

City of Austin
Council Meeting Backup: May 21, 2026
Case Number: C20-2024-004

ORDINANCE AMENDMENT REVIEW SHEET

Amendment: C20-2024-004 Citywide Density Bonus Program

Description: Amend City Code Title 25 (*Land Development Code*) to adopt a new citywide density bonus program that will replace Density Bonus 90 (DB90) and Vertical Mixed Use (V) combining districts and consist of five new combining districts that allow additional height and land uses and relax site development standards and compatibility in exchange for providing affordable housing and meeting certain other requirements.

Background: On March 9, 2023, Council approved [Resolution No. 20230309-016](#) accepting the Equitable Transit-Oriented Development (ETOD) Policy Plan and directing the City Manager regarding next steps for implementation, including initiating amendments to City Code Title 25 (*Land Development Code*) to implement the ETOD Policy Plan. The ETOD Overlay was adopted by Council on May 16, 2026 via [Ordinance No. 20240516-005](#) to increase transit supportive land uses and encourage affordable housing near the Phase 1 Austin Light Rail corridor and its Priority Extensions. Staff then began working on another phase of work that would apply similar regulations to other ETOD station areas and transit corridors, including a round of engagement in fall 2024 and preliminary analysis.

On January 2, 2025, staff published the [Comprehensive Analysis of Density Bonus Programs](#) report. This report evaluated the performance of existing density bonus programs and recommended changes to improve their overall performance. One of the major recommendations coming out of this study was to combine, streamline, and consolidate density bonus programs to the extent practicable.

On June 5, 2025, Council approved [Resolution No. 20250605-080](#) that initiated land development code amendments to create a variety of density bonus combining districts that consider:

- Bonus height entitlements that are more or less than 30 feet;
- Minimum affordability requirements that are calibrated and informed by the Comprehensive Analysis of Density Bonus Programs report;
- Additional community benefit requirements such as ground floor activation, minimum commercial and civic space, onsite beneficial reuse, updated design standards, and others;
- Modified compatibility regulations; and
- Redevelopment requirements, including considering one-to-one unit replacement.

In the same resolution, Council also indicated its desire to update two existing density bonus programs, Density Bonus 90 (DB90) and Vertical Mixed Use (VMU), as well as to coordinate the work to create the new slate of density bonus programs with work that had begun on a second phase of ETOD Overlay work.

City of Austin
Council Meeting Backup: May 21, 2026
Case Number: C20-2024-004

On September 1, 2025, a slate of new state laws went into effect that were passed during the 89th Legislative Session, including [Senate Bill 840](#) (SB 840). SB 840 aims to increase housing stock by allowing more market-rate housing to be built on most property zoned commercial, by right. This new legislation reduces incentives to participate in voluntary density bonus programs for many properties, unless an applicant seeks additional modifications of development standards such as additional height. This may result in fewer income-restricted affordable housing units being included in new developments. However, the City remains committed to growing affordable housing availability using a variety of tools, including but not limited to density bonus programs. This code amendment aims to respond to the new regulatory landscape now that SB 840 is in effect.

Summary of Proposed Code Amendment:

The proposed code amendment would:

1. Create five new combining districts in a tiered structure differentiated by height, collectively referred to as the Citywide Density Bonus Program, and
2. Retire the existing DB90 and VMU programs for properties going forward after adoption of the new Citywide Density Bonus Program.

All of the Citywide Density Bonus Program combining districts will have the same requirements, except that the amount of additional height offered varies by combining district. All combining districts require that a developer provides income-restricted affordable housing and meets certain other requirements in order to access additional entitlements, including additional allowable land uses, relaxed site development standards, and relaxed compatibility standards. The only difference between the five combining districts is how much additional height they offer beyond a property's by-right height maximum:

1. Citywide Density Bonus Program Base (-DBCBase) offers no additional height
2. Citywide Density Bonus Program 15' (-DBC15) offers an additional 15' of height
3. Citywide Density Bonus Program 30' (-DBC30) offers an additional 30' of height
4. Citywide Density Bonus Program 45' (-DBC45) offers an additional 45' of height
5. Citywide Density Bonus Program 60' (-DBC60) offers an additional 60' of height

The proposed code amendment would create “paper” combining districts that are available in code but not yet applied to any properties via rezoning. The new paper districts, if adopted by Council, will be available for individual applicant rezoning requests as well as for future City-initiated rezonings as directed by Council. Moving forward, properties would no longer be able to rezone into DB90 or VMU, but would instead request one of the new Citywide Density Bonus Program combining districts.

Citywide Density Bonus Program Applicability: No residential or industrial base zones will be eligible for this program. The five new combining districts can be combined with the following commercial and office base zoning districts:

City of Austin
Council Meeting Backup: May 21, 2026
Case Number: C20-2024-004

- Neighborhood Office (NO)
- Limited Office (LO)
- General Office (GO)
- Neighborhood Commercial (LR)
- Community Commercial (GR)
- General Commercial (CS and CS-1)
- Commercial Highway Services (CH)
- *Potentially, future new mixed-use zones that may be created as directed by [Resolution No. 20260326-040](#).*

The five new combining districts cannot be combined with any special purpose base zoning districts, or with the following zoning districts:

- Central Business District (CBD)
- Downtown Mixed Use (DMU)
- Downtown Density Bonus (DDB)
- Density Bonus Equitable Transit-Oriented Development (DBETOD)
- Density Bonus 90 (DB90)
- East Sixth/Pecan Street Overlay (PS)
- Planned Development Area (PDA)
- University Neighborhood Overlay (UNO)
- Vertical Mixed Use (V)
- Any other -DBC combining district (i.e., one -DBC combining district may be applied per property)

Citywide Density Bonus Program Structure: The five new combining districts will be created as a tiered structure from least intense to most intense. The tiered structure will allow Council to approve a lower intensity (i.e., lower height) combining district than requested by a property owner when rezoning a property without requiring re-noticing part way through the process. This approach of approving a lower intensity district than originally requested by a rezoning applicant is already the approach for base zoning districts and will streamline the approval process while allowing for more flexibility for elected officials.

