

HARRIS COUNTY COMMUNITY SERVICES DEPARTMENT (HCCSD)
HOUSING TAX CREDIT POLICY AND REVIEW CRITERIA – Updated 2023

Ensuring equitable access to affordable housing within Harris County is a fundamental goal. Harris County aims to foster self-sustaining, cost-effective initiatives that efficiently cater to the local demand for affordable multi-family housing units. In pursuit of this objective, Harris County offers resolutions of either 'Support' or 'Non-Objection' to multi-family developments seeking Housing Tax Credits (HTC) from the Texas Department of Housing and Community Affairs (TDHCA). These tax credits are subsequently channeled towards the development and preservation of rental housing for low-income households through private capital investment. TDHCA awards additional scoring points to applicants whose projects garner 'Support' or 'Non-Objection' from Harris County.

The Harris County Community Services Department (HCCSD), in alignment with the Harris County Consolidated Plan, Analysis of Impediments (AI) to Fair Housing, and Affirmatively Furthering Fair Housing (AFFH) Plan, has established guidelines for organizations seeking 'Support' or 'Non-Objection' from Harris County. These guidelines dovetail with the overarching goals of promoting and preserving high-quality affordable housing, supporting the construction of new multi-family units, and enhancing or rehabilitating rental housing projects vying for TDHCA housing tax credits.

It's crucial to familiarize oneself with the Rules and Regulations governing Housing Tax Credits (HTC) as outlined by TDHCA in the Uniform Multi-family Rules TAC Chapter 10 (referred to as Multi-family Rules) and the Housing Tax Credit Program Qualified Allocation Plan Chapter 11 (referred to as QAP) before making a request for a Resolution of 'Support' or 'Non-Objection' from Harris County.

TDHCA provides comprehensive information on multi-family financing and the multifamily uniform application process at:

<https://www.tdhca.texas.gov/apply-funds>

For detailed insights into the Housing Tax Credits program, the Qualified Allocation Plan (QAP) can be found at:

<https://www.tdhca.texas.gov/notices-funding-availability-nofas>

Harris County is committed to endorsing projects that meet its criteria. Consequently, Letters of 'Support' will be issued to projects receiving funding from Harris County and adhering to its stipulated criteria, while Letters of 'Non-Objection' will be issued to those complying with Harris County's criteria but not receiving funding. This approach aligns with our dedication to upholding the Fair Housing Plan, the Analysis of Impediments to Fair Housing, and HUD's Affirmatively Furthering Fair Housing Rule.

For 9% housing tax credit properties, applicants have the option to request either a 'Support' or 'Non-Objection' resolution. For 4% housing tax credit properties, applicants can request a 'Non-Objection' resolution. Our dedicated staff will meticulously review all applicant submissions and recommend the appropriate resolutions to the Harris County Commissioners Court for approval, provided that all requirements are met. Incomplete resolution requests will not proceed to the Commissioners Court, and no resolution will be granted.

Please note that recommendations from HCCSD do not constitute county approval; all resolutions are subject to the approval of the Harris County Commissioners Court."

RESOLUTION REQUEST EVALUATION

HCCSD staff will review documents submitted and conduct a comprehensive, fair, and impartial evaluation based on meeting the following stated requirements:

1. Harris County Service Area: All properties must be located within the Harris County Service Area, including unincorporated Harris County and ETJ (within a specified distance from incorporated city limits). If the property is located in an ETJ, the applicant must also request a resolution from the city with the ETJ.

2. HTC Concentration by Development¹ (see *Harris County Affordable Multi-Unit Family and Senior Housing Concentration Policy*): A multi-step process is employed in determining compliance to the concentration policy. Organizations seeking consistency determinations must be within the threshold levels described below to receive a favorable consistency determination. HCCSD staff shall maintain a database of existing federally- and tax credit-subsidized properties, including Federally Subsidized and Rent Regulated (FSRR) properties. Staff will designate a three-mile radius around multi-family apartment complexes and a five-mile radius around multi-unit senior housing facilities to determine the need for additional units to the area; projects will be compared to housing serving similar populations, e.g., senior to senior and multi-family to multi-family complexes. CSD will not offer a resolution of Support or Non-Objection for a proposed development receiving housing tax credits under the following circumstances:

- i. The average of current occupancy rates of FSRR, Section 42, and other governmentally financed properties 10 years of age or younger in the designated radius must not be less than 90 percent per the last published quarter (or as otherwise publicly available).
- ii. No FSRR, Section 42, or other governmentally financed properties within the designated radius will be under construction (i.e., do not have a certificate of occupancy).
- iii. No unstabilized FSRR, Section 42, or other governmentally financed properties may be within one mile of the property.

