




## MEMORANDUM

**TO:** Mayor and Council Members

**FROM:** Rosie Truelove, Director, Housing and Planning Department 

**DATE:** July 19, 2022

**SUBJECT:** Response to Resolution No. 20210422-039 regarding updates to the Downtown Density Bonus Affordable Housing In-Lieu Fees

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This communication is in response to [Resolution No. 20210422-039](#) regarding requested updates to the Downtown Density Bonus Affordable Housing In-Lieu Fees, which are proposed to be adopted as part of the Housing and Planning Department fee schedule for Fiscal Year 2022-2023.

The attached document describes the process, considerations, and proposed updated Downtown Density Bonus Program Affordable Housing In-Lieu Fees. This item is now completed.

Please contact me at [rosie.truelove@austintexas.gov](mailto:rosie.truelove@austintexas.gov) if you have further questions.

cc: Spencer Cronk, City Manager  
Anne Morgan, Acting City Manager  
J. Rodney Gonzales, Assistant City Manager

Attachment

## Downtown Density Bonus Program Affordable Housing In-Lieu Fee Calibration

This document provides the Housing and Planning Department staff recommendation and additional context for the Affordable Housing In-Lieu Fees for the Downtown Density Bonus Program (DDBP) per Council direction provided in [Resolution No. 20210422-039](#). The staff recommendation for Downtown Density Bonus Program Affordable Housing In-Lieu Fees for the 2023 Fiscal Year are provided below in Exhibit A.

**Exhibit A.** *Current and Proposed Downtown Density Bonus Program Affordable Housing Fee In- Lieu Rates*

Base Zoning or District	Interim Fees Adopted by <a href="#">Ordinance No. 20210520-009</a>		FY23 Staff Recommended Fees	
	Interim Residential Fee	Interim Commercial Fee	Proposed Residential Fee	Proposed Commercial Fee
CBD	\$12	\$18	\$12	\$9
All other base zones	\$10	\$12	\$10	\$6
Rainey (all base zones)	\$5	\$12	\$5	Fee determined by base zone
Fees are represented as a fee per square foot of bonus area.				

Based on the research and analysis performed by City of Austin staff, in-lieu fees for *residential* development should be maintained at the rate adopted in May 2021 by [Ordinance No. 20210520-009](#). However, the interim in-lieu fees for *commercial* development are not supported by current commercial market conditions.

The DDBP is a voluntary program, adopted in 2013, that allows the private real estate market to access additional development entitlements in exchange for community benefits. Affordable Housing is one of twelve options in a menu of community benefits available. The affordable housing community benefit can be provided on-site at a rate of 10% of bonus area (for residential projects only) or as a fee in-lieu of on-site Affordable Housing. The collection of fees in lieu of onsite affordable housing within this program specifically funds low barrier approaches to housing people who are chronically homeless.

Housing and Planning Department staff utilized resources from multiple sources to develop this staff recommendation. HPD adopted findings from a Grounded Solutions Network report named [Strengthening Inclusionary Housing Feasibility Studies](#) based on the experience of housing advocacy organizations, economists, researchers, and analysts, which recommend balancing out feasibility studies with other sources of information related to changing policies. While staff utilized a calibration model developed by economic consultants, EcoNorthwest, the results were also considered alongside existing

policy, development trends, and stakeholder input given the limitations of this type of modeling. This triangulation process is essential to the process of calibration of density bonus programs due to the ways in which even the best feasibility studies are inexact in nature.

The staff recommended fees in-lieu will be included in the City Manager's budget for the FY23 budget considerations. Future amendments to the Downtown Density Bonus Program fees in-lieu will be proposed in the annual budget process for Council approval, or as mid-year budget amendments for Council approval.

### Residential Conditions

Staff recommend maintaining the FY22 residential fee in-lieu rates for the following reasons:

- As of April 2022, four site plan applications have been filed for projects within the Downtown Density Bonus Program area since the FY22 fees were adopted, and all four projects intend to utilize the Downtown Density Bonus. This indicates that the interim fee rates are not inhibiting residential development, and the participation rate is still high.
- Stakeholder input from June 2021 through early 2022 was used to better understand market conditions and development trends within the Downtown area. Through the process of discussing the modeling parameters, developers confirmed the financial feasibility of a \$10 fee for their residential projects. Other stakeholders in the process including political advocacy organizations and public commissions were divided on the appropriate rates – many wanted to see higher fees applied and many wanted to see lower fees applied.
- Market conditions indicate relatively strong prospects for residential projects in the Downtown area. Rents growth is rising, and stabilized vacancies are low. The residential market downtown has mostly recovered from the early effects of the pandemic, which led many properties to offer rent concessions in an effort to stabilize occupancy rates. A substantial number of new residential for lease units were delivered in late 2021 and nearly doubled the total housing inventory downtown. Another significant wave of new residential units is in the pipeline for delivery in the next two years.