Relation to Other Existing Density Bonus Programs, including Vertical Mixed Use (VMU) and Density Bonus 90 (DB90)

Part of Council's direction in Resolution No. 20250605-080 was to update or align existing density bonus programs like VMU and DB90 with the new density bonus program structure. Staff is therefore recommending that if the Citywide Density Bonus Program is adopted by Council, no new rezoning applications for VMU or DB90 would be accepted after that point. VMU and DB90 would become legacy programs, meaning that properties that already have those applicable combining districts would maintain them and site plans could be submitted in the future that rely on those legacy programs.

For a high-level comparison of key elements of the Citywide Density Bonus Program proposal with existing density bonus programs, see Attachment A.

Citywide Density Bonus Program: Requirements for Participating Developments *Affordability Requirements*

The applicant must provide affordable housing units or fees-in-lieu to participate in the Citywide Density Bonus Program.

City of Austin
Council Meeting Backup: May 21, 2026
Case Number: C20-2024-004

For ownership developments, 10% of total units must be set-aside at sale prices affordable to households earning 80% Median Family Income or below and sold to income-eligible buyers earning 80% MFI or below. The requirement may be satisfied by a fee-in-lieu.

For rental developments, 10% of total units must be set aside at rents affordable to households earning 50% MFI or below and rented to income-eligible tenants earning 50% MFI or below. All required affordable rental units must be on-site.

General Provisions and Redevelopment Requirements

A developer must comply with residential requirements in Chapter 4-18 Article 2 (*Density Bonus and Incentive Programs*). This code section, referred to as “Chapter 4-18” when referencing density bonus programs, outlines various requirements for developments that participate these programs. Developments using the Citywide Density Bonus Program must:

- Adhere to Division 1 (General Provisions), which includes, among other things, various definitions, process requirements, compliance measures, and penalties; and
- Adhere to all residential portions of Division 2 (Redevelopment Requirements), which includes additional requirements for the redevelopment of certain qualifying structures, including both tenant protections and unit replacement requirements.

The tenant protections that exist in code today and that would apply to the Citywide Density Bonus Program require that when an applicant is redeveloping an existing multifamily building the applicant must:

- Provide current tenants with:
 - Notice and information about the proposed development; and
 - Relocation benefits equaling four months of rent and fees; and
 - A fixed payment for moving expenses consistent with the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act; and
- Grant current tenants the option to lease for a minimum of 12 months a unit of comparable number of bedrooms and size in the new development; and
- Allow a current tenant to terminate a lease without a penalty; and
- Return security deposits to current tenants.

The unit replacement requirements that exist in Chapter 4-18 today would apply to the Citywide Density Bonus Program. An applicant that is redeveloping an existing multifamily building must comply with the following requirements:

- The applicant must replace all existing units that were affordable to a household earning 70% MFI or below in the later of the previous 12 months or latest lease term. The replacement units must have at least as many bedrooms as those existing units. Replacement units must be set aside at rents affordable to households earning 60% MFI or below and rented to income-eligible tenants at 60% MFI or below.
- Replacement units count toward the minimum affordability requirements if the unit is set aside at rents affordable to households earning 50% MFI or below and rented to income-eligible tenants at 50% MFI or below.

City of Austin
Council Meeting Backup: May 21, 2026
Case Number: C20-2024-004

- The maximum number of replacement units is two times the number of units required for the minimum affordability requirements established in the applicable density bonus or incentive program. The Citywide Density Bonus Program's minimum affordability requirements are 10% of the total newly developed units, and therefore two times that would be 20% of the total newly developed units.

Mix of Use and Active Pedestrian-Oriented Use Requirements

The Citywide Density Bonus Program requires that a minimum of 65% of the development is residential. No more than 35% of a participating development can be non-residential. Non-residential space can be located anywhere within the participating development.

Participating developments must comply with Chapter 25-2 Subchapter E Article 2 (*Site Development Standards*) and Article 3 (*Building Design Standards*).

At least 75% of the building frontage along a principal street as defined in Chapter 25-2 Subchapter E Article 5 (*Definitions*) must contain one or more pedestrian-oriented commercial or civic uses and must comply with the dimensional requirements found in Subchapter E Section 4.3.3.C. A site-specific modification to or waiver of this requirement for pedestrian-oriented commercial or civic uses is allowed in an approved zoning ordinance that adds any of the Citywide Density Bonus Program combining districts.

Lastly, staff recommends that Citywide Density Bonus Program developments be required to build the full recommended sidewalk width along all street frontages per standards in the Transportation Criteria Manual.

Citywide Density Bonus Program: Additional Entitlements for Participating Sites

Modification of Maximum Height/Stories for Citywide Density Bonus Developments

There is no restriction on the maximum number of stories for participating developments. Developments meeting all requirements of the Citywide Density Bonus Program will be allowed additional height beyond a property's base zoning as follows:

- Citywide Density Bonus Program Base (-DBCBase) allows no additional height,
- Citywide Density Bonus Program 15' (-DBC15) allows up to 15' added height,
- Citywide Density Bonus Program 30' (-DBC30) allows up to 30' added height,
- Citywide Density Bonus Program 45' (-DBC45) allows up to 45' added height, and
- Citywide Density Bonus Program 60' (-DBC60) allows up to 60' added height.

