



# City of Austin

## Developer Incentives and Agreements

### Guide to Income Determination, Rents, Compliance and Monitoring

Effective Date: October 1, 2015

The purpose of this document is to provide an overview of requirements for Income Determination, Compliance and Monitoring for projects that have opted to participate in a Developer Incentive or Development Agreement with an affordability requirement. Please note that income and rent limits guidelines for University Neighborhood Ordinance (UNO) developments may be found in a separate document entitled "UNO Guide to Income Determination, Rents, Compliance and Monitoring."

The guides may be located on the NHCD website under Program Guidelines and Documents:  
<http://austintexas.gov/page/development-incentives-and-agreements>

Typical developer incentives include: S.M.A.R.T. Housing™, Vertical Mixed Use (VMU), Transit Oriented Districts (TODs) and Density Bonus overlays. Some examples of density bonus overlays include: Downtown Density Bonus, Transit Oriented Development, and Rainey Street District.

The City of Austin's Neighborhood Housing and Community Development (NHCD) department monitors all properties with an affordable housing requirement for the duration of the affordability term

Questions regarding Developer Incentives and Agreements may be directed to NHCD at 512-974-3100.

## **Pre-development**

### **Letters of Affordability & Restrictive Covenants**

Any housing development project that opts-in or is subject to a developer incentive or agreement and triggers an affordability requirement will be issued a Letter of Affordability, which will summarize the affordability requirements of the development. A property may also be required to have a Restrictive Covenant executed by the City and the developer.

The project will also be required to have a Restrictive Covenant executed and recorded by the City and the developer prior to issuance of the final certificate of occupancy. The Restrictive Covenant will include the following elements:

- The ordinance, developer incentive program or the density bonus program applicable to the project;
- The Median Family Income (MFI) limits for eligible tenants;
- The number of units;
- The affordability term requirement (based on number of compliant years); and
- The Date of Certificate of Occupancy.

## Monitoring for Compliance

**A determination of compliance is subject to:**

- 1) Verification of Eligible Households**
- 2) Implementation of Rent Limits**

- 1. Eligible Households:** Households are defined as the total number of residents who occupy a unit or bedroom on an ongoing basis. Household annual income may not exceed the percent of the median family income (MFI) established in the applicable developer incentive or density bonus program. The Restrictive Covenant summarizes the affordability requirements for the property, including the number of units, income limits, and length of time the units must remain affordable.

The income limit is based on a percentage of the Austin Area Median Family Income (MFI). The MFI limits are determined and published annually by the United States Department of Housing and Urban Development Department (HUD). The current HUD chart may be obtained at: [www.austintexas.gov/housing](http://www.austintexas.gov/housing). It is the responsibility of the property owners and managers to be aware of the MFI limits in effect at the time a lease is signed. Eligibility must be determined prior to signing each new or renewal lease.

### Median Family Income

Example 2015 HUD issued Income Limits for the Austin-Round-San Marcos Rock MSA (effective 06/1/2015):

Median Family Income	1 Person Household	2 Person Household	3 Person Household	4 Person Household
<b>80%</b>	\$43,050	\$40,200	\$55,350	\$61,450
<b>65%</b>	\$34,950	\$39,950	\$44,950	\$49,920
<b>60%</b>	\$32,250	\$36,850	\$41,450	\$46,080
<b>50%</b>	\$26,900	\$30,750	\$34,600	\$38,400

- A. Calculating Income:** Income is determined by the Gross Annual Income and is calculated using the full amount of income from all sources and before any payroll deductions. Tuition-related payments must be reported, but will not be counted as student income.
- B. Documentation and Verification of Income for Rental Housing:** It is the responsibility of the property owner or manager to collect and maintain the documentation necessary to determine income eligibility of the applicant(s). The documentation must be kept in the resident file and the file must be on-site. Use of City-provided Income Determination Forms is required. All sources of regular continuing income for all adult household members must be documented.

#### Income Verification Process

This process involves collecting documentation from an applicant to determine the household income. The verification of income includes employment income, other income, percentage of parental financial support, and amount of Student Financial Aid awarded.

- a. Acceptable sources of documentation of employment income\* include:
- i. Two months' most immediate past paycheck stubs for which the pay dates occurred within the last ninety (90) days;
  - ii. Letter from Employer may be used if a resident will be a new employee who will then be required to follow up with the next two months' worth of paycheck stubs; or \*
  - ii. Previous year's W-2(s) (if less than six (6) months old), a signed copy of the income tax return or IRS transcript for each adult household member along with the "Affidavit of Unemployment" if the potential resident has been unemployed since filing.
  - iii. For individuals who are self-employed: Individuals who are self-employed must submit six (6) consecutive months' worth of personal bank statements. Each bank statement must include the name of the applicant/resident, name of the banking establishment, the reporting period and all pages. These statements will be used to document income in combination with other documentation, as needed.

