Affordability Unlocked Development Bonus Program Applicant Guide

Austin Housing

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Contact Information

Thank you for your interest in providing affordable housing through the Affordability Unlocked program.

For questions about the information contained in this guide, please contact Austin Housing staff at HousingIncentives@austintexas.gov or 512-974-3100.

Information on other programs may be found on the Development Incentives Webpage.

Please note: This guide does not include information for tenants seeking to apply for affordable units. These units are not owned or leased by the City of Austin, and any questions about rental applications for affordable units should be directed to the property's management.

Austin Housing

Overview

The Affordability Unlocked (AU) Development Bonus Program is designed to increase the number of affordable housing units being developed in Austin and fully leverage public funds and resources by allowing housing providers to build more units in their developments when significant amounts of affordable housing units are included. It was created through Ordinance No. 20190509-027 and is administered by Austin Housing.

The program applies citywide and offers extensive waivers and modifications of development regulations in exchange for setting aside at least 50% of a development's total units as affordable for a minimum of 40 years for rental and 99 years for ownership units, in addition to other requirements detailed in this guide.

The program can be combined with other City of Austin funding and development incentive programs, including Rental Housing Development Assistance (RHDA), Ownership Housing Development Assistance (OHDA), S.M.A.R.T. Housing, and density bonuses. For more information on these programs and incentives, please visit Austin Housing's Developer Resources website.

Development Incentive programs which require an executed Land Use Restrictions Agreement prior to certification and site plan approval are processed in a specific order. **Figure 1** and **Figure 2** show the order of process for Affordability Unlocked applications. For proposed developments that intend to utilize the AU development bonus, applicants must submit a Housing Development Incentives Application. Austin Housing staff will review the application to ensure the project proposal meets the program requirements for affordability and redevelopment (if applicable). If the proposed development meets the requirements of the AU program, Austin Housing staff will issue a Prequalification Letter allowing the applicant to submit a site plan application. During the site plan, the applicant must execute a Land Use Restrictions Agreement which, once fully executed, will result in the issuance of a Certification Letter. This Certification Letter will confirm the proposed development's eligibility for the AU density bonus. First-time applicants should review this guide thoroughly before applying.

Figure 1. Affordability Unlocked Application and Certification Process Order

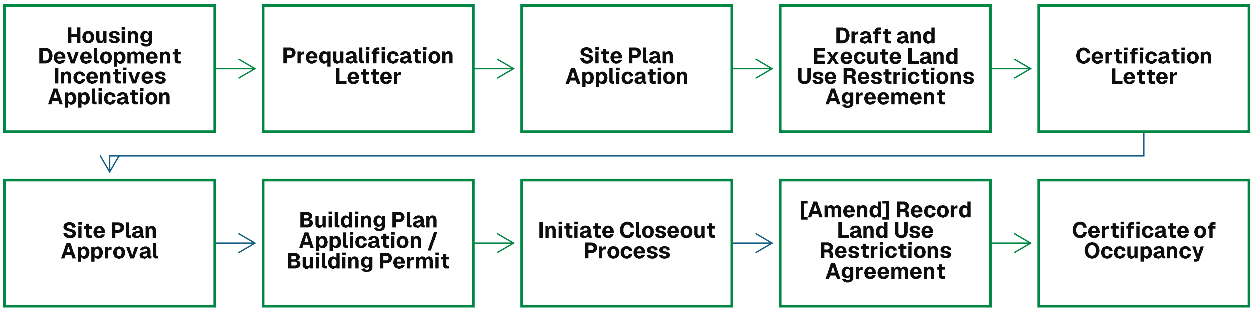
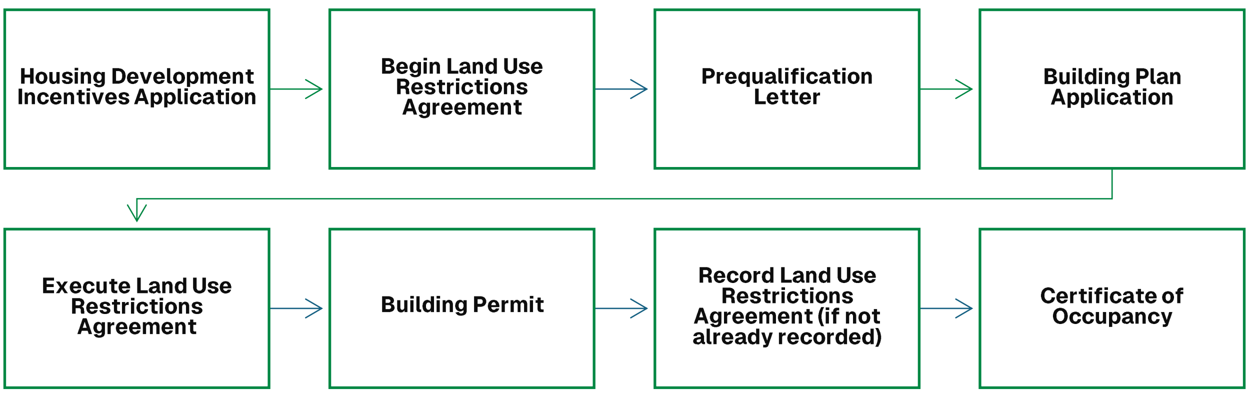