Modifications of Site Development Standards for Citywide Density Bonus Developments

- Complying developments are exempt from side and interior yard setbacks.
- Complying developments are exempt from front yard setbacks,
 - except where the right of way is less than 60 feet in width the minimum front yard setback for buildings three or more stories in height shall be 30 feet from the centerline of the street to ensure adequate Fire Department access.

City of Austin
Council Meeting Backup: May 21, 2026
Case Number: C20-2024-004

Floor Area Ratio (FAR), Building Coverage, Maximum Density, and Minimum Site Area:

- No maximum FAR, building coverage limits, maximum density, or minimum site area requirements apply for complying developments.

Compatibility:

- Compatibility standards for complying Citywide Density Bonus Program developments are different than those in Chapter 25-2 Subchapter C Article 10 (*Compatibility Standards*). This partial relaxation of compatibility standards for Citywide Density Bonus developments is as follows:
 - A compatibility buffer is required along a site's property line that is shared with a triggering property and must be a minimum of 25' in width.
 - Any structure that is located less than 50' from any part of a triggering property may not exceed 90 feet.
 - At 50' and beyond, no compatibility standards apply.

Additional Allowable Land Uses

In addition to the land uses already allowed by a property's base zoning district, participating developments would be explicitly allowed to develop with residential land uses as well as certain non-residential land uses that are pedestrian-friendly and generally compatible in many places across the city. These additional non-residential uses are:

- adult care services (limited or general)
- art gallery
- art workshop
- business or trade school
- childcare services (limited or general)
- consumer repair services
- consumer convenience services
- counseling services
- cultural services
- custom manufacturing
- financial services without drive-through services
- food sales
- guidance services
- general retail sales (convenience or general)
- personal services
- restaurant (limited or general) without drive-in service
- theater

Proposed Text Amendment: See attached draft ordinance.

Staff Recommendation: Recommended.

Staff recommends approval of the five new combining districts that are part of the Citywide Density Bonus Program. The code amendment helps achieve the following goals:

- Encourages the creation of new affordable income-restricted housing units by offering additional development entitlements in exchange for the provision of community benefits,
- Provides more options for density bonus programs that are appropriate in different contexts across Austin,
- Responds to recent state legislation (i.e., SB 840) and sets the stage for development as market conditions shift in the future, and
- Increases the consistency of program requirements for owners, developers, neighbors, and staff to improve understanding, transparency, and program attractiveness.

City of Austin
Council Meeting Backup: May 21, 2026
Case Number: C20-2024-004

The Citywide Density Bonus Program differs from existing density bonus programs in several key aspects to align with community feedback and recent analysis:

- **The Citywide Density Bonus Program targets rental housing units at 50% MFI and below.** This is aligned with recent analysis conducted by Austin Housing and the City Manager's Office that determined that housing gaps for units affordable to households earning 50% MFI or below are the most prevalent.
- **The Citywide Density Bonus Program includes both tenant protections and unit replacement requirements.** This is aligned with community input and Council direction that requested staff consider requiring unit replacement for existing naturally occurring affordable housing, or NOAH.
- **The Citywide Density Bonus Program includes multiple height options, which helps the program fit into a variety of neighborhood contexts.** This is aligned with community input and Council direction to create a variety of density bonus combining districts with heights that are more or less than 30 feet.

For additional information on staff's rationale and considerations, see Attachment B.

Planning Commission approved 14 amendments to the proposal, including 6 recommended text amendments and 8 general recommendations. Planning Commission recommendations will be described in a separate document and posted in back up for the City Council Hearing.

Board and Commission Action:

April 15, 2026: Recommended by Codes and Ordinances Joint Committee.

April 28, 2026: Unanimously Recommended by Planning Commission with amendments.

Council Action:

May 21, 2026: To be considered by City Council.

Sponsor Department: Austin Planning

City Staff: Warner Cook, Principal Planner, Austin Planning, LDCupdates@austintexas.gov, 512-974-7220

Attachments:

Attachment A: Comparison of Key Standards Between Proposed Citywide Density Bonus Program and Existing Density Bonus Programs

Attachment B: Rationale and Considerations for Staff Recommended Proposal

City of Austin
Council Meeting Backup: May 21, 2026
Case Number: C20-2024-004

Attachment A: Comparison of Key Standards Between Proposed Citywide Density Bonus Program and Existing Density Bonus Programs

