

ORDINANCE NO.

AN ORDINANCE AMENDING CITY CODE CHAPTER 25-2 (ZONING) REGARDING DENSITY BONUS REGULATIONS IN THE DOWNTOWN DENSITY BONUS PROGRAM AND THE RAINEY STREET SUBDISTRICT.

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

PART 1. Section 25-2-586 (*Downtown Density Bonus Program*) of the City Code is amended to read as follows:

(A) **Definitions.** In this section:

(1) BONUS AREA means the greater of:

- (a) The gross floor area that exceeds the maximum allowable floor-to-area ratio allowed with the site's primary entitlements; or
- (b) The gross floor area contained within the portion of a structure that exceeds the maximum height allowed under the site's primary entitlements.

(2) COMMUNITY BENEFIT is a public amenity that exceeds the gatekeeper requirements of the Downtown Density Bonus Program and that is provided by an applicant in order to obtain bonus area.

(3) CULTURAL USES are uses that are eligible to participate in the City of Austin Core Cultural Funding Program.

(4) DAY CARE SERVICES are services that are defined as limited, general, or commercial day care services in Section 25-2-6 (*Civic Uses Described*) of the City Code.

(5) [(2)] DEVELOPMENT BONUS FEE means the dollar amount an applicant pays to the City per square foot of bonus area.

(6) [(3)] DIRECTOR means director of the Planning and Development Review Department.

(7) [(4)] DWELLING UNIT means a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

- 1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
- (8) FAMILY-FRIENDLY ELIGIBLE BEDROOM is any bedroom over two bedrooms in a dwelling unit that conforms to all of the relevant affordability requirements of this section.
- (9) [~~5~~] GREAT STREETS STREETSCAPE STANDARDS means design standards for streets within the boundaries of the Great Streets Master Plan.
- (10) LIVE MUSIC USE is the regular performance of live music that takes place in an indoor public or private facility of at least 2,500 square feet and that is readily equipped with the necessary sound, staging, lighting and safety accoutrements to accommodate professional and semi-professional live music needs on a daily basis.
- (11) [~~6~~] MIXED-USE PROJECT means a project that has 25 percent or more of its floor area in a use different from a predominant use.
- (12) [~~7~~] NON-RESIDENTIAL PROJECT means a project for which the predominant use is not listed in Section 25-2-3 (*Residential Uses Described*), and which has less than 25 percent of its floor area devoted to uses described in Section 25-2-3 (*Residential Uses Described*).
- (13) [~~8~~] PRIMARY ENTITLEMENT means the height and floor-to-area ratio entitlement that a site derives from its current zoning. That entitlement may be derived from the base zoning or from a previous modification to the base zoning.
- (14) PUBLICLY ACCESSIBLE ON-SITE PLAZA is a publicly-accessible area provided by an applicant as a community benefit. The space must comply with the Downtown Public Plaza Standards adopted by administrative rule.
- (15) [~~9~~] RESIDENTIAL PROJECT means a project for which the predominant use is within one or more of the classifications described in Section 25-2-3 (*Residential Uses Described*).
- (16) [~~10~~] URBAN DESIGN GUIDELINES means guidelines for public streetscapes, plazas, open space and buildings in a dense area, adopted by City Council.

1 **(B) Downtown Density Bonus Maps and Table.**

- 2 (1) The downtown district boundaries are shown on the Downtown
3 Districts Map (Figure 1). Properties in the downtown district that are
4 eligible for density bonuses under this section are shown on the
5 Eligibility, Floor-to-Area Ratio and Height Maps (Figure 2).
- 6 (2) The amount of floor-to-area ratio or height that may be achieved by a
7 downtown density bonus for a site is limited by the maximum height
8 or Floor-to-Area Ratio identified on Figure 2. Where the maximum
9 height and maximum floor-to-area ratio allowed under a site's
10 primary entitlements exceed the height and floor-to-area ratio on
11 Figure 2, the site's primary entitlements control.
- 12 (3) The development bonus fee may vary by use and downtown district.
13 The applicable development bonus fee within each of the nine districts
14 is established by ordinance.

