

Topic	Comment	Staff Response
Affordability Requirements	The requirements under 25-1-722(C) (Eligibility) be clarified to require 75% affordable units as a threshold requirement for Type 2 bonuses.	The draft ordinance is consistent with the resolution language for Type 2 affordability requirements, which states: "If the development meets the aforementioned requirements, but in addition has: 1. between 75% and 100% of its units at rates affordable as defined above; 2. at least 50% of the affordable units have two or more bedrooms; 3. at least 10% of the affordable units serve households with incomes 30% MFI or below; <b>or</b> 4. is located within 1/4 mile of an Imagine Austin Corridor that is served by a bus or transit line..."
Affordability Requirements	Increase affordability period to 55 years for rental units created under this program. Line 112 limits the affordability period for rental properties created under this ordinance to 40 years. Given ever-rising housing costs, Austin should achieve the longest affordability period possible for rental units. California currently uses a 55-year affordability period for rental units under similar programs	Due to concerns surrounding Low Income Housing Tax Credit investor & lender preferences for 40-year affordability, and the useful life of a residential building, staff do not recommend increasing the minimum affordability period to 55 years at this time. However, staff recommend revisiting the minimum affordability period requirement during the annual review of the program called for in Resolution 20190221-027.
Enforcement & Penalties	Require owner to record a Land Use Restriction Agreement and lien with the City for all developments created under this program granting the City foreclosure rights on the property if the project violates program requirements, as is currently required for projects receiving City support. Such a provision would mirror current City policy, which requires any affordable housing development that includes housing bonds or other City funding to have a loan and land use restriction agreement with the City; if the agreement is violated, then the loan is due and the City has foreclosure rights. This approach has proven sufficient to force compliance and protect the City and should be included in the ordinance to ensure ongoing compliance for all projects developed under this program.	The City/Austin Housing Finance Corporation imposes liens when funding is provided. The ordinance does not change that practice. If an applicant utilizes this program (without participating in any other affordable housing program), a lien will not preserve affordability.
Enforcement & Penalties	Correct apparent error in Lines 126-128 to clearly state that all affordability requirements will transfer with the property in case of a sale. Two issues regarding the phrase: "...the applicant shall execute an agreement and a document for recording in the real property records that provides notice of or preserves the minimum affordability requirements imposed by this division...".  (1) As drafted, this would allow real property records to simply provide notice of or preserve the affordability requirements, not necessarily both. If we actually want to preserve affordability requirements if/when a property is sold, the "or" should be changed to "and." Notice alone is not sufficient.  (2) Please confirm that "recording in real property records" means a restrictive covenant or the equivalent, and consider clarifying this language to state this intent more clearly.	The draft ordinance requires an applicant to execute an agreement and file a document in the real property records (a/k/a "deed records"). The agreement, which is a contract, will include the provisions necessary to preserve and enforce the affordability requirements. The purpose of the additional document is to give notice to future purchasers, which will work in concert with the agreement. As proposed, without executing the necessary documents, the applicant cannot begin the permitting process.
Enforcement & Penalties	Clearly define process and penalties for one-to-one replacement requirement for redeveloped MF properties. The draft ordinance states that when an existing multifamily rental residential property is redeveloped or rebuilt, it "will replace all existing units that were affordable to a household earning 80 percent MFI or below in the previous year and have at least as many bedrooms." Who determines that the house to be demolished was market affordable prior to demolition? How will city staff verify the amount the owner is currently charging for rent, other than the owner's word? Will staff visit each proposed project before demolition to verify number of bedrooms that must be replaced? Will staff return to each project post-construction to verify that the affordable unit has been replaced with the correct number of bedrooms and that at least three of the six units are also affordably priced? What is the penalty if an owner is found to misrepresent these facts?  Again, the proposed penalties (Lines 135-152) apply only to providing post-construction income verification documentation. The draft is silent on misrepresentation of facts prior to construction	The processes for documenting rents will be developed through program guidelines or an administrative rulemaking process. As with current density bonus programs, staff will receive confirmation on the number of units and bedrooms provided in the final building from a sealed calculation provided by the project's architect.
Enforcement & Penalties	Clarify meaning of "each day" in penalties section (Lines 148-152) Does "each day" in this context mean each day the person is late providing the verification documentation or each day they've rented a unit or units to someone who doesn't qualify?	The proposed code section states, "A person commits a separate offense for each day the person fails to provide income verification documentation." Therefore, "each day" refers to each day that the required income documentation is not provided.
General	Advance draft ordinance for larger projects, but delay applying it to smaller projects until eligibility, monitoring and modified site plan review process can be finalized and fully vetted.	Comment noted. Proposals for a modified site plan review process for qualifying developments of up to 16 units will be brought forward separately from this draft ordinance.