Density Bonus Program	Height Beyond Base	Modified Site Development Standards	Compatibility Relaxation	Affordability Requirements	Redevelopment Requirements	Ground Floor	Mix of Uses
VMU	None	Same as below, except <u>does not supersede other regulations that limit height.</u>	None	Ownership: <ul style="list-style-type: none"> 5% at 80% MFI <u>AND</u> 5% at 100% MFI Rental: <ul style="list-style-type: none"> 10% at 80% MFI or 60% varies by neighborhood 	None	75% of principal street ground floor building frontage must be “ <u>designed for</u> ” non-residential uses.	Only 1st and 2nd floor can be non-residential uses.
DB90	+30’	No Floor Area Ratio (FAR) max., min. site area, max. dwelling units per acre, or max. building coverage.	Between 0’ and 25’ is a no-build zone. At 25’, may reach full height (up to 90’).	Ownership: <ul style="list-style-type: none"> 12% at 80% MFI (FIL allowed) Rental: <ul style="list-style-type: none"> 12% at 60% MFI <u>OR</u> 10% at 50% MFI 	Includes Chapter 4-18 tenant protections (no unit replacement).		(Slight differences between programs in how this requirement is written).
DBETOD	+60’ (Subdistrict 1) <u>OR</u> +30’ (Subdistrict 2)	No min. side and interior yard setbacks; exempt from front yard setbacks, <i>except where the right of way is less than 60’ in width, the minimum front yard setback for buildings 3 or more stories in height shall be 30’ from the centerline of the street to ensure adequate Fire Department access</i>	Between 0’ and 25’ is a no-build zone. Between 25’ and 50’, may reach up to 60’.	Ownership: <ul style="list-style-type: none"> 12% at 80% MFI (FIL allowed but is set at 125% of on-site) Rental: <ul style="list-style-type: none"> Buildings up to 60’: <ul style="list-style-type: none"> 10% at 60% MFI Buildings up to 90’: <ul style="list-style-type: none"> 12% at 60% MFI <u>OR</u> 10% at 50% MFI Buildings up to 120’: <ul style="list-style-type: none"> 15% at 60% <u>OR</u> 12% at 50% MFI 	Includes Chapter 4-18 tenant protections <u>AND</u> unit replacement requirement (up to 2X cap). Includes requirements for redeveloping some non-residential uses.	75% of principal street ground floor building frontage must “ <u>contain</u> ” non-residential uses.	Maximum of 2 floors non-residential uses. (cocktail lounge or performance venue cannot be above residential use or on or 3 rd floor)
Citywide Density Bonus Program (Staff Proposal)	+0’, +15’, +30’, +45’, <u>OR</u> +60’ (varies by tier)	Supersedes other regulations that would limit height.	Between 0’ and 25’ is a no-build zone. Between 25’ and 50’, may reach up to 90’.	Ownership: <ul style="list-style-type: none"> 10% at 80% MFI (FIL allowed) Rental: <ul style="list-style-type: none"> 10% at 50% MFI 	Includes Chapter 4-18 tenant protections <u>AND</u> unit replacement requirement (up to a 2X cap).		Max. 35% non-residential uses.

City of Austin
 Council Meeting Backup: May 21, 2026
 Case Number: C20-2024-004

Attachment B: Rationale and Considerations for Staff Recommended Proposal

This attachment includes additional information supporting staff’s recommendation to create the proposed Citywide Density Bonus Program, divided into the following topics:

1. Citywide Density Bonus Program Applicability
2. Affordability Requirements
3. Redevelopment Requirements
4. Mix of Use and Active Design Requirements
5. Additional Height Tiers
6. Modification of Compatibility Standards
7. Additional Land Uses

1. Citywide Density Bonus Program Applicability

Staff recommends that the new Citywide Density Bonus Program can be combined with certain commercial base zones, rather than residential, industrial, or special purpose base zones. This is in line with existing non-geographically specific density bonus programs such as VMU and DB90 today, with the addition of Neighborhood Office and Commercial Highway base zones. Table 1 shows the applicability of existing and proposed programs.

	Existing Programs			Proposed
	VMU	DB90	DBETOD	Citywide
Single Family Residential (SF)	N	N	N	N
Multifamily Residential (MF)	N	N	Y	N
Neighborhood Office (NO)	N	N	Y	Y
Limited Office (LO)	Y	Y	Y	Y
General Office (GO)	Y	Y	Y	Y
General Commercial Services (CS, CS-1)	Y	Y	Y	Y
Commercial Highway Services (CH)	N	N	Y	Y
Neighborhood Commercial (LR)	Y	Y	Y	Y
Community Commercial (GR)	Y	Y	Y	Y
Commercial Recreation (CR)	N	N	Y	N
Central Business District (CBD)	N	N	Y	N
Downtown Mixed Use (DMU)	N	N	Y	N
Lake Commercial (L)	N	N	Y	N
Warehouse/Limited Office (W/LO)	N	N	Y	N
Industrial (LI, MI, IP, R&D)	N	N	Y	N
Potential Future Mixed-Use Zones	-	-	-	Possibly

Table 1. Comparison of Applicability of Proposed and Existing Density Bonus Programs

Staff recommends Neighborhood Office (NO) zones be eligible because NO allows for mixed-use residential development by-right following SB 840. Therefore, offering a bonus program for NO provides an option where those by-right residential units could instead be incentivized to include income-restricted affordable housing. Staff recommends Commercial Highway Services (CH) be eligible because CH today already allows residential uses by-right, but CH zones generally can only access modified site development standards via

City of Austin
Council Meeting Backup: May 21, 2026
Case Number: C20-2024-004

adding a Planned Development Area (PDA) combining district. A PDA does not require community benefits in exchange for relaxed site development standards. Although benefits are sometimes negotiated privately between others, the City cannot monitor or enforce those negotiated benefits. By allowing CH properties to add a Citywide Density Bonus tier, the City will be able to monitor benefits provided by those participating developments.

2. Affordability Requirements

In order to determine what affordability requirements would be part of the proposed Citywide Density Bonus Program, staff conducted general market feasibility analysis in different real estate submarkets in Austin with varying development types and rental rates. Current market conditions for dense mixed-use and multifamily projects show that even fully market-rate developments do not “pencil” on sites in most submarkets today; therefore, it follows that those same sites would not currently be feasible for development that includes income-restricted units and other community benefits. This is due to a variety of factors including increasing interest rates, high construction material and labor costs, and a recent increase in multifamily units throughout the city still being absorbed.

Rather than calibrate the requirements to only a few submarkets in today’s market conditions, the staff proposal is instead designed to include an incentive that would be a viable option for more sites in more neighborhoods as the market stabilizes in the future, and as fundamentals shift over time (such as continuing the trends of building fewer parking spaces per unit in areas of town with multimodal options readily available). Staff recognizes that the bonus will not be feasible on all sites in all types of market conditions; however, the nature of a citywide and long-term tool necessitates focusing on requirements that are achievable in many situations, and this proposal achieves that.