15 **(C) Program Requirements.**

- 16 (1) Gatekeeper Requirements.
- 17 (a) To receive bonus area, the director must determine that the
18 project substantially complies with the Urban Design
19 Guidelines.
- 20 (i) The applicant must submit to the director a schematic
21 level site plan, building elevations, and other drawings,
22 simulations or other documents necessary to fully
23 describe the urban design character of the project and
24 relationship of the project to its surroundings.
- 25 (ii) The Design Commission shall evaluate and make
26 recommendations regarding whether the project complies
27 with the Urban Design Guidelines and the director shall
28 consider comments and recommendations of the Design
29 Commission.
- 30 (b) The applicant shall execute a restrictive covenant committing to
31 provide streetscape improvements along all public street
32 frontages, consistent with the Great Streets Standards.
- 33 (c) The applicant shall execute a restrictive covenant committing to
34 achieve a minimum two star rating under the Austin Energy
35
36
37
38

1 Green Building program using the ratings in effect at the time
2 the project is registered with Austin Energy Green Building
3 ~~[ratings application is submitted for the project]~~. The applicant
4 shall also provide the director with a copy of the project's
5 signed Austin Energy Green Building Letter of Intent.
6

7 (2) After the director determines the applicant meets the gatekeeper
8 requirements, the applicant shall provide sufficient written
9 information so that the director can determine:
10

11 (a) the site's primary entitlement;

12 (b) the amount of bonus area that the applicant is requesting; ~~and,~~

13 (c) the total dollar amount the applicant will pay if the applicant
14 chooses to obtain the entire bonus area exclusively by paying a
15 development bonus fee~~[-]~~, and the amount of the fee to be
16 dedicated to each community benefit(s); and,
17

18 (d) the community benefits the applicant proposes to provide to
19 obtain the bonus area if the bonus area will not be obtained
20 exclusively by paying a development bonus fee.
21

22
23
24 (D) **Changes in Design of Proposed Building.** If the design of a building
25 changes after a bonus is granted under this section, the director shall review
26 the new design for substantial compliance with the Urban Design Guidelines
27 prior to building permit approval. A building permit for a final design will
28 not be approved until the design substantially complies ~~[compliance]~~ with
29 the gatekeeper requirements and the restrictive covenants are amended to
30 reflect new or revised community benefits.
31

32 (E) **Community Benefits.** A person may achieve ~~[density bonuses]~~ bonus area
33 by providing community benefits outlined in this subsection ~~[section]~~.
34

35 (1) Affordable Housing Community Benefits

36 (a) Affordable Housing Community Benefit. An applicant may use
37 one or more of the following.
38

39 (i) On-site affordable housing. A project may achieve bonus
40 area by providing on-site affordable housing within the
41 project. The amount of bonus area that may be achieved
42

1 for each one square foot of dwelling unit space that is
2 devoted to on-site affordable housing is established by
3 ordinance.

4
5 (ii) Family-friendly housing. A project may achieve bonus
6 area by providing on-site family-friendly housing within
7 the project per the definition of family-friendly eligible
8 bedroom herein. The amount of bonus area that may be
9 achieved for each eligible family-friendly bedroom is
10 established by ordinance.

11
12 (iii)~~(ii)~~ Development bonus fee. The project may achieve bonus
13 area by paying a development bonus fee at the dollar per
14 square foot amount set by ordinance. The fee will be
15 paid into the Affordable Housing Trust Fund.

16
17 (b) Affordable housing community benefit percentages.

18 (i) A project must achieve at least 50 percent of the desired
19 bonus area by providing on-site affordable housing,
20 providing on-site family-friendly eligible bedrooms,
21 paying a development bonus fee, or a combination of the
22 above [two].

23
24 (ii) If an applicant chooses to achieve 100 percent of the
25 desired bonus area exclusively by providing affordable
26 housing community benefits, the approval for the bonus
27 area can be granted administratively by the director.

28
29 (iii) For any portion of the desired bonus area not achieved by
30 providing affordable housing benefits, the applicant shall
31 achieve bonus area by providing one or more of the
32 [other] community benefits described in (E)(2) – (12)
33 below.

34
35 (2) Rainey Street Subdistrict Historic Preservation Community Benefit

36 (a) A project may achieve bonus area for each historically
37 significant building that is:

38
39 (i) rehabilitated; and
40

1 (ii) preserved on site, relocated to a site within the Rainey
2 Street Subdistrict, or relocated to a location within the
3 city limits as determined appropriate by the Historic
4 Landmark Commission.

