

ORDINANCE NO. _____**AN ORDINANCE AMENDING ARTICLE 15 (S.M.A.R.T. HOUSING PROGRAM) OF CITY CODE CHAPTER 25-1 (GENERAL REQUIREMENTS AND PROCEDURES) RELATED TO PROGRAM REQUIREMENTS AND PROVISIONS THAT APPLY TO OTHER AFFORDABLE HOUSING PROGRAMS.****BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

PART 1. City Code Section 25-1-701 (*Definitions*) is amended to amend the definition of “Director” to read:

- (1) DIRECTOR means the director of the City's [Neighborhood] Housing [and Community Development] Department.

PART 2. City Code Section 25-1-702 (*Administration*) is repealed and replaced to read:

§ 25-1-702 ADMINISTRATION.

- (A) The director administers, implements, and enforces the S.M.A.R.T. Housing program.
- (B) The director is authorized to adopt, administer, and implement program guidelines and establish requirements for an application under the program.

PART 3. City Code Section 25-1-703 (*Program Requirements*) is amended to amend Subsection (C), to delete Subsection (D), and to re-letter the remaining subsection to read:

§ 25-1-703 PROGRAM REQUIREMENTS.

- (C) Except as provided in Subsection (D), a reasonably-priced dwelling unit is one that is affordable for purchase or rental by a household that meets the housing costs and income qualifications of this subsection.
 - (1) This paragraph provides qualifications on the amount of household income spent on housing costs.
 - (a) Except as provided by Subparagraphs (b) and (c), housing costs of a household may not exceed 30 percent of its gross income.
 - (b) A household may spend up to 35 percent of its gross income on housing costs if a household member receives City-approved homebuyer counseling.
 - (c) A household that complies with other federal, state, or local income eligibility standards is not subject to the expenditure qualifications of Paragraphs (a) and (b).
 - (2) This paragraph provides qualifications on household income.

- (a) If an applicant develops dwelling units for sale, reasonably-priced dwelling units must serve households whose incomes average 80 percent of the median family income or below. [Except as provided in Subparagraph (b), the household income may not exceed 80 percent of the median family income.]
- (b) If an applicant develops dwelling units for lease, reasonably-priced dwelling units must serve households whose incomes average 60 percent of the median family income or below. [In a Downtown Mixed Use (DMU) or Central Business District (CBD) base zoning district, household income may not exceed:
- (i) 120 percent of the median family income for an owner-occupied dwelling unit; or
 - (ii) 80 percent of the median family income for a rental dwelling unit.]

[(D) For a Vertical Mixed Use (VMU) building, a reasonably priced dwelling unit is one that meets the affordability requirements of Chapter 25-2, Subchapter E, Section 4.3.3.F (Affordability Requirements).]

PART 4. City Code Section 25-1-704 (*Fee Waivers*) is amended to amend Subsection (B) to read:

§ 25-1-704 FEE WAIVERS.

(B) A developer is eligible for a waiver of the fees if the director determines that the S.M.A.R.T. housing development provides the percentage of reasonably priced dwelling units prescribed by this subsection.

- (1) If [Except as provided in Subdivision (2): (a) if] at least ten percent of the dwelling units are reasonably priced, the development is eligible for a waiver of 25 percent of the fees..[;]
- (2) If [(b) if] at least 20 percent of the dwelling units are reasonably priced, the development is eligible for a waiver of 50 percent of the fees..[;]
- (3) If [(c) if] at least 30 percent of the dwelling units are reasonably priced, the development is eligible for a waiver of 75 percent of the fees..[; and]
- (4) If [(d) if] at least 40 percent of the dwelling units are reasonably priced, the development is eligible for a waiver of 100 percent of the fees.

[(2) The development is eligible for a waiver of 100 percent of the fees if:

- (a) except as provided in Paragraphs (c) and (d), the development is located within the Urban Roadways boundary described by Chapter 25-2, Subchapter E (*Design Standards and Mixed Use*), and at least five percent

of the dwelling units are reasonably priced and are transferred to a City-approved affordable housing land trust or other similar entity approved by the director;

(b) except as provided in Paragraph (c), the development is located outside the Urban Roadways boundary described by Chapter 25-2, Subchapter E (Design Standards and Mixed Use), and at least ten percent of the dwelling units are reasonably priced and are transferred to a City-approved affordable housing land trust or other similar entity approved by the director;

(c) the development is a Vertical Mixed Use (VMU) building that complies with the affordability requirements of Chapter 25-2, Subchapter E, Section 4.3.3.F (*Exemption and Bonus Requirements*); or

(d) the development is located in either a Downtown Mixed Use (DMU) or Central Business District (CBD) base zoning district, and at least ten percent of the dwelling units are reasonably priced.]

PART 5. City Code Section 25-1-705 (*Required Affordability Period*) is amended to amend Subsections (A) and (D) to read:

§ 25-1-705 REQUIRED AFFORDABILITY PERIOD.

(A) To be eligible for the S.M.A.R.T. Housing program, unless a longer term is required by law, private agreement, or another provision of this Code, all reasonably priced dwelling units in a S.M.A.R.T. Housing development must remain reasonably priced for the following affordability periods commencing on the date of initial occupancy:

[(1) except as provided in Paragraphs (3) and (4), for dwelling units within the University Neighborhood Overlay District, a period of at least fifteen years;

(2) except as provided in Paragraphs (3) and (4), for dwelling units outside the University Neighborhood Overlay District:]

(1) [(a)] if the unit is owner-occupied, a period of at least one year, or if the owner is receiving federal housing assistance, a period of at least five years; or

(2) [(b)] if the unit is a rental unit, a period of at least five years.

[(3) for dwelling units in a DMU or CBD base zoning district, a period of at least 99 years for owner-occupied units, and a period of at least 40 years for rental units; and

(4) ~~for dwelling units in a VMU building that has or will benefit from an exemption from dimensional standards available under Chapter 25-2, Article 4, Section 4.3.3.E (Dimensional and Parking Requirements), the applicable affordability period set forth in Chapter 25-2, Article 4, Section 4.3.3.F (Affordability Requirements).]~~

(D) Before the [The] director may certify, [require] the applicant [developer] shall comply with Section 4-18-25 (Certification) except that the agreement must, at a minimum, [to execute an agreement and restrictive covenant or other binding restriction on land use that preserves affordability in accordance with the S.M.A.R.T. Housing program. The agreement may] include:

- (1) terms that require a defaulting applicant to pay the otherwise applicable fees;
- (2) liquidated damages in an amount up to twice the amount of fees waived, being such an amount that will fairly compensate the City for administrative costs incurred; and
- (3) liquidated damages that will fairly compensate the City for any breach that results in the loss of reasonably-priced dwelling units during the affordability period.

PART 6. This ordinance takes effect on _____, 2025.

PASSED AND APPROVED

_____, 2025 §
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Kirk Watson
Mayor

APPROVED: _____ **ATTEST:** _____

Deborah Thomas
Interim City Attorney

Erika Brady
City Clerk