

5-10-22

ORDINANCE NO. 32210

An ordinance amending Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code by amending Division 51A-4.1100; providing new definitions; modifying eligibility standards; clarifying floor area measurements; clarifying phasing and dispersal plan requirements; providing additional development bonuses; reducing minimum parking requirements; providing a penalty not to exceed \$2,000; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, the city plan commission and the city council, in accordance with the Charter of the City of Dallas, the state law, and the ordinances of the City of Dallas, have given the required notices and have held the required public hearings regarding this amendment to the Dallas City Code; Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Subsection (a), “In General,” of Section 51A-4.1102, “Applicability,” of Division 51A-4.1100, “Mixed-Income Housing,” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

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

(1) Type One developments are located in:

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

(B[2]) MU-1, MU-2, and MU-3 Mixed Use Districts.~~;~~

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

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~~(D[4]) MU-1, MU-2, and MU-3 Mixed Use Districts with public deed restrictions. If there is a conflict between a public deed restriction that modifies development standards and this division, the more restrictive standard controls. [that only limit allowed uses; 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 do not alter the yard, lot, and space or parking regulations. If there is a conflict between the planned development district regulations and this division, the more restrictive standard controls [only alter the allowed uses].~~

~~(2) Type Two developments are located in planned development districts that specify mixed-income development bonuses or that reference compliance with this division.~~

~~(3) Type Three developments are located in planned development districts that reference compliance with this division and expressly reference compliance with Section 51A-4.1106(f). If there is a conflict between the standards in a planned development district and this division, the planned development district conditions control.~~

SECTION 2. That Subsection (a), “Definitions,” of Section 51A-4.1103, “Definitions and Interpretations,” of Division 51A-4.1100, “Mixed-Income Housing,” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(a) Definitions. In this division:

(1) AFFORDABLE RENT means affordable rent as defined in Section 20A-24(2)~~[: (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 U.S. 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) EXISTING BUILDING means a building constructed on or before December 31, 2021.

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

(7[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).

(8[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.

(9) MIXED INCOME HOUSING DEVELOPMENT BONUS program (MIHDB) means the Mixed Income Housing Development Bonus program as described in the Comprehensive Housing Policy.

(10[8]) MIXED-INCOME RESTRICTIVE COVENANT means a covenant running with the land that meets the requirements of this division and Chapter 20A.

(11[9]) 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.

(12[10]) 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."

(13[11]) 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.

(14[12]) 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.

(15[13]) 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.

(16[14]) STOOP means a small porch leading to the entrance of a residence.

(17[15]) 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.

(18[16])VOUCHER HOLDER means a holder of a housing voucher, including vouchers directly or indirectly funded by the federal government.”

SECTION 3. That Section 51A-4.1105, “Procedures to Obtain a Development Bonus,” of Division 51A-4.1100, “Mixed-Income Housing,” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

**“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) Before applying for a permit for construction in accordance with this division, and Section 20A-25 o[O]wners shall:

(A) obtain a certified verification of the building site’s MVA category;  
[and shall]

(B) sign a reserved dwelling unit verification [~~before applying for a permit for construction in accordance with this division and Section 20A-25.~~] ; and

(C) obtain certified verification of participation in the mixed income housing development bonus program.

(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) the certified verification of the building site's MVA category, the reserved dwelling unit verification, and the certified verification of participation in the mixed income housing development bonus program [~~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

(7) 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 unit regardless of the percentage of total units required.

(2) In this division, calculations of the total number of required reserved units that result in fractions of a required unit must [~~will~~] be rounded up to the next whole number.

(3) A development using a development bonus in this division must [~~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

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(C) the dispersal requirements in Section 51A-4.1106 only apply 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.

(3) A letter documenting 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.

SECTION 4. That Section 51A-4.1106, "Development Requirements," of Division 51A-4.1100, "Mixed-Income Housing," of Article IV, "Zoning Regulations," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended to read as follows:

**"SEC. 51A-4.1106. DEVELOPMENT REGULATIONS [REQUIREMENTS].**

(a) Reserved dwelling unit location requirements. 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.

