-floor entrances that open directly to sidewalk or open space
- Wide sidewalks, street trees, and pedestrian lighting
- Parking structures wrapped by other uses
- Only short fences with pedestrian gates are allowed between the front of the building and the street.
- A minimum of 10% of the site provided as open space

Type Two and Type Three - Development Bonuses in Planned Development Districts

Developments in planned development districts (PDs) that reference compliance with Div. 51A-4.1100 may also participate in the MIHDB.

Developments in PDs are divided into two groups:

- Developments in PDs that specify a development bonus for providing mixed income housing (Type Two)
- Developments in PDs that expressly reference compliance with Ch. 51A-4.1106(j), which lays out a menu of regulatory bonuses (Type Three).

Type Two and Type Three districts should respect the design intent of the design standards in Dallas Development Code Sec. 51A-4.1107

Financial Incentives (subject to availability of funding)

All developments in MIHDB (Type 1, 2, and 3) that provide on-site reserved dwelling units may apply for financial incentives, including reimbursement of certain development fees. Participants must apply through the New Construction and Substantial Rehabilitation Program process and are subject to the requirements of the CHP, including Fair Housing review as required by Ch. 51A-4.1100. To the greatest extent possible, federal funds should be maximized prior to using funds from the MIHDB Fund. See the MIHDB program statement for additional information.

Developments that obtained mixed income bonuses by paying the fee-in-lieu are not eligible for financial incentives from the MIHDB fund.

Minimum Requirements

Developments may qualify by providing required reserved units on-site or by paying a fee in lieu of on-site provision. All developments are eligible for the development bonus and administrative

Exhibit B - MIHDB Program Statement

incentives, but only those developments that provide the required reserved dwelling units on site are eligible for the financial incentives.

On-Site Provision

Developments that provide units on-site must comply with all requirements Chapter 51A, Article 20A-II, and the relevant zoning district regulations as applicable.

Fee-in-Lieu

Program participants may pay a fee-in-lieu of on-site provision of the required reserved units as provided in Chapter 20A-23.1

Implementation

The regulatory framework for the mixed income housing development bonus is found in Chapter 20A Art. II of the Dallas City Code.

Procedures

- ~~• Developer meets with the City's Department of Housing and Neighborhood Revitalization to request an MVA category verification. The MVA category determines the bonuses that the development may utilize in return for a specified number of reserved units.~~
- ~~• Developer begins the permit application process.~~
- ~~• Before the issuance of a building permit, developer submits an official copy of the executed and filed restrictive covenant.~~
- ~~• Before beginning leasing, developer begins compliance process, including following the approved affirmative fair housing marketing plan and reserving units according to the restrictive covenant.~~
- ~~• 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.~~
- ~~• Ongoing compliance is monitored by the Housing and Neighborhood Revitalization Department and the Office of Equity and Human Rights.~~
- ~~• Developer (and all subsequent owners) may not discriminate on the basis of source of income. This non-discrimination provision provides housing opportunities for households with rental assistance or vouchers, as applicable.~~

Program participants must comply with the procedures in the Dallas City Code and MIHDB program manual.

Program Operation and Compliance

- Term of affordability is 20 years
- Property owner must remain in compliance with restrictive ~~covenant~~covenants based on the requirements in Chapter 20A-II and Chapter 51A-4.1100, as amended.
- Each eligible household must be charged an affordable rent, which is as defined as a monthly tenant rental housing payment, less an allowance in the Dallas City Code.
- See the State and Local Funding Sources section of this document for utilities, that does not exceed 30 percent of an eligible household's adjusted income.the MIHDB Fund program statement.

Exhibit C - MIHDB Fund Statement

State and Local Funding Sources

General Obligation Bonds

General Obligation Bonds were authorized under the 2017 bond package to help with infrastructure, economic development and housing, and related expenses as authorized by law. Economic Development and Housing have been allocated approximately \$55 million for the next five years.

Tax Exempt Bond Financing (City of Dallas Housing Finance Corporation)

The City of Dallas Housing Finance Corporation (DHFC) was organized in 1984 in accordance with Chapter 394 of the Texas Local Government Code (Code). Under the Code, the purpose of the DHFC is to assist persons of low and moderate income to acquire and own decent, safe, sanitary, and affordable housing. To fulfill this purpose, the DHFC can be an issuer of tax-exempt bonds. The DHFC may issue bonds to finance, in whole or in part, the development costs of a residential development or redevelopment; the costs of purchasing or funding the making of home mortgages; and any other costs associated with the provision of decent, safe, and sanitary housing and non-housing facilities that are an integral part of or are functionally related to an affordable housing development.

Affordable Housing Partnerships: The DHFC can also partner with affordable housing developers for the production of multifamily housing. The DHFC can acquire an ownership stake in the development by becoming the General Partner (GP) of an ownership entity, right of refusal to purchase the improvements, and owning and controlling the land. DHFC is the sole member of the GP. Fifty-one percent of the units must be set aside for affordable housing. If all of the aforementioned criteria are met; then the development can benefit from a tax exemption. Additionally, the DHFC can be the General Contractor to allow for sales tax exemption on construction materials.