Note: In cases where occupancy rates are lower than the established thresholds, yet population growth is expected in the development area to support the additional affordable rental units, the developer of the project may submit a lease-up plan that discusses population growth causes and effects to area housing, marketing strategies, and pro forma to HCCSD for review.

3. Floodway and Floodplain Development²: No resolution will be provided for projects that are located at all within any identified floodway. For Developments where any of the property lies within the 100-year floodplain (even non-building portions) as identified by the Harris County floodplain manager, a waiver must be requested; a resolution then will be granted (by waiver) only if the developer of the project can demonstrate flood mitigation and emergency evacuation practices to avoid adverse impacts to residents and impacts to the floodplain. Sites not located within the 100-year floodplain but having reported flooding events within the past 10 years may be subject to these requirements. Mitigation efforts may include, but are not limited to, building sites elevated out of the floodplain, elevated podium construction, ground floor space restricted to residential use, pier-and-beam foundations for single-family units, etc. Any mitigation and evacuation efforts will be evaluated on a case-by-case basis by HCCSD. Waivers must be requested of and evaluated by HCCSD.

Refer to the Harris County Floodplain Management Regulations at:

<https://www.eng.hctx.net/Consultants/Floodplain-Management/Regulation-Codewords>

¹ TDHCA QAP §11.3(d)

² TDHCA QAP §11.101(a)(1); §11.204(9)(A); §11.302(g)(2)

Refer to the Harris County Affordable Housing Standards at:

https://csd.harriscountytexas.gov/Portals/csd/Documents/HousingStandards_revised_08012023.pdf

4. Poverty Characteristics³: The county will not provide a resolution of Support or Non-Objection to proposed applications for purchase or new construction where the poverty concentration of the site's census tract is greater than 20 percent unless the site is located within the boundaries of a community plan or Concerted Revitalization Area (CRA), provides supportive housing units to a special population such as homeless or disabled persons, and/or is in an area identified by the county as an area severely impacted by a Presidentially declared disaster.

5. Holding At Least One Public Hearing to Discuss the Proposed Project in the Area Where the Development Site is located (not required for rehabilitation projects)⁴: Developer will provide documentation of notification of local area, hearing sign-in sheets, and hearing minutes to the county with the request for resolution. The County encourages the applicant to send hearing notification to the local civic association, Independent School District, and or local community-based organizations.

6. Letters of Notification to Community or Civic Organizations (dated no older than one year), including⁵:

- Sending letters of notification to community or civic organizations serving the community in which the Development Site is located, requesting support for the specified development
- Providing copies of the notification letters with your resolution request to CSD
- Submitting letters of support from community or civic organizations serving the community in which the Development Site is located, expressing support for the specified development
- If no Community or Civic organizations represent the area in question, letters of Support from area churches, property owners/associations, special management districts, MUDs, Independent School District (ISD), or non-profit organizations should be requested and included. The organizations must serve the neighborhood in which the development site is located.
- *Note: Community and civic organizations do not include neighborhood organizations, governmental entities (excluding Special Management Districts), or taxing entities. The community or civic organization must be qualified as tax-exempt and have as a primary (not ancillary or secondary) purpose the overall betterment, development, or improvement of the community as a whole or of a major aspect of the community.*

7. Community Outreach and Support⁶: Applicant must make every effort to notify and request support from the community at large where the site is located:

- Provide documentation of notification in the local area. Include the public hearing notice in the newspaper, public hearing sign-in sheets, emails, and hearing minutes to the county with the submission packet. The county encourages the applicant to send the hearing notice to the local civic associations, Independent School District (ISD), local community-based organizations, etc.
- Post and provide a photograph of a notification sign on the property to notify the community of the proposed development. The sign must be at least 3' X 5' and within 15 feet of the primary street. Note: for rehabilitation projects, the signs on site do not need to include the 3' x 5' sign.

