Zoning Resolution

THE CITY OF NEW YORK
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CITY PLANNING COMMISSION
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27-13 - Applicability

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27-13 - Applicability

LAST AMENDED
12/5/2024

27-131 - Mandatory Inclusionary Housing

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12/5/2024

Special #floor area# provisions for #zoning lots# in #Mandatory Inclusionary Housing areas#

(a) For #zoning lots# in #Mandatory Inclusionary Housing areas#, the following provisions shall apply:

(1) #Affordable housing# requirement

Except where permitted by special permit of the Board of Standards and Appeals pursuant to Section 73-623 (Reduction or modification of Mandatory Inclusionary Housing requirements), or as provided in paragraph (a)(4) of this Section, no #residential# #development#, #enlargement# or #conversion# from non-#residential# to #residential use# shall be permitted unless #affordable housing#, as defined in Section 27-111 (General definitions) is provided or a contribution is made to the #affordable housing fund#, as defined in Section 27-111, pursuant to the provisions set forth in paragraphs (a)(3)(i) through (a)(3)(v) and paragraph (a)(5) of this Section, inclusive.

(2) Maximum #floor area ratio#

For any #development#, #enlargement# or #conversion# from non-#residential# to #residential use# that is subject to the provisions of paragraph (a)(4) of this Section, the maximum #floor area ratio# for the applicable district outside of #Mandatory Inclusionary Housing areas# shall apply.

(3) Options for compliance with affordable housing requirement

Options for compliance with the #affordable housing# requirement of paragraph (a)(1) of this Section are set forth in the following paragraphs (a)(3)(i) through (a)(3)(v). These options shall be applicable within #Mandatory Inclusionary Housing areas# as indicated in APPENDIX F of this Resolution. Option 4 shall only be made applicable in combination with Option 1, Option 2, or Option 3. Regardless of whether every option specified in this paragraph (a)(3), inclusive, is included in a land use application for applicability to a proposed #Mandatory Inclusionary Housing area# or as a term or condition of a special permit pursuant to this Resolution, all affordability options available under the provisions of this paragraph (a)(3), inclusive, shall be part of the subject matter of each such application throughout the land use review process. Option 4 shall not be applicable within the #Manhattan Core#. A #development#, #enlargement# or #conversion# from non-#residential# to #residential use# shall comply with either Option 1, Option 2, Option 3, Option 4, or the Affordable Housing Fund Option, as applicable, or shall be subject to an #affordable housing regulatory agreement#.

When a #building# containing #residences# is #enlarged#, the following shall be considered part of the #enlargement# for the purposes of this paragraph (a)(3), inclusive: #residential# #floor area# that is reconstructed, or #residential# #floor area#

that is located within a #dwelling unit# where the layout has been changed.

(i) Option 1

For #MIH developments# utilizing Option 1, an amount of #affordable floor area# for #qualifying households# shall be provided that is equal to at least 25 percent of the #residential# #floor area# within such #MIH development#. The weighted average of all #income bands# for #affordable housing units# shall not exceed 60 percent of the #income index#, and there shall be no more than three #income bands#. At least 10 percent of the #residential# #floor area# within such #MIH development# shall be affordable within an #income band# at 40 percent of the #income index#, and no #income band# shall exceed 130 percent of the #income index#.

(ii) Option 2

For #MIH developments# utilizing Option 2, an amount of #affordable floor area# for #qualifying households# shall be provided that is equal to at least 30 percent of the #residential# #floor area# within such #MIH development#. The weighted average of all #income bands# for #affordable housing units# shall not exceed 80 percent of the #income index#, and there shall be no more than three #income bands#. No #income band# shall exceed 130 percent of the #income index#.

(iii) Option 3

For #MIH developments# utilizing Option 3, an amount of #affordable floor

area# for #qualifying households# shall be provided that is equal to at least 20 percent of the #residential# #floor area# within such #MIH development#. The weighted average of all #income bands# for #affordable housing units# shall not exceed 40 percent of the #income index#, and there shall be no more than three #income bands#. No #income band# shall exceed 130 percent of the #income index#. No #public funding# shall be utilized for such #MIH development# except where #HPD# determines that such #public funding# is necessary to support a significant amount of affordable housing that is in addition to the #affordable floor area# satisfying the requirements of this Section.