Figure 2. Affordability Unlocked Application and Certification Process Order for Projects which do not Require a Site Plan



Zoning and Land Use

Developments that meet the requirements of the Affordability Unlocked Program can be built as a permitted use on any site that is in:

- A residential base zoning district
- A commercial base zoning district
- A special purpose base zoning district, except on a site designated agricultural (AG) or aviation (AV), and/or
- A combining and overlay district.

Applicants do not need to seek a rezoning to use this program if the proposed development is located on a site that meets the above criteria.

To qualify for the Affordability Unlocked program, developments may not designate more than 25% of their gross floor area for commercial uses. This does not include space for resident amenities including laundry rooms, business centers, fitness centers, or leasing offices. Only those commercial uses permitted in the site's base zoning district are allowed.

In general, conditional overlays (CO's) that directly conflict with the development bonuses offered by Affordability Unlocked are superseded by Affordability Unlocked. In general, CO's that govern other issues will continue to apply.

Program Requirements

The Affordability Unlocked program allows applicants to select from two levels of affordability. The first level, Type 1, includes entry-level requirements that must be met to utilize the program. The second level, Type 2, includes requirements in addition to all Type 1 requirements and allows for additional development bonuses in some cases. See the Development Bonuses section for more information.

Type 1 (Entry-Level) Requirements

The following requirements must be met to participate in the program:

Developments with Rental Units

- For developments of 1 or 2 units, all units must be affordable.
- For developments of 3 or more units, 50% of the total units must be affordable. If the number of units required would be less than a whole unit, the required number is rounded up to the nearest unit.
- Twenty percent (20%) of all units must serve households at or below 50% of the median family income for the Austin-Round Rock Metropolitan Statistical Area (MFI).
- Rent levels for the affordable units must be affordable to households whose incomes average 60% MFI or below. See **Figure 3** below.
- Twenty-five percent (25%) of the affordable units must meet one of the following:
    - Include two or more bedrooms,

- Serve as supportive housing (housing that includes non-time-limited affordable housing assistance with wrap-around supportive services for individuals experiencing homelessness or other individuals with disabilities), or
  - Serve as housing for older persons (housing for households with at least one individual who is at least 62 years of age at the time of initial occupancy).
- The affordable units must meet these affordability requirements for the entirety of the affordability period. The affordability period for rental units is at least 40 years from the issuance date of the last certificate of occupancy required for the development. For multi-phased developments, the affordability period may begin upon the issuance of the last certificate of occupancy for each phase, subject to the Austin Housing Director's approval.
- Unless a development is participating in another government-operated affordable housing program with stricter requirements, the following lease provisions must be incorporated into the leases for the affordable units:
  - The U.S. Department of Housing & Urban Development (HUD) Section 8 Tenant-Based Assistance Housing Choice Voucher Program related to termination of tenancy by owner,
  - 24 C.F.R. Section 245.100 related to a tenant's right to organize, and
  - Any lease addendum required as a condition to receive City of Austin or Austin Housing Finance Corporation funding for affordable housing.
- The property owner may not discriminate against prospective renters on the basis of the individual's source of income, as defined in Austin's City Code Section 5-1-13 (Definitions).

