

FILE NUMBER: DCA 201-008

DATE INITIATED:

Fall 2021

TOPIC: Development Code Amendment to the Dallas Development Code to support and align with the One Dallas Options program within the City of Dallas Comprehensive Housing Policy

CITY COUNCIL DISTRICTS: All

CENSUS TRACTS: All

PROPOSAL: Consideration of amending Section 51A-4.1100 “Mixed Income Housing”; modifying the applicability standards; adding a new set of development bonuses for mixed income housing; providing for alternate methods of meeting the on-site unit reservation requirement; and making minor amendments for consistency with other sections.

SUMMARY: The proposed code amendments will align 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.

ZONING ORDINANCE ADVISORY COMMITTEE RECOMMENDATION: Approval

STAFF RECOMMENDATION: Approval

BACKGROUND:

- On October 21, 2021; November 4, 2021; November 18, 2021; and December 16, 2021, the Zoning Ordinance Advisory Committee (ZOAC) considered amending Chapter 51A-4.1100 of the Dallas Development Code.
- On January 11, 2021; June 8, 2021; and December 14, 2021, the Housing and Homelessness Solutions (HHS) Committee of City Council was briefed on the One Dallas Options program and related amendments to various chapters of city code and the Comprehensive Housing Policy.
- On May 11, 2021 and November 15, 2021, the Housing Policy Task Force was briefed on the One Dallas Options program and related amendments to various chapters of city code and the Comprehensive Housing Policy.
- On December 16, 2021, ZOAC voted to recommend approval of the proposed amendments to City Plan Commission (CPC). In the approval motion, ZOAC directed staff to (1) develop a definition and standards for legacy buildings and (2) consider modifications to incentives for developments within MVA Categories G, H, and I.
- On January 6, 2022, CPC was briefed on the proposed amendments and provided feedback to staff.

GENERAL INFORMATION ON MIXED INCOME HOUSING DEVELOPMENT BONUS:

On March 27, 2019, City Council approved amendments to Chapter 51A of the Dallas Development Code to allow by-right development bonuses to incentivize new mixed-income multifamily development. These by-right bonuses are available in MF – Multifamily Districts and MU – Mixed Use Districts, specifically MF-1(A), MF-2(A), and MF-3(A) Multifamily Districts and MU-1, MU-2, and MU-3 Mixed Use Districts. These districts represent approximately 15,000 acres across the city.

Council also approved a new Chapter 20A-II - Mixed Income Housing which outlined requirements for managing mixed income developments approved using the Mixed Income Housing Development Bonus (MIHDB).

The MIHDB is a regulatory framework that trades a parking reduction and additional development rights (height, stories, FAR, density, lot coverage, etc.) for a development reserving a certain percentage of the residential units for households at a certain percentage of the area median family income. For example, in MF-1(A) districts, a developer could build to 51' and 80% lot coverage (rather than 36' and 60% lot coverage) in exchange for reserving 5% of the units for households within a certain income band, such as 61-80% Area Median Family Income (AMFI).

The by-right bonuses in Chapter 51A and the requirements in Chapter 20A-II also provided a framework for new and amended planned development districts (PDs) to offer a base plus

a negotiated bonus. Regulatory bonuses and the reserved unit requirements are specified in the PD, along with references to the administrative procedures in Division 51A-4.1100 and by reference the procedures in Chapter 20A-II.

Current and Ongoing Status of Mixed Income Housing in Dallas

A total of thirteen new mixed income multifamily communities are currently under construction or finished and using the bonus, for a total of 3,477 units, 435 of which are reserved dwelling units. Seven more mixed income multifamily communities are in the pre-development phase, totaling 1,772 units, 373 of which are reserved dwelling units. Another handful of zoning cases have been approved recently with a mixed income component and an expectation that the bonus will be used.

In total, the current MIHDB program has more than 5,300 units complete, under construction or in pre-development.

The proposed enhancements to this program are expected to incentivize additional development in the coming years.