MIHDB Fund (as of 4/18/2022)

Approved _____, 2022 by Resolution No 22-xxxx
Effective March 1, 2023

The City's MIHDB Fund was established on _____, xx, 2022. The fund is designed to use effectively the revenue generated from fee-in-lieu payments in the MIHDB program to affirmatively further fair housing.

The goal of the MIHDB Fund is to help address systemic inequities by providing housing that is affordable to a broad range of income levels in all areas of the city. The fund will be used to create affordable housing in strong neighborhoods (Market Value Analysis (MVA) Categories A, B, and C); to create mixed income communities and reduce displacement in gentrifying and transitioning areas (MVA Categories D, E, and F); and to support equitable revitalization⁴ in weaker market areas (MVA Categories G, H, and I).⁵ Priority will be given to development in categories D through I that advances racial equity.

Eligible Activities available for funding from the MIHDB Fund

- Funding for programs authorized by the Comprehensive Housing Policy that affirmatively

⁴ Equitable revitalization means embedding equitable principles, practices, and measurements into MIHDB Fund investment decisions to protect against displacement, to prevent further decline, and to create communities where all residents thrive.

⁵ See the Background Section of the CHP for more information on the MVA.

Exhibit C - MIHDB Fund Statement

further fair housing

- Funding for data and analysis, including real estate market data, in support of housing programs authorized by the Comprehensive Housing Policy that affirmatively further fair housing
- Expenses related to the program such as updates to the Market Value Analysis
- Staffing for management and administration of the MIHDB Program and the MIHDB Fund.

Administration

The MIHDB Fund is administered by the Department of Housing & Neighborhood Revitalization or a successor department ("Housing").

Administration costs will be capped at ten percent of deposits each fiscal year or \$300,000, whichever is greater.

With City Council approval, the MIHDB Fund may be used to supplement – but not supplant – funding levels for any activity in the CHP in the event current funding or sources of funding for that activity are insufficient.

Award of Funding

Developers may apply for MIHDB funding through the New Construction and Substantial Rehabilitation Program's processes in accordance with the program's scoring policies, with the following exception: each project will be underwritten individually and gap funding will be awarded according to the needs of the development. Funding may be in the form of a grant or a repayable loan depending on the results of the underwriting process.

Eligibility

To be eligible for funding with MIHDB funds, projects must be eligible through the New Construction and Substantial Rehabilitation Program, reserved units must be provided on site or in an approved phasing of a project, and funding from other sources must be allocated first. To the extent possible, federal funds should be maximized prior to using MIHDB funds. All funding is subject to Fair Housing review.

Tax credit projects are not eligible for MIHDB funding except as needed to support on-site market-rate housing units.

Developments paying the fee in lieu are not eligible for financial incentives from the MIHDB Fund.

Exhibit D – NOFA Information

Notice of Funding Availability (NOFA) to Develop Affordable Homeownership and Rental Housing

The NOFA process is open to for-profit and non-profit applicants proposing the development of affordable rental and for-sale housing including affordable and rental housing for individuals and families experiencing homelessness, which also includes a portion of units for persons with special needs.

Guided by the Comprehensive Housing Policy (CHP), the NOFA promotes mixed-income development projects that directly target funds and incentives toward pre-defined reinvestment strategy areas. This program leverages city-owned land, public/private partnerships, and social impact projects, while following the compliance rules and limitations associated with funding streams.

NOFA offers the flexibility requested from the development community to access gap financing in a timely fashion. The Housing Department offers a standing NOFA which allows applicants to submit shovel-ready projects at any given point during the year. The program is designed to evaluate small- and large-scale projects on a fair and equitable scale allocating federal grants, general obligation bonds and other funding as it becomes available. To the extent possible and within the requirements of the funding source, the NOFA ensures the city meets housing production goals set forth in the CHP.

The overall NOFA application process includes the following steps shown below:

1. Determine if the project is ready
2. Attend a pre-submission conference (4th Tuesday of each month)
3. Submit a Letter of Intent (LOI)
4. Self-score application
5. Submit an application as outlined in the NOFA solicitation
6. Evaluate and score application
7. Submit supplemental information for third-party underwriting
8. Community meeting and outreach
9. City Council approval (committee and full council)

City staff anticipates a 3–4-month process from application submittal to city council committees barring any delays and subject to developer team response times.

Scoring Criteria

Complete applications are scored based on the following categories as described below based on the certain types of projects (e.g., rental and owner). Maximum points are awarded for exceeding rather than meeting the threshold requirements for the category. Rental applications must score at least 93 points to be considered for funding, and ownership applications must score at least 82 points to be considered for funding.

