

Mixed Income Housing Development Bonus (MIHDB)

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Request:

Consideration of amending the Dallas Development Code Chapter 51A-4.1100 Mixed Income Housing, to support and align with the ***One Dallas Options*** Program within the City of Dallas Comprehensive Housing Policy.

Background:

These proposed changes to Chapter 51A are part of a larger initiative supported by the City Manager and staff to create a program called ***One Dallas Options***. This program, essentially an expansion of the existing Mixed Income Housing Development Bonus (MIHDB) program, adds additional incentives to encourage market-rate developers to build mixed income housing or to contribute to a new One Dallas Fund to be used to further the goals of the Comprehensive Housing Policy.

One Dallas Options provides a set of incentives – regulatory, administrative, and financial – in exchange for on-site provision of reserved dwelling units, off-site provision, land dedication, or a fee paid in lieu of providing the required units.

Staff Analysis:

Regulatory Incentives

The regulatory incentives are proposed to reside in Chapter 51A and provide a set of specific increases in development rights. In the multifamily and mixed use base zoning districts and in existing planned development districts, the existing bonuses, if any, remain unchanged, but developers will be able to access the administrative and financial bonuses in the new ***One Dallas Options*** program. New or amended planned development districts that reference the amended Chapter 51A-4.1100 would be able to access a set menu of additional development rights in exchange for a set percentage of reserved units at a variety of income levels and would also be able to access the administrative and financial bonuses in the new program. The specific bonuses are in the case report below.

Administrative Incentives

In answer to a long-standing request for faster permit review for housing developers, staff is recommending adding a new H-Team to Chapter 52: Administrative Procedures for the Construction Codes. The new H-Team, if approved, would function exactly the same as the existing Q-Team, but it would be focused on residential (single family, duplex, and multifamily) development. As with the Q-Team, the H-Team would meet with the applicant and all other parties with responsibilities relating to the development project. The applicant would be required to finalize all plans on the date of the H-Team meeting, and, if all issues are resolved, the team would approve the plans and issue the required construction permits.

In order to use staff time efficiently, the H-Team would process permits in the following order of priority: **One Dallas Options** Program participants and other mixed income projects, then market-rate residential projects, then projects referred from Q Team.

This would create a prioritized and expedited review process for mixed income projects and those paying into the One Dallas Fund. The faster permit review reduces costs and addresses our housing shortage more quickly. The details of the prioritized plan review and the financial incentives will be included in a new **One Dallas Options** program statement in the Comprehensive Housing Policy.