Overview of Current Div. 51A-4.1100 Regulations

Div. 51A-4.1100 regulates the development code portion of the MIHDB. Among other things, this division lays out the following items:

- The development bonus period
- Details regarding the permitting process, including minimum units required, phasing, and procedures to obtain a certificate of occupancy
- Development requirements, including requirements related to the unit mix and the finish out of the reserved units
- Design standards, including requirements for pedestrian amenities, fencing, parking locations, sidewalk width, lighting, frontages, and open space requirements

Overview of Chapter 20A

Article 20A-II regulates the fair housing portion of the MIHDB by specifying requirements related to the management of the properties, rental rates, tenancy, and other items related to the residents. Among other things, this article includes the following items:

- Definitions related to income, rent, area median family income, eligible households, voucher requirements, and references to certain federal documents and requirements.
- Procedures related to obtaining a development bonus, including requirements for the restrictive covenant.
- Procedures related to eligibility determination, wait lists, over/under occupancy, income limits, affordable rents, certification of eligibility, tenant selection, marketing, and compliance

ONE DALLAS OPTIONS:

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 and financial – in exchange for on-site provision of reserved dwelling units, land dedication, or a fee paid in lieu of providing the required units.

The regulatory incentives will be incorporated into Chapter 51A. The financial incentives, which do not have a direct relationship to land use, will be incorporated into Chapter 20A – Fair Housing and Mixed Income Housing and into the Comprehensive Housing Policy.

Regulatory Incentives (Chapter 51A-4.1100)

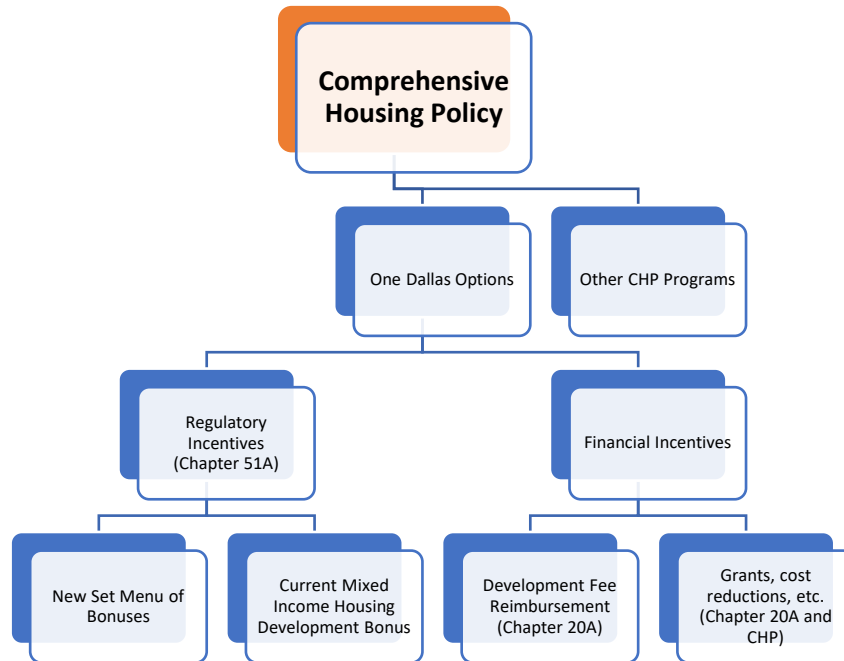
The regulatory incentives proposed to reside in Chapter 51A provide a set of specific increases in development rights.

- In the multifamily and mixed use base zoning districts and in existing planned development districts, the existing regulatory bonuses, if any, remain largely unchanged, but developers will be able to access the financial bonuses and alternative provision options 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 financial bonuses in the new program. The specific bonuses are in the proposed amendments below.

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.

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



Proposed changes to Chapter 20A

City Council will review proposed changes to regulations in Chapter 20A, including regulations regarding:

- Alternative methods of compliance with the requirements in Div. 51A-4.1100, including fee in lieu and land dedication.
- Financial incentives to encourage on-site development of reserved units
- Enhanced procedures to ensure that developments do not discriminate against voucher holders

Proposed changes to the Comprehensive Housing Policy (CHP) to provide for One Dallas Options and the One Dallas Fund

The CHP will have two program statements, one for the One Dallas Options program itself and a second program statement guiding the use of the fund.

The One Dallas *Options* program statement provides the details of program administration and points to Div. 51A-4.1100 and Art. 20A-II for regulatory language.