Exhibit D – NOFA Information

	Rental	Owner
Readiness	Maximum 43 pts	Maximum 43 pts
Leveraging	8	8
Funding Commitments	15	15
Discretionary Land Use Approvals	20	20
Location	Maximum 26 pts	Maximum 26 pts
Geographic Equity	8	8
Educational Quality	7	7
Proximity to Public Transit	5	5
Proximity to Grocery or Drug Store	2	2
Proximity to Industrial Zoning	2	2
Proximity to Parks	2	2
Target Population and Project Attributes	Maximum 25 pts	Maximum 14 pts
Income Targeting	5	5
Unit Size	5	9
Units for People with Special Needs	5	N/A
New Permanent Supportive Housing Units for Homeless individuals and families	10	N/A
Developer Experience and Capacity	Maximum 49 pts	Maximum 34 pts
Developer Experience Exceeds Minimum	10	10
Developer Capacity	8	8
Developer Financial Strength	6	6
Strength of the Development Team	3	2
Bonus Point Category	22	8
Penalty for Nonperforming Previously Funded Projects	-10	-10
Total Possible Points	143	117
Minimum Points Need to be Considered for Funding	93	82

Proposed changes to current NOFA process and scoring criteria for Mixed Income Housing Development Bonus (MIHDB) Program

The MIHDB program allows the use of an alternate revenue source to: 1) Advance equity throughout the city to support diverse housing types, 2) Invest in development citywide based on need, 3) Improve underserved neighborhoods through developing and preserving housing and related infrastructure, 4) Use Market Value Analysis (MVA) categories to support equity in neighborhoods (e.g., in A, B, & C incentivize additional affordable housing and deeper affordability; in D, E, & F support mixed income housing for lower, middle and market rate housing and related infrastructure; and in G,H, & I support for market rate units.

The department proposes to make changes to its current NOFA application process and scoring criteria during the summer 2022 to include information on the MIHDB program and its requirements in the NOFA application as well as in the monthly pre-submission meetings with developers. The NOFA scoring criteria will be updated to include the MIHDB program under the Bonus Point Category by allowing

Exhibit D – NOFA Information

additional points for applicants taking advantage of the MIHDB program. A MIHDB program Bonus Point Category shall consist of the four factors as described in this section. Each applicant shall explain how their proposed development will further equity throughout the city, improve underserved neighborhoods through developing and preserving housing and related infrastructure, and utilize the MVA categories to support equity in the applicable neighborhoods.

How an additional revenue stream from MIHDB could spur increased development of diverse housing types with less restraints compared to federal grant sources

An additional non-federal revenue stream from the MIHDB program would provide additional options to spur increased development of diverse, affordable, and mixed-income housing types throughout the city. Mixed income developments often have a large subsidy gap due to high costs of construction and other factors. Federal grant sources such as the Community Development Block Grant (CDBG) or HOME Investment Partnerships (HOME) programs have stringent federal regulations and compliance requirements which may increase the cost of some development projects or prohibit production all together.

For example, CDBG will not fund new construction projects, and HOME will not fund the extension of utility and infrastructure improvements for an entire neighborhood. Other examples include caps on purchase price, amount of maximum subsidy provided to a unit whether rental or owner, Davis Bacon and prevailing wages requirements for workers on federal projects, Section 3 compliance, and many other federal regulations.

Local funding through the MIHDB program will provide additional support for housing that might not otherwise qualify for federal funding. The goal of the MIHDB fund and program is to increase housing production and decrease the shortage of affordable, diverse, and mixed-income housing citywide.

Exhibit E: Comparisons of Density Bonuses, Affordable Housing Requirements, and Fees-In-Lieu

	Arlington, VA	Austin, TX Downtown Density Bonus	Dallas, TX Proposed MIHDB Program	San Diego, CA
Use Case	Required in all residential developments over 1.0 FAR	Voluntary for bonus density	Voluntary for bonus	Required in all residential developments over 10 units
Set-Aside	5% of bonus square footage AMI not specified	10% of residential bonus area 80% AMI rental, 120% AMI owner	Varies depending on the zoning district. Generally 5-15% at 51-100% AMI, or 3% at under 50% AMI	Rental: 10% of dwelling units affordable to 60% median income Owner: 10% of dwelling units affordable to median income OR 15% affordable to moderate income
Bonus	Increased FAR and density	Increased FAR and height	Increased density through FAR, height, parking, and other zoning variances	None
Geography	City-wide	Central Business District	City-wide	City-wide
Fee In Lieu	\$2.15 for first 1.0 FAR \$5.76 for 1.0-3.0 FAR \$11.54 for >3.0 FAR \$5.76 for >1.0 Commercial	Residential: \$5-\$10 depending on location Commercial: \$12-\$18 depending on location	Fee varies from \$2.15 to \$7.98 depending on housing market and number of stories in development	\$15.18 from July 1, 2020 to June 30, 2021 \$17.64 from July 1, 2021 to June 30, 2022 \$20.09 from July 1, 2022 to June 30, 2023 \$22.55 from July 1, 2023 to June 30, 2024 \$25.00 from July 1, 2024 and after
Fee Measure	Per bonus square foot of gross floor area	Per bonus square foot	Per square foot of total floor area, or per square foot of residential floor area in developments >80% residential	Per net building area of unrestricted market-rate residential development
Flexibility	Must choose between on-site units, off-site units at greater affordability requirements, or fee in lieu	May earn bonus through on-site units, family-friendly housing, and/or fee in lieu.	Must select between on-site units or fee-in-lieu	May comply through on-site, fee, or land dedication or mixture thereof
Additional Requirements	N/A	Must meet Great Streets Program Requirements, Austin Energy's Green Building program, and City's Urban Design Guidelines	Program requires basic design standards that prioritize pedestrians	N/A
Notes	May require additional density if requesting above General Land Use Plan	This program is a downtown revitalization program with an affordability component. Developers can obtain bonuses through other services such as childcare or live music, though a portion of the bonuses must be obtained through affordable housing or the fee in lieu.	Base + bonus program with wide flexibility for both the base and the bonus. Fee is a flat per square foot fee regardless of bonus.	San Diego has a mandatory affordable housing component with a fee in lieu. There is an additional bonus project requiring 15-20% affordable housing with no fee in lieu option.
Additional Info	https://www.arlingtonva.us/Government/Programs/Housing/Development/Land-Use-Zoning-Tools	https://www.austintexas.gov/page/downtown-density-bonus-program	Current program: https://dallascityhall.com/departments/housing-neighborhood-revitalization/Pages/Mixed-Income-Housing-Development.aspx Development code amendments: https://dallascityhall.com/departments/pnv/Pages/MIHDB.aspx	https://www.sandiego.gov/sites/default/files/dsdib532.pdf https://docs.sandiego.gov/municode/MuniCodeChapter14/Ch14Art03Division07.pdf