Ownership Requirements

Staff’s recommendation for ownership developments is based on carrying forward similar regulations from existing programs. For ownership, **10% of units** must be affordable to households making **80% MFI or less** for a minimum of 99 years, with a **fee-in-lieu allowed**.

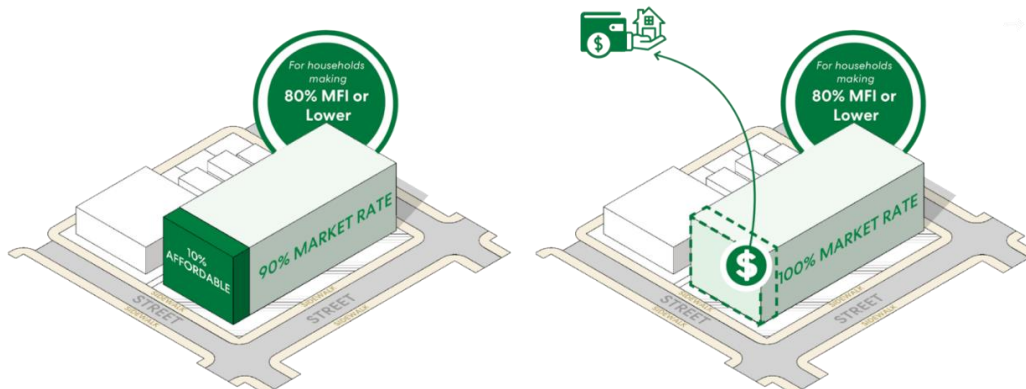


Figure 1. An ownership building showing that 10% of the units have to be affordable for households making 80% MFI or lower. Fee in lieu is also an allowed option, meaning that up to 100% of units could be market-rate.

City of Austin
Council Meeting Backup: May 21, 2026
Case Number: C20-2024-004

Households earning lower incomes tend to have a difficult time qualifying for traditional mortgage products to help purchase even affordable units, which means that 80% MFI is generally the lowest income threshold that can actually be able to purchase income-restricted ownership units. Staff recommends allowing a fee-in-lieu for these ownership units primarily because the City only sets the affordable sales price but has no control over future escalations in other housing costs like homeowners' association fees or special assessments. Further, owners of affordable units would only be 10% of the membership of a homeowner's association and therefore represent only a small fraction when voting on matters such as whether to raise dues and what to spend dues on.

Rental Requirements

Staff's recommendation for rental developments is also based on carrying forward similar regulations from existing programs, but updating the approach based on recent analysis to target affordability levels to match the areas of greatest need in Austin. For rental, **10% of units** must be affordable to households making **50% MFI or less** for a minimum of 40 years. All rental units must be provided on-site, and a **fee-in-lieu is not allowed**.

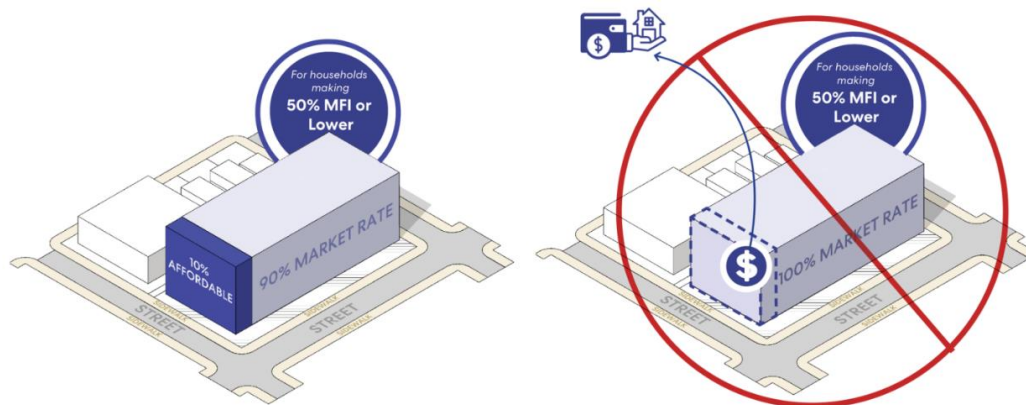


Figure 2. A rental building showing that 10% of the rental units have to be affordable for households making 50% MFI or lower. Fee in lieu is not allowed, so all affordable units must be built on-site.

Housing units affordable to households at 50% MFI and below are not being delivered in large enough quantities by the private real estate market. For reference, the VMU and DB90 programs require units ranging between 80% MFI and 50% MFI. It is difficult to reach income thresholds below 50% MFI through density bonus programs, as those levels of income-restriction tend to require multiple types of subsidies to achieve. Therefore, staff is recommending the level of affordability be the lowest that is likely to be achievable through this tool.

Staff's recommendation for rental developments is not to allow a fee-in-lieu, and instead for all required units to be on-site. This carries forward our current policy from existing density bonus programs. The considerations about whether or not to allow a fee-in-lieu are very complex and involve difficult policy trade-offs. Staff recommends that if policymakers would like to explore the idea of a fee-in-lieu of rental housing in the future, then this

City of Austin
Council Meeting Backup: May 21, 2026
Case Number: C20-2024-004

conversation should be part of the holistic update to the Austin Strategic Housing Blueprint, rather than through an individual code amendment process. While the rest of this section lists considerations that must be thought about to evaluate the impact of allowing fees-in-lieu or not, staff's primary recommendation is to require rental units be on-site for this program.