### Commercial Conditions

Staff recommend lowering the FY22 commercial fee in-lieu rates for the following reasons:

- There have been no site plan applications for office developments within the Downtown Density Bonus Program area since the FY22 were adopted. Additionally, stakeholders and researchers have consistently noted that there is uncertainty related to the future demand for downtown office space.
- Stakeholder input to-date indicated that the interim commercial fees adopted in 2021 were set too high considering the challenges facing commercial development in the wake of the pandemic.
- There was a high degree of variation from the previous policy of \$0 to the \$18 per square foot interim fee adopted.
- Staff used the calibration model to try to understand the circumstances under which commercial development would be viable for base and bonus developments in the Downtown



Density Bonus Program. The staff recommendation for the commercial fee is based on modeling of the market conditions in which commercial development using bonus entitlements is supported. The primary indicator staff tested was market rents. The calibrated commercial fees are based on the market rents that would support a commercial development utilizing the bonus density offered through the program. These rental rates are similar to the market conditions in late 2019. Staff believe that the recommended fees are viable if and when market conditions change to be more favorable for the construction of commercial development.

### Stakeholder Feedback

From June 2021 through January 2022, Housing and Planning Department staff engaged with RECA, DAA, and the Design Commission to collect vital information, share draft recommendations, and discuss calibration methodologies. Numerous updates were made to the calibration methodology in response to engagement with stakeholders. Some of the review and discussions prompted additional follow up with the consultants who created a modeling tool for the City of Austin. In early 2022, EcoNorthwest conducted additional quality assurance procedures on the modeling tool at staff's request.

Feedback received from the Design Commission and the Downtown Commission throughout the calibration process emphasized a desire for more income-restricted affordable housing onsite in downtown developments and greater consideration of racial equity in the program. The Design Commission adopted recommendations related to the Downtown Density Bonus Program:

- [Recommendation 20210805-1A](#)
- [Recommendation 20210823-2B](#)

While Council's most recent resolution specified the recalibration of the Affordable Housing In-Lieu Fee and the staff analysis focused on this element of the program, the onsite Affordable Housing set-aside rates and other community benefit options for this program have not been reevaluated since the passage of the DDBP ordinance in 2013. The current structure of the program is not designed to incentivize the production of income-restricted affordable housing onsite over the collection of in-lieu fees. HPD staff are supportive of evaluating the policies in the existing DDBP and engaging with stakeholders to determine what changes could yield more onsite affordable housing as well as more equitable outcomes for our community.

### Future Recalibration

[Ordinance No. 20210520-009](#) moved the DDBP Affordable Housing In-Lieu Fees to the Housing and Planning Department's Fee Schedule to allow for more effective and timely updating. Frequent monitoring of market conditions and evaluation of the affordable housing policies in density bonus programs is important to encourage participation; however, changing the fees too frequently can diminish predictability and negatively impact development feasibility. Going forward, calibration every three to five years with potential annual changes tied to an index, such as the Consumer Price Index, may be more appropriate.



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However, in the future, staff believe that calibration of density bonus programs should be more holistic and allow for the opportunity to reevaluate both the incentives available and the community benefit requirements. Isolating calibration in order to focus on fees in-lieu alone can produce ineffective and disjointed results. Given the direction from Council, staff did not reevaluate the onsite affordable housing set-aside rates, which did not allow staff to examine policies that may yield more equitable and inclusive outcomes beyond the collection of fees.

### Additional information

The calibration model is available for download alongside other resources related to density bonus programs at [austintexas.gov/department/development-incentives-and-agreements](https://austintexas.gov/department/development-incentives-and-agreements).

Please contact Erica Leak ([Erica.Leak@austintexas.gov](mailto:Erica.Leak@austintexas.gov)) or Sam Tedford ([sam.tedford@austintexas.gov](mailto:sam.tedford@austintexas.gov)) if you have additional questions.