Highlighted cells show similar program features to Dallas's proposed MIHDB Program.
Columns organized in rough estimation of lowest fee to highest fee.

Exhibit E: Comparisons of Density Bonuses, Affordable Housing Requirements, and Fees-In-Lieu

	Santa Monica, CA	Chicago, IL	Evanston, IL	San Francisco, CA
Use Case	Required for multifamily projects with 2 or more units	Required for residential developments of 10 or more units receiving city land, zoning change, or other city assistance	A development containing 5 or more dwelling units	Required in new residential projects of 10 or more units
Set-Aside	10% affordable to very low-income households OR 20% affordable to low income households OR 100% affordable to moderate income households	Low-mod income areas: 10% at weighted 60% AMI (rental) or 10% weighted 100% AMI (owner) Other areas: 20% at weighted 60% AMI (rental)	10% affordable for private development 20% affordable for development using public funds	Small Projects (fewer than 25 dwelling units): 20% Large Projects (25 or more units), Rental: 30% Large Projects (25 or more units), Ownership: 33%
Bonus	5-35% density bonus depending on percentage of affordable units provided	None	Variations or allowances above the base zoning	Form-based density, certain zoning modifications, and height increases.
Geography	City-wide	City-wide	City-wide	Local and State
Fee In Lieu	\$35.50 for apartments, \$41.47 for condos	Fee varies between \$56,130 to \$392,911 depending on location and selected affordability mix	Fee varies from \$150,000-\$262,500 depending on location and rental/owner	\$199.50
Fee Measure	Per square foot	Per required affordable unit	Per required affordable unit	Per square foot of gross floor area of residential use
Flexibility	May provide mix of fee, on-site, off-site units, and land and flat 'unit development cost' of \$372,460 for fractional unit	City provides table for non-low-mod areas to provide different amounts and average AMI, can pay more to reduce the housing requirement	N/A	N/A
Additional Requirements	Set-aside units must be 2 bedroom unless 95% of project is 1 bedroom or studio.	N/A	N/A	N/A
Notes	Condominium affordability requirements are more strict, all condo complexes of more than 2-3 units are required to provide affordable units onsite	Fee varies by income of the neighborhood where development is built, with a lower fee in lower-income areas	Developments that provide primarily affordable units are eligible for the development bonuses and fee waivers/deferrals for up to 10% of the on-site affordable units, but are not eligible for bonuses on affordable units beyond 10%.	State Density Bonus On-Site below market rent (BMR) units can be used to qualify for a density bonus under California Government Code Section 65915 (State Density Bonus) or one of the Affordable Housing Bonus Programs contained in Section 206 et seq.
Additional Info	https://www.santamonica.gov/housing-ahpp-developers	https://chicagorealtor.com/advocacy/advocacy-resources/affordable-requirements-ordinance-afaqs/#:~:text=any%20combination%20thereof,-,The%20in%20lieu%20fees%20start%20at%20%24140%2C000%20but%20will%20increase,after%20one%20year%20of%20publication.	https://www.cityofevanston.org/home/showpublisheddocument/46414/636837641645570000	https://sfmohcd.org/sites/default/files/Documents/MOH/Inclusionary%20Manuals/Inclusionary%20Affordable%20Housing%20Program%20Manual%2010.15.2018.pdf https://sfplanning.org/project/inclusionary-affordable-housing-program

Highlighted cells show similar program features to Dallas's proposed MIHDB Program.
Columns organized in rough estimation of lowest fee to highest fee.

