



2022 Housing Tax Credit (HTC) Policy Developer Comments and City Responses

City of Fort Worth staff held a Developer Forum on Wednesday, October 20, 2021 in order to share the city's proposed policy governing the issuance of resolutions provided by the City Council to be included with applications submitted to the Texas Department of Housing and Community Affairs (TDHCA) for the award of low-income housing tax credits (HTC). Staff received questions and comments from those developers in attendance as well as those submitted to htc@fortworthtexas.gov by the October 22, 2021 deadline.

The City appreciates all of the feedback provided both during the Forum and in writing. The following provides the policy as sent out to the development community as well as the comments from developers and the City's responses to those comments. The final version of the policy will go before City Council for approval on November 9, 2021.

Proposed Nine Percent (9%) HTC Application Policy (as of October 20, 2021)

Resolutions of Support

A development will be considered for a *Resolution of Support* under the 9% HTC program if the development meets the following **three** requirements:

1. A minimum of ten percent of the total units are available for lease to households earning at or above 80% of area median income (AMI). However, the Council may consider granting a waiver, at its discretion, if the property is subject to existing restrictions, such as an existing Housing Assistance Payment contract or Land Use Restriction Agreement (LURA); **AND**

2. At least ten percent of the total units in the development will be set aside for households earning at or below 30% of Area Median Income (30% AMI tenants). Developers are responsible for securing contracts and resources for rental assistance and supportive services for the 30% AMI tenants; **AND**

3.a. The applicant demonstrates that the development is eligible for opportunity index points by virtue of being located entirely within a high opportunity area as defined under TDHCA criteria in the QAP Section §11.9(c)(4)(A); **OR**

3.b. The development is located entirely within one of the following City-designated revitalization areas: a Neighborhood Empowerment Zone (NEZ), a community or regional mixed-use growth center as defined in the City's Comprehensive Plan, a Tax Increment Financing District (TIF) or Urban Village; **OR**

3.c. The development is located entirely within the federally designated Choice Neighborhoods Implementation (CNI) Grant area.

A letter in support of a development that contributes more than any other to a concerted revitalization plan (CRP) area, will only be provided to the extent that the TDHCA awards points for the receipt of the letter. If two or more developments are in the CRP area, only one development may receive a CRP letter. Determination of which development will receive a CRP letter will be based on the degree to which the development exceeds requirements of Subsections 1 and 2 above and the property and neighborhood amenities provided.

Resolutions of No Objection

City Council may consider granting a *Resolution of No Objection* to a development applying for 9% HTC if the development does not meet the *Resolution of Support* criteria because it does not meet one of the Subsection 3 requirements noted above.

* Commitment of Development Funding – City Fee Waivers

City Council, at its discretion, may also choose to offer developments that receive a *Resolution of Support* a commitment of no more than \$2,500.00 in the form of a partial waiver of development fees. Factors for consideration of a commitment of development funding may include:



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- evidence of a preliminary Memorandum of Understanding or letter of commitment between the developer and a public entity (e.g., the City, Fort Worth Housing Finance Corporation (FWHFC), Fort Worth Housing Solutions, Tarrant County, Tarrant County Housing Finance Corporation, and/or Tarrant County Homeless Coalition) for project-based vouchers or other rent vouchers, or a commitment to pay for PSH services or services for 30% AMI tenants;
- commitment to pay for a service provider for PSH or 30% AMI tenants; or,
- a financial commitment and/or other financial support from the City and/or FWHFC (e.g., property acquisition, gap financing, rental assistance).

Developments located entirely within a NEZ are eligible to apply for basic incentives through a separate application. If certified, the development may receive additional fee waivers.

Comments	Responses
<p>A couple of comments were received requesting that requirement 1 be reduced from ‘at or above 80% AMI’ to ‘at or above 70% of AMI’ because in certain areas this level of income is ‘market rate’ and that by reducing this requirement, the City’s policy will help meet the need for additional workforce housing. There was also concern that by both requiring units to be set-aside for households earning at or above 80% of AMI and also for households earning at or below 30% of AMI, the policy creates gaps in the development pro formas. This is because units set-aside for above 80% of AMI cannot be underwritten and units set aside for at or below 30% of AMI command less rent and tenants require additional services to be provided to ensure their success.</p> <p>Another comment received asked that the minimum percentage for requirement 2 be reduced to 5% of the total units be set-aside for households earning at or below 30% of AMI.</p>	<p>City staff considered the input from developers regarding requirement 1 and are recommending that Council approve a revision to the policy to reduce the minimum income to 70% of AMI, but staff do not recommend changing requirement 2.</p>
<p>The current draft of the QAP removes the requirement for a municipality to provide a resolution in support of a development that significantly contributes to the CRP in which it is located. It also includes a new provision for up to 7 points if the development is located in both a CRP and a qualified census tract (QCT) and 5 points if it is not in a QCT. One commenter stated that comments to the draft QAP had been submitted to TDHCA to allow the municipality in which the development is located to provide a resolution of support if it is not located in a QCT so that the development may receive the same number of points as one in a QCT. The commenter also asked that the City support this request and make a corresponding change in its policy to allow for such resolutions.</p>	<p>In regards to developments in CRP areas, staff recommends following TDHCA’s lead. Therefore, if the QAP does not require a resolution or letter for developments in CRP areas, the City will not provide one. If the final QAP, does require resolutions or letters, then the policy as drafted will still be in effect.</p>