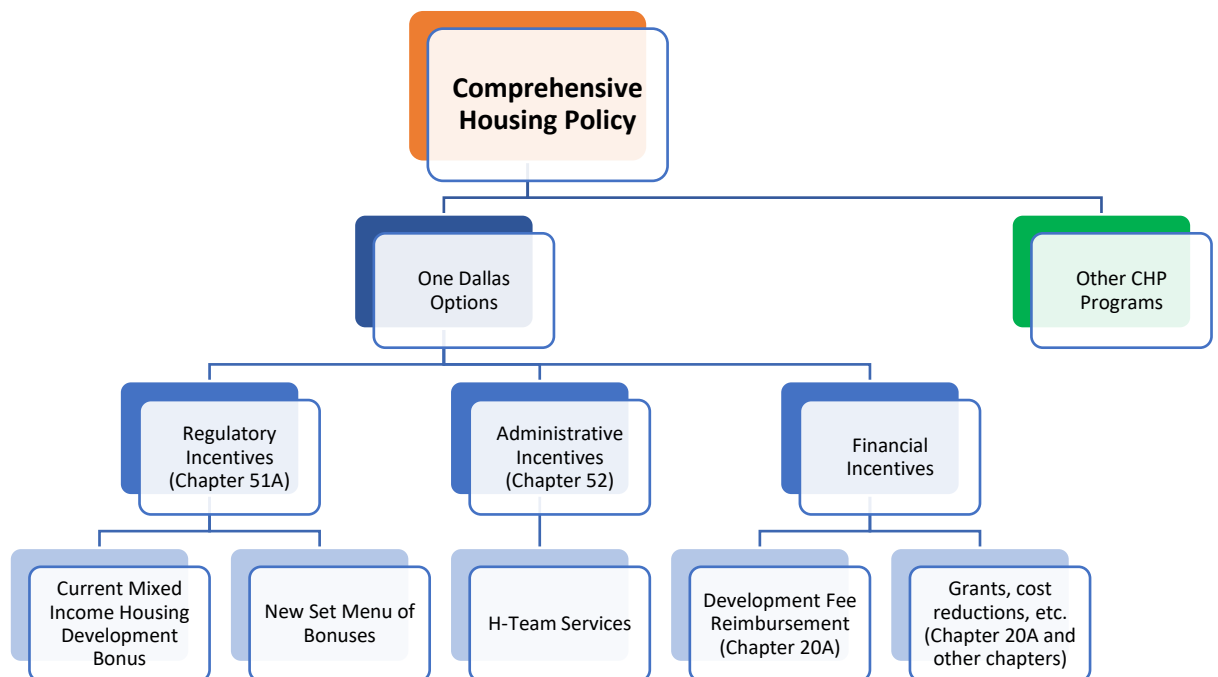
Funding for the H-Team is yet to be determined but may come from the new One Dallas Fund.

Financial Incentives

Participants in the program may apply for financial incentives, including reimbursement of certain development fees. Application would be made through the Department of Housing & Neighborhood Revitalization’s standing Notice of Funding Availability process and would be subject to the requirements of the Comprehensive Housing Policy, including Fair Housing review as needed.

Because these incentives are not related to land use or development standards, administrative and financial incentives are not included or otherwise referred to in the proposed amendments to Chapter 51A.

The chart below illustrates the relationship between the Comprehensive Housing Policy and the new **One Dallas Options** program.



Recommendations:

Review the zoning provisions regarding the Mixed Income Housing Development Bonus in order to align Chapter 51A-4.1100 with ***One Dallas Options***.

One Dallas Options is a proposed housing program of the City of Dallas Comprehensive Housing Policy intended to encourage the development of mixed income housing through various incentives. The regulatory bonuses within the current Mixed Income Housing Development Bonus program will remain unchanged and included in the ***One Dallas Options*** program. The items for review include:

1. Alignment of Chapter 51A with ***One Dallas Options***
 - a) Add specific One Dallas bonuses
 - b) Include to Chapter 20A to all for the option of providing reserved units at a different location than the site utilizing the development bonus
 - c) Include the option of paying a fee in lieu of on- or off-site reserved units
 - d) Increase the minimum number of reserved units from one unit to five units or five percent, whichever is higher
 - e) Align Chapter 51A with Department of Housing & Neighborhood Revitalization policies for project qualification.
2. Minor non-substantive amendments to Chapter 51A-4.1100
 - a) Address method for rounding fractions of a required reserved unit
 - b) Amend parking requirements to align with future parking amendments
 - c) Other text amendments

1. Alignment of Chapter 51A with *One Dallas Options*

- a) ***Add One Dallas Options bonuses***

The proposed ***One Dallas Options*** program includes a set of bonuses that may be accessed by Planned Development Districts that reference compliance with Section 51A-4.1100. The use of these new development bonuses replaces the current practice under which a PD contains a unique set of mixed income housing development bonuses.

A minimum of five reserved units or 5% of the total units, whichever is higher, must be provided in order to access the development bonuses. The bonuses are determined by the MVA category band of the development site and the Area Median Family Income (AMFI) Tier for which units are reserved.