Considerations for Requiring On-site Units or Fees-in-lieu (FILs) for Rental Developments Program Participation and Feasibility

- Requiring on-site units may reduce overall density bonus program participation among developers who may be unfamiliar with income-restricted unit requirements. Developers may also choose to complete by-right developments that rely on SB 840 allowances instead of participating in a program that requires on-site units if the program does not provide enough additional revenue potential.
- FILs are more predictable for developers than the less certain longer-term costs associated with creating on-site units, which have operating costs that may change over the length of the required affordability period. Therefore, one up-front payment is more likely to be attractive for developers.

Income Levels Developments Are More Likely to Serve

- On-site units rely on cross-subsidy between income-restricted and market-rate units, and therefore are challenging for financial feasibility at MFI levels below 50% MFI.
- FILs may be pooled together, so the City could spend fees on subsidizing lower MFI units elsewhere, such as those affordable to households earning 30% MFI and below.

Income Levels Ranges within Each Development

- On-site units are more likely to be built within mixed-income developments, which has been shown to increase a community's integration and social fabric.
- Units created through FIL are more likely to be built within developments that are targeted towards lower-MFI residents (for instance, in fully affordable income-restricted developments), which can provide less mixed-income housing but potentially provide more beneficial resident services and programming.

Timeline for Unit Construction

- On-site units are produced on the same timeline as the overall development utilizing the bonus program, resulting in no additional lag time.
- Housing production is slightly delayed for units created using FILs. This is because FILs are collected during the development and permitting process, then staff evaluate affordable housing needs and subsidize units in other developments, and then those subsidized units are constructed and leased roughly 3-4 years in total later.

Geographic Dispersion of Units

- On-site units can create affordability in high-opportunity areas, such as neighborhoods near high quality transit service. The City might not otherwise be able to subsidize units as easily in high opportunity areas.
- Units created through FILs may be more likely to be located in parts of the city that are less expensive to build in due to land costs and other factors, which may or may not be high opportunity areas.

City of Austin
Council Meeting Backup: May 21, 2026
Case Number: C20-2024-004

Subsidy Involved

- On-site units do not require additional City subsidy to create.
- Units created through FILs are more likely to have multiple types of subsidies involved in them including City subsidy, though this may include subsidies from other entities (for example, federal tax credits or philanthropic funding).

Ability to Target Tailored City Housing Priorities

- On-site units do not generate additional capital for other types of priority investments for the City, such as permanent supportive housing units or deeper levels of affordability lower than 50% MFI.
- FILs can be deployed to meet certain priority investments that on-site units may not be able to meet as easily, such as permanent supportive housing units or units geared towards particular populations like seniors, veterans, or families with children.

Overall Construction Cost per Unit

- Market-rate construction of on-site units could be completed potentially for less overall expense, but this may come at the cost of other community benefits that exist in subsidized projects, such as federal requirements or local wage standards.
- Additional requirements that may result from multiple funding sources can possibly increase construction costs for units created through FILs as compared to on-site units, though these requirements may be meeting additional key City policy goals.

Monitoring and Compliance

- On-site units can be more difficult for City staff to monitor compliance with than properties that receive FILs, although this could possibly be addressed with the creation of a monitoring fee.
- Monitoring units created with FILs tends to be slightly less onerous for City staff as property managers of these developments tend to be more familiar with requirements.

Unit Size

- Whatever the overall number of bedrooms per unit and unit sizes that a developer chooses to build for market-rate units, they are required to provide a proportionally equivalent mix for on-site income-restricted units. Therefore, on-site units are likely to be smaller or have fewer total bedrooms, as there is less risk in the current market of absorbing smaller units and/or units with fewer bedrooms.
- Units created using FILs are more likely to result in units with more total bedrooms, because the City adds preference in our subsidy programs for multi-bedroom units.

Flexibility and Changes Based on Market Conditions

- On-site units are more feasible in some economic contexts than others and in some neighborhoods than others. Changing either the required percentage of units set-aside on-site (10%) or the MFI levels required to be served (80% for ownership or 50% for rental) is more complex and time intensive once the initial regulations are adopted.
- FIL rates are set annually during the budget adoption process based on the on-site requirements. The methodology setting FILs currently accounts for real estate market conditions, because fees are set based on the difference between the market sale price or rental rate and the income-restricted sale price or rental rate. Market rates shift

City of Austin
Council Meeting Backup: May 21, 2026
Case Number: C20-2024-004

over time and therefore fees change year-to-year. Additionally, accurately forecasting costs and changes over several decades may be challenging when setting FILs, though this can partially be addressed when creating a FIL methodology.

Replacement Units

- On-site units are necessary to meet the purpose of Chapter 4-18 that would apply to the Citywide Density Bonus Program, which requires that a certain amount of existing units rented at rates affordable to households earning 70% MFI and below be replaced on-site at the new development.
- If FILs are allowed in a density bonus program for redeveloping NOAH sites, it is not clear how redevelopment requirements for unit replacement would apply, though this could possibly be addressed with program design or through an amendment.

Other Opportunity Costs

- The opportunity cost of providing on-site affordable units is higher for higher-priced units, while the FIL is typically standardized across projects. As a result, higher-end developments are more likely to pay the FIL rather than include affordable units on-site. This dynamic can incentivize the production of more luxury units in density-bonus programs that permit FILs.

3. Redevelopment Requirements

Staff is recommending that the existing redevelopment requirements in Chapter 4-18 for residential units be applied to the Citywide Density Bonus Program. This recommendation aligns with community feedback and Council direction, and maintains consistency with existing code language. The current language in Chapter 4-18 that relates to unit replacement requirements was adopted by Council in May 2024. It currently only applies to the Density Bonus Equitable Transit-Oriented Development (DBETOD) program and has not yet been triggered on any site. Because unit replacement requirements from Chapter 4-18 have not yet been triggered, staff does not have the ability to analyze the requirements' effectiveness or unintended consequences, or analyze adjustments that may improve outcomes.

Chapter 4-18 of City Code is outside of the Land Development Code, and can be amended as needed through future Council action. Staff is recommending minor updates to Chapter 4-18 this spring that would be considered by Council on May 21, 2026, alongside the Citywide Density Bonus Program code amendment. Recommended amendments to Chapter 4-18 will be described under a separate City Council agenda item and are not required to be heard by Planning Commission.

4. Mix of Use and Active Design Requirements

Mix of Use Requirements

Staff recommends carrying forward the existing practice of setting a maximum amount of non-residential space that can be provided by developments that utilize density bonus programs. The Citywide Density Bonus Program proposal would allow for a maximum of 35% of a development to be non-residential. This differs from existing bonus programs like VMU and DB90, which instead regulate non-residential uses by limiting them to a maximum

City of Austin
Council Meeting Backup: May 21, 2026
Case Number: C20-2024-004

of two stories of a building. Staff's recommendation would ensure that the Citywide Density Bonus Program's mix of uses requirement is not more restrictive than what complying developments are allowed when accessing by-right entitlements offered by SB 840.

Location of Non-Residential Uses

Another difference between existing density bonus programs and the proposal for the new Citywide Density Bonus Program is that the new program does not limit the location of non-residential uses within a building. While these types of limits vary between existing programs, they generally limit non-residential uses to the first two stories. In order for the Citywide Density Bonus to not be more restrictive than SB 840, staff proposes no restrictions on location within developments that participate in the new program.

Active Pedestrian-Oriented Design Requirements

The Citywide Density Bonus Program proposes similar active pedestrian-oriented design requirements as existing density bonus programs for participating developments. Participating developments must comply with Chapter 25-2 Subchapter E Article 2 (*Site Development Standards*) and Article 3 (*Building Design Standards*). These requirements help increase the pedestrian-friendliness of developments built using the bonus program.

Similarly to DBETOD, new Citywide Density Bonus Program developments are required to have at least 75% of the building frontage along a principal street, as defined in Chapter 25-2 Subchapter E Article 5 (*Definitions*), contain one or more pedestrian-oriented commercial or civic uses. Participating developments must also comply with the dimensional requirements found in Subchapter E Section 4.3.3.C. A site-specific modification to or waiver of this requirement for pedestrian-oriented commercial or civic uses is allowed in an approved zoning ordinance. Staff recommends this requirement because it allows new and nearby existing residents to benefit from denser development by accessing businesses and services without needing to drive. Staff also recommends this requirement because it exists in code today and is therefore not a new requirement that developers and City reviewers would need to become familiar with, and because it continues to offer site-specific flexibility as appropriately determined by City Council.

Finally, staff recommends that participating developments be required to provide the full sidewalk width that is recommended by the Transportation Criteria Manual along all street frontages of the site. This requirement would apply whether the development would typically have been required to provide this full-width sidewalk through the standard transportation development review process or not. By requiring that the desired sidewalk width is built by participating developments, the Citywide Density Bonus Program ensures adequate pedestrian access to active ground floor uses and assists in addressing our community's multimodal goals.

City of Austin
 Council Meeting Backup: May 21, 2026
 Case Number: C20-2024-004

5. Additional Height Tiers

Staff recommends five tiers within the Citywide Density Bonus Program, from least intense (no additional height) to most intense (+60’ additional height beyond a property’s base zoning maximum). Each tier increases a site’s additional allowable height in 15’ increments. The names of the tiers refer to the additional bonus height granted, rather than the total height that the most intense combination of base zone and bonus program could achieve (as was the former naming convention with DB90). Focusing the naming convention on additional bonus height allows for any new base zones created in the future, such as potential new mixed-use base zones, to have a base height that may differ from existing base zones without needing to rename the Citywide Density Bonus Program combining districts to account for the change.

By combining the Citywide Density Bonus Program with applicable base zones, total height of participating developments today could range between 45’ (in the case of NO or LO sites with the lowest intensity combining district, -DBC) up to 180’ (in the case of CH sites with the highest intensity combining district, -DBC60). While many total heights between 45’ and 180’ are possible with the proposed program, staff expects more common scenarios would place the total height of a participating development between 60’ and 90’ (in the cases of CS sites combined with either -DBC, -DBC15, or -DBC30). Table 2 demonstrates base heights, bonus heights, and total allowable height ranges that can be achieved with the staff proposal.

	Base Zone Height*	Total Combined Height Using a Citywide Density Bonus Program Tier					Total Height Range
		-DBC	-DBC15	-DBC30	-DBC45	-DBC60	
Neighborhood Office (NO)	45’	45’	60’	75’	90’	105’	45’-105’
Limited Office (LO)	45’	45’	60’	75’	90’	105’	45’-105’
General Office (GO)	60’	60’	75’	90’	105’	120’	60’-120’
General Commercial Services (CS, CS-1)	60’	60’	75’	90’	105’	120’	60’-120’
Commercial Highway Services (CH)	<i>CH maximum base height varies from 60’ to 120’, based on impervious cover (e.g., taller base heights for lower percentages impervious cover)</i>						60’-180’
Neighborhood Commercial (LR)	45’	45’	60’	75’	90’	105’	45’-105’
Community Commercial (GR)	60’	60’	75’	90’	105’	120’	60’-120’
Potential Future Mixed Use Zones	TBD	TBD	TBD	TBD	TBD	TBD	TBD

*Base zone height for NO, LO, and LR are listed here as at least 45’, due to SB 840 requirement that eligible developments be allowed at least 45’ total height. If a development is not eligible under SB 840, the maximum base heights are either 35’ (NO) or 40’ (LO and LR).