5
6 (b) The amount of bonus area that may be achieved for on-site
7 improvements for Rainey Street Subdistrict historic
8 preservation is established by ordinance.

9
10 (c) Buildings eligible for this community benefit include those
11 buildings within the Rainey Street National Historic Register
12 District that the City's historic preservation officer has
13 determined contribute to the historic character of the Rainey
14 Street National Historic Register District.

15 (d) Requirements:

16 (i) Development using this community benefit option shall
17 maintain the architectural integrity of the building as
18 determined by the Historic Landmark Commission
19 (HLC) whether or not the building is zoned H-Historic or
20 HD-Local Historic District.

21 (ii) The HLC must review and approve modifications to a
22 building before the City may grant a density bonus.

23 (iii) Development may use this option only in cases where a
24 substantial percentage of the external walls and internal
25 structure remain intact at project completion.

26 (iv) An applicant must provide a description of the
27 rehabilitation that describes the existing conditions of the
28 building and the proposed work. The applicant must
29 submit photographs showing the major character-
30 defining features of the building prior to the start of
31 work.

32 (v) Before the director may issue any type of certificate of
33 occupancy, an applicant must submit documentation
34 verifying that the work has been completed as proposed.
35 The documentation must be submitted in a format similar
36 to the United States Department of the Interior, National
37 Park Service Historic Preservation Certification
38 Application Description of Rehabilitation.

1 (vi) If an applicant cannot complete restoration as proposed,
2 the applicant must pay into the Historic Preservation
3 Fund the current development bonus fee per district for
4 the square footage of the bonus area granted.

5 (3) Day Care Services Community Benefit

6 (a) A project may achieve bonus area by providing on-site child
7 care or adult day care within the project. The amount of bonus
8 area that may be achieved for each square foot of child care or
9 adult day care that is provided is established by ordinance.

10 (b) Requirements:

11 (i) The applicant must execute a restrictive covenant that
12 requires compliance with all relevant requirements of this
13 section and that ensures continuation of operations and
14 maintenance of the facility with the specified community
15 benefit use for a period of 10 years, which is the life of
16 the agreement.

17 (ii) City of Austin must approve of the operator and the lease
18 terms, which shall be for no less than ten years.

19 (iii) The facility must comply with applicable state and local
20 codes.

21 (iv) The facility must be open during normal business hours
22 at least five days each week and fifty weeks each
23 calendar year.

24 (v) The facility must be maintained and kept in a good state
25 of repair throughout the life of the agreement.

26 (vi) If the required use is non-operational for more than 180
27 days, the owner must pay into the Affordable Housing
28 Trust Fund the current development bonus fee per district
29 for the square footage of the bonus space granted through
30 the provision of that community benefit at a pro-rated
31 amount based on the time left in the term of the
32 agreement.

33 (4) Cultural Uses Community Benefit

34 (a) A project may achieve bonus area by providing on-site cultural
35 uses within the project. The amount of bonus area that may be
36

1 achieved for each square foot of cultural uses provided is
2 established by ordinance.

3
4 (b) Requirements:

5 (i) The applicant must execute a restrictive covenant that
6 requires compliance with all requirements of this section
7 and that ensures continuation of operations and
8 maintenance of the facility with the specified community
9 benefit use for a period of 10 years, which is the life of
10 the agreement.

11 (ii) City of Austin must approve of the operator and the lease
12 terms, which shall be for no less than ten years.

13 (iii) Use must meet the definition of cultural uses.

14 (iv) If the required use is non-operational for more than 180
15 days, the owner must pay into the Affordable Housing
16 Trust Fund the current development bonus fee per district
17 for the square footage of the Bonus Area granted through
18 the provision of that community benefit at a pro-rated
19 amount based on the time left in the term of the
20 agreement.

21 (5) Live Music Community Benefit

22 (a) A project may achieve bonus area by providing an on-site live
23 music use within the project. The amount of bonus area that
24 may be achieved for each square foot of live music use
25 provided is established by ordinance.

26 (b) Requirements:

27 (i) The applicant must ensure continuation of operations and
28 maintenance of the facility with the specified community
29 benefit use for a period of 10 years, which is the life of
30 the agreement.

31 (ii) City of Austin must approve of the operator and the lease
32 terms, which shall be for no less than ten years.

33 (iii) The operator of the facility must maintain proper
34 permitting and documentation to play amplified music in
35 said space.