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

(2[e]) 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.

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

(4[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.

(b[f]) Pro-rata dispersal of reserved dwelling units.

(1) In general. Except as provided in Section 20A-31(i) and this subsection, 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.

(2[+]) Specialty units.

(A) 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, specialty units are included in the total number of all units used to calculate the number of reserved units.

(B) Units may not be designated as specialty units solely due to the number of bedrooms in the unit. [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.]~~

(c[g]) Common areas and amenities. 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.

(d) Type One developments. Type One developments are eligible to receive the mixed income housing development bonuses in the specific district regulations in accordance with Section 20A-23.1, as amended.

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

(f) Type Three developments. Type Three developments with a minimum of 80 percent of floor area devoted to residential uses are eligible to receive the following mixed income housing development bonuses according to this subsection and in accordance with Section 20A-23.1, as amended. A minimum of one reserved unit or the percentage of total units in a tier, whichever is greater, must be provided.

(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> ( $\leq 50\%$ of AMFI) Minimum 3% of units	<u>Tier 2</u> (51 – 80% of AMFI) Minimum 5% of units	<u>Tier 3</u> (81 – 100% of AMFI) Minimum 10% of units
<u>MVA A – F</u>	Greater of 50% or an additional 80 units	Greater of 30% or an additional 60 units	Greater of 20% or an additional 40 units
<u>MVA G - I</u>	Greater of 60% or an additional 80 units	Greater of 40% or an additional 60 units	Greater of 30% or an additional 40 units

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

<u>MVA Category</u>	<u>Tier 1</u> ( $\leq 50\%$ of AMFI) Minimum 3% of units	<u>Tier 2</u> (51 – 80% of AMFI) Minimum 5% of units	<u>Tier 3</u> (81 – 100% of AMFI) Minimum 10% of units
<u>MVA A – F</u>	Greater of 25% or an additional 1.5 FAR	Greater of 15% or an additional 1.0 FAR	Greater of 10% or an additional 0.5 FAR
<u>MVA G - I</u>	Greater of 45% or an additional 2.5 FAR	Greater of 35% or an additional 2.0 FAR	Greater of 20% or an additional 1.0 FAR

(3) Height bonus. This bonus applies to all uses. Any height bonus leading to a fraction of an additional story is rounded to the next higher story. Except as provided in this subsection the following bonuses apply:

<u>MVA Category</u>	<u>Tier 1</u> ( $\leq 50\%$ of AMFI) Minimum 3% of units	<u>Tier 2</u> (51 – 80% of AMFI) Minimum 5% of units	<u>Tier 3</u> (81 – 100% of AMFI) Minimum 10% of units
<u>MVA A – F</u>	Greater of 25% or an additional 50 feet	Greater of 15% or an additional 30 feet	Greater of 10% or an additional 15 feet
<u>MVA G - I</u>	Greater of 45% or an additional 50 feet	Greater of 35% or an additional 30 feet	Greater of 20% or an additional 15 feet

(4) Stories bonus. This bonus applies to all uses. Any story bonus leading to a fraction of an additional story is rounded to the next higher story. Except as provided in this subsection the following bonuses apply:

<u>MVA Category</u>	<u>Tier 1</u> ( $\leq 50\%$ of AMFI) Minimum 3% of units	<u>Tier 2</u> (51 – 80% of AMFI) Minimum 5% of units	<u>Tier 3</u> (81 – 100% of AMFI) Minimum 10% of units



<u>MVA A – F</u>	<u>Greater of 25% or an additional four stories</u>	<u>Greater of 15% or an additional three stories</u>	<u>Greater of 10% or an additional two stories</u>
<u>MVA G - I</u>	<u>Greater of 45% or an additional four stories</u>	<u>Greater of 35% or an additional three stories</u>	<u>Greater of 2% or an additional two stories</u>

(5) Conflicts. In the case of a conflict between a height bonus and a stories bonus the greater bonus applies.

