

## **Framework for “Streamlined” Density Bonus Program**

21 May 2013

### **I. Eligibility:**

- A. Properties designated as eligible for development bonuses, as shown on Figure \_\_\_\_ (Density Bonus Map).
- B. The amount of FAR or height that may be achieved by a Development Bonus for a site is governed by the maximums identified by Figure \_\_\_\_ (Density Bonus Map).

### **II. Definitions:**

- A. “Base Entitlement” – The height and FAR entitlement granted to a parcel as derived from the parcel’s zoning. That entitlement may derive from the parcel’s base zoning district or from some other zoning source such as an overlay or combining district.
- B. “Bonus Area” is the greater of:
  - 1. The Gross Floor Area that exceeds the maximum allowable FAR allowed with the parcel’s Base Entitlements; or,
  - 2. The gross floor area that exceeds the maximum height allowed with the parcel’s Base Entitlements.
- C. “Fee Floor” – An amount determined by multiplying the applicable Development Bonus Fee times the Bonus Area.
- D. “Development Bonus Fee” – The fee to be paid for each square foot of Bonus Area that is achieved by paying a fee.
- E. “Great Streets Streetscape Standards” – Streetscape design standards for streets within the boundaries of the Great Streets Master Plan. Those Streetscape Standards were adopted by the City Council in December 2002. (City Council Resolution 021205-66A). The Streetscape Standards have been promulgated as City rules. The Standards are available at: [Include web link.](#)
- F. “Gross Floor Area” – As used in this section Gross Floor Area has the meaning as defined at Section 25-1-21.
- G. “Habitable Space” – Interior square footage designed for people to live in. Habitable space will be measured to the inside surface of the party or exterior walls of the unit. Habitable Space does not include common areas that serve living spaces such as common hallways, stairwells, mechanical space, etc.
- H. “Mixed-Use Project” – A project that has 25% or more of its floor area in a use different than the primary use. E.g., a residential project within which 30% of its total floor area is devoted to hotel use.

- I. "Non-Residential Project" – A project for which the primary use falls outside those listed in Section 25-2-3 ("Residential Uses Described"), and which has less than 25% of its floor area devoted to uses described within 25-2-3.
- J. "Residential Project" – A project for which the primary use falls within one or more of the classifications described in Section 25-2-3 ("Residential Uses Described"), and which has less than 25% of its floor area devoted to uses other than those in 25-2-3.
- K. "Urban Design Guidelines" – Guidelines for development in any area of Austin where density is desired. The Guidelines were developed by the Design Commission and approved and adopted as a policy document by the City Council in January 2009. (City Council Resolution No. 20090129-016).

III. Development Bonus Fee:

- A. The Fee is established by ordinance and shall be adjusted periodically as needed by ordinance. The Development Bonus Fee shall be evaluated and, if necessary, adjusted at least every five years, or more frequently if deemed appropriate by the City Manager. The City Manager shall determine the new fee amounts, and report the new fee amounts to the City Council.
- B. The Development Bonus Fee may vary by Downtown District, with a specific Fee established by ordinance for each of the nine Districts identified in the Downtown Austin Plan and as shown by Figure \_\_\_\_.
- C. The Development Bonus Fee may vary by building type. For example, Residential Projects may have a different fee than Non-Residential Projects.
- D. If Residential projects are subject to different Development Bonus Fees than Non-Residential Projects, then Mixed-Use Projects are entitled to those different Fees in proportion to the amount of project area devoted to the different uses.

IV. Gatekeeper Requirements:

In order to participate in the Downtown Density Bonus Program, a project must fulfill the following Gatekeeper Requirements:

- A. The Director must have determined that the project substantially complies with the Urban Design Guidelines.
  - 1. The applicant must submit a schematic level site plan, building elevations, and three-dimensional simulations that describe the urban design character of the project in relation to its context. The drawings must be of a sufficient detail and character to enable the Director to understand the potential effect that the project could have on the downtown environment, and allow the Director to determine whether the project substantially complies with the "Urban Design Guidelines."
  - 2. The applicant shall submit the project to the Design Commission for an evaluation of the project's compliance with the Urban Design Guidelines.

3. In making his determination, the Director shall take into account any comments and recommendation provided by the Commission.
- B. The project must commit to providing streetscape improvements along all public street frontages, consistent with the Great Streets Streetscape Standards as verified by the Director
- C. The project must commit to achieving a minimum two star rating under the City's Austin Energy Green Building program using the applicable ratings version in effect at the time ratings applications are submitted for the project. That commitment shall be manifested by providing the Director with a copy of the project's signed Austin Energy Green Building Letter of Intent.