The number of reserved units required is calculated based on the total number of dwelling units, after the density bonus is determined, the same as in the current MIHDB. The parking reduction may be affected by the ongoing parking amendments,

Other proposed amendments related to these new bonus categories include the division of sites with different zoning classifications into “groups.” This is done in order to more

clearly delineate between the developments and the bonuses for which they are eligible. This includes amendments to Sections 51A-4.1102 and 51A-4.1106

Type One developments include those located in MF(A) and MU districts (including those with public deed restrictions only limiting allowed uses and PDs with MF(A) and MU base districts that only modify allowed uses). Type One developments are eligible to receive the current Mixed Income Housing Development Bonus, which remain unchanged, as well as Administrative and Financial Incentives.

Type Two developments include those located in Planned Development Districts that include a development bonus for providing mixed income housing. Type Two developments are eligible to receive the bonus that is provided in their respective PD, as well as Administrative and Financial Incentives.

Type Three developments include Planned Development Districts that expressly reference compliance with the proposed **One Dallas Options** mixed income housing development bonus. Type Three developments are eligible to receive the new One Dallas Options Regulatory Incentives, as well as Administrative and Financial Incentives.

b) Provide reserved units off-site

This addition allows for the provision of reserved units off site, provided that the alternate site is located in the same MVA Category group (A-F or G-I) of the development site, the site 'receiving' the reserved units follows the design standards included in Section 4.1107 (with certain exceptions), and the site 'receiving' the reserved units follows the minimum unit requirements of Section 4.1105. Essentially, the alternate site is subject to the same regulations as the primary development site, including any applicable fair housing review process. The details of this option will be laid out in proposed amendments to Chapter 20A and to the Comprehensive Housing Policy.

c) Option to pay fee-in-lieu of providing reserved units on- or off-site

This addition allows for a developer to pay a fee in lieu of developing reserved units on- or off-site. This fee would be deposited into the One Dallas Fund, a new restricted fund that will be used by the City of Dallas to provide and preserve affordable housing throughout the City. This fund would be managed by the Department of Housing & Neighborhood Revitalization.

d) Increase minimum number of reserved units from one to five or five percent

This amendment increases the minimum number of reserved units from one to five.

e) Align Chapter 51A with Department of Housing & Neighborhood Revitalization policies

Several amendments are intended to align the requirements of Chapter 51A with Chapter 20A and Department of Housing & Neighborhood Revitalization policies. A definition of One Dallas Options has been included. In addition to certification of a site's MVA and reserved dwelling unit verification, property owners must also obtain certified verification of participation in One Dallas. The specific form of verification will be determined by the Department of Housing & Neighborhood Revitalization.

The proposed amendments require that the development register with at least one local provider of housing vouchers and acknowledge that they must pass the providers' inspections. This language strengthens the City's requirement that participants in One Dallas Options shall not discriminate against voucher holders.

2) Minor non-substantive amendments to Chapter 51A-4.1100

The proposed amendments also include several small, non-substantive amendments to address rounding, parking, and other text/editorial items.

Proposed Amendments

Division 51A-4.1100. Mixed-Income Housing.

SEC. 51A-4.1101. PURPOSE.

This division is adopted to implement the provisions and goals of the comprehensive housing policy, affirmatively further fair housing, create and maintain available and affordable housing throughout Dallas, promote greater fair housing choices, and overcome patterns of segregation and concentrations of poverty. (Ord. 31152)

SEC. 51A-4.1102. APPLICABILITY.

(a) In general. Development bonuses ~~apply to qualifying developments located in~~ below:

(1) Type One developments include those in:

_____ (A+) MF-1(A), MF-2(A), and MF-3(A) Multifamily Districts;

_____ (2B) MU-1, MU-2, and MU-3 Mixed Use Districts;

_____ (3C) MF-1(A), MF-2(A), and MF-3(A) Multifamily Districts with public deed restrictions that only limit allowed uses;

_____ (D4) MU-1, MU-2, and MU-3 Mixed Use Districts with public deed restrictions that only limit allowed uses; and

_____ (E5) Planned development districts that ~~reference compliance with this division or planned development districts that~~ default to MF-1(A), MF-2(A), MF-3(A), MU-1, MU-2, and MU-3 Districts as base zoning and only alter the allowed uses.