The One Dallas *Fund* program statement provides guidance for the use of the fund, including the fund’s goals, eligible activities, applicant eligibility, and process for award of funding.

To support the goals of the CHP, the fund will work to attract affordable housing to strong neighborhoods (Market Value Analysis (MVA) Categories A, B, and C), to attract mixed income communities and reduce displacement in gentrifying and transitioning areas (MVA

Categories D, E, and F), and to support equitable revitalization in weaker market areas (MVA Categories G, H, and I).

The fund may be used to:

- Create/preserve reserved dwelling units and increase affordability in MVA Categories A, B, and C and rapidly gentrifying D, E, and F
- Support equitable revitalization in D through I:
 - Incentivize new market-rate units in mixed income communities
 - Renovate existing owner-occupied homes and existing affordable apartment communities
 - Build new neighborhood infrastructure, especially in support of home ownership opportunities
- Expand programs in the CHP, including home ownership opportunities such as mortgage assistance
- Administration

The City will use an equity lens to award funding through the City's existing development funding application process in the Department of Housing & Neighborhood Revitalization.

PROPOSED AMENDMENTS TO CHAPTER 51A-4.1100:

The proposed amendments to Chapter 51A-4.1100 "Mixed Income Housing" are intended to implement the goals of the proposed One Dallas Options program. Amendments to Chapter 51A-4.1100 are limited to regulatory items that are governed by the Dallas Development Code, such as density, height, floor-area ratio, and related standards. The regulatory bonuses within the current Mixed Income Housing Development Bonus program will remain largely unchanged and are 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 references to Chapter 20A to allow for alternative methods of meeting the reserved unit requirement, such as dedicating land or paying a fee in lieu of onsite provision.
 - c) Align Chapter 51A with Department of Housing & Neighborhood Revitalization policies for project qualification.
 - d) Amend Mixed Income Housing Development Bonus with additional parking reduction.
2. Minor non-substantive amendments to Chapter 51A-4.1100
 - a) Address method for rounding fractions of a required reserved unit
 - b) Other text amendments and clarifications explained below.

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

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

The proposed **One Dallas Options** program includes a set menu of development bonuses that may be accessed by planned development districts that expressly reference compliance with Section 51A-4.1106(j). 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. This regulatory **One Dallas Options** bonus scheme is only accessible to Type 3 developments (see below). This menu of options builds in flexibility so that as market conditions change between zoning approval and permit submission, the developer can pick bonuses (and required affordability) from the menu rather than a pre-selected, narrow group of bonuses. As with any PD, during the zoning process limitations on the menu of options could be set if needed, based on land use considerations.

A minimum of one reserved unit or a percentage of the total units (determined by the income tier served), whichever is higher, must be provided in order to access the development bonuses. The bonuses are determined by the MVA category of the development site and the Area Median Family Income (AMFI) Tier for which units are reserved. Again, as with any PD, the minimum number of units could be adjusted during the zoning process based on land use considerations.

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.

To incorporate these new bonus categories, staff recommends dividing sites with different zoning classifications into “types.” 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. All three types are eligible for financial incentives and may access the options for alternative provision.

- Type One developments include those located in MF(A) and MU districts (including those with public deed restrictions 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 remains largely unchanged.
- Type Two developments include those located in planned development districts that include an expressly-stated development bonus for providing

mixed income housing. Type Two developments are eligible to receive the regulatory bonus that is provided in their respective PD, but are not eligible for the menu of bonuses in Sec. 51A-4.1106(j).

- 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 in Sec. 51A-4.1106(j).

b) Option to pay fee-in-lieu or dedicate land of providing reserved units onsite

This addition allows for a developer proposing a Type One, Two, or Three development 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 and would be subject to the One Dallas Fund program statement in the CHP.

The goal of One Dallas Options is to 1) create housing and 2) offer additional options for providing housing at a wide variety of price points. This additional local funding source allows Council to approve unique initiatives with non-profit organizations, for-profit developers, community housing development corporations, houses of worship, and other entities.

There is also an option for a developer to dedicate land for affordable housing construction, with City Council approval.

c) 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.