V. Program Requirements:

A. General Provisions:

1. The development bonus requirements must be met in full to receive the bonus. Exceptions are prohibited. It is the responsibility of the applicant to document that all of the requirements are met.
2. Community Benefit Percentages:
  - a. All projects must achieve at least 50% of their desired Bonus Area by providing Affordable Housing Community Benefits (On-Site Affordable Housing, Affordable Housing Fee, or a combination of the two).
  - b. If the applicant chooses to achieve 100% of its desired Bonus Area exclusively by providing Affordable Housing Community Benefits, the approval for the Bonus Area can be granted administratively by the Director.
  - c. For any portion of the desired Bonus Area not achieved by providing Affordable Housing Community Benefits, the applicant may seek to achieve Bonus Area by providing other Community Benefits, as described below.
- B. Process: An eligible project may achieve Bonus Area through the Downtown Density Bonus Program using the following process:
  1. The applicant shall provide the Director with the project information necessary to determine: the Base Entitlement; the Bonus Area sought; and the Fee Floor.
  2. The applicant shall fulfill the Gatekeeper Requirements.
  3. Upon the Director's verification of that project information and the fulfillment of the Gatekeeper Requirements, the applicant must achieve its desired Bonus Area by one or a combination of both of the following two means: Affordable Housing Community Benefit or Other Community Benefit.
    - a. Affordable Housing Community Benefit. The Affordable Housing Community Benefit can be achieved by providing On-Site Affordable Housing, or by paying

an Affordable Housing Fee, or by a combination of the two.

- I. On-Site Affordable Housing: The project may achieve \_\_\_\_\_ square feet of Bonus Area for each one square foot of Habitable Space of On-Site Affordable Housing provided within the project.
- II. Affordable Housing Fee: The project may achieve Bonus Area by paying a Development Bonus Fee at the \$/square foot amount as set and updated by ordinance. When the fee is paid to provide Affordable Housing Community Benefits, this Fee shall be paid into the Affordable Housing Trust Fund.
- b. Other Community Benefit: For any desired Bonus Area beyond that which is achieved by providing Affordable Housing Community Benefits:
  - i. The applicant must identify proposed other Community Benefits that the project will provide and supply sufficient information about those other Benefits for the Director to make the determinations identified below.
  - ii. The Director shall evaluate whether the proposed other benefits do indeed qualify as Community Benefits. The Director may consider, though is not limited to, the following factors in making her determination:
    - a. Whether members of the general public will be able to enjoy the proposed benefit without paying for its access, use, or enjoyment.
    - b. Whether the proposed benefit will connect to and be accessible from public right-of-way or other publicly-accessible space.
    - c. Whether the proposed benefit will provide a public amenity that is particularly lacking in the proposed location.
    - d. Whether the proposed benefit will impose a significant burden on public resources – for maintenance, management, policing, or other reasons.

The fact that a proposed Other Community Benefit may provide some benefit to the project does not disqualify it from being considered as an Other Community Benefit. In such a case, the Director may choose to allocate only a portion of the cost of the element to Other Community Benefits.
  - iii. If the Director determines that the proposed benefits qualify as Community Benefits, the Director shall then:
    - a. Verify the monetary cost to the project of the proposed Community Benefits; and
    - b. Determine what portion of that cost may be applied towards achieving the desired Bonus Area.
  - iv. The amount determined by the Director through the process described above may be applied to achieve Bonus Area on the same basis as the

Development Bonus Fee applicable to the location of the project.

- v. The Director's recommendation (as to the proposed Community Benefit and the monetary value that may be applied to achieve Bonus Area) shall be presented to Planning Commission and City Council for their approvals.

VI. On-Site Affordable Housing

The following requirements define the specific level of affordability for each type of on-site Affordable Housing provided through this Program. These requirements shall run with the land.

A. Affordability Requirements for Owner-Occupied Units:

1. On-site for-sale affordable housing units shall be reserved as affordable through a City approved affordable housing land trust or other shared equity model approved by the Director of Neighborhood Housing and Community Development (NHCD), for not less than 99 years from the date a certificate of occupancy is issued.
2. The units shall be made available for ownership and occupancy by households earning no more than 120 percent of the Annual Median Family Income for the City of Austin Metropolitan Statistical Area as determined by the Director of NHCD.