_____ (32) Type Two developments include those in planned development districts that specify mixed-income bonuses and that reference compliance with this division.

(3) Type Three developments include those in planned development districts that reference compliance with this division and expressly reference compliance with Section 51A-4.1106(j).

(b) Market value analysis. Specific development bonus applicability is further determined based on the location of the development in a specific market value analysis category.

(c) Residential uses. To be eligible for development bonuses under this division, developments must include multifamily or retirement housing uses. (Ord. 31152)

SEC. 51A-4.1103. DEFINITIONS AND INTERPRETATIONS.

(a) Definitions. In this division:

(1) AFFORDABLE RENT means: (i) a monthly rental housing payment, less an allowance for utilities, that does not exceed 30 percent of an eligible household's adjusted income divided by 12, or (ii) the voucher payment standard.

(2) AFFIRMATIVE FAIR HOUSING MARKETING means a marketing strategy designed to attract renters of all majority and minority groups, regardless of race, color, national origin, religion, sex, age, disability, or other protected class under Title VIII of the Civil Rights Act of 1964 and all related regulations, executive orders, and directives.

(3) AREA MEDIAN FAMILY INCOME ("AMFI") means the median income for the Dallas Area Standard Metropolitan Statistical Area, adjusted for family size, as determined annually by the Department of Housing and Urban Development.

(4) ELIGIBLE HOUSEHOLDS means households with an adjusted income within the required income band or voucher holders regardless of income.

(5) INCOME means income as defined by 24 CFR §5.609.

(6) INCOME BAND means the range of household incomes between a pre-determined upper limit and a pre-determined lower limit generally stated in terms of a percentage of area median family income adjusted for family size (income bands descriptions are located in Chapter 20A).

(7) MARKET VALUE ANALYSIS ("MVA") means the official study that was commissioned by and prepared for the City of Dallas to assist residents and policy-makers in understanding the elements of their local residential real estate markets.

(8) MIXED-INCOME RESTRICTIVE COVENANT means a covenant running with the land that meets the requirements of this division and Chapter 20A.

(9) ONE DALLAS means the One Dallas Options program of the Comprehensive Housing Policy of the City of Dallas as described in Chapter 20A.

(~~9~~10) OWNER means the entity or person using the development bonus as well as all other owners or operators of the development during the rental affordability period.

(~~10~~11) PASSENGER LOADING ZONE means a space that is reserved for the exclusive use of vehicles during the loading or unloading of passengers. A passenger loading zone is not a taxicab stand for purposes of Section 28-101, "Restricted Use of Bus Stops and Taxicab Stands."

(~~11~~12) PEDESTRIAN SCALE LIGHTING means lighting that emanates from a source that is no more than 14 feet above the grade of the sidewalk or an equivalent pedestrian light fixture approved by the director of transportation.

(~~4213~~) RENTAL AFFORDABILITY PERIOD means the 20 year period that the reserved dwelling units may only be leased to and occupied by eligible households or voucher holders.

(~~4314~~) RESERVED DWELLING UNIT means the rental units within a development available to be occupied or currently occupied by eligible families or voucher holders and are leased at affordable rents set according to this division.

(~~4415~~) STOOP means a small porch leading to the entrance of a residence.

(~~4516~~) TRANSIT PROXIMITY means development within one-half mile of a transit station, including trolley stops, train stations, transfer centers, transfer locations, transit centers, and any transit stop with a climate-controlled waiting area. Transit agencies served include Dallas Area Rapid Transit, Trinity Railway Express, and trolley service.

(~~4617~~) VOUCHER HOLDER means a holder of a housing voucher, including vouchers directly or indirectly funded by the federal government.