³ TDHCA QAP §11.9(c)(5)(A)

⁴ TDHCA QAP §11.204(4)(B) and (D)

⁵ TDHCA QAP §11.8(b)(2); §11.203(1) and (2)

⁶ TDHCA QAP §11.8(b)(2); §11.203(1) and (2)

- Letters of Support from local officials are beneficial but not required. Letters should be on official letterhead, signed, dated no older than one year, and identifying the specific development. The letter should express support of or no opposition toward the specific development.

9. County Commissioner Briefing⁷: Contact the Harris County Commissioner in which the development site is located and provide a briefing of the development, including outreach efforts, specifics of the property, etc. Provide documentation in the submission packet.

10. Site Control⁸ (§11.204(10)):

(A) Evidence that the Development Owner has Site Control must be submitted. Site Control is considered to be ownership, a current contract or series of contracts that is legally enforceable, giving the Applicant the ability, not subject to any legal defense by the Owner or anyone else, to develop and operate a Property and subject it to a LURA reflecting the requirements of any awards of assistance it may receive from the Department, or an option for purchase agreement that is the length of time to secure tax credits. If the evidence is not in the name of the Development Owner, then an Affiliate of the Development Owner must have Site Control that allows for an ability to assign the Site Control to the Development Owner. All sellers of the proposed Property for the 36-month period prior to the first day of the Application Acceptance Period and their relationship, if any, to members of the Development Team must be identified at the time of Application. Tax-Exempt Bond Developments that do not include a request for Direct Loan or include the Department as the bond issuer, must certify in the Application that the Site Control submitted with the TBRB application for the Certificate of Reservation to be issued is still valid.

(B) In order to establish Site Control, one of the items described in clauses (i) - (iii) of this subparagraph must be provided. In the case of land donations, Applicants must demonstrate that the entity donating the land has Site Control as evidenced through one of the items described in clauses (i) - (iii) of this subparagraph or other documentation acceptable to the Department. Site Control items include:

- (i) a recorded warranty deed vesting indefeasible title in the Development Owner or, if transferrable to the Development Owner, an Affiliate of the Owner, with a corresponding executed settlement statement (or functional equivalent for an existing lease with at least 45 years remaining); or
- (ii) a contract or option for lease with a minimum term of 45 years that includes a price; address or legal description; proof of consideration in the form specified in the contract; and expiration date; or
- (iii) a contract for sale or an option to purchase that includes a price; address or legal description; proof of consideration in the form specified in the contract; and expiration date.

The County assumes that the Applicant will be able to form any one or more business entities, such as a limited partnership, that are to be engaged in the ownership of a Development as represented in the Application, and that all necessary rights, powers, and privileges including, but not limited to, Site Control will be transferable to that entity.

11. Residential Anti-displacement and Relocation Assistance Policy (RARAP)⁹: The permanent displacement of homeowners, tenants, businesses, non-profit corporations, or farms is discouraged. If permanent displacement is necessary, compliance with federal regulations found at 24 CFR Part 42, Displacement Relocation Assistance and Real Property Acquisition as amended as well as 49 CFR Part 24,

⁷ TDHCA QAP §11.8(b)(2); §11.203(1) and (2)

⁸ TDHCA QAP §11.204(10)

⁹ Harris County Affordable Housing Standards and Harris County Minimum Property Standards

Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) for Federal and Federally Assisted Programs as amended is recommended. The Relocation Process must also comply with the requirements of the Uniform Relocation Act (URA) or Section 104 (d) of the 1974 Community Development Act, as amended. If permanent or temporary displacement will be triggered by the project, please provide a relocation plan with LIHTC resolution request to CSD.

12. School District (suspended due to COVID)¹⁰: The county will not provide a resolution of Support or Non-Objection to purchase and or construct multifamily developments that fall within the attendance zone of a school that has a TEA Accountability Rating of F for the most recent year available prior to Application and an Improvement Required Rating for the most recent available year preceding, unless the proposed development has a TDHCA LURA or is for Seniors, Single Room Occupancy, or Permanent Supportive Housing or is for the improving of conditions in existing housing units. Note: All applicants must submit proof of notification to the Superintendent of the school district in which the Development is located.

13. Minimum Requirements in Review for Request for Resolution of Non-Objection (4% HTC only)

- CSD will not review a request for a resolution of Non-Objection for 4% HTC unless the applicant has secured a reservation of tax-exempt bonds. All resolution requests must be submitted at least 45 days before the requested Commissioners Court date.