B. Affordability Requirements for Rental Units:

1. On-site rental affordable housing units shall be reserved as affordable for a minimum of 40 years following the issuance of the certificate of occupancy.
2. The units shall be made available for rental by households earning no more than 80 percent of the Annual Median Family Income for the City of Austin Metropolitan Statistical Area as determined by the Director of NHCD.

- C. For purposes of this section, a unit is affordable for purchase or rental if (in addition to the other requirements of this section) the household is required to spend no more than 30 percent of its gross monthly income on mortgage or rental payments for the unit.

## **Code Amendments to Modify CURE Combining District**

Amend as noted below:

### **Division 1. Central Urban Redevelopment Combining Districts.**

#### **§ 25-2-311 CENTRAL URBAN REDEVELOPMENT (CURE) COMBINING DISTRICT APPLICABILITY.**

- (A) A central urban redevelopment (CURE) combining district may be applied only to a property located in the central urban area shown on the map adopted by Ordinance No. 001130-110, which is on file with the Neighborhood Planning and Zoning Department. The director of the Neighborhood Planning and Zoning Department shall resolve uncertainty regarding the boundary of the combining district.
- (B) A CURE combining district may be applied only to property that:
  - (1) has existing development that is at least 10 years old; or
  - (2) is vacant.
- (C) A CURE combining district may be combined with any base district.

*Source: Section 13-2-180; Ord. 990225-70; Ord. 001130-110; Ord. 010329-18; Ord. 031211-11.*

#### **§ 25-2-312 CURE COMBINING DISTRICT REGULATIONS.**

- (A) Except as noted in Subsection (C) below, a regulation established by a CURE combining district may modify:
  - (1) permitted or conditional uses authorized in the base district;
  - (2) except for [Subchapter C, Article 10 \(Compatibility Standards\)](#), the site development regulations applicable in the base district; or
  - (3) off-street parking or loading regulations, sign regulations, or landscaping or screening regulations applicable in the base district.
- (B) A modification to the base district regulations must be identified in the ordinance zoning or rezoning property as a CURE combining district.

(C) The CURE Combining District may not be used within the area bounded by Martin Luther King, Jr., Boulevard, Interstate Highway 35, Lady Bird Lake, and Lamar Boulevard to modify Maximum Floor Area Ratio or Maximum Height.

*Source: Sections 13-2-181 and 13-2-182; Ord. 990225-70; Ord. 030306-48A; Ord. 031211-11.*



## Code Amendments to Eliminate "Interim" Downtown Density Bonus Program

Amend as noted below:

### **~~§ 25-2-586 AFFORDABLE HOUSING INCENTIVES IN A CENTRAL BUSINESS DISTRICT (CBD) OR DOWNTOWN MIXED USE (DMU) ZONING DISTRICT.~~**

~~— (A) This section applies to a residential, commercial, or a mixed use development that is located in a central business district (CBD) or, in the manner determined by the City Council in a zoning ordinance, in a downtown mixed use (DMU) zoning district.~~

~~— (B) In this section:~~

~~— (1) DESIGNATED HOUSING AREA includes:~~

~~— (a) the area within two miles of the intersection of Sixth Street and Congress Avenue; and~~

~~— (b) if a portion of a neighborhood planning area is within the area described in Subparagraph (a), the entire neighborhood planning area.~~

~~— (2) CITY DEVELOPMENT FEES:~~

~~— (a) means:~~

~~— (i) all City fees authorized for waiver under the S.M.A.R.T. Housing Program, including fees for capital recovery, subdivision application, zoning application, site plan application, and site plan inspection including environmental and wastewater inspection; and~~

~~— (ii) City fees for water meter, sewer tap, and right-of-way closure and licensing; and~~

~~— (b) excludes parkland dedication fees.~~

~~— (C) Development on a site may exceed the floor-area-ratio limitation of Section 25-2-492 (Site Development Regulations) and, in a DMU district may exceed the maximum height of the district as determined by the City Council, if the developer:~~

~~— (1) participates in the City's Great Streets Program;~~

~~— (2) substantially complies with the City's Design Guidelines, as determined by the Design Commission; and~~

~~— (3) provides affordable housing or community benefits by:~~

~~— (a) providing affordable housing in ten percent or more of the gross floor area that exceeds the floor-area-ratio limitation; or~~

~~— (b) for a residential use, paying into the Housing Assistance Fund 100 percent of the fee prescribed by Subsection (1) for each square foot of gross floor area that exceeds the floor-area-ratio limitation; or~~

~~— (c) for a commercial or mixed use:~~

~~— (i) paying into the Housing Assistance Fund 50 percent of the fee prescribed by Subsection (1) for each square foot of gross floor area that exceeds the floor-area-ratio limitation; and~~

