



28 (3) MARKET RATE UNIT means a rental or ownership dwelling unit that is  
29 not an affordable unit.

30 (4) MFI means median family income for the Austin-Round Rock  
31 metropolitan statistical area.

32 (B) A creative space includes a use in Chapter 25-2 (*Zoning*) that allows one or  
33 more of the following occupancies:

34 (1) library, museum, or art gallery;

35 (2) performance venue/theater;

36 (3) art, dance, martial arts, or studios for performing art, music, or visual art;

37 (4) art workshop;

38 (5) live music venue; or

39 (6) artist live/work space.

40 **§ 25-1-753 ELIGIBILITY.**

41 (A) A proposed development is eligible for this program if the development meets  
42 the requirements in this division; and:

43 (1) is new construction; or

44 (2) redevelops the site without existing creative spaces or multi-family  
45 structures; or

46 (3) complies with the requirements in Subsection (C).

47 (B) A creative space is existing if the space has operated for at least 10 years.

48 (C) Redevelopment of a Site with Existing Spaces and Structures.

49 (1) A proposed development that will require the applicant to redevelop  
50 existing creative spaces is eligible for this program if:

51 (a) the proposed development:

52 (i) meets the standards imposed in this subsection;

53 (ii) replaces all existing creative spaces that were operating the  
54 previous 12 months with creative spaces of comparable size;  
55 and

56 (b) the applicant provides current creative space operators with:

57 (i) notice and information about the proposed development on a  
58 form approved by the director; and

59 (ii) relocation benefits that are consistent with the Federal Uniform  
60 Relocation Assistance and Real Acquisition Policies Act of  
61 1970, 42 U.S.C. 4601, *et seq.*; and

62 (c) the applicant grants a creative space operator the option to lease a  
63 creative space of comparable size and affordability following the  
64 completion of redevelopment.

65 (2) A proposed development that will require the applicant to redevelop or  
66 rebuild an existing multi-family structure is eligible for this program if:

67 (a) the existing multi-family structure requires extensive repairs for  
68 which costs will exceed 50 percent of the market value, as  
69 determined by the building official;

70 (b) the proposed development replaces all existing units that were  
71 affordable to a household earning 80 percent MFI or below in the  
72 previous 12 months and have at least as many bedrooms as those  
73 units;

74 (c) the applicant provides current tenants with:

75 (i) notice and information about the proposed development on a  
76 form approved by the director; and

77 (ii) relocation benefits that are consistent with Federal Uniform  
78 Relocation Assistance and Real Property Acquisition Policies  
79 Act of 1970, 42 U.S.C. 4601, *et seq.*; and

80 (d) the applicant grants current tenants the option to lease a unit of  
81 comparable affordability and size following completion of  
82 redevelopment.

83 § 25-1-754 AFFORDABILITY REQUIREMENTS.

- 84 (A) For a development with rental dwelling units, at least 10 percent of the rental  
85 dwelling units must serve households whose incomes are 60 percent MFI or  
86 below.
- 87 (B) For a development with owner-occupied dwelling units, at least 10 percent of  
88 the owner-occupied dwelling units must serve households whose incomes are  
89 80 percent MFI or below.
- 90 (C) If the number of units required in this section includes less than a whole unit,  
91 the unit number is rounded up to the nearest whole unit.
- 92 (D) The minimum affordability period for rental dwelling units is 40 years  
93 following the last certificate of occupancy required for the development.
- 94 (E) The minimum affordability period for owner-occupied dwelling units is 99  
95 years following the issuance of a certificate of occupancy for the owner-  
96 occupied dwelling unit.
- 97 (F) In a multi-phased development, the director may begin the minimum  
98 affordability period upon the issuance of the last certificate of occupancy for  
99 each phase.
- 100 (G) Unless otherwise approved by the director, the bedroom count for affordable  
101 units shall be comparable to the bedroom count for market rate units. At the  
102 discretion of the director, two-bedroom or three-bedroom affordable units may  
103 count as two or three, one-bedroom (efficiency) affordable units.
- 104 (H) Simultaneous Availability of Affordable Units.
- 105 (1) In a single-phase housing development, affordable units must be  
106 available for occupancy concurrently with the market-rate units.
- 107 (2) For a multi-phase housing development, an applicant must submit a  
108 development phasing plan that demonstrates how the market rate units  
109 and the affordable units will be made available concurrently. This plan  
110 must be included as an attachment to the agreement described in Section  
111 25-1-755 (*Certification*).

112 (I) Affordable rental units may be rotated within the structure, provided that the  
113 total number of required affordable units remains in compliance with the  
114 affordability requirements for the affordability period.

115 (J) An applicant shall prepare and follow an affirmative marketing and outreach  
116 plan for the duration of the affordable period, in a form consistent with the  
117 U.S. Department of Housing and Urban Development regulations and  
118 approved by the director

119 **§ 25-1-755 CERTIFICATION.**

120 (A) The director is responsible for certifying whether a proposed development  
121 satisfies the exemption and bonus requirements.

122 (B) The applicant shall submit an application to the director demonstrating the  
123 proposed development satisfies the requirements in this division.

124 (C) If the director certifies that a proposed development meets the requirements of  
125 this division, the accountable official is authorized to process a development  
126 application consistent with provisions applicable to a commercial-residential  
127 development.

128 (D) Before the director may certify that a proposed development meets the  
129 requirements of this division, the applicant shall execute:

130 (1) an agreement to preserve the minimum affordability period and related  
131 requirements imposed by this division; and

132 (2) a document for recording in the real property records that provides notice  
133 of or preserves the minimum affordability requirements imposed by this  
134 division.