Figure 3. Income Averaging Example

For example, in a 10-unit development, 5 units must be affordable (50% x 10 = 5). Two (2) of those units must serve households at or below 50% MFI. The remaining 3 affordable units can serve different combinations of income levels, as long as the average income level served by all 5 affordable units is less than or equal to 60% MFI. The 3 remaining affordable units could be distributed in a variety of combinations: ♦ 1 unit at 30% MFI and 2 units at 80% MFI ♦ 1 unit at 80% MFI and 2 units at 60% MFI ♦ all 3 units at 60% MFI

Developments with Ownership Units

- For developments of 1 or 2 units, all units must be affordable.
- For developments of 3 or more units, 50% of the total units must be affordable. If the number of units required would be less than a whole unit, the required number is rounded up to the nearest unit.
- Sale prices for the affordable units must be affordable to households whose incomes average 80% of the median family income for the Austin-Round Rock Metropolitan Statistical Area (MFI) or below. See **Figure 4** below.
- Twenty-five percent (25%) of the affordable units must meet one of the following:
  - Include two or more bedrooms,
  - Serve as supportive housing (housing that includes non-time-limited affordable housing assistance with wrap-around supportive services for individuals experiencing homelessness or other individuals with disabilities), or
  - Serve as housing for older persons (housing for households with at least one individual who is at least 62 years of age at the time of initial occupancy).
- The affordable units must meet these affordability requirements for the entirety of the affordability period. The affordability period for ownership units is at least 99 years from the issuance date of the certificate of occupancy for the unit.

Figure 4. Income Averaging

For example, in a 10-unit development, 5 units must be affordable (50% x 10 = 5). The affordable units can serve different combinations of income levels, as long as the average income level served by all 5 affordable units is less than or equal to 80% MFI. Two examples are below: ♦ 3 units at 80% MFI, 1 unit at 100% MFI, and 1 unit at 60% MFI ♦ all 5 units at 80% MFI

Developments with Co-Housing Units

Affordability Unlocked is available for developments functioning as co-operatives or co-housing developments if they meet the following definition: *one or more structures that serve as a dwelling unit for 7 or more unrelated individuals who share amenities, such as a kitchen, bathrooms, or living areas.* These developments must meet the following affordability requirements:

- Fifty percent (50%) of the total bedrooms must be affordable. If the number of bedrooms required would be less than a whole bedroom, the required number is rounded up to the nearest whole bedroom.
- Twenty percent (20%) of all bedrooms must serve households at or below 50% of the median family income for the Austin-Round Rock Metropolitan Statistical Area (MFI).
- Rent levels for the affordable bedrooms must average 60% MFI or below. See **Figure 5** below.
- The affordable rooms must meet these affordability requirements for the entirety of the affordability period. The affordability period for rental units is at least 40 years from the issuance date of the last certificate of occupancy required for the development.
- Unless a development is participating in another government-operated affordable housing program with stricter requirements, the following lease provisions must be incorporated into the leases for the affordable bedrooms:
  - The U.S. Department of Housing & Urban Development (HUD) Section 8 Tenant-Based Assistance Housing Choice Voucher Program related to termination of tenancy by owner,
  - 24 C.F.R. Section 245.100 related to a tenant's right to organize, and

  - Any lease addendum required as a condition to receive City of Austin or Austin Housing Finance Corporation funding for affordable housing.
- The property owner may not discriminate against prospective renters on the basis of the individual's source of income, as defined in Austin's City Code Section 5-1-13 (Definitions).

Figure 5. Income Averaging

For example, in a co-operative with 10 rooms, 5 rooms must be affordable (50% x 10 = 5). Two (2) of those rooms must serve households at or below 50% MFI. The remaining 3 affordable rooms can serve different combinations of income levels, as long as the average income level served by all 5 affordable rooms is less than or equal to 60% MFI. The 3 remaining affordable rooms could be distributed in a variety of combinations:

- 1 room at 30% MFI and 2 rooms at 80% MFI
- 1 room at 80% MFI and 2 rooms at 60% MFI
- all 3 rooms at 60% MFI

Type 2 Requirements

To meet Type 2 requirements, applicants must comply with all the requirements described in Type 1, **and** one or more of the following:

- At least 50% of the affordable units (rounded up to the nearest whole unit) must include two or more bedrooms,
- At least 75% of the total units (rounded up to the nearest whole unit) must be affordable, in compliance with the affordability levels described in Type 1,
- At least 10% of the affordable units (rounded up to the nearest whole unit) must serve households at or below 30% MFI, or
- The development is located within ¼-mile walking distance of an Imagine Austin Activity Corridor that is served by transit.

Residential Redevelopment Requirements

Affordability Unlocked is available for new construction or redevelopment. However, if a development is proposed for a site that contains existing multifamily housing units, the following requirements must be met:

- The existing multifamily structure(s) require(s) extensive repairs and rehabilitation costs will exceed 50% of the market value of the development. To show this, applicants must attach an engineering report to the Affordability Unlocked application. The City of Austin's Building Official will make the final determination as to whether this criterion is met.
- All existing income-restricted affordable units, as well as all market-rate affordable units being rented at prices affordable to households earning at or below 80% MFI, must be replaced one-for-one in the new development. The number of bedrooms must be at least equal in the in the new development as was in the existing development.
    - To determine how many units must be replaced, the applicant must provide Austin Housing with information on the rents at the property in the last year. Any market-rate units that were rented at or below 80% MFI units would be considered market-rate affordable. Any units that had income restrictions requiring residents to earn incomes at or below 80% MFI would be considered income-restricted affordable. The applicant must provide this rental information to Austin Housing in the Affordability Unlocked application.

Tenant Notice and Relocation Assistance

The applicant must comply with § 25-1 Article 15, Division 3 and provide tenants in the existing multifamily units with:

- Notice and information about the proposed development on a form approved by Austin Housing.
- Financial relocation assistance consistent with the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act.
- The opportunity to lease a unit of comparable size and cost in the new development.

Bonuses Offered

By participating in Affordability Unlocked, developers can access the following waivers or modifications of development regulations:

Development Regulation Waivers

Development Regulation Waived	City Code Section
Compatibility height and setback requirements (note that side setbacks required by the base zoning district are not waived)	Article 10 (Compatibility Standards) and Subchapter F (Residential Design & Compatibility Standards)
Floor-to-Area Ratio (FAR) limits of the base zoning district	Section 25-2-492 (Site Development Regulations)
Duplex regulations	Section 25-2-773
Minimum site area requirements of the base zoning district	multiple sections
Dwelling unit occupancy limits	Section 25-2-511

Development Regulation Modifications

Development Regulation Modified
Minimum lot size for a development is 2,500 square feet
Minimum lot width for a development is 25 feet
Front yard setbacks are reduced by 50%
Rear yard setbacks are reduced by 50%
For Type 1 projects, the height limit is increased by multiplying the base zoning district height limit by 1.25. For Type 2 projects, the height limit is increased by multiplying the base zoning district height limit by 1.5.
For Type 1 projects on lots where the base zoning district includes a limit on the number of dwelling units per lot, the maximum number of dwelling units per lot is 6. For Type 2 projects on lots where the base zoning district includes a limit on the number of dwelling units per lot, the maximum number of dwelling units per lot is 8.

Parking - If a development is proposed to contain fewer parking spaces than is required by City Code 25-6 Appendix A (Tables of Off-Street Parking and Loading Requirements), the minimum required number of accessible parking spaces is the greater of:

- One accessible parking space,
- The number of accessible parking spaces required under the Building Code based on the amount of parking required for the development by Appendix A, or
- The number of accessible parking spaces required by the ADA or FHAA, if applicable.

Accessible parking spaces must be adjacent to the development and located on an accessible route from the development. Accessible parking spaces must also comply with all design, accessibility, and location requirements of the ADA and FHAA as appropriate.

Note: Applicants must comply with all other applicable development regulations, including environmental and watershed regulations. Site plan regulations and review requirements continue to apply (for example, although a lot zoned SF-3 can accommodate up to 8 dwelling units under the program, the project would still be subject to site plan review because it is over 2 units).

If the proposed development will be located in a locally designated historic district, contact the City of Austin's Historic Preservation Office at preservation@austintexas.gov or (512) 974-3584.

Application and Certification Process

Important: A site plan application *cannot* be submitted to Austin Development Services until an Affordability Unlocked application is submitted and Austin Housing staff issue a Prequalification Letter.

Applicants may request a pre-submittal meeting with Austin Housing staff prior to submission of a Housing Development Incentives Application. To request a meeting, please email HousingIncentives@austintexas.gov with the subject line "Pre-Submittal Meeting Request – AU – *PROJECT ADDRESS*".