- (iv) Use must meet the definition of live music use.
- (v) The space must meet the City of Austin's sound-proofing specifications.
- (vi) If the required use is non-operational for more than 180 days, the owner must pay into the Affordable Housing Trust Fund the current development bonus fee per district for the square footage of the Bonus Area granted through the provision of that community benefit at a pro-rated amount based on the time left in the term of the agreement.

(6) On-Site Improvements for Historic Preservation Community Benefit

(a) A project may achieve bonus area by providing on-site improvements for historic preservation. The amount of bonus area that may be achieved for on-site improvements for historic preservation is established by ordinance.

(b) Buildings Eligible for On-Site Improvements for Historic Preservation Community Benefit:

(i) Buildings designated as City landmarks, Recorded Texas Historic Landmarks, State Antiquities Landmarks, or listed on the National Register of Historic Places;

(ii) Contributing properties within National Register or Local Historic Districts;

(iii) Buildings determined by the City's Historic Preservation Officer to be historically significant; and

(iv) Buildings determined eligible for listing on the National Register of Historic Places by the State Historic Preservation Officer.

(c) Requirements:

(i) Development using this community benefit option for on-site improvements shall maintain the architectural integrity of the building, as determined by the Historic Landmark Commission (HLC) whether or not the building is zoned H-Historic or HD-Local Historic District.

- 1 (ii) The HLC must review and approve modifications to a
2 building before the City may grant a density bonus.
- 3 (iii) A project may be granted bonus area for on-site
4 improvements for historic preservation only in cases
5 where a substantial percentage of the external walls and
6 internal structure remain intact at project completion.
- 7 (iv) Applicant must provide a description of rehabilitation
8 that describes the existing condition of the building and
9 the proposed work. The applicant must submit
10 photographs showing the major character-defining
11 features of the building prior to the start of work.
- 12 (v) Before the director may issue any type of Certificate of
13 Occupancy, an applicant must submit documents
14 verifying that the work has been completed as proposed.
15 The documents must be submitted in a format similar to
16 the United States Department of the Interior, National
17 Park Service Historic Preservation Certification
18 Application Description of Rehabilitation.
- 19 (vi) If restoration cannot be completed as proposed, applicant
20 must pay into the Historic Preservation Fund the current
21 development bonus fee per district for the square footage
22 of the bonus area granted.

23 (7) Development Bonus Fee for Off-Site Historic Preservation
24 Community Benefit

25 (a) The project may achieve bonus area by paying a development
26 bonus fee at the dollar per square foot amount set by ordinance
27 based on the district in which the proposed development is
28 located. The fee will be paid into the Historic Preservation
29 Fund.

30 (b) Requirements:

- 31 (i) The City of Austin will administer this fund.
- 32 (ii) This option cannot be used if developer is proposing to
33 demolish all or a substantial percentage of a building the
34 Historic Preservation Officer deems historically
35 significant.

36 (8) Green Building Community Benefit

1 (a) An applicant may achieve bonus area by constructing a project
2 to green building standards that exceed the Gatekeeper
3 requirements. The amount of bonus area that may be achieved
4 for constructing a project to green building standards is
5 established by ordinance.

6 (b) Requirements:

7 (i) The applicant shall execute a restrictive covenant
8 committing to achieve a specified rating under the Austin
9 Energy Green Building (AEGB) program using the
10 ratings in effect at the time the ratings application is
11 submitted for the project or Leadership in Energy &
12 Environmental Design (LEED) program using the most
13 recently launched version of the LEED for New
14 Construction rating at the time of the project's
15 registration. The applicant shall also provide the director
16 with a copy of the project's signed Austin Energy Green
17 Building Letter of Intent for projects seeking AEGB
18 rating or a copy of the completed LEED registration for
19 projects seeking LEED rating.

20
21 (ii) An applicant must submit an AEGB or LEED checklist
22 indicating the measures the project intends to complete to
23 meet the applicable green building requirement.

24
25 (iii) A project seeking an AEGB rating will be subject to at
26 least one inspection during construction and a thorough
27 inspection at substantial completion. A project seeking
28 LEED certification must submit proof of LEED design
29 submittal and proof of LEED construction submittal at
30 those phases in the project.

31
32 (iv) If the specified AEGB rating or LEED certification is not
33 achieved within nine months from time of occupancy, an
34 applicant must pay into the Affordable Housing Trust
35 Fund the current development bonus fee per district for
36 the square footage of the Bonus Area granted through the
37 provision of the green building community benefit.

