Division 4. Affordability Unlocked Bonus Program.

§ 25-1-720 PURPOSE, APPLICABILITY, SHORT TITLE, AUTHORITY, AND CONFLICT.

(A) The purpose of this division is to establish a voluntary affordable housing bonus program that allows for increased density for residential dwelling units.

(B) This division applies within the zoning jurisdiction.

(C) This division may be cited as "Affordability Unlocked Bonus Program".

(D) The director may adopt, implement, and enforce:

(1) program guidelines; and

(2) administrative rules in accordance with Chapter 1-2 (*Administrative Rules*).

(E) A provision of this title that is specifically applicable to a qualifying development governs over a conflicting provision of this title.

Source: 20190509-027 , Pt. 2, 5-20-19.

§ 25-1-721 DEFINITIONS.

In this division,

(1) GOVERNMENT-OPERATED AFFORDABLE HOUSING PROGRAM means a program operated by a federal, state, or local department that provides financial or other form of subsidy for the purpose of providing affordable housing.

(2) HOUSING FOR OLDER PERSONS means housing for households with at least one individual who is at least 62 years of age at the time of initial occupancy.

(3) MFI means median family income for the Austin metropolitan statistical area.

(4) QUALIFYING DEVELOPMENT means a development certified under Section 25-1-724 (*Certification*) and participating in the Affordability Unlocked Bonus Program.

(5) SLEEPING UNIT means a bedroom in a structure that serves as a dwelling unit for seven or more unrelated individuals who share amenities, such as a kitchen, bathrooms, or living areas.

(6) SUPPORTIVE HOUSING means housing that includes non-time-limited affordable housing assistance with wrap-around supportive services for individuals experiencing homelessness, as well as other individuals with disabilities.

§ 25-1-722 ELIGIBILITY.

(A) A proposed development qualifies as a Type I development and is eligible for this program if:

(1) it includes:

(a) a minimum of three dwelling units,

(b) only affordable dwelling units; or

(c) one or more structures that serve as a dwelling unit for seven or more unrelated individuals who share amenities, such as a kitchen, bathrooms, or living areas;

(2) at least 25 percent of the affordable dwelling units include two or more bedrooms, supportive housing, housing for older persons, or any combination of the three;

(3) not more than 25 percent of the proposed development's gross floor area is for commercial uses;

(4) it is new construction, it is redevelopment of a site without existing multi-family structures, or the existing development on the site complies with the requirements in Subsection (D); and

(5) it meets the requirements set forth in Section 25-1-723 (*Affordability Requirements*).

(B) Except for a proposed development participating in a government-operated affordable housing program with stricter requirements, the applicant for a proposed rental development:

(1) shall incorporate lease provisions that are consistent with:

(a) the U.S. Department of Housing and Urban Development (HUD) Section 8 Tenant-Based Assistance Housing Choice Voucher (HCV) Program related to the termination of tenancy by owner;

(b) any lease addendum required as a condition to receive city or Austin Housing Finance Corporation (AHFC) funds; and

(c) 24 C.F.R. § 245.100 related to a tenant's right to organize; and

(2) may not discriminate on the basis of an individual 's source of income as defined in Section 5-1-13 (*Definitions*).

(C) A proposed development qualifies as a Type 2 development and is eligible for additional bonuses if it meets the standards imposed in Subsections (A) and (B) plus one or more of the following:

(1) at least 50 percent of the affordable dwelling units include two or more bedrooms;

(2) for a rental development:

(a) at least 75 percent of the total units or sleeping units serve households whose incomes average 60 percent MFI or below, rounded up to the nearest unit or sleeping unit; or

(b) at least 10 percent of the affordable units or sleeping units serve households with incomes of 30 percent MFI or below, rounded up to the nearest unit or sleeping unit; or

(3) for an owner-occupied development, at least 75 percent of the owner-occupied dwelling units or sleeping units serve households whose incomes average 80 percent MFI or below; or

(4) is located within ¼ mile of an activity corridor designated in the Imagine Austin Comprehensive Plan and is served by a bus or transit line.