Proposed Four Percent (4%) HTC Application Policy (as of October 20, 2021)

Resolutions of No Objection

A development will be considered for a Resolution of No Objection under the 4% HTC program if the development meets the following two requirements:



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1. At least ten percent of the total units in the development will be set aside for households earning at or below 30% of AMI. Developers are responsible for securing contracts and resources for rental assistance and supportive services for the 30% AMI tenants; and

2. A minimum of ten percent of the total units are available for lease to households earning at or above 80% of area median income (AMI). Council may consider granting a waiver for developments that are prohibited from incorporating the above unit mix due to existing restrictions, such as an existing Housing Assistance Payment contract or existing Land Use Restriction Agreement (LURA).

* A development that wishes to receive a letter in support of the award of Multifamily Housing Revenue Bonds must indicate that request on the housing tax credits application to the City. If the development receives a Resolution of No Objection pursuant to this policy, then the development may be eligible to receive a least one letter of support from the Mayor’s Office or office of the Councilmember representing the district in which the development is located.

Comments	Responses
<p>Several comments received indicated that this policy would preclude any 4% HTC deals from occurring in the City of Fort Worth because qualifying developments under the City’s policy will receive Priority 3 status according to TDHCA’s ranking of 4% HTC development applications, which is the lowest tier and the least likely to be awarded.</p> <p>To be eligible for a 4% HTC allocation under TDHCA rules, Priority 1 developments are required to restrict all of their units to families and individuals earning not more than 60% of area median income (AMI), Priority 2 restricts 80% or more of the units to families and individuals earning 60% of AMI or less, and Priority 3 is the only option that allows for market rate rents so long as the development qualifies as an affordable residential rental development.</p> <p>Given the oversubscription of applications for 4% HTC, it is currently difficult for Priority 1 developments to be funded because they are awarded by lottery. If all of the City of Fort Worth’s proposed 4% HTC developments are designated as Priority 3 then likely no 4% HTC deals will be done in the city.</p> <p>Several comments were also received that the policy as drafted would require income-averaging which lenders and investors are opposed to due to post-construction compliance concerns and lack of guidance from the Internal Revenue Service (IRS).</p>	<p>It is very much not the city’s policy to make providing affordable housing more difficult. The proposed policy reduced the market rate requirement to “households earning at or above 80%” of AMI in response to developer feedback received regarding the 2021 HTC Policy. After further review of TDHCA’s multifamily housing revenue bond rules and the draft 2022 QAP, City staff propose that City Council approve the policy with the deletion of requirement 2 for 10% of the units to be set aside for households earning at or above 80% of AMI.</p> <p>City staff believe that this change also addresses comments received regarding income-averaging.</p>
<p>One commenter requested that the policy indicate that a development that receives a resolution of no objection also receive a multifamily housing revenue bond support letter from both the Mayor and the councilmember in whose district the development is or will be located rather than allowing the Mayor or councilmember to make the final decision about whether to provide a support letter. The reasoning given was that TDCHA may give a development up to 3 points for each letter of support received at least 10 business days prior to the Board’s consideration of the development’s pre-application.</p>	<p>The process by which the Mayor or a councilmember may provide a letter in support of a development receiving a multifamily revenue bond allocation will be reflected in the City Council approved housing tax credit policy. The application for a resolution will provide an opportunity for the applicant to indicate whether they would like to receive such a letter.</p>



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Proposed Additional Requirements for both 9% and 4% HTC Applications (as of October 20, 2021)

A developer must take the following additional actions to be considered for a resolution :