Exhibit E: Comparisons of Density Bonuses, Affordable Housing Requirements, and Fees-In-Lieu

	Denver, CO	Atlanta, GA
Use Case	Non-exempt residential developments of ten or more units	Developments with at least 10 units located in specified overlay districts
Set-Aside	Varies from 8% affordable to 60% AMI to 15% affordable to AMI averaging 90% depending on location, AMI served, and rental/owner (Details Below)	10% of units at 60% AMI 15% of units at 80%
Bonus	Base incentive: permit fee reduction of \$6,500 to \$10,000 per income restricted unit, parking reduction of 0.5 spaces per unit Enhanced incentive: height bonus in mixed-use and multi-unit zone districts, a parking exemption in transit-oriented areas	Density bonuses (15% of additional floor area) Reduced minimum parking requirements
Geography	City and County	BeltLine Overlay District and the Westside Affordable Workforce Housing District
Fee In Lieu	\$250,000-\$478,000	Based on the estimated cost of the City, dependent on the subarea of the BeltLine in which the developer is building
Fee Measure	Per required affordable unit	
Flexibility	Depends on whether the development provides rental or ownership units and is in a high cost or typical market area.	
Additional Requirements	N/A	N/A
Notes	Typical area: 8% affordable to 60% AMI or 12% averaging 70% AMI (rental) OR 8% affordable to 80% AMI or 12% averaging 90% AMI (owner) High cost area: 10% affordable to 60% AMI or 15% averaging 70% AMI (rental) OR 10% affordable to 80% AMI or 15% averaging 90% AMI (owner)	No fee amount provided. No developer has used the fee in lieu.
Additional Info	https://www.denvergov.org/Government/Agencies-Departments-Offices/Agencies-Departments-Offices-Directory/Community-Planning-and-Development/CPD-Fees	https://www.atlantaga.gov/home/showpublisheddocument/49834/637484693372700000

Highlighted cells show similar program features to Dallas's proposed MIHDB Program. Columns organized in rough estimation of lowest fee to highest fee.