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General	The process be slowed down to allow for a more comprehensive planning effort.	Comment noted
General	Prohibit Short-Term Rentals	Short-Term Rentals are governed by Land Development Code Chapter 25-2, Subchapter C, Article 4, Subpart C. These regulations would apply to any housing units created under the Affordability Unlocked program. Additionally, NHCD's ground lease agreements for Community Land Trust homes place restrictions on the amount of time buyers can rent out their homes. Other affordable housing providers, such as Habitat for Humanity, place their own restrictions on their buyers.
General	How does this affect historic districts?	Only the development regulations specifically modified by the ordinance would be modified. All other processes and regulations associated with historic districts required by the City Code would continue to apply.
ADA Parking	250 ft is too far for accessible parking space	Staff suggested 250 feet to mirror the accessible parking requirements associated with the CBD and DMU zoning districts. In an effort ease the distance, staff have updated 25-6-471 (J) to require at least one van accessible space to be located adjacent to the site and on an accessible route.
ADA Parking	Request to pick a single term, either on-site or off-street	This was corrected in the updated draft to utilize "off-street."
ADA Parking	Request that the off-site parking space have some qualification that it must have the appropriate curb cuts, loading space, etc. (I believe this was intended primarily for those spaces that may be built out of Downtown and/or may be on narrower streets)	Accessible parking must comply with ADA's requirements related to design, location, and accessibility. Any accessible parking space provided would need to conform to the accessible parking space dimensional requirements outlined in the Transportation Criteria Manual. In addition, the draft ordinance requires the accessible space to conform to van-accessible parking space requirements should only one space be required.
ADA Parking	Require off-site ADA spaces to include ADA compliant loading aisles, sidewalks and curb cuts on a fully accessible route within 100' walking distance to the unit/project. Lines 304-310 provide that ADA compliant spaces "may be provided on-or-off-site within 250 feet of the use," but makes no provision for an accessible route to the project or unit entrance, and does not define how the distance will be measured (due to topography or street layouts, the walking distance may be far greater than a distance measured as the crow flies). In addition, as Codes & Ordinances members discussed, 250' is too great a distance for someone with a serious mobility impairment to have to navigate daily simply to access his or her home. Please add a requirement that an off-site ADA compliant space must be within 100 feet of the entrance to the project or unit, measured in walking distance along an accessible route that includes ADA compliant loading aisles, curb cuts and sidewalks.	The draft has been updated to state "adjacent to the site" and "on accessible route." Any off-site accessible parking spaces are required to be located on an accessible route, the criteria of which is outlined in the International Building Code; this requirement is reflected in 25-6-471 (J) (B) of the draft ordinance.
ADA Parking	Is there an error in Lines 296-298 re "off-site" vs "on-site" parking? These lines state: "(1) if a qualifying development is less than 10,000 square feet and off-site parking is not provided for the qualifying development, at least one parking space for persons with disabilities is required." I believe this language is incorrect and should read: "(1) if a qualifying development is less than 10,000 square feet and on-site parking is not provided for the qualifying development, at least one parking space for persons with disabilities is required." ADA compliant parking is triggered by the provision of on-site parking, not off-site parking. Off-site parking is meaningless in this context.	This was corrected to use "off-street", which is defined in the City Code.
ADA Parking	Define "vicinity of use" in-lieu provision for ADA compliant spaces per comment above. Lines 311-318 would let the director waive or reduce the number of accessible spaces required under Subsection (J) if: "(1) The applicant pays a fee in-lieu to be used by the city to construct and maintain accessible parking in the vicinity of the use. The availability of this option is contingent on the establishment of a fee by separate ordinance and the adoption of a program by the director to administer the fee and establish eligibility criteria. A decision by the director that a use is ineligible for a fee in-lieu is final." Again, define "vicinity of use" in this subsection to require ADA spaces within no more than 100 feet walking distance to the unit entrance on a fully accessible route with ADA compliant loading aisles, curb cuts and sidewalks."	"Vicinity of use" has been changed to "vicinity of the qualifying development."
ADA Parking	Define "off-site or on-street parking space designated for persons with disabilities" per comment above. Lines 322-325 read: "An off-site or on-street parking space designated for persons with disabilities that is located within 250 feet of a use may be counted towards the number of parking spaces the use is required to provide under Subsection 325(J)." Again, define this subsection per (b) above.	"Off-street" is a term defined in City Code.

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ADA Parking	Remove proposed director waiver that could render participating projects inaccessible to people with disabilities. Lines 319-321 would allow the director to entirely waive the ADA parking requirement if "[no] accessible spaces can be provided consistent with the requirements of Subsection (J) and the use is ineligible for participation in the fee in-lieu program under Paragraph (1) of this section. This is unacceptable. No project receiving substantial entitlements under this ordinance should be off limits to residents with disabilities. Please remove this language.	To ensure the intent of the program can be met, staff do not recommend removing the waiver provision. Any Director-level waivers would be context-sensitive and consistent with the developer's specific housing market. Staff believe that a stringent procedural document can be created to ensure that any waivers approved would take into consideration project-specific accessibility needs.
ADA Parking	Waiver of all (non-ADA) parking should be replaced with "California model for parking reductions" For a more realistic approach to parking reductions, see page 6 of California's density bonus law here: <a href="https://www.meyersnave.com/wp-content/uploads/California-Density-Bonus-Law.pdf">https://www.meyersnave.com/wp-content/uploads/California-Density-Bonus-Law.pdf</a>	In an effort to reach the recently adopted Austin Strategic Mobility Plan's (ASMP's) 50/50 mode split goals, staff feel it is imperative that affordable housing have the ability to provide an appropriate amount of parking based on a project-by-project basis, which will take into consideration market forces, geographic location, proximity to current/future transit options, and anticipated dwelling demographics.
Site Plan Review	Provide examples of submittal requirement waivers for small projects	This section has been removed from the updated draft ordinance.
Zoning Entitlements	Add setback language to conform with Council resolution. Lines 185-191 state: "(F) A qualifying development is not required to comply with: (1) the height and setback requirements of Article 10 (Compatibility Standards)." However, this wording omits clear language from the Council resolution (page 7) to require participating developments to "maintain the side setbacks as required by the base zoning district, and maintain requirements for any health and safety or environmental related setbacks...". Please insert resolution language in this section.	The proposed ordinance only waives side setbacks associated with Article 10 (Compatibility Standards). Any side yard setbacks required by LDC 25-2, Subchapter C, Article 2 (Principal Use and Development Regulations) still apply.
Zoning Entitlements	Front setbacks should not be modified.	The draft ordinance is consistent with the resolution language, which stipulates a 50% reduction in front yard setbacks for developments complying with the affordability requirements.