(b) Interpretations. For uses or terms found in Chapter 51 the regulations in Section 51A-4.702 (a)(6)(C) apply in this division. (Ord. 31152)

SEC. 51A-4.1104. DEVELOPMENT BONUS PERIOD.

(a) Any development bonus provided in this division is only applicable to structures built during the rental affordability period or according to the terms of the mixed-income restrictive covenant.

(b) Structures built during the term of the mixed-income restrictive covenant may retain their bonuses until they are destroyed by an intentional act of the owner.

(c) Structures built during the term of the mixed-income restrictive covenant may retain their bonuses and be rebuilt if they are destroyed by other than an intentional act of the owner, or owner's agent, if the development continues to meet the requirements of this division. (Ord. 31152)

SEC. 51A-4.1105. PROCEDURES TO OBTAIN A DEVELOPMENT BONUS.

(a) In general.

(1) The owner must comply with the requirements of Chapter 20A, as amended.

(2) In accordance with this division and Section 20A-25, owners shall

(A) ~~Owners shall~~ obtain a certified verification of the building site's MVA category; ~~and~~

(B) shall sign a reserved dwelling unit verification before applying for a permit for construction; and

(C) obtain certified verification of participation in One Dallas Options. in accordance with this division and Section 20A-25.

(b) Building permit application. An application for a building permit using a development bonus must include the following:

(1) the date, names, addresses, and telephone numbers of the applicant and all property owners;

(2) the legal description, the current zoning classification, the market value analysis category, and the census tract of the building site for which the development bonus is requested;

(3) the total number of dwelling units proposed, the number of reserved dwelling units provided, and the number of reserved dwelling units required as a result of receiving the development bonus;

(4) the total number of one-bedroom dwelling units, two-bedroom dwelling units, etc. being proposed;

(5) a copy of the signed market value analysis verification from the director of housing and neighborhood revitalization; ~~and~~

(6) any other reasonable and pertinent information that the building official determines to be necessary for review; and

(7) <Reserved for additional requirements as referred by Building Inspections>

(c) Building permit issuance. Before the issuance of a building permit, the mixed-income restrictive covenant must be recorded in the county in which the building site is located, and an official copy of the executed and recorded mixed-income restrictive covenant must be submitted to the building official.

(d) Minimum units required.

(1) A development using a development bonus in this division must provide a minimum of ~~one~~ five reserved dwelling units regardless of the percentage of total units required.

(2) In this article, Ffractions of a required reserved dwelling unit will be rounded up to the next whole number.

(3) A development using a development bonus in this ~~division~~ article shall reserve no more than 50 percent of the dwelling units in each development for households at or below 80 percent of area median family income. This maximum percentage of reserved dwelling units

may be waived for developments that are enrolled in a program administered by the department of housing and neighborhood revitalization and authorized by the city council that furthers the public purposes of the city's housing policy and affirmatively furthers fair housing.

(e) Phasing.

(1) To obtain a development bonus for a phased development, a project plan must be submitted to the building official with the initial building permit application.

(2) For a phased development:

(A) the first phase must independently qualify for the development bonus; and

(B) each subsequent phase combined with all previous phases already completed or under construction must also qualify for the development bonus.

(3) A project taking advantage of a development bonus may consist of two or more building sites if they are developed under a project plan. The project plan must be:

(A) signed by all property owners; and

(B) approved by the building official.

(f) Certificate of occupancy. Before the issuance of a final certificate of occupancy for a multifamily or retirement housing use, the owner must submit to the building official any additional information needed to ensure compliance with the terms of the building permit and the mixed-income restrictive covenant, including:

(1) The approved affirmative fair housing marketing plan described in Section 20A-31(g);

(2) A letter from the director of housing and neighborhood revitalization certifying that the development complies with the mixed-income restrictive covenant; and (Ord. 31152)

(3) A letter from the director of housing and neighborhood revitalization certifying that the development has provided proof that the development has registered with one or more local providers of housing vouchers and has acknowledged that the development must pass the provider's required inspections.

SEC. 51A-4.1106. DEVELOPMENT ~~REQUIREMENTS~~ REGULATIONS.

(a) Except as provided in Section 51A-4.1105(e) and in this section, all reserved dwelling units must be provided on the same building site as the market rate units.

(b) Reserved dwelling units must be dispersed throughout the residential floor area of each building.

(c) Reserved dwelling units must not be segregated or concentrated in any one floor or area of any buildings but must be dispersed throughout all residential buildings.

(d) Reserved dwelling units may float within each dwelling unit type.

(e) Reserved dwelling units must be of comparable finish-out and materials as the market rate dwelling units and must be equally available to eligible families or voucher holders as other market rate dwelling unit tenants.

(f) Except as provided in Section 20A-31(i), reserved dwelling units must be dispersed substantially pro-rata among the total unit types so that not all the reserved dwelling units are efficiency or one-bedroom units. For example, if 10 percent of the total dwelling units are reserved dwelling units, 10 percent of the efficiency units, 10 percent of the one-bedroom units, 10 percent of the two-bedroom units, 10 percent of the three-bedroom units (and so on, if applicable) must be reserved dwelling units.

~~—(1) A maximum 10 percent of the total units may be specialty units including club suites and penthouse suites and are not required to be part of the dispersal of reserved dwelling units by type; however, the overall 10 percent requirement is calculated based on the total number of all units.~~

~~—(2) In determining the required number of reserved dwelling units, fractional units are counted to the nearest whole number, with one half counted as an additional unit, but a minimum of one unit is required.~~

(g) Eligible families or voucher holders occupying reserved units may not be restricted from common areas and amenities unless the restrictions apply to all dwelling unit occupants.

(h) Type One developments are eligible to receive the mixed income housing development bonuses as outlined in the respective district regulation section of this Chapter and are eligible to participate in the One Dallas Options administrative and financial incentives in accordance with Chapter 20A-xxx and the comprehensive housing policy, as amended.

(i) Type Two developments are eligible to receive mixed income housing development bonuses as outlined in the respective planned development district conditions and are eligible to participate in the One Dallas Options administrative and financial incentives in accordance with Chapter 20A-xxx and the comprehensive housing policy, as amended.

(j) Type Three developments are eligible to receive the following development bonuses with the reservation of a minimum of 5% of total units with a minimum of 5 reserved units.

(1) Dwelling Unit Bonus. The number of reserved units required is calculated based on the total number of dwelling units, after the dwelling unit bonus is determined.

<u>MVA Category</u>	<u>Tier 1</u> <u>(<= 50% of AMFI)</u>	<u>Tier 2</u> <u>(51 – 80% of AMFI)</u>	<u>Tier 3</u> <u>(81 – 100% of AMFI)</u>
<u>MVA A – F</u>	<u>20%</u>	<u>10%</u>	<u>5%</u>
<u>MVA G - I</u>	<u>40%</u>	<u>30%</u>	<u>20%</u>

(2) Floor Area Ratio Bonus

<u>MVA Category</u>	<u>Tier 1</u> <u>(<= 50% of AMFI)</u>	<u>Tier 2</u> <u>(51 – 80% of AMFI)</u>	<u>Tier 3</u> <u>(81 – 100% of AMFI)</u>
<u>MVA A – F</u>	<u>25%</u>	<u>15%</u>	<u>5%</u>
<u>MVA G - I</u>	<u>45%</u>	<u>35%</u>	<u>25%20%</u>

(3) Height Bonus

<u>MVA Category</u>	<u>Tier 1</u> <u>(<= 50% of AMFI)</u>	<u>Tier 2</u> <u>(51 – 80% of AMFI)</u>	<u>Tier 3</u> <u>(81 – 100% of AMFI)</u>
<u>MVA A – F</u>	<u>25%</u>	<u>15%</u>	<u>5%</u>
<u>MVA G - I</u>	<u>45%</u>	<u>35%</u>	<u>25%20%</u>

(4) Parking Reduction

<u>MVA Category</u>	<u>Tier 1</u> <u>(<= 50% of AMFI)</u>	<u>Tier 2</u> <u>(51 – 80% of AMFI)</u>	<u>Tier 3</u> <u>(81 – 100% of AMFI)</u>
<u>MVA A – F</u>	<u>100%</u>	<u>50%</u>	<u>20%</u>
<u>MVA G - I</u>	<u>100%</u>	<u>70%</u>	<u>40%</u>

(k) The requirements for on-site reserved units in this division may be met by alternative methods as provided in Chapter 20A-xxxx (Ord. 31152)

SEC. 51A-4.1107. DESIGN STANDARDS.

(a) In general.

(1) To obtain a development bonus under this division, a qualifying development must meet the requirements of this section, where applicable.

(2) Except as provided in this section, the board of adjustment may not grant a variance or special exception to the standards in this section.

(b) Yard, lot, and space standards.

(1) Encroachments. The following additional items are permitted to be located within the required front, side, and rear yards:

(A) Seat walls, retaining walls, stoops, porches, steps, unenclosed balconies, ramps, handrails, safety railings, and benches all not exceeding four feet in height and extending a maximum of five feet into the required minimum yards.

(B) Landscape planters.

(C) Sculptures.

(D) Awnings

(2) Front yard fences. A maximum four-foot-high fence is allowed in a front yard. A maximum four-foot-high handrail may be located on retaining walls in a front yard.

(3) Height. Maximum height is controlled by the development bonus provisions and must comply with residential proximity slope regulations if applicable.

(c) Off-street parking and loading.

(1) In general. Except as provided in this section, consult the use regulations in Division 51A-4.200 for the specific off-street parking and loading requirements for each use.

(2) Multifamily parking. Except as provided in this paragraph, one and one-quarter space per dwelling unit is required, or per the requirements of Division 51A-4.200 or a successor ordinance, whichever requires fewer spaces. ~~is required.~~

(A) At least 15 percent of the required parking must be available for guest parking.

(B) For developments with transit proximity, one space per dwelling unit is required. At least 15 percent of the required parking must be available for guest parking.

(3) Retirement housing. One space per dwelling unit is required.

(4) Parking locations.

(A) In general. Except as provided in this subparagraph, ~~S~~surface parking is prohibited between the street-facing facade and the property line. For buildings with more than one street frontage, only two street frontages are subject to this requirement.

(B) Thoroughfare frontage. For buildings fronting on a thoroughfare, surface parking is prohibited within the front setback.

(C) Surface parking. A maximum of 15 percent of the total on-site parking may be provided as surface parking in a side yard.

(D) Parking structures. That portion of the ground-level floor facing the street of any multi-floor parking facility must have an active use other than parking, with a minimum depth of 25 feet, or must have an exterior facade that is similar in materials, architecture, and appearance to the facade of the main structure. Exterior parking structure facade openings must provide solid screening a minimum 42 inches from the floor level within the parking structure to screen vehicles and vehicle headlights.

(E) Assigned parking. For assigned parking spaces, those spaces allotted for reserved dwelling units must be dispersed and distributed amongst all other assigned parking for similar units.

(5) Passenger loading.

(A) Each building site must provide at least one off-street or on-street passenger loading space. The board of adjustment may grant a variance to this subparagraph.

(B) On-street passenger loading zones, if provided, must be constructed in compliance with Architectural Barrier Act accessibility standards and must be approved by the director and by the director of public works.

(6) Screening of off-street loading spaces and service areas. Screening must be at least six feet in height measured from the horizontal plane passing through the nearest point of the off-street loading space and may be provided by using any of the methods described in Section 51A-4.602 (b)(3), except that screening around service areas for trash collection must be screened by a masonry wall with a solid gate.