~~— (ii) paying into the Community Benefits Fund 50 percent of the fee prescribed by Subsection (1) for each square foot of gross floor area that exceeds the floor-area-ratio limitation.~~

~~— (D) Subject to the limitation of Subsection (D)(2), the director shall waive all City development fees and expedite the processing of all City applications, permits, and approvals, including license agreements and site plan applications, if the requirements of this subsection are met.~~

~~— (1) The developer must:~~

~~— (a) provide the affordable housing or pay the fee prescribed by Subsection (C) at the time of the issuance of the certificate of occupancy; or~~

~~— (b) provide affordable housing in five percent or more of the site's gross floor area;~~

or

~~\_\_\_\_\_ (c) for a residential use, pay into the Housing Assistance Fund 100 percent of the fee prescribed by Subsection (I) for each square foot for five percent of the site's gross floor area; or~~

~~\_\_\_\_\_ (d) for a commercial or mixed use:~~

~~\_\_\_\_\_ (i) pay into the Housing Assistance Fund 50 percent of the fee prescribed by Subsection (I) for each square foot for five percent of the site's gross floor area; and~~

~~\_\_\_\_\_ (ii) pay into the Community Benefits Fund 50 percent of the fee prescribed by Subsection (I) for each square foot for five percent of the site's gross floor area.~~

~~\_\_\_\_\_ (2) If the developer elects to pay a fee into the Housing Assistance Fund or Community Benefits Fund instead of providing affordable housing, the amount of City development fees that are waived may not exceed the amount of fees paid into the fund by the developer.~~

~~\_\_\_\_\_ (E) This subsection prescribes the requirements for affordable housing under Subsections (C) and (D).~~

~~\_\_\_\_\_ (1) The development must comply with the City's S.M.A.R.T. Housing Program.~~

~~\_\_\_\_\_ (2) An owner-occupied unit must be available for occupancy for a period of not less than 99 years by an occupant whose gross household income does not exceed 120 percent of the median family income for the Austin metropolitan statistical area.~~

~~\_\_\_\_\_ (3) A rental unit must be available for occupancy for a period of not less than 40 years by an occupant whose gross household income does not exceed 80 percent of the median family income for the Austin metropolitan statistical area.~~

~~\_\_\_\_\_ (4) The director may require the developer to execute an agreement, restrictive covenant, or other binding restriction on land use that preserves affordability for the required period.~~

~~\_\_\_\_\_ (F) The director of the Austin Neighborhood Housing and Community Development Department may allocate money from the Housing Assistance Fund collected under Subsection (C) or (D) for the financing or production of affordable units in the designated housing area that meet the following criteria:~~

~~\_\_\_\_\_ (1) owner-occupied units are reserved as affordable for a period of not less than 99 years by a family whose gross household income does not exceed 80 percent of the median family income for the Austin metropolitan statistical area; or~~

~~\_\_\_\_\_ (2) renter-occupied units are reserved as affordable for a period of not less than 40 years by a family whose gross household income does not exceed 60 percent of the median family income for the Austin metropolitan statistical area.~~

~~\_\_\_\_\_ (G) The Community Benefits Fund is created. The director of the Neighborhood Planning and Zoning Department may allocate money from the fund collected under Subsection (C) or (D) for programs in the designated housing area that serve one or more of the following purposes:~~

~~\_\_\_\_\_ (1) child and elder care;~~

~~\_\_\_\_\_ (2) open space;~~

~~\_\_\_\_\_ (3) pedestrian connectivity;~~

~~\_\_\_\_\_ (4) transit;~~

~~\_\_\_\_\_ (5) green building;~~

~~\_\_\_\_\_ (6) historic preservation;~~

~~\_\_\_\_\_ (7) space for non-profit corporations;~~

~~\_\_\_\_\_ (8) public art;~~

~~\_\_\_\_\_ (9) cultural facilities;~~

~~\_\_\_\_\_ (10) sound mitigation;~~

~~\_\_\_\_\_ (11) live music venues; or~~

~~\_\_\_\_\_ (12) assistance for the homeless.~~

~~\_\_\_\_\_ (H) In addition to the notice and public hearing requirements provided in Chapter 25-2, Subchapter B, Article 1, Division 3 (Notice of Filing; Director's Report) and Division 4 (Public~~