14. Minimum Requirements in Review for Request for Support Resolution (9% HTC only)

- **One-mile rule¹¹:** CSD will not offer a resolution of Support for two or more proposed developments receiving tax credits within one mile of one another in the same calendar year and serving similar populations (senior, general, etc.). Preference will be given to the first received completed packet.
- **Letter of Notification to Officials¹²:** Developments located in an ETJ of a municipality are required to notify both municipal and county officials. The notifications may be sent by e-mail, fax or mail with registered return receipt or similar tracking mechanism. The Applicant is required to retain proof of delivery in the event the Department requests proof of notification. Acceptable evidence of such delivery is demonstrated by signed receipt for mail or courier delivery and confirmation of delivery for fax and e-mail. Officials to be notified are those officials in office at the time of submission. Meetings and discussions do not constitute notification. Only a timely and compliant written notification to the correct entity constitutes notification, including the following:
 - (i) Neighborhood Organizations on record with the state or county 30 days prior to the submission whose boundaries include the entire proposed Development Site;
 - (ii) Superintendent of the school district in which the Development Site is located;
 - (iii) Presiding officer of school district board of trustees in which the Development Site is located;
 - (iv) Mayor of the municipality (if the Development Site is within a municipality or its extraterritorial jurisdiction);
 - (v) All elected members of the Governing Body of the municipality (if the Development Site is within a municipality or its extraterritorial jurisdiction);
 - (vi) Presiding officer of the Governing Body of the county in which the Development Site is located;

¹⁰ TDHCA QAP §11.101(b)(1)

¹¹ TDHCA QAP §11.3(b)

¹² TDHCA QAP §11.8(b)(2)

(vii) All elected members of the Governing Body of the county in which the Development Site is located, including County Commissioner; and

(viii) State Senator and State Representative of the districts whose boundaries include the proposed Development Site.

Developers are invited to provide a Letter of Support from the State Representative (dated no older than one year) in which the site is located to show additional community support for the project. The provision of such a letter will not adversely affect the recommendation of a project's resolution to Commissioners Court.

15. Waivers to Requirements

HCCSD Director may review individual requests on a case-by-case basis and apply a waiver to the policy when the project serves to improve housing conditions and availability in a defined area, particularly in the response to natural disasters and areas of slum and blight. Waiver requests must be submitted in writing on the organization's letterhead and include support documentation from an established market data analysis provider. Waivers are processed on a first come, first served basis. Waivers will NOT be considered under the following conditions:

- No waiver will be granted within one mile of any FSRR, Section 42, or other governmentally financed properties of **SIMILAR** type (elderly, general, etc.) that are five years of age or less and under 60% occupancy rate (as published in the last quarter or as otherwise publicly available).
- No waiver will be granted within one mile of any FSRR, Section 42, or other governmentally financed properties of **ANY** type that are existing, unstabilized, and under 90% occupancy rate (as published in the last quarter or as otherwise publicly available).
- No waiver will be granted within one mile of any FSRR, Section 42, or other governmentally financed properties of similar type (elderly, general, etc.) that are **UNDER CONSTRUCTION** (no certificate of occupancy).
- Only one waiver will be granted within the same application season for any FSRR, Section 42, or other governmentally financed properties of similar type (elderly, general, etc.).

THE COMPLETED RESOLUTION REQUEST PACKET WILL INCLUDE THE FOLLOWING:

Applicants must submit completed resolution request packets to be considered for a resolution of either Support or Non-Objection from Harris County; 9% requests must be submitted by February 1 of the year in question, COB, while 4% requests will be accepted on a rolling basis throughout the year. Incomplete submittals will not be accepted; submittals after the due date will not be accepted for 9% requests. Resolution request packets must be sent to CSD Plan Comments at plancomments@csd.hctx.net, or by drop box, and must include the following:

Tab 1: Request Letter (Resolution of Support or Non-Objection)

A formal resolution request for either Support or Non-Objection must be submitted on company letterhead and addressed to Executive Director Thao Costis. The letter must include the following:

- Type of resolution (9% Support or Non-Objection or 4% Non-Objection) being requested
- Applicant name, address, telephone number, email
- Contact person name, address, telephone number, email
- Names of organization and development, along with proposed development address and map
- Site acres, # of bedrooms, income levels
- Residential density of Development, i.e., the number of units per acre