\*Employment Income amounts indicated by documentation should be multiplied by the appropriate factor to determine gross annual income (e.g. hourly wage x 2080, weekly wages x 52, or bi-weekly wage x 26). In the event that a specific earning wage is not available, income may be determined by averaging the gross income indicated on each paycheck stub (e.g. 3 paycheck stubs total divided by 3) and then multiplying by the appropriate factor (weekly, bi-weekly, monthly, etc.)

- a. Additional documentation may be needed to verify other income sources, if applicable:
- i. Award letters for Social Security Income (SSI), Social Security Disability Income (SSDI) or similar periodic payments;
  - ii. Statements for pension, retirement and/or investment distribution(s);
  - iii. Proof that alimony or child support payments are being received;

- iv. Bank statements, if required to determine eligibility.
  - b. Acceptable documentation for student financial aid include:
    - i. Financial aid award letter(s) indicating which loans/grants were accepted; and
    - ii. Any combination of the previously referenced acceptable forms of documentation.
  - c. Regular Contributions (formerly known as “parental support”) may not exceed thirty percent (30%) of total gross income.
2. **Rent Limits:** Rent Limits are the maximum rents that can be charged for a unit or bedroom based on the MFI limit stipulated in the ordinance, developer incentive or density bonus program that will govern the development.

The following assumptions may be made in consideration of the number of persons in the dwelling unit and the number of bedrooms in the unit:

- Efficiency / 1 bedroom = 1 person
- 2 bedroom = 2 persons
- 3 bedroom = 3 persons

The rent limits were derived from the MFI limits. i.e. one person income limit at 60% is \$32,250.  $\$32,250 / 12 = \$2687.50 \times .28 = \$752.50$ , rounded to \$753.00.

**RENT LIMITS TABLE**

Median Family Income	Efficiency/ One Bedroom	Two Bedroom	Three Bedroom
80%	\$1,005	\$1,148	\$1,292
60%	\$753	\$860	\$967
65%	\$816	\$932	\$1,049
50%	\$628	\$718	\$807

Regardless of the number of occupants, the bedroom count of the unit determines the rent.

**EXAMPLE:** A three person household, leasing a two-bedroom unit at a limit of 60% MFI

The three person household income limit is \$41,450 per the MFI chart above.  
 A two bedroom unit rent limit will be \$860 per the Rent Limit Table above.

NHCD will set the rental rates by bedroom size annually based on the published HUD income limits. Rent limits may not be increased by the property even if the household size is greater than the assumptions used to set the rents.

The household must still be income eligible.

**Certification Forms:** Use of the City of Austin certification forms is required. All documentation to support the eligibility determination must be placed behind each certification.

**Recertification:** Recertification of household income eligibility is required upon execution of each lease renewal, even if less than a one year lease. Residents must complete a new Income Verification Worksheet for recertification.

**On-going Qualified Unit and Resident:** A unit occupied by an eligible resident(s) will continue to be counted as occupied by a qualified resident until it is determined that the unit annual income exceeds 140 percent (140%) of the current applicable MFI limit. If, upon annual recertification, the unit income is determined to exceed 140% of the applicable MFI limit, the unit or bedroom is no longer considered a qualified unit and the owner must make the next unit or bedroom available to be occupied by another income-eligible household.

Rental amounts may be adjusted for residents who renew and whose income exceeds the income limit established for the property. The renewal rental amount may not exceed 28% of the resident's increased annual gross income.

**Monitoring:** The project will be monitored initially within twelve (12) months from the date of the certificate of occupancy. After the initial lease-up period, the project will be monitored at least annually to ensure continuing compliance with UNO requirements. Monitoring may take the form of a desk review or on-site review.

**NHCD reserves the right to examine all income eligibility records and reserves the right to request additional, supplemental documentation to determine eligibility.**

**Term of Affordability:** The term of affordability will be determined by the applicable Developer Incentive / Density Bonus / Programs. Those projects seeking density bonuses under certain provisions may have a longer affordability term.

*A project will be released from the affordability obligation after compliance has been achieved for the number of years in the term.*

**These guidelines will remain in effect until further notice.**