(d) Street and open space frontages.

(1) Frontages. All street-fronting facades and open-space fronting facades must have at least one window and at least one common primary entrance facing the street or open space at street-level. The entrance must access the street or open space with an improved path connecting to the sidewalk. A transparent surface is required for every 25 linear feet of continuous street-fronting and open-space-fronting facade.

(2) Individual entries. Except as provided in this paragraph, a minimum of 60 percent of the street-level dwelling units adjacent to a street in each building must have individual entries that access the street with an improved path connecting to the sidewalk. For at-grade open space, a minimum of 60 percent of the open-space fronting dwelling units in each building must have individual entries that access the open space. **EXCEPTION.** This paragraph does not apply to retirement housing.

(e) Sidewalk, lighting, and driveway standards.

(1) Sidewalks.

(A) A sidewalk with a minimum average width of six feet must be provided along all street frontages.

(i) Except as provided in this subsection, all sidewalks must be clear and unobstructed for a minimum of five feet in width.

(ii) Tree grates do not count toward the minimum unobstructed sidewalk width.

(iii) If the building official determines that the location of a local utility or protected tree, as defined in Article X, would prevent a five-foot minimum width, the sidewalk may be reduced to four feet in width in that location.

(B) Sidewalks must be located in an area parallel to and between two feet and 15 feet of the back of the projected street curb.

(2) Lighting.

(A) Special lighting requirement. Exterior lighting sources, if used, must be oriented down and onto the property they light and generally away from adjacent residential properties.

(B) Pedestrian scale lighting. For a development greater than 20,000 square feet of floor area, pedestrian scale lighting that provides a minimum maintained average illumination level of 1.5 foot candles must be provided along public sidewalks and adjacent to public streets. The design and placement of both the standards and fixtures must be approved by the director of transportation. Unless otherwise provided, the property owner is responsible for the cost of installation, operation, and maintenance of the lighting.

(f) Open space requirements.

(1) At least 10 percent of the building site must be reserved as open space for activity such as active or passive recreation, playground activity, groundwater recharge, or landscaping.

(A) No structures except for architectural elements; playground equipment; structures that are not fully enclosed such as colonnades, pergolas, and gazebos; and ordinary projections of window sills, bay windows, belt courses, cornices, eaves, and other architectural features are allowed; otherwise, open space must be open to the sky.

(B) Open space may contain primarily grass, vegetation, or open water; be primarily used as a ground-water recharge area; or contain pedestrian amenities such as fountains, benches, paths, or shade structures.

(C) Open space may also be provided at or below grade or aboveground by an outside roof deck, rooftop garden, playground area, pool area, patio, or similar type of outside common area.

(D) Private balconies, sidewalks, parking spaces, parking lots, drive aisles, and areas primarily intended for vehicular use are not considered open space and do not count towards the open space requirement.

(E) Operation or parking of vehicles within on-site open space is prohibited. Emergency and grounds maintenance vehicles are exempt.

(F) Open spaces must be properly maintained in a state of good repair and neat appearance, and plant materials must be maintained in a healthy, growing condition.

(2) Landscape areas that fulfill the requirements of Article X may also fulfill these requirements if all conditions of this section and Article X are met.

(g) Non-required fences. Unless a use specifically requires screening, all fences for uses along a street or trail must have a surface area that is a minimum of 50 percent open, allowing visibility between three feet and six feet above grade. The exceptions for multifamily districts in Sections 51A-4.602 (a)(2) and 51A-4.602 (a)(4) which provide that a fence exceeding four feet above grade may be erected in a front yard in multifamily districts are not applicable. (Ord. 31152)

SEC. 51A-4.1108 BOARD OF ADJUSTMENT VARIANCES.

A development that is eligible to receive the bonuses in this division ~~must~~may either use the bonuses or go to the board of adjustment to seek a variance but may not do both for the same yard, lot, and space regulations. (Ord. 31152)