38
39 (9) Publicly Accessible On-Site Plaza Community Benefit

1 (a) A project may achieve bonus area by providing a publicly
2 accessible on-site plaza. The amount of bonus area that may be
3 achieved by providing a publicly accessible on-site plaza is
4 established by ordinance.

5 (b) Requirements:

6 (i) Eligible plazas must conform to the Downtown Public
7 Plaza Standards adopted by administrative rule.

8 (ii) If the required plaza is non-operational for more than 180
9 days, the owner must pay into the Downtown Open
10 Space Fund the current development bonus fee per
11 district for the square footage of the Bonus Area granted
12 through the provision of that community benefit.

13 (10) Open Space Development Bonus Fee Community Benefit

14 (a) The project may achieve bonus area by paying a development
15 bonus fee for open space at the dollar per square foot amount
16 set by ordinance based on the district in which the proposed
17 development is located. The fee will be paid into the Downtown
18 Open Space Fund.

19 (b) Requirements:

20 (i) City will administer this fund.

21 (ii) The development bonus fee option is only available for
22 open space beyond what is already required by City
23 Code.

24 (iii) Prior to approval, the applicant must deposit a
25 nonrefundable cash payment with the City.

26 (11) Green Roof Community Benefit

27 (a) A project may achieve bonus area by providing green roofs.
28 The amount of bonus area that may be achieved for the
29 construction of green roofs is established by ordinance.

30 (b) Requirements:

31 (i) Green Roofs must be built to the Green Roof
32 Performance Standards in Appendix W of the
33 Environmental Criteria Manual.
34

1 (ii) If the green roof fails to meet Green Roof Performance
2 Standards for more than 180 days, the owner must pay
3 into the Downtown Open Space Fund the current
4 development bonus fee per district for the square footage
5 of the Bonus Area granted through the provision of that
6 community benefit.

7 (iii) Green roof areas used to achieve bonus area through the
8 Green Roof Community Benefit cannot be used to
9 achieve bonus area through the Publicly Accessible On-
10 Site Plaza Community Benefit.

11 (12) [(2)] [~~Other Community Benefits.~~] Other Community Benefits.

12
13 (a) An applicant may offer other community benefits not described
14 in (E)(2) – (12). The applicant must provide sufficient
15 information about the other community benefits for the director
16 to determine whether the other community benefits serve a
17 public and municipal purpose considering the criteria listed
18 below.

19
20 (b) The director will consider the following to make a
21 determination:

22
23 (i) if members of the general public will be able to enjoy the
24 proposed other community benefit without paying for its
25 access, use or enjoyment;

26 (ii) if the proposed other community benefit will connect to
27 and be accessible from public right-of-way or other
28 publicly-accessible space;

29 (iii) if the proposed other community benefit will provide a
30 public amenity that is particularly lacking in the proposed
31 location;

32 (iv) if the proposed other community benefit will impose a
33 significant burden on public resources for maintenance,
34 management, policing, or other reasons; and,

35 (v) any other information provided by the applicant that
36 shows the other community benefit serves a public and
37 municipal purpose and furthers the City's comprehensive
38 planning goals.

1 (c) If a proposed other community benefit provides a partial benefit
2 to a project, it will not be disqualified; the director will allocate
3 only the cost of the public portion of the benefit to the other
4 community benefits.

5 (d) [(3)] If the director determines that the proposed benefit qualifies as
6 a community benefit, the director shall:

7 (i) [(a)] quantify the monetary cost for the proposed other
8 community benefit by using standard industry sources as
9 well as locally based data on development costs to
10 quantify the monetary cost, without mark-up, for the
11 proposed other community benefit; and,

12 (ii) [(b)] determine the cost to be applied towards achieving the
13 desired bonus area.

14 (e) [(4)] The amount determined by the director may be applied to
15 achieve bonus area on the same basis as the development bonus
16 fee applicable to the type and location of the project.

17
18 (f) [(5)] The director's recommendation concerning the proposed other
19 community benefit and the monetary value that is applied to
20 achieve the bonus area shall be presented to the planning
21 commission for recommendation and the city council for
22 approval.

