

1 **RESOLUTION NO.**

2 **WHEREAS**, in 2014, the City Council updated the Downtown Density
3 Bonus Program after an extensive planning process including input and review by
4 the community, as well as by City boards and commissions; and

5 **WHEREAS**, this density bonus program was based upon the Council-
6 approved “Downtown Plan,” which recognized that areas of our Downtown have
7 unique characters, natures, heights, and scales; and

8 **WHEREAS**, to this end, the Downtown Plan sets maximum floor-to-area
9 ratios (FAR) for different parts of Downtown; and

10 **WHEREAS**, the Downtown Density Bonus Program was created to provide
11 certainty for developments through pre-defined rules for participation and
12 administrative approval; and

13 **WHEREAS**, during plan approval, an amendment was brought forward
14 allowing developments to seek approval from Council on a case-by-case basis
15 should a developer wish to exceed the maximum allowable FAR; and

16 **WHEREAS**, an additional amendment directed staff to convene a
17 conversation among the Downtown and Planning Commissions and return to
18 Council with recommendations for community benefits that should be required and
19 an evaluation process for developer proposals who wish to exceed the maximum
20 allowable FAR in Downtown; and

21 **WHEREAS**, this review and recommendation process was never conducted;
22 and

23 **WHEREAS**, in 2015, Council approved Resolution No. 20151015-038,
24 which directed the City Manager to update data illustrating the effectiveness of the
25 various density bonus programs in generating affordable housing units and in-lieu
26 fees, present a potential Code amendment for Council consideration, and review
27 best practices for using and calibrating fees-in-lieu within density bonus programs;
28 and

29 **WHEREAS**, in 2018, Council approved Resolution No. 20180823-077,
30 which reaffirmed the direction provided in Resolution No. 20151015-038 and
31 directed the City Manager to develop recommendations regarding amendments to
32 City Code and regulating plans necessary to recalibrate density bonus program
33 affordability requirements and fee-in-lieu requirements, and to return to Council
34 with recommendations; and

35 **WHEREAS**, a March 6, 2019, memo from Neighborhood Housing and
36 Community Development (NHCD) stated, that “given the dynamics of housing
37 submarkets change over time, and many affordability requirements in these
38 policies have not been comprehensively re-evaluated since their adoption, staff
39 recognizes this as an opportunity to not only recalibrate the City’s density bonus
40 policies, but also to offer recommendations for policy updates”; and

41 **WHEREAS**, one of these recommendations included updating the
42 affordable unit set-asides and affordable housing fee rates in all policies to reflect
43 the results of the new recalibration for all of the density bonus programs, including
44 the Downtown Density Bonus Program; and

45 **WHEREAS**, the Planning Commission unanimously approved NHCD’s
46 recommendations in summer of 2019; and

47 **WHEREAS**, Council has not deliberated on these recommendations due to
48 staff’s preference that these changes occur via approval of the Land Development
49 Code rewrite process; and

50 **WHEREAS**, the Density Bonus Program’s fees have not been updated since
51 2014, although consultants have evaluated and recommended an increase; and

52 **WHEREAS**, non-residential projects can access entitlements through the
53 Downtown Density Bonus Program but pay no in-lieu affordable housing fees; and

54 **WHEREAS**, non-residential projects can access entitlements through the
55 Rainey Density Bonus Program, but only hotel developments pay an in-lieu
56 affordable housing fee; and

57 **WHEREAS**, the Council lacks critical information on which to base
58 appropriate community benefit calculations in return for granting exceptions to the
59 maximum FAR allowed under the Downtown Density Bonus Program; **NOW,**

60 **THEREFORE**

61 **BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

62 City Council initiates the following code amendments to the Downtown
63 Density Bonus Program:

- 64 (1) Repealing Section 25-2-586(B)(6), which shall be presented to
65 Council for adoption on an emergency basis, and
66 (2) Adding new provisions to Section 25-2-586 which provide an
67 exception to allow for floor-to-area ratio that exceeds the maximum, if
68 Council determines through its policy review that it would like to preserve
69 the option for such exceptions.

70 **BE IT FURTHER RESOLVED:**

71 The City Council directs the City Manager to post the following for action
72 on April 22, 2021:

73 Revision to the in-lieu affordable housing fees for residential development
74 for the Downtown Density Bonus Program.

75 Revision to the in-lieu affordable housing fees for non-residential
76 development for the Downtown Density Bonus and Rainey Density Bonus
77 Programs.

78 Move affordable housing fee rates from disparate sections within the Land
79 Development Code to the City Fee Schedule so they can be updated more
80 effectively.

81 **ADOPTED:** _____, 2021 **ATTEST:** _____

82 Jannette S. Goodall
83 City Clerk
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