- Development Type (New Construction, Acquisition, Reconstruction, Rehabilitation, Adaptive Reuse)
- Target Population (Family, Senior, Permanent Supportive Housing)
- Physical type of Development proposed (e.g., single family homes, duplex, apartments, high-rise, etc.)
- Total Units Proposed, Total Low-Income Units (LI), and Total Market Rate Units (MR)
- TDHCA application number and programs to which the Applicant is applying with TDHCA
- A summary of the proposed development (indicate on-site amenities, etc.)
- Information on how/when interested party or neighborhood organization provides input to HCCSD

Tab 2: Development Site Information

- Development Site Narrative
- Development Address (or Longitude/Latitude Coordinates), City, Zip Code, ETJ, County, and Precinct
- Development Site Map (indicate location and approximate shape of development site on the map)
- Census Tracts and Map (map must indicate total 11-digit number and location of development site)
- Flood Zone Designation and FEMA Floodplain Map (map must indicate the location of the development site and acres in the floodplain if applicable)
- CRA Area and/or TIRZ (if applicable)
- ISD, Public Schools, and TEA Accountability Ratings for each
- On-Site Resident Amenities (supportive services, childcare, transportation, etc.)
- Property location and surrounding crime rates
- Additional required proof of compliance with Harris County Resolution Request Evaluation Policies

Tab 3: Community Outreach and Support

- Copies of Notification sent to Community, Civic, Neighborhood, and Nonprofit Organizations, along with State Representatives, Local Government Officials, Utility Districts, ISDs, and property owners
- Letters of Support from Community, Civic, Neighborhood, and Nonprofit Organizations
- Letters of Support from State Representatives (advised but not required), Local Government Officials, Utility Districts, ISDs, and property owners
- Public hearing/meeting notices from newspapers, public meeting sign-in sheets, public meeting minutes (not required for rehabilitation projects), and other community participation documentation
- Proof of County Commissioner briefing

Tab 4: Attachments, Maps, and Certifications

- Completed Resolution Template (3 copies) – Templates can be found in the TDHCA Multifamily Uniform Application Template file on the TDHCA website. Resolution(s) must specifically identify the development by legal description, address, development name, city/county, ETJ, and TDHCA application number.
- 100-year Floodplain Waiver Request (if applicable) along with any other relevant waiver requests
- Certification by Engineer or accredited Architect (certifying non-flooding for past 10 years)
- Mitigation or Emergency Evacuation Plan (as needed)
- Property appraisal (no older than six months)
- Market analysis (consistent between analysis and conclusions)
- Construction plans (nearly complete, but not yet approved)
- Property Site Plan
- Property survey of proposed development site and property purchased
- Environmental review
- Photographs of Property, including Notification Sign (at least 3' X 5', within 15 feet of primary street)

Effective 11/07/2023

- List and map of Community Amenities/Assets (including boundaries of the property and indicating nearest grocery stores, pharmacies, public transportation, bus routes, bus stops, sidewalks, health facilities, parks, daycare, community or civic center, restaurants, public library, etc.)

TIMELINE FOR RESOLUTION REQUEST FOR 9% TAX CREDITS

Deadlines (typically around January or February) for completed packets to HCCSD will be released each year (<https://csd.harriscountytexas.gov/Pages/HTC.aspx>) after TDHCA has released their updated QAP.

TIMELINE FOR RESOLUTION REQUEST FOR 4% TAX CREDITS

Harris County accepts 4% tax credit resolution requests throughout the year.

- All documents need to be submitted to Harris County CSD at least six weeks before court approval is needed.

HCCSD advises applicants to attend the Harris County Commissioners Court hearing to respond to any questions related to their project. Attendance can be virtual. Please see the website for instructions to attend and participate at <https://agenda.harriscountytexas.gov/>

Signed resolution templates will be available a few days after the Commissioner's Court date of approval and can be picked up at the HCCSD office, emailed to the applicant, or emailed directly to TDHCA Housing Tax Credit Program staff.

Failure to provide a completed submission packet will cause your application to be ineligible for placement on the Commissioners Court agenda, and no resolution will be granted.

Please note that this recommendation by HCCSD does not constitute approval from the county. All resolutions are subject to approval by the Harris County Commissioners Court.

Harris County Resolution Request Policies and Criteria can be found on the HCCSD Website at <https://csd.harriscountytexas.gov/Pages/HTC.aspx>. For more information or if you have questions specific to the resolution request process or guidelines, please email CSD Plan Comments at plancomments@csd.hctx.net.