(6) Parking reduction. This reduction only applies to the total number of required off-street parking spaces for nonresidential 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 (≤ 50% of AMFI) Minimum 3% of units</u>	<u>Tier 2 (51 – 80% of AMFI) Minimum 5% of units</u>	<u>Tier 3 (81 – 100% of AMFI) Minimum 10% of units</u>
<u>MVA A – F</u>	100%	50%	20%
<u>MVA G - I</u>	100%	70%	40%

(g) Alternative methods. The requirements for on-site reserved units in this division may be met by alternative methods as provided in Section 20A-23.1, as amended.”

SECTION 5. That Subsection (a), “In General,” of Section 51A-4.1107, “Design Standards,” of Division 51A-4.1100, “Mixed-Income Housing,” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(a) In general.

(1) Except as provided in this section, t[?]o 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) Except if the existing building is destroyed by the intentional act of the owner or the owner’s agent, the existing building may be renovated, remodelled, repaired, rebuilt, or enlarged using the bonuses in this division if the work does not cause the existing building to become more nonconforming as to the requirements in this section and the applicable zoning district.

(4) For off-street parking requirements for residential uses in existing buildings, development bonuses may not reduce the minimum number of required off-street parking spaces beyond the number required in Subsection (c).”

SECTION 7. That Subsection (c), “Off-Street Parking and Loading,” of Division 51A-4.1107, “Design Standards,” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(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, the lesser of one-half [and one-quarter] space per dwelling unit or the minimum number of parking spaces required in Division 51A-4.200, as amended, is required.

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

(B) For developments with transit proximity, the lesser of one-half space per dwelling unit or the minimum number of parking spaces required in Division 51A-4.200, as amended, is required. At least 15 percent of the required parking must be available for guest parking.

(3) Retirement housing. The lesser of one-quarter space per dwelling unit or the minimum number of parking spaces required in Division 51A-4.200, as amended, is required.

(4) Parking locations.

(A) In general. Except as provided in this paragraph, s[S]urface 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.

(7) Review. This subsection must be reviewed by city council within two years of May 11, 2022 and every two years, thereafter.”

SECTION 8. That Paragraph (1), “Sidewalks,” of Subsection (e), “Sidewalk, Lighting, and Driveway Standards,” of Section 51A-4.1107, “Design Standards,” of Division 51A-4.1100, “Mixed-Income Housing,” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(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) Except as provided in this paragraph, sidewalks must comply with the Street Design Manual, be continuous and level across all driveways and curb cuts, and be at the same grade as the existing sidewalk. A waiver of this requirement is available subject to approval of the director.”

SECTION 9. That Section 51A-4.1108, “Board of Adjustment Variances,” of Division 51A-4.1100, “Mixed-Income Housing,” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

**“SEC. 51A-4.1108 BOARD OF ADJUSTMENT VARIANCES.**

A development that is eligible to receive the bonuses in this division may [~~must~~] 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.”

SECTION 10. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

SECTION 11. That Chapter 51A of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 12. That any act done or right vested or accrued, or any proceeding, suit, or prosecution had or commenced in any action before the amendment or repeal of any ordinance, or part thereof, shall not be affected or impaired by amendment or repeal of any ordinance, or part thereof, and shall be treated as still remaining in full force and effect for all intents and purposes as if the amended or repealed ordinance, or part thereof, had remained in force.

SECTION 13. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

SECTION 14. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

CHRISTOPHER J. CASO, City Attorney

By \_\_\_\_\_  
Assistant City Attorney

Passed           MAY 11 2022



## PROOF OF PUBLICATION – LEGAL ADVERTISING

The legal advertisement required for the noted ordinance was published in the Dallas Morning News, the official newspaper of the city, as required by law, and the Dallas City Charter, Chapter XVIII, Section 7.

DATE ADOPTED BY CITY COUNCIL MAY 11 2022

ORDINANCE NUMBER 32210

DATE PUBLISHED MAY 14 2022

ATTESTED BY: