

ORDINANCE NO. _____

An ordinance amending Chapter 20A, “Fair Housing and Mixed Income Housing,” of the Dallas City Code by amending Sections 20A-4.1, 20A-5, ~~20A-23~~, 20A-24, 20A-25, 20A-26, 20A-27, 20A-28, 20A-29, 20A-30, 20A-31, 20A-32, and 20A-33 and adding new Sections 20A-23.1 and 20A-34; providing clarification regarding housing voucher incentives; providing a defense to prosecution; providing a fee in lieu; providing definitions; providing revised regulations and fees for the One Dallas Options program; providing a penalty not to exceed \$500; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, 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 Section 20A-4.1, “Housing Voucher Incentives,” within Article I “Fair Housing,” within Chapter 20A, “Fair Housing and Mixed Income Housing,” of the Dallas City Code is amended to read as follows:

“SEC. 20A-4.1. HOUSING VOUCHER INCENTIVES.

In accordance with Section 250.007(c) of the Texas Local Government Code, as amended, the city hereby creates and implements the following voluntary program to encourage acceptance of housing vouchers, including vouchers directly or indirectly funded by the federal government.

(a) Subsidy or financial award. All housing accommodations that benefit from a subsidy or financial award, as defined in Section 20A-3, approved by the city council on or after the effective date of this ordinance (1) shall not discriminate against holders of any housing vouchers, including vouchers directly or indirectly funded by the federal government and (2) shall comply with Section 20A-28 regarding tenant selection criteria, Section 20A-31(e)(6) regarding registering as a vendor with local providers of housing vouchers, and Section 20A-31(g) regarding compliance with an affirmative fair housing marketing plan.

(b) Financial award. Multifamily housing accommodations that benefit from a financial award approved by the city council on or after the effective date of this ordinance shall set aside at least 10 percent of the dwelling units and shall make best efforts to [solely] lease those dwelling units to holders of housing vouchers, including vouchers directly or indirectly funded by the federal government, for a minimum of 15 years from the date of the initial issuance of the housing accommodation's certificate of occupancy. Multifamily has the meaning assigned in Section 51A-4.209(b)(5) of the Dallas Development Code, as amended. In this section, best efforts means compliance with Section 20A-4.1(a) and compliance with the incentive agreement related to the financial award.

SECTION 2. That Subsection (h) within Section 20A-5, "Defenses to Criminal Prosecution and Civil Action," within Article I "Fair Housing," within Chapter 20A, "Fair Housing and Mixed Income Housing," of the Dallas City Code is amended to read as follows:

"(h) It is a defense to criminal prosecution or civil action under Sections 20A-4 regarding source of income and under 20A-4.1 that the following are leased to housing voucher holders:~~[at least 10 percent of the dwelling units in a multifamily use, as defined in Section 51A-4.209(b)(5) of the Dallas Development Code, as amended, are leased to housing voucher holders.]~~

(1) the minimum required percentage or number of reserved dwelling units as defined in Section 20A-24, as required by the applicable zoning district; or

(2) the minimum required percentage or number of affordable dwelling units, as required by the subsidy or financial award; or

(3) if neither (1) nor (2) applies, at least 10 percent of the dwelling units in a multifamily use, as defined in Section 51A-4.209(b)(5) of the Dallas Development Code, as amended."

SECTION 3. That Article 20A, “Mixed Income Housing,” of the Dallas City Code is amended by adding a new Section 20A-23.1, “Alternative Methods of Provision and Incentives,” to read as follows:

“SEC. 20A-23.1 ALTERNATIVE METHODS OF PROVISION AND INCENTIVES.

(a) Alternative methods of provision. Developments seeking a bonus under this article may:

- (1) provide the required units on the same building site as the market rate units;
- (2) provide the units as part of a phased development as provided in Section 51A-4.1105(e); or
- (3) pay a fee in lieu of on-site or phased development.

(b) On-site provision and phased on-site provision. Units provided on-site must comply with all requirements in Division 51A-4.1100 unless specifically exempted in the applicable zoning district.

(c) Fee in lieu. The requirement for reserved dwelling units may be satisfied by making a payment to the city’s Mixed Income Housing Development Bonus Fund established by Resolution No. xxxx.

(1) If the floor area devoted to non-residential uses is more than 20 percent of the total floor area, the fee shall be calculated by multiplying the applicable per square foot amount in Sec. 20A-34 by the total floor area as floor area is defined in Section 51A-2.102(38); otherwise the fee shall be calculated by multiplying the applicable per square foot amount in Section 20A-34 by the residential floor area as floor area is defined in Section 51A-2.102(38).

(2) The amount of the fee applies to each building using the bonus separately and will vary by the number of stories in that building according to Sec. 20A-34.

(d) Financial Incentives.

(1) Developments that choose the on-site or phased on-site provisions in Subsection 51A-4.1105(e) may also qualify for financial incentives.

(2) Financial incentives are not available to developments that choose the fee in lieu option.

SECTION 4. That Section 20A-24, “Definitions and Interpretations,” within Article II “Mixed-Income Housing,” within Chapter 20A, “Fair Housing and Mixed Income Housing,” of the Dallas City Code is amended to read as follows:

“SEC. 20A-24. DEFINITIONS AND INTERPRETATIONS.

(a) Definitions. In this article:

(1) ~~[ADJUSTED INCOME has the definition assigned to that term in 24 CFR §5.611, as amended.~~

(2) AFFIRMATIVE FAIR HOUSING MARKETING PLAN means a marketing strategy designed to attract renters of all majority and minority groups, regardless of race, color, religion, sex, disability, familial status, ~~[or]national origin, or source of income.~~

(3) 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,]~~ in compliance with a rent and income schedule produced annually by the department, or (ii) the voucher payment standard for voucher holders.

(4) ANNUAL INCOME has the definition assigned to that term in 24 CFR §5.609, “Annual Income,” as amended.

(5) APPLICANT means a household applying to lease a reserved dwelling unit.

(6) AREA MEDIAN FAMILY INCOME ("AMFI") means the median income for the Dallas, TX HUD Metro Fair Market Rent Area, adjusted for family size, as determined annually by the Department of Housing and Urban Development.

(7) DEPARTMENT means the department of housing and neighborhood revitalization.

(8) DEVELOPMENT means the structure or structures located on the Property receiving a development bonus.

(9) DEVELOPMENT BONUS means yard, lot, and space bonuses that can be obtained by meeting the requirements in this division and Chapter 51A.

(10) DEVELOPMENT BONUS RESTRICTIVE COVENANT means a covenant running with the land that meets the requirements of this chapter.

(11) DIRECTOR means the director of the department of housing and neighborhood revitalization and includes representatives, agents, or department employees designated by the director.

(11[42]) ELIGIBLE HOUSEHOLDS means households with an ~~adjusted~~ income within the required income band or voucher holders regardless of income.

(12[43]) FAMILY means family as defined in 24 CFR §5.403, “Definitions,” as amended.

(13[44]) HANDBOOK means the HUD Handbook 4350.3: Occupancy Requirements of Subsidized Multifamily Housing Programs, as periodically revised and published by HUD.

(14[45]) HUD means the United States Department of Housing and Urban Development.

(15[46]) INCOME means income as defined by 24 CFR §5.609, “Annual Income.”

(16[47]) INCOME BAND means the range of household adjusted 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.

(A) INCOME BAND 1 means an income between 81 and 100 percent of AMFI.

(B) INCOME BAND 2 means an income between 61 and 80 percent of AMFI.

(C) INCOME BAND 3 means an income between 51 and 60 percent of AMFI.

(17[48]) MARKET VALUE ANALYSIS ("MVA") means the most recent official study that was commissioned by and prepared for the city to assist residents and policy-makers to understand the elements of their local residential real estate markets.

(18[49]) MIXED-INCOME HOUSING PROGRAM means a program administered by the department in which each owner using a development bonus participates.

(19[20]) MIXED-INCOME HOUSING RESTRICTIVE COVENANT means the instrument securing the terms and enforcement of this division.

(20[24]) OPTIONAL AMENITIES means services or features that are not included in the monthly rent, including access to premium parking and concierge services, among other services.

(21[22]) OWNER means the entity or person who owns the development or Property during the rental affordability period, including the owner's employees, agents, or contractors.

(22) PROGRAM MANUAL means the guidebook published, maintained, and updated by the department that includes specific guidance for program implementation.

(23) PROPERTY means the land and all improvements as more particularly described in the mixed-income restrictive covenant.

(24) RENTAL AFFORDABILITY PERIOD means the period that the reserved dwelling units may only be leased to and occupied by eligible households.

(25) RESERVED DWELLING UNIT means the rental units in a development available to be leased to and occupied by eligible households, or which are currently leased to and occupied by eligible households and are leased at affordable rental rates.

(26) UNIT TYPE means the kind of unit broken out by number of bedrooms in the unit, or, if the unit is a specialty unit, a description of the type of specialty unit, such as efficiency, one bedroom, two bedroom, loft, penthouse, etc.

~~[(27) UTILITY ALLOWANCE means the reasonable allowance for tenant-furnished utilities and other services as published annually by the Dallas Housing Authority.]~~

(27[28])VOUCHER HOLDER means a holder of a housing voucher, including vouchers directly or indirectly funded by the federal, state, or local government.

(28[29])VOUCHER PAYMENT STANDARD means the maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

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

SECTION 5. That Section 20A-25, “Market Value Analysis Category and Reserved Dwelling Unit Verifications,” within Article II “Mixed-Income Housing,” within Chapter 20A, “Fair Housing and Mixed Income Housing,” of the Dallas City Code is amended to read as follows:

“SEC. 20A-25. MARKET VALUE ANALYSIS CATEGORY AND RESERVED DWELLING UNIT VERIFICATIONS.

(a) In general. Before applying for a permit for construction, a~~[A]~~n owner shall comply with this section.

(1) Submit an application to the department detailing the proposed project, and the application shall include the following information:

(A) the legal description and address of the property;

(B) any restrictive covenants or contracts that will require the owner to lease dwelling units at a specific rent for a specific term of years, along with the number of units; and

(C) any other information determined by the director to be necessary to aid in the determination of whether the owner is eligible to participate in the mixed-income housing program.

(2) O~~[o]~~btain a certified verification of the building site’s market value analysis (“MVA”) category ~~[verification]~~.

(3) S~~[and shall s]~~ign a reserved dwelling unit verification form provided by the department where the owner acknowledges ~~[acknowledging]~~ receipt of information regarding the minimum and maximum percentage of reserved dwelling units for that category, states the intended pro-rata distribution of the reserved dwelling units, if applicable, and provides any other pertinent information requested by the director ~~[as a precondition to participating in the mixed-income housing program]~~.

(4) Acknowledge intent to participate in the Mixed Income Housing Development Bonus program.

(b) Reserved dwelling unit verification. A development using a mixed-income development bonus in Division 51A-4.1100 may 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 and goals of the city's housing policy ~~[and affirmatively furthers fair housing]~~.

(c) ~~[Procedure for obtaining a market value analysis category, and reserved dwelling unit verification.~~

(1) ~~An owner shall attend an in-person meeting to review the terms of the mixed-income housing program, including the MVA category and reserved dwelling unit verification.~~

(2) ~~Before the meeting, the owner shall disclose the following information on a form provided by the director:~~

(A) ~~the legal description and address of the property;~~

(B) ~~any restrictive covenants or contracts that will require the owner to lease dwelling units at a specific rent for a specific term of years, along with the number of units; and~~

(C) ~~any other information determined by the director to be necessary to aid in the determination of whether the owner is eligible to participate in the mixed-income housing program.~~

(3) ~~At the close of the meeting, the director shall sign and date the MVA category verification and the owner shall sign and date the reserved dwelling unit verification for the Property. Copies of the signed verifications will be provided to the owner.]~~

In the case of a conflict between the documents required in this section and the requirements of:

(1) ~~the base zoning district, the base zoning district controls; and~~

(2) ~~the restrictive covenant, the restrictive covenant controls.~~

(d) Expiration of market value analysis category, reserved dwelling unit, and participation verifications. ~~[MVA category and reserved dwelling unit] V[v]erifications expire one year after the date of issuance if the owner has not filed a mixed-income restrictive covenant in the real property records related to the property for which the [MVA category and reserved dwelling unit] verifications were issued and made reasonable progress, as defined in Section 311.3 of Chapter 52 of the Dallas City Code, on the Property that will be subject to the mixed-income restrictive covenant."~~

SECTION 6. That Section 20A-26, “Mixed-Income Restrictive Covenant,” within Article II “Mixed-Income Housing,” within Chapter 20A, “Fair Housing and Mixed Income Housing,” of the Dallas City Code is amended to read as follows:

“SEC. 20A-26. MIXED-INCOME RESTRICTIVE COVENANT.

(a) In general. A mixed-income restrictive covenant must be executed and recorded in accordance with this section on a form provided by the city. The instrument must:

- (1) be signed by all owners of the Property;
- (2) be signed by all lienholders, other than taxing entities, having an interest in the Property;
- (3) contain a legal description of the Property;
- (4) specify the number of any required reserved dwelling units and the income band applicable to each unit;
- (5) be a covenant running with the land;
- (6) be for a term of 20 years with ~~one-year~~ ~~[five-year auto renewals]~~ automatic renewals (to allow for periods of noncompliance until the full 20-year term is met) and it is [unless] terminated by a subsequent written instrument;
- (7) state that all signatories agree to defend, indemnify, and hold harmless the City of Dallas from and against all claims or liabilities arising out of or in connection with the instrument;
- (8) state that it may only be amended or terminated by a subsequent written instrument that is:
 - (A) signed by all owners of the Property and all lienholders, other than taxing entities;
 - (B) approved by the director;
 - (C) approved as to form by the city attorney; and
 - (D) recorded and made a part of the deed records of the county or counties in which the Property is located;
- (9) state that the owner agrees to comply with all the requirements of this article, including the submission of quarterly unit status reports, maintaining the development in

compliance with the city's health and safety ordinances, full cooperation with any audits and inspections conducted pursuant to the mixed-income housing program including providing access to all records required to be maintained in accordance with this article and allowing the physical inspection of the property, compliance with the city's ~~[Mixed-Income Housing]~~ Program Manual maintained by the ~~d[Department of Housing and Neighborhood Revitalization]~~, and continued compliance with maintenance of the physical attributes of the property in accordance with this article;

(10) state that the owner agrees to maintain the property in compliance with all federal, state, and local health and safety regulations;

(11) state that the owner agrees to notify the city within 30 days of any change in ownership, default, foreclosure, or bankruptcy;

(12) state that it may be enforced by the City of Dallas;

(13) state that it shall be governed by the laws of the State of Texas; and

(14) be approved by the director and be approved as to form by city attorney.

(b) Commencement and termination of rental affordability period. The rental affordability period begins on the date the first reserved dwelling unit is occupied by an eligible household and continues until the expiration of the term of years stated in the mixed-income restrictive covenant, unless the term has been tolled and extended due to the owner's substantial noncompliance with the mixed-income housing program.

(c) Instrument to be recorded. A true and correct copy of the fully executed mixed-income restrictive covenant must be recorded in the deed records of the county or counties in which the property is located. The instrument will not be considered effective until it is recorded in the deed records in accordance with this article and a recorded copy of the instrument is filed with the director.

(d) Amendment of instrument. A recorded mixed-income restrictive covenant may be amended to adjust the number of reserved dwelling units in a development if the total number of dwelling units has changed."

SECTION 7. That Section 20A-27, “Administration of the Mixed-Income Housing Program,” within Article II “Mixed-Income Housing,” within Chapter 20A, “Fair Housing and Mixed Income Housing,” of the Dallas City Code is amended to read as follows:

“SEC. 20A-27. ADMINISTRATION OF THE MIXED-INCOME HOUSING PROGRAM.

(a) Compliance~~[with the handbook]~~. Except as provided in this ~~[subsection]~~ division, ~~[the intent of the mixed-income housing program is that]~~ the owner shall provide reserved units and conduct eligibility determinations in accordance with the handbook, 24 CFR Part 5, “General HUD Program Requirements; Waivers,” and the department’s program manual. Where the program manual provides specific exceptions to the handbook or to 24 CFR Part 5, the program manual shall control with respect to the Mixed-Income Housing Program.

(b) Exceptions. The following mandatory items in the handbook do not apply to the mixed-income housing program:

- (1) inquiries regarding or documentation of the immigration status of an applicant or eligible household;
- (2) use of HUD forms, unless specifically required in this division;
- (3) compliance with HUD requirements that are specific to a HUD program and are not generally-applicable; and
- (4) use of the Enterprise Income Verification (EIV) system.

(c) ~~[Eligibility determinations in general. In accordance with the handbook and 24 CFR Part 5, an An owner shall determine whether an applicant is eligible to lease and occupy a reserved dwelling unit before approving the applicant for tenancy and thereafter on an annual basis.~~

(d) ~~Eligibility determination prior to approving an applicant for tenancy. An owner shall determine:~~

- ~~(1) family size in accordance with the handbook;~~
- ~~(2) annual income and adjusted income in accordance with the handbook and 24 CFR Part 5;~~
- ~~(3) whether the applicant's adjusted income is within the income bands applicable to the reserved dwelling units in the property; and~~

~~(4) if the applicant's adjusted income is within the income bands applicable to the reserved dwelling units in the property, whether there are any reserved units at the property that are currently available for lease to and occupancy by an applicant and are dwelling units of adequate size, per the owner's general occupancy standards that must:~~

~~(A) take into account all persons residing in the household and follow the guidelines set forth in the handbook and in accordance with the Fair Housing Act;~~

~~(B) prevent both over-occupancy and under-occupancy of units. In general, a two-person-per-bedroom standard is appropriate; and~~

~~(C) take into account the specific size of bedrooms and units, configuration of the unit, and age of children who may be occupying the unit (if any), among other factors.~~

~~(e)] Determination of family size. An owner shall use the broad definition of family as defined in 24 CFR §5.403, "Definitions," and may not engage in any discriminatory housing practices as defined in Section 20A-4 of this chapter.~~

~~(d[f]) Rent and i[f]ncome limits. The department will annually publish rent and income limits to be used in determining an applicant's eligibility to lease a reserved dwelling unit or a household's eligibility to renew the lease on a reserved dwelling unit. The department shall use the income limits published annually by HUD for the Dallas, TX HUD Metro Fair Market Rent Area, adjusted for family size, as the basis for the department's income limits and shall use the rent limits published annually by the Texas Department of Housing and Community Affairs for nine percent tax credit projects.~~

~~(e[g]) Income bands.~~

~~(1) An owner shall ensure that reserved dwelling units are only leased to and occupied by eligible households in accordance with the development bonus restrictive covenant. [For the mixed income housing program, units must be reserved for families with adjusted annual incomes within the following bands, except that voucher holders may be selected to occupy any reserved dwelling unit:~~

~~(1) Income band 1: 81-100 percent of AMFI;~~

~~(2) Income band 2: 61-80 percent of AMFI; and~~

~~(3) Income band 3: 51-60 percent of AMFI.]~~

~~(2) Eligible households making less than the minimum AMFI for a particular income band, including voucher holders, may be counted for that [as a higher] income band provided that they are charged an affordable rent.~~

(f[h]) Affordable rents.

(1) An owner shall ensure that an affordable rent is charged to eligible households occupying reserved dwelling units and shall re-certify eligibility and rent annually.

~~(2) [An owner is responsible for calculating the affordable rent before approving the applicant for tenancy and on an annual basis based on the eligible household's adjusted income reported during the annual certification.~~

~~(A) After completing the annual eligibility certification process, the owner shall adjust the rent upwards or downwards so that it remains an affordable rent.~~

~~(B)] An owner shall provide a minimum of 30 days written notice to the eligible household before a rent change. The notice must include a summary of how the change was calculated.~~

(3) The ~~[calculated]~~ affordable rent must include all monthly charges or fees that are mandatory for all tenants but does not need to include charges or fees for optional amenities. The owner may not impose expenses or fees that are applicable only to reserved dwelling units.

(g[i]) Annual certification of eligibility. An owner shall conduct an annual certification of household income and composition for each eligible household in accordance with the program manual ~~[as follows:]~~

~~(1) [Except as provided in Paragraph (2), eligible households leasing reserved dwelling units may satisfy the annual certification process by self-certifying their eligibility using a form provided by the director. For reserved dwelling units subject to Subsection (i)(2), this paragraph does not apply.~~

~~(2) Every six years during the property's affordability period, the owner shall conduct the annual certification of each eligible household leasing a reserved dwelling unit in accordance with Subsection (d), regardless of the number of years the eligible household has leased a reserved dwelling unit.~~

~~(3) Annual certification must be completed at least 30 days before the annual anniversary of the initial lease date.~~

~~(4) An owner shall send at least one written notice to the eligible household at least 90 days in advance of the annual anniversary of the initial lease date requesting all information needed to conduct the annual certification in compliance with this division.]~~

(5)] An owner shall not conduct a certification on less than an annual basis unless requested to do so by an eligible household. An owner shall conduct the interim certification in the same manner as conducting an annual certification. An owner may charge a reasonable fee to cover the administrative costs associated with conducting an interim certification.

~~(2[6])~~ If an owner fails to complete the annual certification within 120 days of the lease anniversary date, the reserved dwelling unit will be considered out of compliance and the mixed-income restrictive covenant term will be extended for the period of non-compliance. The non-compliance can be cured by completing the annual certification or designating another unit as a reserved dwelling unit and leasing it to an eligible household.

~~(h[j])~~ [Over and under income eligible households. This subsection is intended to provide a reasonable time period for eligible households and owners to respond to an eligible household's changing economic circumstances.

~~(1)~~ If an eligible household's adjusted income at the annual certification exceeds the highest income for which the unit is reserved, the unit remains in compliance until the next annual certification so long as the owner continues to charge an affordable rent.

~~(2)~~ If an eligible household's adjusted income at the annual certification falls below the lowest income for which the unit is reserved, an owner shall provide written notice to the director so that the director can determine whether the eligible household is eligible for any available subsidies. The unit remains in compliance until the next annual certification so long as the owner continues to charge a rent amount that does not exceed the prior year's affordable rent.

~~(3)~~ If an eligible household's adjusted income either exceeds the highest income for which the reserved dwelling unit is reserved or falls below the lowest income for which the reserved dwelling unit is reserved at a consecutive annual recertification:

~~(A)~~ the owner may begin charging the household market rate rents and the unit is no longer a reserved dwelling unit. The next comparably sized unit to become available will be deemed a reserved dwelling unit; or

~~(B)~~ if the owner is required to provide reserved dwelling units to more than one income band and the eligible household's adjusted income falls within the income band for an alternative reserved dwelling unit, the owner may allow the household to lease an alternative reserved dwelling unit, if available or the owner may re-designate the eligible household's current reserved dwelling unit to the appropriate income band.]

~~(k)~~ Additional requirements and prohibitions.

(1) The reserved dwelling unit for which an applicant is applying to lease, or for which an eligible household leases, must be the applicant's or eligible household's only residence.

(2) An owner may not allow an eligible household to sublease or otherwise accept compensation for allowing a person or persons who are not documented members of the eligible household, pursuant to the owner's lease agreement with the eligible household, to occupy a reserved dwelling unit, regardless of the terms or length of the occupancy.

(3) Any financial assistance that a student receives under the Higher Education Act of 1965, from private sources, or from an institution of higher education that is in excess of the amounts received for tuition shall be included in annual income, except if the student will live with his or her parents and his or her parents are voucher holders.

(4) The department shall conduct regular inspections and monitoring in accordance with the published program manual.”

SECTION 8. That Section 20A-28, “Tenant Selection and Other Written Policies,” within Article II “Mixed-Income Housing,” within Chapter 20A, “Fair Housing and Mixed Income Housing,” of the Dallas City Code is amended to read as follows:

“SEC. 20A-28. TENANT SELECTION AND OTHER WRITTEN POLICIES.

(a) Tenant selection and other policies must comply with the program manual and~~should~~ :

(1) be reasonably related to the mixed-income housing program eligibility criteria and the applicant's ability to perform the obligations of the lease;

(2) prioritize holders of housing vouchers, including vouchers directly or indirectly funded by the federal government, for lease and occupancy of reserved units;

(3~~2~~) provide for the selection of tenants from a written waiting list in the chronological order of their application, insofar as is practicable;

(4~~3~~) give prompt written notification to any rejected applicant stating the grounds for the rejection; and

(5~~4~~) be consistent with this article.

(b) Owners shall create the following written policies and retain written records related to the following policies:

(1) reasonable accommodations;

(2) affirmative marketing;

(3) applicant screening criteria;

(4) tenant selection criteria;

(5) policies for opening and closing the waiting list;

- (6) waiting list preferences, if any;
- (7) procedures for rejecting ineligible tenants;
- (8) occupancy standards;
- (9) non-renewal and termination notices; and
- (10) unit transfers.”

~~(c) — Owners may not reject an applicant only for reasons of credit history or prior rental payment history.”~~

SECTION 9. That Section 20A-29, “Applicant and Eligible Household Responsibilities,” within Article II “Mixed-Income Housing,” within Chapter 20A, “Fair Housing and Mixed Income Housing,” of the Dallas City Code is deleted.

“SEC. 20A-29. RESERVED[APPLICANT AND ELIGIBLE HOUSEHOLD RESPONSIBILITIES].

(a) Applicants and eligible households who lease a reserved dwelling unit shall timely provide the owner all documents and information required by this article to be used to determine income, adjusted income, and family size.

(b) An eligible household who is leasing a reserved dwelling unit at the time the director conducts an audit, upon written request by the director, shall timely provide the director with all documents and information required by this article to be used to determine annual income, adjusted income, and family size.

(c) An eligible household's failure to timely provide requested information and documents to the owner or director upon written request does not constitute an offense. However, if the director is unable to verify that the household is an eligible household, the reserved dwelling unit may be deemed non-compliant and the owner is no longer required by this ordinance to charge an affordable rent. The non-compliance can be cured by completing and providing any required documentation to the director.]”

SECTION 10. That Section 20A-30, “Non-Discrimination,” within Article II “Mixed-Income Housing,” within Chapter 20A, “Fair Housing and Mixed Income Housing,” of the Dallas City Code is amended to read as follows:

“SEC. 20A-30. NON-DISCRIMINATION.

(a) In general. Except as provided in this section, an owner receiving a mixed income development bonus under Division 51A-4.1100 shall not discriminate against holders of housing vouchers, including vouchers directly or indirectly funded by the federal government.

(b) Exception. It is a defense to criminal prosecution or civil action under this section that at least the minimum required percentage of reserved units are leased to eligible households and that all applicable requirements of this article have been met.”

SECTION 11. That Section 20A-31, “Compliance, Reporting, and Recordkeeping,” within Article II “Mixed-Income Housing,” within Chapter 20A, “Fair Housing and Mixed Income Housing,” of the Dallas City Code is amended to read as follows:

“SEC. 20A-31. COMPLIANCE, REPORTING, AND RECORDKEEPING.

(a) In general. An owner must comply with the city's mixed-income housing program during the term of the mixed-income restrictive covenant.

(b) Use of forms. If the director publishes mandatory forms to be used in the mixed-income housing program, which may be amended from time to time, the owner shall use those forms. The director may also publish non-mandatory forms that an owner may use.

(c) Management policies. An owner is responsible for ensuring that his or her employees and agents, including third-party management companies, are aware of and comply with the development bonus restrictive covenant and the mixed-income housing program.

(d) Recordkeeping.

(1) An owner shall maintain documentation during the rental affordability period including, but not limited to, applications, waitlists, first-hand or third-party verification of income and assets, leases for reserved dwelling units, and rents and any fees charged for reserved dwelling units.

(2) An owner shall maintain all required documentation in the eligible household's file on site at the development or maintain the documentation in an electronic format as long as the documentation can be accessed by onsite employees and provided in a timely fashion to the director upon request.

(3) An owner shall maintain documentation of all income verification efforts and household composition reviews throughout the term of each eligible household's tenancy and for at least three years after the eligible household moves out.

(e) Quarterly status reports. An owner shall submit quarterly status reports on a form provided by the director, as described below, in January, April, July, and October on or before the 10th day of the month. The report must include:

- (1) the total number of dwelling units on the property;
 - (2) the total number of reserved dwelling units on the property;
 - (3) a list of all reserved dwelling units on the property, identified by unit number and unit type;
 - (4) for each reserved dwelling unit:
 - (A) the applicable income bands;
 - (B) the current affordable rent, utility allowance, and any fees charged;
 - (C) the occupancy status as of the last day of the previous month for the reporting period. For example, the report due October 10th should report occupancy as of September 30th of the same year;
 - (D) the ~~[adjusted]~~ income of the eligible household leasing and occupying the unit; and
 - (E) the most recent eligibility date for the eligible household leasing and occupying the unit;
 - (5) a signed statement by the owner acknowledging compliance with this division;
 - (6) certification that the development:
 - (A) has maintained vendor registration with one or more local providers of housing vouchers;
 - (B) has reported available units to one or more local providers of housing vouchers each quarter; and
 - (C) that the development will pass the provider's required inspections;
- and

(7) any other information requested by the director that is reasonably related to the mixed-income housing program.

(f) First and final quarterly status reports. An owner shall submit:

(1) the first quarterly status report before the 10th day of the month following the end of the first quarter in which the affordability period began; and

(2) the final quarterly status report on the 20th anniversary of the beginning of the rental affordability period, or a date determined by the director due to the tolling of and extension of the rental affordability period. The director shall verify that the owner has completed all applicable requirements of this division. If all requirements are completed the director shall sign the submitted final quarterly status report before it is filed with the building official.

(g) Affirmative fair housing marketing plan. In this subsection ADMINISTRATOR means the administrator of the fair housing division of the office of equity and inclusion or its successor

(1) Before an eligible household leases and occupies a reserved dwelling unit, an owner shall create an affirmative fair housing marketing plan and shall follow the affirmative fair housing marketing plan at all times during the rental affordability period.

(2) The affirmative fair housing marketing plan shall be in writing and shall be submitted to and receive written approval from the director at least 30 days before an owner starts marketing a unit in the property for initial occupancy.

(3) The affirmative fair housing marketing plan must describe the advertising, outreach, community contacts, and other marketing activities that inform potential renters of the existence of the reserved dwelling units.

~~(4) The affirmative fair housing marketing plan must be resubmitted annually or at the request of the administrator, during the rental affordability period, for review by the administrator. The resubmission must be approved or denied in the same manner as the original affirmative fair housing marketing plan.~~

~~(45)~~ The administrator [director] shall approve or deny the affirmative fair housing marketing plan [within 60 days after a complete plan is submitted to the director] in a timely manner.

(A) Approval. The administrator [director] shall approve the affirmative fair housing marketing plan if it complies with the requirements of this division.

(B) Denial. The administrator [director] shall deny the affirmative fair housing marketing plan if it does not comply with this division. If the administrator [director] denies the affirmative fair housing marketing plan, he or she shall state in writing the specific

reasons for denial. If denied, the owner shall immediately submit a new affirmative fair housing marketing plan.

(h) Audit and inspection.

(1) Any report, policy, or procedure that is required to be created and maintained by this article may be reviewed and audited by the director. An owner shall provide the director with all documentation necessary for the director to verify the accuracy of the information included in the report, policy, or procedure.

(2) The director may also randomly, regularly, and periodically select a sample of tenants occupying reserved dwelling units for the purpose of income verification. Any information received pursuant to this subsection is confidential and may only be used for the purpose of verifying income to determine eligibility for occupancy of the reserved dwelling units.

(i) Consent to substitute.

(1) For properties with three-bedroom or larger dwelling units, if an owner cannot locate eligible households to lease three-bedroom or larger dwelling units, and if the director is satisfied that the owner has made best efforts to lease the three bedroom or larger dwelling units, if applicable, including full compliance with the affirmative fair housing marketing plan, with written consent from the director, an owner may from time to time substitute on a two-for-one basis additional two bedroom dwelling units and/or on a three-to-one basis additional one bedroom dwelling units to meet the pro rata distribution requirements described in Section 51A-4.1106(f).

(2) Before granting written consent, the director shall review and approve an amended affirmative fair housing marketing plan detailing how the owner will target marketing to larger households who could qualify to lease the three-bedroom dwelling units (and larger dwelling units, if applicable). The director's written consent must include a time period during which the agreed-upon substitutions satisfy the pro rata distribution requirements."

SECTION 12. That Section 20A-32, "Violations, Corrective Action Period, and Penalty," within Article II "Mixed-Income Housing," within Chapter 20A, "Fair Housing and Mixed Income Housing," of the Dallas City Code is amended to read as follows:

"SEC. 20A-32. VIOLATIONS, CORRECTIVE ACTION PERIOD, AND PENALTY.

(a) In general. An owner who fails to take an action required by this article or who takes an action prohibited by this division commits an offense.

(b) Form of notice. The director shall give an owner written notice any time the director determines that an owner is not in compliance with the mixed-income housing program or the mixed-income restrictive covenants.

(c) Corrective action period and extensions of mixed-income restrictive covenants.

(1) For a violation other than a violation that poses an imminent hazard or threat to health and safety, the director shall provide written notice of a reasonable [30-day] corrective action period for failure to file a quarterly unit status report and a reasonable [90-day] corrective action period for other violations.

(2) During the corrective action period, an owner will have the opportunity to show that either the owner or the property was never in noncompliance or that the event of noncompliance has been corrected. Sufficient documentation of correction must be received by the director during the corrective action period for an event to be considered corrected during the corrective action period.

(3) ~~[For a violation other than a violation that poses an imminent hazard or threat to health and safety, and only for good cause, the director may extend the corrective action period for up to three months from the date of the notice to the owner.]~~

~~(4)~~ If an owner fails to resolve all violations of this article during the corrective action period, the director may issue citations, seek relief provided in the deed restrictions, extend the mixed-income restrictive covenants term for the period equal to a term of non-compliance, and take any other actions allowed by law.”

SECTION 14. That Article 20A “Mixed Income Housing” of the Dallas City Code is amended by adding a new Section 20A-32.1 “Uses of the One Dallas Fund,” to read as follows:

“SEC. 20A-33. MIXED INCOME HOUSING DEVELOPMENT BONUS FUND.

(a) Use. The Mixed Income Housing Development Bonus Fund may only be used for the following purposes:

(1) Funding programs authorized by the Comprehensive Housing Policy that affirmatively further fair housing.

(2) Funding for data and analysis in support of housing programs authorized by the Comprehensive Housing Policy that affirmatively further fair housing.

(3) Funding staff and expenses for management and administration of Mixed Income Housing Development Bonus Program and the Mixed Income Housing Development Bonus Fund.

(b) Administration. The Mixed Income Housing Development Bonus Fund will be administered by the Department of Housing & Neighborhood Revitalization.”

SECTION 14. That Section 20A-33, “Fees,” within Article II “Mixed-Income Housing,” within Chapter 20A, “Fair Housing and Mixed Income Housing,” of the Dallas City Code is renumbered and amended to read as follows:

“SEC. 20A-34[33]. FEES.

Program Participation Fees	Fee
Pre-application meeting	\$92.00
Initial first year activities (including receiving a development bonus, filing the mixed-income restrictive covenant, and initial leasing.)	\$625.00
Compliance monitoring during affordability period	\$3,736.00

<u>Fees in Lieu of On-Site Provision of Units</u> <u>Fee to be multiplied by the square footage of floor area as specified in Section 20A-23.1</u>	<u>Fee</u> <u>MVA</u> <u>Categories A-F</u>	<u>Fee</u> <u>MVA</u> <u>Categories G-I</u>
<u>Under six stories</u>	<u>\$3.07</u>	<u>\$2.15</u>
<u>Between six and eight stories</u>	<u>\$4.91</u>	<u>\$3.44</u>
<u>Between nine and twelve stories</u>	<u>\$6.14</u>	<u>\$4.30</u>
<u>Over twelve stories</u>	<u>\$7.98</u>	<u>\$5.59</u>

Consumer Price Index adjustment. The fees in lieu will be increased yearly by a percentage equal to the percentage change in the Consumer Price Index statistics published by the United States Bureau of Labor. Comparisons will be made using the index entitled, “Housing in Dallas-Fort Worth-Arlington, TX, all urban consumers, not seasonally adjusted,” series ID CUURS37ASAH (1982-1984 = 100),” or similar comparable United States Bureau of Labor data on changes in the cost of living, if the initial index is no longer published. Beginning with January 2023, the change will be determined by comparison of the figure for the previous January with that of January of the current year. This calculation may not reduce the fee in lieu below the listed amount for the preceding year.

SECTION 15. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$500.

SECTION 16. That Chapter 20A of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 17. 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 18. 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 19. 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 _____