Exhibit F - Location and Status of MIHDB Projects

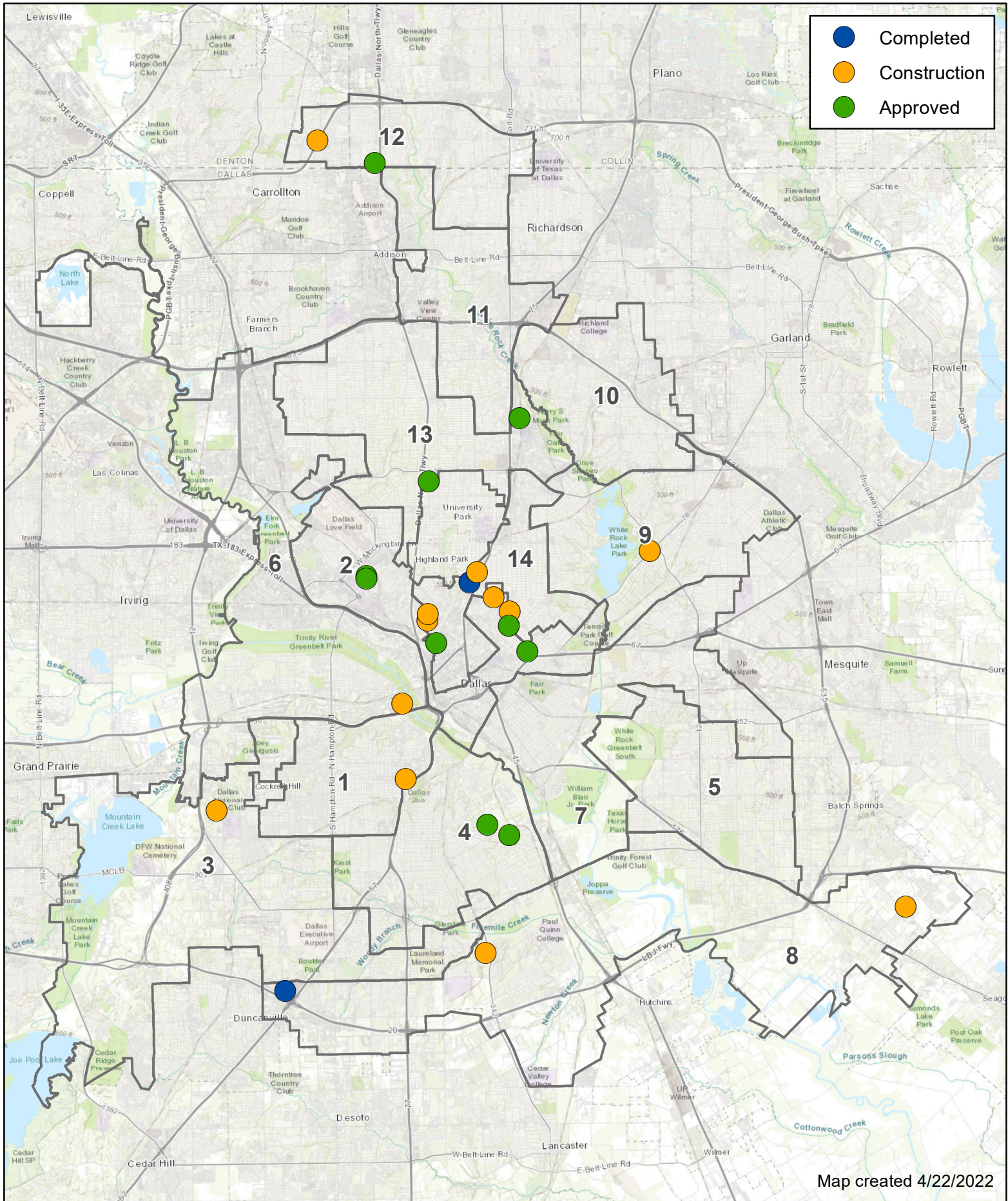


Exhibit G: Chapter 51A-4.1100 DRAFT Proposed Amendments

4-21-22

ORDINANCE NO. _____

An ordinance amending Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code by amending Division 4.1100; providing new definitions; modifying eligibility standards; clarifying floor area measurements; clarifying phasing and dispersal plan requirements; providing additional development bonuses; reducing minimum parking requirements; providing a penalty not to exceed \$2,000; providing a saving clause; providing a severability clause; and providing an effective date. Mixed Income Housing Development Bonus

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), “In General,” of Section 51A-4.1102, “Applicability,” of Division 51A-4.1100, “Mixed-Income Housing,” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(a) In general. Development bonuses apply to qualifying developments as follows [~~located in~~]:

(1) Type One developments are located in:

(A) MF-1(A), MF-2(A), and MF-3(A) Multifamily Districts.^[§]

(B~~[2]~~) MU-1, MU-2, and MU-3 Mixed Use Districts.^[§]

Exhibit G: Chapter 51A-4.1100 DRAFT Proposed Amendments

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

(D[4]) MU-1, MU-2, and MU-3 Mixed Use Districts with public deed restrictions. If there is a conflict between a public deed restriction that modifies development standards and this division, the more restrictive standard controls. [~~that only limit allowed uses; and]~~

(E[5]) Planned development districts that [~~reference compliance with this division or planned development districts that]~~ default to MF-1(A), MF-2(A), MF-3(A), MU-1, MU-2, and MU-3 Districts as base zoning and do not alter the yard, lot, and space or parking regulations. If there is a conflict between the planned development district regulations and this division, the more restrictive standard controls[~~only alter the allowed uses~~].

(2) Type Two developments are located in planned development districts that specify mixed-income development bonuses or that reference compliance with this division.

(3) Type Three developments are located in planned development districts that reference compliance with this division and expressly reference compliance with Section 51A-4.1106(f). If there is a conflict between the standards in a planned development district and this division, the planned development district conditions control.”

SECTION 2. That Subsection (a), “Definitions,” of Section 51A-4.1103, “Definitions and Interpretations,” of Division 51A-4.1100, “Mixed-Income Housing,” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(a) Definitions. In this division:

(1) AFFORDABLE RENT means affordable rent as defined in Section 20A-24(2)[:(i) a monthly rental housing payment, less an allowance for utilities, that does not exceed 30 percent of an eligible household's adjusted income divided by 12, or (ii) the voucher payment standard].

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

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

Exhibit G: Chapter 51A-4.1100 DRAFT Proposed Amendments

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

(5) EXISTING BUILDING means a building constructed on or before December 31, 2021.

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

(7[6]) INCOME BAND means the range of household incomes between a pre-determined upper limit and a pre-determined lower limit generally stated in terms of a percentage of area median family income adjusted for family size (income bands descriptions are located in Chapter 20A).

(8[7]) MARKET VALUE ANALYSIS ("MVA") means the official study that was commissioned by and prepared for the City of Dallas to assist residents and policy-makers in understanding the elements of their local residential real estate markets.

(9) MIXED INCOME HOUSING DEVELOPMENT BONUS program (MIHDB) means the Mixed Income Housing Development Bonus program as described in the Comprehensive Housing Policy.

(10[8]) MIXED-INCOME RESTRICTIVE COVENANT means a covenant running with the land that meets the requirements of this division and Chapter 20A.

(11[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.

(12[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."

(13[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 transportation.

(14[12]) RENTAL AFFORDABILITY PERIOD means the 20 year period that the reserved dwelling units may only be leased to and occupied by eligible households or voucher holders.

(15[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.

Exhibit G: Chapter 51A-4.1100 DRAFT Proposed Amendments

(16[14])STOOP means a small porch leading to the entrance of a residence.

(17[15]) TRANSIT PROXIMITY means development within one-half mile, measured radially, of a transit station, including trolley stops, train stations, transfer centers, transfer locations, transit centers, and any transit stop with a climate-controlled waiting area. Transit agencies served include Dallas Area Rapid Transit, Trinity Railway Express, and trolley service.

(18[16])VOUCHER HOLDER means a holder of a housing voucher, including vouchers directly or indirectly funded by the federal government.”

SECTION 3. That Section 51A-4.1105, “Procedures to Obtain a Development Bonus,” of Division 51A-4.1100, “Mixed-Income Housing,” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

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

(a) In general.

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

(2) Before applying for a permit for construction in accordance with this division, and Section 20A-25 o[Ø]wners shall:

(A) obtain a certified verification of the building site’s MVA category;
[and shall]

(B) sign a reserved dwelling unit verification [~~before applying for a permit for construction in accordance with this division and Section 20A-25.~~]; and

(C) obtain certified verification of participation in the Mixed Income Housing Development Bonus program.