(D) A proposed development that will require the applicant to redevelop or rebuild an existing multi-family structure is eligible for this program if:

(1) the proposed development meets the standards imposed in Subsections (A) and (B);

(2) the existing multi-family structure requires extensive repairs and for which rehabilitation costs will exceed 50 percent of the market value, as determined by the building official;

(3) the proposed development will replace all existing units that were affordable to a household earning 80 percent MFI or below in the previous year and have at least as many bedrooms;

(4) the applicant provides current tenants with:

(a) notice and information about the proposed development on a form approved by the director; and

(b) relocation benefits that are consistent with Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C.A. 4601, *et seq.*; and

(5) the applicant grants current tenants the option to lease a unit of comparable affordability and size following completion of redevelopment.

Source: 20190509-027 , Pt. 2, 5-20-19.

§ 25-1-723 AFFORDABILITY REQUIREMENTS.

(A) An applicant complies with the requirements in this section if the applicant participates in a government-operated affordable housing program that imposes, at a minimum, the same affordability requirements.

(B) A rental development must comply with at least the following:

(1) at least 50 percent of the total units or sleeping units serve households whose incomes average 60 percent MFI or below; and

(2) at least 20 percent of the total units or sleeping units serve households with incomes of 50 percent MFI or below.

(C) Except for a Type 2 owner-occupied development that complies with the requirements in Section 25-1-722(C)(3), at least 50 percent of the owner-occupied dwelling units or sleeping units must serve households whose incomes average 80 percent MFI or below.

(D) If the number of units required in this section include less than a whole unit, the unit number is rounded up to the nearest whole unit.

(E) The minimum affordability period for a rental development is the greater of the affordability period required for development receiving city or Austin Housing Finance Corporation (AHFC) funds or 40 years following the issuance of the last certificate of occupancy required for the qualifying development.

(F) The minimum affordability period for an owner-occupied dwelling unit is 99 years following the issuance of a certificate of occupancy for the owner-occupied dwelling unit.

(G) In a multi-phased qualifying development, the director may begin the minimum affordability period upon the issuance of the last certificate of occupancy for each phase.

Source: 20190509-027 , Pt. 2, 5-20-19.

§ 25-1-724 CERTIFICATION.

(A) If the director certifies that a proposed development meets the requirements of this division, the accountable official is authorized to process a development application as a qualifying development.

(B) Before the director may certify that a proposed development meets the requirements of this division, the applicant shall execute:

(1) an agreement to preserve the minimum affordability period and related requirements imposed by this division; and

(2) a document for recording in the real property records that provides notice of or preserves the minimum affordability requirements imposed by this division.

(C) The form of the documents described in Subsection (B) must be approved by the city attorney.

(D) The director may certify an applicant who complies with the requirements in Subsection (B) because the applicant participates in a government-operated affordable housing program that imposes, at a minimum, the same affordability requirements.

Source: 20190509-027 , Pt. 2, 5-20-19.

§ 25-1-725 POST-CONSTRUCTION REQUIREMENTS AND PENALTY.

(A) For a rental development, the property owner or the property owner's agent shall provide the director with information that allows the director to verify compliance with the affordability requirements. The information shall be provided on an annual basis and on a form approved by the director.

(B) If, for any reason, the director is unable to confirm that the affordability requirements were met during any 12-month period, the preceding 12 months may not be used to satisfy the minimum affordability requirements in Section 25-1-723 (*Affordability Requirements*).

(C) An applicant complies with the requirements in this section if the applicant complies with monitoring and income verification requirements that are imposed and enforced as part of a government-operated affordable housing program.

(D) A person commits an offense if the person fails to comply with the requirement in Subsection (A). A culpable mental state is not required, and need not be proved. A person commits a separate offense for each day the person fails to provide the documentation. Each offense is punishable by a fine not to exceed $500.

Source: 20190509-027 , Pt. 2, 5-20-19.