Table 2. Base and Bonus Heights Possible under the Proposed Citywide Density Bonus Program.

City of Austin
Council Meeting Backup: May 21, 2026
Case Number: C20-2024-004

Staff's proposal allows for additional taller height tiers to be created as future code amendments, should Council direct staff to do so. The tiers currently proposed by staff offer direct replacements for programs that would be retired under staff's proposal, such as VMU (+0') and DB90 (+30'), and the tallest proposed tier of -DBC60 matches the additional height allowed currently in Subdistrict 1 of DBETOD (+60').

City of Austin
Council Meeting Backup: May 21, 2026
Case Number: C20-2024-004

6. Modification of Compatibility Standards

Staff recommends that participating Citywide Density Bonus Program developments have compatibility standards that are relaxed from the general standard that applies by-right, referred to in this attachment as “standard” compatibility standards and found in Chapter 25-2 Subchapter C Article 10 (*Compatibility*). The compatibility standards proposed by the Citywide Density Bonus Program allow for additional housing units, including income-restricted units, to be built under the new bonus program. The proposed modified compatibility regulations for the Citywide Density Bonus Program are shown in Figure 3, alongside other existing versions of compatibility regulations.

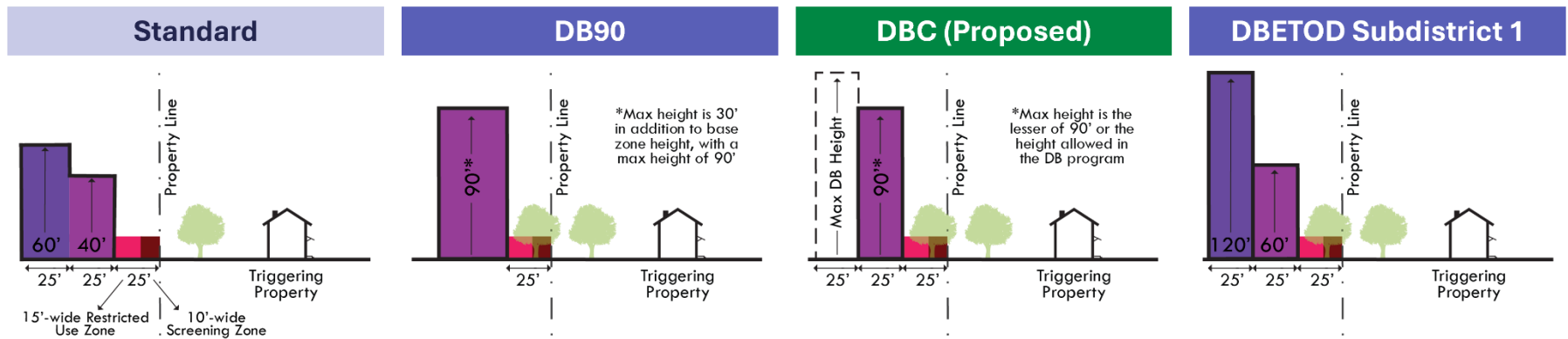


Figure 3. Comparison of Various Compatibility Standards. The first image is the “standard” compatibility standards in which no building can be within 25’ of a triggering property line, while between 25-50’ a building can reach 40’ high and between 50-75’ a building can reach 60’ high, ultimately reaching its full height after 75’ of a triggering property line. The second image shows DB90 regulations in which the first 25’ cannot contain a building, but after 25’ a building can reach its full height up to 90’ tall. The third image shows the proposed Citywide Density Bonus regulations in which the first 25’ cannot contain a building, while between 25-50’ a building can reach up to 90’ high, ultimately reaching its full height after 50’ of a triggering property line. The fourth image shows DBETOD Subdistrict 1 regulations in which the first 25’ cannot contain a building, while between 25-50’ a building can reach 60’ tall, ultimately reaching its full height after 50’ of a triggering property.

The proposed compatibility standard for the Citywide Density Bonus Program matches the standard today for DB90 projects; both the existing DB90 regulation and the proposed Citywide Density Bonus Program regulation limit buildings to 90’ tall in the portion of a site between 25-50’ of a triggering property line. The proposed regulation results in a stepback effect for the upper stories of a participating development while still allowing for full building height beyond 50’ of a triggering property line in order to increase housing capacity. This also means that the Citywide Density Bonus Program is no more restrictive regarding compatibility regulations than the DB90 program it would replace.

City of Austin
Council Meeting Backup: May 21, 2026
Case Number: C20-2024-004

7. Additional Land Uses

Existing density bonus programs such as VMU and DB90 allow eligible office base zones to add four land use categories for participating developments (consumer convenience services, food sales, general retail sales, and restaurants). Staff analyzed that list of existing land uses as well as uses that may be compatible with mixed-use development in many contexts throughout Austin in order to determine which uses should be explicitly added as allowed uses for participating Citywide Density Bonus Program developments. The staff review was based on the professional expertise of zoning case managers, community feedback, and Council direction. From this analysis, staff recommends adding several land uses for participating developments. Therefore, in addition to the land uses already allowed by a property's base zoning district, participating developments would additionally be explicitly allowed to develop with residential land uses as well as certain non-residential land uses that are pedestrian-friendly and generally compatible in many places across the city. These additional non-residential uses are:

- adult care services (limited or general)
- art gallery
- art workshop
- business or trade school
- childcare services (limited or general)
- consumer repair services
- consumer convenience services
- counseling services
- cultural services
- custom manufacturing
- financial services without drive-through services
- food sales
- guidance services
- general retail sales (convenience or general)
- personal services
- restaurant (limited or general) without drive-in service
- theater