135 (E) The form of the agreement and document described in Subsection (D) must be  
136 approved by the city attorney.

137 (F) The applicant shall pay all fees, provide documentation, and fulfill any pre-  
138 occupancy requirements prior to the issuance of a certificate of occupancy.

139 (G) The agreement required in Subsection (D) must, at a minimum:

140 (1) prohibit discrimination on the basis of an individual's source of income  
141 as defined in Section 5-1-13 (*Definitions*);

- 142 (2) require dispersion of affordable units throughout the residential units;
- 143 (3) require equal access and use of on-site amenities, common areas, and  
144 parking facilities;
- 145 (4) require shared access routes for affordable units and market-rate units;
- 146 (5) require that affordable units include interior components that are  
147 functionally equivalent to market-rate units;
- 148 (6) require the applicant to incorporate lease provisions that are consistent  
149 with:
- 150 (a) the U.S. Department of Housing and Urban Development (HUD)  
151 Section 8 Tenant-Based Assistance Housing Choice Voucher  
152 (HCV) Program related to the termination of tenancy by owner;
- 153 (b) any lease addendum required as a condition to receive city or  
154 Austin Housing Finance Corporation (AHFC) funds; and
- 155 (c) a tenant’s right to organize under 24 C.F.R. 245.100, the lease  
156 addendum required as a condition to receive City of Austin  
157 Housing Finance Corporation funds, or City Code requirement; and
- 158 (7) address obligations related to redeveloping a site with existing spaces and  
159 structures.

160 **§ 25-1-756 POST-CONSTRUCTION REQUIREMENTS AND PENALTY.**

- 161 (A) For a development with rental dwelling units, the property owner or the  
162 property owner’s agent shall provide the director with information that allows  
163 the director to verify compliance with the affordability requirements. The  
164 information shall be provided on an annual basis and on a form approved by  
165 the director.
- 166 (B) If, for any reason, the director is unable to confirm that the affordability  
167 requirements were met during any 12-month period, the preceding 12 months  
168 may not be used to satisfy the minimum affordability requirements in Section  
169 25-1-754 (*Affordability Requirements*).

170 (C) For an ownership affordable unit, each homebuyer at the time of purchase  
171 shall execute a resale restriction agreement in a form approved by the city  
172 attorney for recording in the real property records.

173 (D) A person commits an offense if the person fails to comply with the  
174 requirement in Subsection (A). A culpable mental state is not required and  
175 need not be proved. A person commits a separate offense for each day the  
176 person fails to provide the documentation. Each offense is punishable by a fine  
177 not to exceed \$500.

178 **PART 2.** Division 2, Article 2, Subchapter C of City Code Chapter 25-2 is amended to  
179 add a new Section 25-2-519 to read as follows:

180 **§ 25-2-519 COMMERCIAL-RESIDENTIAL DEVELOPMENT.**

181 (A) In this section, a commercial-residential development is a development  
182 certified under Section 25-1-755 (*Certification*) and participating in the  
183 Residential in Commercial Development Program.

184 (B) Except as provided in Subsection (C), a commercial-residential development is  
185 a permitted use under Section 25-2-491 (*Permitted, Conditional, and*  
186 *Prohibited Uses*) in the following commercial base districts:

187 (1) Commercial Liquor Sales (CS-1);

188 (2) General Commercial Services (CS);

189 (3) Community Commercial (GR);

190 (4) Neighborhood Commercial (LR);

191 (5) General Office (GO); and

192 (6) Limited Office (LO).

193 (C) A commercial-residential development is prohibited when the property is:

194 (1) zoned “V”; or

195 (2) subject to a regulating plan that does not allow residential uses on the  
196 property.

197 (D) Standards.

198 (1) Multifamily residential use, a townhouse residential use, a condominium  
199 residential use, a group residential use.

200 (a) In a limited office (LO) or neighborhood commercial (LR) base  
201 district, the minimum site area for each dwelling unit is:

202 (i) 1,600 square feet, for an efficiency dwelling unit;

203 (ii) 2,000 square feet, for a one bedroom dwelling unit; and

204 (iii) 2,400 square feet, for a dwelling unit with two or more  
205 bedrooms.

206 (b) In a general office (GO), community commercial (GR), general  
207 commercial services (CS), or commercial - liquor sales (CS-1) base  
208 district, the minimum site area for each dwelling unit is:

209 (i) 800 square feet, for an efficiency dwelling unit;

210 (ii) 1,000 square feet, for a one bedroom dwelling unit; and

211 (iii) 1,200 square feet, for a dwelling unit with two or more  
212 bedrooms.

213 (2) Except as provided in Subsection (D)(3), a commercial-residential  
214 development must comply with the height restrictions applicable to the  
215 base zoning district.

216 (3) A commercial-residential development that includes commercial uses on  
217 the ground floor may exceed the height restrictions applicable to the base  
218 zoning district by five feet provided the ground floor uses are not part of  
219 a live/work unit.

220 (E) Other Density Bonus Programs.

221 (1) If a commercial-residential development is also eligible to utilize a  
222 separate density bonus program that grants density bonuses for the  
223 provision of on-site affordable dwelling units or for the payment of a fee-  
224 in-lieu for affordable housing, then the commercial-residential  
225 development may comply with the least restrictive site development  
226 requirements if all affordable dwelling units are provided on-site.