Austin Housing must ensure that a proposed development meets the requirements of the Affordability Unlocked program, and Austin Housing must issue a Prequalification Letter before a development permit application can be submitted to Development Services. **Applicants should submit a Housing Development Incentives Application at least two weeks before intending to submit a site plan application**. **Applicants who do not require a site plan should submit a Housing Development Incentives Application at least 6 weeks before intending to submit a building permit application. This is to ensure the required Land Use Restrictions Agreement does not conflict with shorter application cycles for building permits.**

First-time applicants should thoroughly review the Affordability Unlocked requirements and certification process described in this guide before applying.

1. Apply to Austin Housing

Applicants for Affordability Unlocked should submit an application to Austin Housing using the Housing Development Incentives Application.

2. Application Review

Upon receipt, Austin Housing staff will acknowledge your application and make every effort to provide initial comments within 5-10 business days.

Initial comments may address ineligible affordability proposals, missing attachments, clarity on site details, or other questions as needed to verify program eligibility.

3. Prequalification Letter

Once all review comments have been addressed and the project proposal meets the program requirements for affordability, including plans for redevelopment (if applicable), Austin Housing staff will issue a Prequalification Letter to the applicant/property owner.

4. Land Use Restrictions Agreement

Applicants must enter into a binding land use restrictions agreement prior to receiving a Certification Letter. Austin Housing staff will request details necessary for the drafting and execution of this agreement. The form of the agreement is a standard form approved by Austin Law and must be agreed to in order to participate in the program.

5. Certification Letter

Once all review comments have been satisfied and an agreement has been executed, Austin Housing staff will issue a Certification Letter. The Certification Letter will confirm the development's eligibility for Affordability Unlocked. The Certification Letter also serves as final evidence that the proposed development meets the program requirements.

6. Site Permit or Building Permit

Once received, the applicant should provide the signed Certification Letter to all permitting and review departments to demonstrate that all program requirements have been met and that the project is eligible to receive the site permit. **A site development permit - or building permits if a site plan is not required - cannot be approved until a Land Use Restrictions Agreement is fully executed and a Certification Letter has been issued.**

Design Requirements and Site Plan Review

Applicants must receive a signed Affordability Unlocked Prequalification Letter from Austin Housing before submitting an application for a site plan that relies on the density bonus entitlements. Once the Land Use Restrictions Agreement is executed, a Certification Letter will be issued which verifies that the proposed development is eligible for the entitlements of the Affordability Unlocked program.

A Certification Letter does not confirm that a proposed development meets other applicable design and development standards, including the program's mixed-use design standards. These requirements will be addressed during the permitting process. **Applicants with questions or concerns about project design are highly encouraged to [schedule a pre-application meeting with Austin Development Services] prior to submitting a site plan application.**

The requirements of the Affordability Unlocked program must be met within the building which receives the bonuses offered by the program. Bonuses cannot be applied to a separate structure.

Other Requirements and Regulations

This guide provides an overview of affordable housing requirements for Affordability Unlocked; however, other requirements and regulations may apply to the proposed development. Austin Housing staff can connect you with the appropriate contact for any questions you may have. Some common questions, and the department best suited to address them, are below:

- For general permitting and Land Development Code questions, please schedule a meeting at the Permitting and Development Center.
- For applicants with a substantially complete plan set seeking a pre-application meeting to address project design, please reach out to Austin Development Services.

Project Closeout

After an applicant has executed a Land Use Restrictions Agreement and received a Certification Letter, they are able to receive a site development permit. Once building permits have been approved, Austin Housing staff will apply an administrative hold which will prevent the project from scheduling final inspections and obtaining a Certificate of Occupancy. In order to clear the administrative holds, applicants are responsible for completing the following:

- Provide an architect letter verifying the final constructed details of the development
- Amending the executed Land Use Restrictions Agreement, if necessary

- Recording the Land Use Restrictions Agreement and providing an electronic copy of that recorded instrument to Austin Housing staff
- Verification that any redevelopment requirements of the project have been satisfied (i.e., right of return for the previously displaced tenants)

These elements can take time to complete. **Applicants are encouraged to begin the closeout process at least two months before final inspections will be scheduled.**

Income Limits, Rent Rates, and Sales Prices

Projects developed through the Affordability Unlocked density bonus program are required to use the Income Limits, Rent Rates, and Sales Prices set by Austin Housing. This information is updated annually and is posted on the Income and Rent Limits webpage.

Monitoring and Compliance

Owners of projects developed through the Affordability Unlocked density bonus program must participate in monitoring and compliance functions conducted by City of Austin (or appointed contractor) throughout the duration of the required affordability period.