1. Submit a completed application to the City with all required supporting documentation by **December 31, 2021**.
2. Notify in writing, the Council member for the district where the proposed development will be located at least **45** days prior to submission of an application to the City for a Resolution.
3. Notify in writing, City staff in the Neighborhood Services Department at least **45** days prior to submission of an application to the City for a Resolution.
4. Notify in writing, City staff in the Community Engagement Office at least **45** days prior to submission of an application to the City for a Resolution.
5. Notify in writing, the Superintendent of the school district that serves the proposed development at least **45** days prior to submission of an application to the City for a Resolution.
6. Notify in writing, any neighborhood and/or homeowner associations that are within **1/4** mile of the proposed development site at least **45** days prior to submission of an application to the City for a Resolution.
7. Conduct a minimum of **one** information session with all applicable neighborhood and/or homeowner associations by **December 24, 2021**. Each neighborhood/homeowner association must be notified of the information sessions at least **7** days in advance of each meeting and such notice must include the time, date, and location of the meeting, as well as information about the proposed development. An information session does not have to be held at a scheduled neighborhood/homeowner association meeting, and may include all applicable associations. Additionally, information sessions may be held in a virtual format due to social distancing restrictions as a result of COVID-19, and should be recorded to demonstrate proof if requested by staff. If staff deems necessary, additional information sessions may be required.

Acceptable proof of written notification includes return receipt from certified mail, written response from the recipient, or electronic delivery receipt.

Comments	Responses
One commenter suggested that the affordability set asides for 4% and 9% HTC applications be considered separately and that the application deadline for 4% HTC applications be on a rolling basis rather have a deadline of December 31, 2021.	The unit set asides for both the 4% and 9% HTC applications are considered separately. Any similarities in the income levels are because City Council desires that poverty not be concentrated and Council recognizes that the availability of units for households earning at or below 30% of AMI is insufficient to meet the current and future need for such housing.
Several commenters requested that the 45-day notification period required prior to submission of city HTC application be reduced. One request was to change it to 7 days prior. Several reasons were provided for this request. One concern was that if a site was found after November 17, 2021, then an application for that site could not be submitted until the following year. There was also a question about how site control factors into a developer being able to meet the 45-day notification deadline.	<p>It has always been the City’s policy that 4% HTC applications can be submitted at any time. While the policy is developed and approved each year alongside the development of TDHCA’s annual QAP, 4% HTC applications can be submitted at the same time as 9% HTC or at any other time during the year.</p> <p>The 45-day notification period applies to both the 4% and 9% HTC applications. This is done to ensure that all elected and appointed officials and their staff have sufficient time to review the developments and confer with their constituents, if needed. This has been a long-time provision of the policy and will not be changed this year.</p> <p>Staff is available to work through the timeline needed for developers who are applying to TDHCA for 4% HTC developments outside the timeline outlined at the Developer Forum. The timeline covered at the forum</p>



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	<p>specifically applies to 9% HTC applications since the resolutions must be included with applications to TDHCA which has a submission deadline of March 1, 2022 for 9% HTC developments.</p> <p>On the topic of site control, that is not required (although it is encouraged) to have by the HTC application submission deadline and therefore, cannot be required for the notification deadline.</p>
<p>A question was raised about whether the developer is required to meet with multiple neighborhood associations (NA) or homeowner associations (HOA) individually to satisfy the one information session requirement or could the developer host one meeting for all impacted NA and HOA to attend.</p>	<p>The policy has been revised over the years to allow developers to host an information session in the area of the effected NA or HOA rather than require that they get on the meeting agendas of those organizations, which can be difficult to do, especially during the holiday season when developers of 9% HTC developments need to meet with effected residents.</p>

Proposed Process for Applying for and Receiving City and/or FWHFC Financial Support (as of October 20, 2021)

Developments awarded HTCs by TDHCA may receive an award of City and/or HFC funds. Developments will have the opportunity to apply for City or FWHFC funds in conjunction with their application for a Resolution of Support or No Objection. Terms and award of funds from the City or FWHFC should not be assumed and may only be provided upon negotiation and availability of funds.

Awards to 9% HTC developments will be allocated in descending order based on highest final TDHCA application score. Awards to 4% HTC developments will be evaluated at the time of application. Developments with existing City and/or FWHFC commitments will be excluded from this allocation process.

Comments	Responses
<p>A question was asked at the forum about how funding allocations for 4% HTC applications would be made. The commenter stated that they understood that the 9% HTC applications would be awarded based on final TDHCA scoring.</p>	<p>The potential award of City or HFC funds will be evaluated at the time of application. Projects that most closely meet or exceed the 4% HTC Policy requirements and the quality of property and neighborhood amenities provided.</p>