23
24 (g) [(6)] If the applicant proposes to achieve bonus area by providing
25 other community benefits, the value of the affordable housing
26 benefits plus the value of the public portion of the other
27 community benefits must be equal to or greater than the total
28 dollar amount that the director calculates in Section 25-2-
29 586(C)(2)(c).

30
31 (F) **Community Benefit Calculations** [~~Development Bonus Fee~~] for Mixed-
32 Use Projects. Mixed-use projects shall provide community benefits [~~pay~~
33 ~~development bonus fees~~] in proportion to the amount of floor area in the
34 project that is devoted to different use categories.

35
36 (G) **Affordability Requirements.** For purposes of this section, a unit is
37 affordable for purchase or rental if, in addition to the other requirements of
38 this section, the household is required to spend no more than 30 percent of
39 its gross monthly income on mortgage or rental payments for the unit.

1 (1) Affordability requirements for owner- occupied units.

2 (a) On-site for sale affordable housing units shall be reserved, sold
3 and transferred to an income eligible buyer subject to a resale
4 restricted, shared equity agreement [~~as affordable through a~~
5 ~~City approved affordable housing land trust or other shared~~
6 ~~equity model~~] approved by the director of Neighborhood
7 Housing and Community Development, for not less than 99
8 years from the date a certificate of occupancy is issued.

9 (b) The units shall be made available for ownership and occupancy
10 by households earning no more than 120 percent of the Annual
11 Median Family Income for the City of Austin Metropolitan
12 Statistical Area as determined by the director of Neighborhood
13 Housing and Community Development.

14 (2) Affordability requirements for rental units.

15 (a) On-site rental affordability housing units shall be reserved as
16 affordable for a minimum of 40 years following the issuance of
17 the certificate of occupancy.

18 (b) The units shall be made available for rental by households
19 earning no more than 80 percent of the annual median family
20 income for the City of Austin metropolitan statistical area as
21 determined by the director of Neighborhood Housing and
22 Community Development.

23 (H) **Applicant's obligation.** Before the director may issue any type of
24 Certificate of Occupancy, an applicant must fulfill all obligations including
25 but not limited to the payment of all fees and execution of restrictive
26 covenants in order to ensure that the applicant provides all required
27 community benefits. All approvals must be obtained and evidence of the
28 approvals must be provided to the director prior to site plan submittal.
29

30 (I) **Director's approval.** Once an applicant meets the requirements of the
31 downtown density bonus program, the director will issue a written notice of
32 approval that indicates the project's allowable floor-to- area ratio and
33 height.

34 (J) **Appeal.**

35 (1) An applicant may appeal to the city council the director's
36 determination that the gatekeeper requirements have not been met.

- 1 (2) An applicant must appeal the determination within 30 days from the
2 date of the director's denial.
- 3 (3) An appeal is subject to the procedures set forth in Section 25-2-282
4 (*Land Use Commission Public Hearing and Recommendation*) and
5 Section 25-2-283 (*City Council Zoning Hearing and Action*) of the
6 City Code.

7 **PART 2.** Subsection (C) of Section 25-2-739 (*Rainey Street Subdistrict Regulations*) of
8 the City Code is repealed and replaced with language that reads as follows:

- 9 (C) This subsection applies to property zoned central business district (CBD)
10 after April 17, 2005.
- 11 (1) For a building located on Red River Street from Cesar Chavez Street
12 to Driskill Street or River Street from I-35 to River Street's western
13 terminus, the development must have sidewalks not less than ten feet
14 wide along the street frontage.
- 15 (2) A use with a drive-in service is prohibited.
- 16 (3) Except as provided in Subsection (C)(4) below, for a residential or
17 mixed-use building the maximum building height is forty (40) feet.
- 18 (4) The forty foot height limit does not apply if at least five percent of the
19 square footage of dwelling units, equal to the floor-to-area ratio of
20 8:1, is available to house persons whose household income is less than
21 eighty (80) percent of the median income in the Austin statistical
22 metropolitan area, as determined by the director of the Neighborhood
23 Housing and Community Development Office.
- 24 (5) In meeting the five percent requirement in (C)(4) above, mixed-use
25 projects shall provide on-site affordable housing in proportion to the
26 amount of floor area in the project that is devoted to residential uses.
- 27 (6) The affordability period for housing units provided under Subsection
28 (C)(4) shall be forty years for rental housing and ninety-nine years for
29 on-site for sale housing. The affordability period begins on the date a
30 certificate of occupancy is issued.
- 31 (7) On-site affordable housing units offered for sale and provided under
32 Subsection (C)(4) shall be reserved, sold, and transferred to an income
33 eligible buyer subject to a resale restricted, shared equity agreement
34 approved by the director of Neighborhood Housing and Community
35 Development.