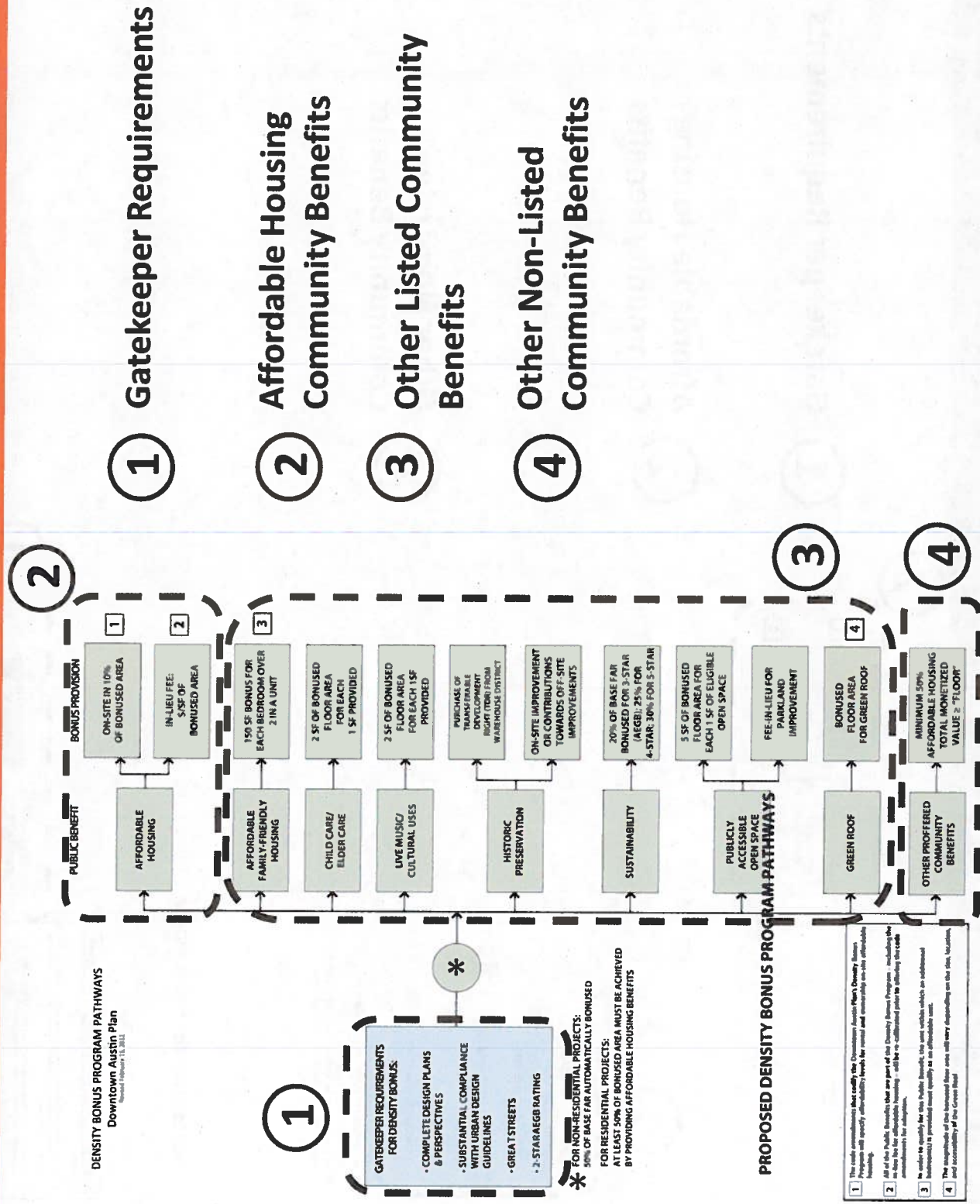
~~Hearing; Action), the director of the Neighborhood Planning and Zoning Department shall schedule a zoning application submitted under Subsection (A) for a public hearing before the Design Commission for recommendation.~~

~~—(I)— The fee to be paid for each square foot of gross floor area required by Subsections (C) and (D) for the Housing Assistance Fund and the Community Benefits Fund is established by ordinance and adjusted annually in accordance with the Consumer Price Index all Urban Consumers, US City Average, All Items (1982-84=100), as published by the Bureau of Labor Statistics of the United States Department of Labor. The city manager shall annually determine the new fee amounts for each fiscal year, beginning October 1, 2008, and report the new fee amounts to the city council.~~

~~Source: Ord. 20080131-132.~~



### 3. DAP'S DENSITY BONUS PROGRAM.



## 4. STREAMLINED DENSITY BONUS PROGRAM.