- d) *Amend Mixed Income Housing Development Bonus with additional parking reduction.*

Recent utilization studies show that the current by-right MIHDB requirement of 1.25 spaces per unit, while a reduction from the parking requirements in Sec. 51A-4.209, is still higher than documented parking utilization rates in all but the most suburban multifamily developments. Given the ongoing housing supply crisis, the proposed Development Code amendment of requiring a minimum of 0.5 spaces per unit regardless of transit proximity prioritizes the provision of housing over potentially excess parking. With this reduction in minimum parking requirements, developers would continue to be allowed to build as much parking as their analysis determines the development would need; it just would end the City's current requirement that mixed income multifamily developers provide more parking than necessary.

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

The proposed amendments also include several clarifying amendments, including:

- A path forward for developments in MF and MU districts that propose to use the bonus but that have deed restrictions
- A definition of a legacy building and associated language related to design requirements
- Clarification of required elements in the building permit application to include square footage counts
- Clarification that parking requirements are the lesser of this division requirement or the base requirement of Chapter 51A, as amended.
- Fractions of a reserved dwelling unit will be rounded up
- Clarification that the dispersal requirements in a phased development apply only to buildings and phases with reserved units
- Required registration with one or more local providers of housing vouchers
- A reference to Chapter 20A to allow for the on-site provision to be met by alternative methods (land dedication and fee in lieu) as provided in Chapter 20A.
- An additional requirement that, unless waived, sidewalks must be continuous and level across all driveways and curb cuts.
- The following minor changes are not specifically highlighted:
 - References to the Comprehensive Housing Policy, which will be undergoing revisions this coming year, have been removed.
 - Redundant language that has been removed.

Proposed Amendments

*Black underlines and strikethroughs represent changes from the current ordinance

*Highlighted sections represent modifications between ZOAC approval and this version.

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~~ as below:

(1) Type One developments include those in:

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

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

_____ (3~~C~~) MF-1(A), MF-2(A), and MF-3(A) Multifamily Districts with public deed restrictions ~~that only limit allowed uses~~. In the event of a conflict between a public deed restriction that modifies development standards and this division, the more restrictive standard controls;

_____ (D~~4~~) MU-1, MU-2, and MU-3 Mixed Use Districts with public deed restrictions ~~that only limit allowed uses~~. In the event of a conflict between a public deed restriction that modifies development standards and this division, the more restrictive standard controls; and

_____ (E~~5~~) 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~~ **do not alter the yard, lot, space, and parking regulations. In the event of a conflict between such planned development district and this division, the more restrictive standard controls.**

(32) Type Two developments include those in planned development districts that specify mixed-income development bonuses **or** 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). In the event of a conflict between the standards in a planned development district and this division, the planned development district conditions control.

(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) LEGACY BUILDING means a building constructed on or before January 1, 2000.

(78) 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.

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

(910) ONE DALLAS OPTIONS means the One Dallas Options program as described in Chapter 20A-II.

(911) 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.

~~(4012)~~ 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."

~~(4413)~~ 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.

~~(4214)~~ 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.

~~(4315)~~ 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.

~~(4416)~~ STOOP means a small porch leading to the entrance of a residence.

~~(1517) TRANSIT PROXIMITY means development within one-half mile, measured radially, 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.~~

~~(4618)~~ 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 before applying for a permit for construction, 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) the total floor area as defined by Chapter 51A-2.102(38) and the floor area devoted to residential uses as defined in Section 51A-4.209; and.

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

(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 reserved dwelling units regardless of the percentage of total units required.

(2) In this article, Fractions of a **the total** required reserved dwelling units 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; **and**

(C) the dispersal requirements in Sec. 51A4.1106 apply only to buildings and phases with reserved units.

(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 include a unit dispersal plan and** 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 REQUIREMENTSREGULATIONS.

(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 in accordance with Chapter 20A-23.1, as amended.

(i) Type Two developments are eligible to receive mixed income housing development bonuses as outlined in the respective planned development district conditions in accordance with Chapter 20A-23.1, as amended.

(j) Type Three developments with a minimum of 70 percent of the floor area devoted to residential uses are eligible to receive the following mixed income housing development bonuses with the reservation of the required minimum percentage of total units with a minimum of 1 reserved unit according to the following <subsection> and in accordance with Chapter 20A-23.1, as amended.

(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.