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

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

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

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(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) the certified verification of the building site's MVA category, the reserved dwelling unit verification, and the certified verification of participation in the Mixed Income Housing Development Bonus program~~[a copy of the signed market value analysis verification from the director of housing and neighborhood revitalization]; [and]~~

(6) the total floor area as defined by Chapter 51A-2.102(38) and the floor area devoted to residential uses as defined in Section 51A-4.209; and

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

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

(d) Minimum units required.

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

(2) In this division, calculations of the total number of required reserved units that result in fractions of a unit must ~~[of a required unit will]~~ be rounded up to the next whole number.

(3) A development using a development bonus in this division must ~~[shall]~~ reserve no more than 50 percent of the dwelling units in each development for households at or below 80 percent of area median family income. This maximum percentage of reserved dwelling units may be waived for developments that are enrolled in a program administered by the department of housing and neighborhood revitalization and authorized by the city council that furthers the public purposes of the city's housing policy and affirmatively furthers fair housing.

(e) Phasing.

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

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(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; and

(C) the dispersal requirements in Section 51A-4.1106 only apply to buildings and phases with reserved units.

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

(A) signed by all property owners; and

(B) approved by the building official.

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

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

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

(3) A letter documenting that the development has registered with one or more local providers of housing vouchers and has acknowledged that the development must pass the provider's required inspections."

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SECTION 4. That Section 51A-4.1106, “Development Requirements,” of Division 51A-4.1100, “Mixed-Income Housing,” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“SEC. 51A-4.1106. DEVELOPMENT REGULATIONS~~[REQUIREMENTS]~~.”

(a) Reserved dwelling unit location requirements. Except as provided in Section 51A-4.1105(e) and in this section, all reserved dwelling units must be provided on the same building site as the market rate units.

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

(2~~e~~) Reserved dwelling units must not be segregated or concentrated in any one floor or area of any buildings but must be dispersed throughout all residential buildings.

(3~~d~~) Reserved dwelling units may float within each dwelling unit type.

(4~~e~~) Reserved dwelling units must be of comparable finish-out and materials as the market rate dwelling units and must be equally available to eligible families or voucher holders as other market rate dwelling unit tenants.

(b~~f~~) Pro-rata dispersal of reserved dwelling units.

(1) In general. Except as provided in Section 20A-31(i) and this subsection, reserved dwelling units must be dispersed substantially pro-rata among the total unit types so that not all the reserved dwelling units are efficiency or one-bedroom units. For example, if 10 percent of the total dwelling units are reserved dwelling units, 10 percent of the efficiency units, 10 percent of the one-bedroom units, 10 percent of the two-bedroom units, 10 percent of the three-bedroom units (and so on, if applicable) must be reserved dwelling units.

(2~~f~~) Specialty units.

(A) A maximum 10 percent of the total units may be specialty units including club suites and penthouse suites and are not required to be part of the dispersal of reserved dwelling units by type; however, specialty units are included in the total number of all units used to calculate the number of reserved units.

(B) Units may not be designated as specialty units solely due to the number of bedrooms in the unit. ~~[the overall 10 percent requirement is calculated based on the total number of all units.~~

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~~(2) In determining the required number of reserved dwelling units, fractional units are counted to the nearest whole number, with one-half counted as an additional unit, but a minimum of one unit is required.]~~

~~(c[g]) Common areas and amenities. Eligible families or voucher holders occupying reserved units may not be restricted from common areas and amenities unless the restrictions apply to all dwelling unit occupants.~~

~~(d) Type One developments. Type One developments are eligible to receive the mixed income housing development bonuses in the specific district regulations in accordance with Section 20A-23.1, as amended.~~

~~(e) Type Two developments. Type Two developments are eligible to receive mixed income housing development bonuses in the planned development district conditions in accordance with Section 20A-23.1, as amended.~~

~~(f) Type Three developments. Type Three developments with a minimum of 80 percent of floor area devoted to residential uses are eligible to receive the following mixed income housing development bonuses according to this subsection and in accordance with Section 20A-23.1, as amended. A minimum of one reserved unit or the percentage of total units in a tier, whichever is greater, must be provided.~~

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

<u>MVA Category</u>	<u>Tier 1</u> <u>(<= 50% of AMFI)</u> <u>Minimum 3% of units</u>	<u>Tier 2</u> <u>(51 – 80% of AMFI)</u> <u>Minimum 5% of units</u>	<u>Tier 3</u> <u>(81 – 100% of AMFI)</u> <u>Minimum 10% of units</u>
<u>MVA A – F</u>	<u>50%</u>	<u>30%</u>	<u>20%</u>
<u>MVA G - I</u>	<u>60%</u>	<u>40%</u>	<u>30%</u>

~~(2) Floor area ratio bonus. This bonus applies only to residential floor area ratio.~~

<u>MVA Category</u>	<u>Tier 1</u> <u>(<= 50% of AMFI)</u> <u>Minimum 3% of units</u>	<u>Tier 2</u> <u>(51 – 80% of AMFI)</u> <u>Minimum 5% of units</u>	<u>Tier 3</u> <u>(81 – 100% of AMFI)</u> <u>Minimum 10% of units</u>
<u>MVA A – F</u>	<u>+1.5</u>	<u>+1.0</u>	<u>+0.5</u>
<u>MVA G - I</u>	<u>+2.5</u>	<u>+2.0</u>	<u>+1.0</u>

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(3) Height bonus. This bonus applies to all uses. Any height bonus leading to a fraction of an additional story is rounded to the next higher story.