- 1 (8) Development in the Rainey Street Subdistrict may participate in the
2 Downtown Density Bonus Program as provided below.
- 3 (9) In order to achieve bonus area exceeding the floor-to-area ratio of 8:1
4 in the Rainey Street Subdistrict, development must comply with the
5 requirements of Section 25-2-586 (*Downtown Density Bonus*
6 *Program*) of the City Code. The requirements of the Downtown
7 Density Bonus Program apply only to that portion of development that
8 exceeds a floor-to-area ratio of 8:1.
- 9 (10) The maximum height and maximum floor-to-area ratio that
10 development in the Rainey Street Subdistrict may achieve by
11 participating in the Downtown Density Bonus Program are shown on
12 Figure 2 of Section 25-2-586 (*Downtown Density Bonus Program*) of
13 the City Code.

14 **PART 3.** Existing Figure 2 of Section 25-2-586 (*Downtown Density Bonus Program*)
15 of the City Code is repealed in its entirety and replaced with the new Figure 2 attached to
16 this ordinance.

17 **PART 4.** One hundred fifty feet of bonus area shall be granted for each family
18 friendly eligible bedroom provided within a unit as described in 25-2-586(E)(1).

19 **PART 5.** 25,000 square feet of bonus area shall be granted for each historically
20 significant building restored and preserved through the Rainey Street Subdistrict Historic
21 Preservation community benefit described in 25-2-586(E)(2).

22 **PART 6.** Two square feet of bonus area shall be granted for each one square foot of
23 space for child care or elder care provided as described in 25-2-586(E)(3).

24 **PART 7.** Two square feet of bonus area shall be granted for each one square foot of
25 space for cultural uses or live music uses provided as described in 25-2-586(E)(4) and 25-
26 2-586(E)(5), respectively.

27 **PART 8.** Five square feet of bonus area shall be granted for each one square foot of an
28 historic building preserved per on-site historic preservation requirements defined in 25-2-
29 586(E)(6).

30 **PART 9.** One square foot of bonus area shall be granted for each district development
31 bonus fee for off-site historic preservation as described in 25-2-586(E)(7).

32 **PART 10.** Bonus area equal to 20% of the site's primary entitlement shall be granted
33 for 3-star Austin Energy Green Building (AEGB) rating or LEED for New Construction
34 Gold rating as defined in 25-2-586(E)(8).

1 **PART 11.** Five square feet of bonus area shall be granted for each one square foot of
2 eligible plaza space as defined in 25-2-586(E)(9).

3 **PART 12.** One square foot of bonus area shall be granted for each district development
4 bonus fee for open space as defined in 25-2-586(E)(10).

5 **PART 13.** The Downtown Open Space Fund is established and shall be available both
6 for capital improvements and operations and maintenance purposes of parkland only in
7 the Downtown Area. The fund will supplement, not supplant, the Parks and Recreation
8 Department budget.

9 **PART 14.** Bonus area shown in the chart below shall be granted for each one square
10 foot of green roof provided as defined in 25-2-586(E)(11).
11

<u>Percent Vegetated Roof Cover</u>	<u>No public access</u>	<u>Publicly accessible 3rd floor or higher</u>	<u>Publicly accessible 2nd floor</u>	<u>Publicly accessible at-grade access</u>
30-49%	2 bonus square feet per 1 square foot provided	3 bonus square feet per 1 square foot provided	5 bonus square feet per 1 square foot provided	7 bonus square feet per 1 square foot provided
50% or greater	3 bonus square feet per 1 square foot provided	4 bonus square feet per 1 square foot provided	6 bonus square feet per 1 square foot provided	8 bonus square feet per 1 square foot provided

12
13 **PART 15.** The city manager shall evaluate and, if necessary, adjust the development
14 bonus fee, the menu of community benefits, the on-site affordable housing bonus area
15 and the allocation of money generated by the fee at least every three years. The city
16 manager shall determine the new fees, the menu of community benefits, the bonus area,
17 and the allocation of monies and submit those changes to the city council for approval.