MVA Category	Tier 1 (≤ 50% of AMFI) Minimum 3% of units	Tier 2 (51 – 80% of AMFI) Minimum 5% of units	Tier 3 (81 – 100% of AMFI) Minimum 10% of units
MVA A – F	20% 50%	10% 30%	5% 20%
MVA G - I	40% 60%	30% 40%	20% 30%

(2) Floor Area Ratio Bonus. This bonus applies only to residential floor area ratio.

MVA Category	Tier 1 (≤ 50% of AMFI) Minimum 3% of units	Tier 2 (51 – 80% of AMFI) Minimum 5% of units	Tier 3 (81 – 100% of AMFI) Minimum 10% of units
MVA A – F	+1.5	+1.0	+0.5
MVA G - I	+2.5	+2.0	+1.0

(3) Height Bonus. This bonus applies to any use. The bonus applies to building height as measured in the relevant planned development district. Any fractional units are rounded to the nearest whole number, with one half unit being rounded to the next greater whole number. Any height bonus leading to a fraction of an additional story is rounded to the next higher story.

MVA Category	Tier 1 (≤ 50% of AMFI) Minimum 3% of units	Tier 2 (51 – 80% of AMFI) Minimum 5% of units	Tier 3 (81 – 100% of AMFI) Minimum 10% of units
MVA A – F	25%	15%	5% 10%
MVA G - I	45%	35%	20%

(4) Stories Bonus. This bonus applies to any use. The bonus applies to building stories as measured in the relevant planned development district. Any story bonus leading to a fraction of an additional story is rounded to the next higher story.

MVA Category	Tier 1 (≤ 50% of AMFI) Minimum 3% of units	Tier 2 (51 – 80% of AMFI) Minimum 5% of units	Tier 3 (81 – 100% of AMFI) Minimum 10% of units

<u>MVA A – F</u>	<u>25%</u>	<u>15%</u>	<u>10%</u>
<u>MVA G - I</u>	<u>45%</u>	<u>35%</u>	<u>20%</u>

(5) Parking Reduction. This bonus applies to the total number of parking spaces required for all uses except alcoholic beverage establishments, commercial amusement (inside), commercial amusement (outside), restaurant without drive-in or drive-through service, and restaurant with drive-in or drive-through service.

<u>MVA Category</u>	<u>Tier 1</u> <u>(<= 50% of AMFI)</u> <u>Minimum 3% of units</u>	<u>Tier 2</u> <u>(51 – 80% of AMFI)</u> <u>Minimum 5% of units</u>	<u>Tier 3</u> <u>(81 – 100% of AMFI)</u> <u>Minimum 10% of units</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-23.1.

SEC. 51A-4.1107. DESIGN STANDARDS.

(a) In general.

(1) Except as provided in this section, 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.

(3) Type 3 development may deviate from this section, subject to the following conditions:
(A) The planned development district conditions must require that a development plan be submitted, approved, and added to the conditions prior to issuance of a building permit.

(B) The planned development district conditions must require that a landscape plan be submitted, approved, and added to the conditions prior to issuance of a building permit.

(C) A development plan, landscape plan, or any other plans required by the planned development conditions in accordance with this subsection must be reviewed in accordance with the standards in this section. A development plan, landscape plan, or any other plan required by this section must meet or exceed the standards in this section.

(3) -At the discretion of the director, historic properties or buildings may be exempt from portions of the requirements of this section. Except if the legacy building is destroyed by the intentional act of the owner or the owner’s agent, a person may use the bonuses provided in this division to renovate, remodel, repair, rebuild, or enlarge a legacy building if the work does not cause

the legacy building to become more nonconforming as to the requirements in Sec. 51A-4.1107 and the applicable zoning district.

(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~~ division, ~~one and one-quarter~~ one-half 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-half space per dwelling unit is required, or per the requirements of Division 51A-4.200 or a successor ordinance, whichever requires fewer spaces. At least 15 percent of the required parking must be available for guest parking.

(3) Retirement housing. 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.

(4) Parking locations.

(A) In general. Except as provided in this subparagraph, Ssurface 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.

(C) In accordance with the Street Design Manual, sidewalks must be continuous and level across all driveways and curb cuts and designed to be at the same grade as the existing sidewalk, wherever possible. A waiver of this requirement is available subject to approval of the director.

(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](#))