<u>MVA Category</u>	<u>Tier 1</u> <u>(<= 50% of AMFI)</u> <u>Minimum 3% of units</u>	<u>Tier 2</u> <u>(51 – 80% of AMFI)</u> <u>Minimum 5% of units</u>	<u>Tier 3</u> <u>(81 – 100% of AMFI)</u> <u>Minimum 10% of units</u>
<u>MVA A – F</u>	<u>25%</u>	<u>15%</u>	<u>10%</u>
<u>MVA G - I</u>	<u>45%</u>	<u>35%</u>	<u>20%</u>

(4) Stories bonus. This bonus applies to all uses. Any story bonus leading to a fraction of an additional story is rounded to the next higher story.

<u>MVA Category</u>	<u>Tier 1</u> <u>(<= 50% of AMFI)</u> <u>Minimum 3% of units</u>	<u>Tier 2</u> <u>(51 – 80% of AMFI)</u> <u>Minimum 5% of units</u>	<u>Tier 3</u> <u>(81 – 100% of AMFI)</u> <u>Minimum 10% of units</u>
<u>MVA A – F</u>	<u>25%</u>	<u>15%</u>	<u>10%</u>
<u>MVA G - I</u>	<u>45%</u>	<u>35%</u>	<u>20%</u>

(5) Parking reduction. This reduction only applies to the total number of required off-street parking spaces for nonresidential uses except alcoholic beverage establishments, commercial amusement (inside), commercial amusement (outside), restaurant without drive-in or drive-through service, and restaurant with drive-in or drive-through service.

<u>MVA Category</u>	<u>Tier 1</u> <u>(<= 50% of AMFI)</u> <u>Minimum 3% of units</u>	<u>Tier 2</u> <u>(51 – 80% of AMFI)</u> <u>Minimum 5% of units</u>	<u>Tier 3</u> <u>(81 – 100% of AMFI)</u> <u>Minimum 10% of units</u>
<u>MVA A – F</u>	<u>100%</u>	<u>50%</u>	<u>20%</u>
<u>MVA G - I</u>	<u>100%</u>	<u>70%</u>	<u>40%</u>

(g) Alternative methods. The requirements for on-site reserved units in this division may be met by alternative methods as provided in Section 20A-23.1, as amended.”

SECTION 5. That Subsection (a), “In General,” of Section 51A-4.1107, “Design Standards,” of Division 51A-4.1100, “Mixed-Income Housing,” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(a) In general.

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

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

(3) Except if the existing building is destroyed by the intentional act of the owner or the owner's agent, the existing building may be renovated, remodelled, repaired, rebuilt, or enlarged using the bonuses in this division if the work does not cause the existing building to become more nonconforming as to the requirements in this section and the applicable zoning district.

(4) For off-street parking requirements for residential uses in existing buildings, development bonuses may not reduce the minimum number of required off-street parking spaces beyond the number required in Subsection (c)."

SECTION 7. That Subsection (c), "Off-Street Parking and Loading," of Division 51A-4.1107, "Design Standards," of Article IV, "Zoning Regulations," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended to read as follows:

"(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, the lesser of one [and one-quarter] space per dwelling unit or the minimum number of parking spaces required in Division 51A-4.200, as amended, is required.

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

(B) For developments with transit proximity, the lesser of one-half space per dwelling unit or the minimum number of parking spaces required in Division 51A-4.200, as amended, is required. At least 15 percent of the required parking must be available for guest parking.

(3) Retirement housing. The lesser of one-half space per dwelling unit or the minimum number of parking spaces required in Division 51A-4.200, as amended, is required.

(4) Parking locations.

(A) In general. Except as provided in this paragraph, s[S]urface 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.

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

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

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

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

(5) Passenger loading.

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

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

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

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SECTION 8. That Paragraph (1), “Sidewalks,” of Subsection (e), “Sidewalk, Lighting, and Driveway Standards,” of Section 51A-4.1107, “Design Standards,” of Division 51A-4.1100, “Mixed-Income Housing,” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(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.

(C) Except as provided in this paragraph, sidewalks must comply with the Street Design Manual, be continuous and level across all driveways and curb cuts, and be at the same grade as the existing sidewalk. A waiver of this requirement is available subject to approval of the director.”

SECTION 9. That Section 51A-4.1108, “Board of Adjustment Variances,” of Division 51A-4.1100, “Mixed-Income Housing,” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“SEC. 51A-4.1108 BOARD OF ADJUSTMENT VARIANCES.

A development that is eligible to receive the bonuses in this division may [~~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.”

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SECTION 10. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

SECTION 11. That Chapter 51A of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 12. 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 13. 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.

SECTION 14. 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, City Attorney

By _____
Assistant City Attorney

Passed _____