(iv) Option 4

For #MIH developments# utilizing Option 4, an amount of #affordable floor area# for #qualifying households# shall be provided that is equal to at least 30 percent of the #residential# #floor area# within such #MIH development#. The weighted average of all #income bands# for #affordable housing units# shall not exceed 115 percent of the #income index#, and there shall be no more than four #income bands#. No #income band# shall exceed 135 percent of the #income index#. At least five percent of the #residential# #floor area# within such #MIH development# shall be affordable within an #income band# at 70 percent of the #income index# and, in addition, at least five percent of the #residential# #floor area# within such #MIH development# shall be affordable within an #income band# at 90 percent of the #income index#. Such #MIH development# may not utilize #public funding#.

Option 4 shall expire within a #Mandatory Inclusionary Housing area# 10 years after the effective date of the amendment establishing or renewing such option in

a #Mandatory Inclusionary Housing area#, as indicated in APPENDIX F of this Resolution. However, Option 4 shall apply to an #MIH development# that has filed an #affordable housing application# for such option prior to expiration of such option, provided that the #MIH development# complies with all provisions of Section 11-33 (Building Permits for Minor or Major Development or Other Construction Issued Before Effective Date of Amendment), inclusive. For the purposes of applying the provisions of Section 11-33, the effective date of applicable amendment shall be six months after the date of the expiration of the Option 4 in such #Mandatory Inclusionary Housing area#.

Option 4 shall not be permitted to be utilized for any #development#, #enlargement#, or #conversion# from non-#residential# to #residential use# within the #Manhattan Core#.

(v) Affordable Housing Fund option

A #development#, #enlargement#, or #conversion# from non-#residential# to #residential use# that increases the number of #dwelling units# by no more than 25, and increases #residential# #floor area# on the #zoning lot# by less than 25,000 square feet, may satisfy the requirements of this Section by making a contribution to the #affordable housing fund#. The amount of such contribution shall approximate, using the best available data, the cost of providing the #affordable floor area# in the same Community District as the #MIH development#. A schedule setting forth the contribution amount for each affected Community District shall be established by #HPD# and shall be updated on an annual basis, as set forth in the #guidelines#.

(vi) Affordable Housing Regulatory Agreement option

A #development#, #enlargement#, or #conversion# from non-#residential# to #residential use# that is restricted pursuant to an #affordable housing regulatory agreement# may satisfy the requirements of this this Section.

(4) Exceptions

The requirements of this Section shall not apply to:

(i) a single #development#, #enlargement#, or #conversion# from non-#residential# to #residential use# of not more than 10 #dwelling units# and not more than 12,500 square feet of #residential# #floor area# on a #zoning lot# that existed on the date of establishment of the applicable #Mandatory Inclusionary Housing area#;

(ii) a #development#, #enlargement#, or #conversion# from non-#residential# to #residential use# containing no #residences# other than #affordable independent residences for seniors#; or

(iii) a #development#, #enlargement#, or #conversion# from non-#residential# to #residential use# that is granted a full waiver of the requirements set forth in paragraph (a)(3), inclusive, of this Section by special permit of the Board of Standards and Appeals pursuant to Section 73-623 (Reduction or modification of Mandatory Inclusionary Housing requirements).

(5) Additional requirements where #affordable housing# is provided off-site

When #affordable floor area# is provided on an #MIH site# that is not an #MIH zoning lot# pursuant to paragraph (a) of Section 27-16 (Requirements for MIH Sites or UAP Sites), the amount of #affordable floor area# required pursuant to paragraphs

(a)(3)(i) through (a)(3)(iv) of this Section shall be increased by an amount equal to five percent of the #residential# #floor area# within such #MIH development#, multiplied by the percentage of the #affordable floor area# that is provided on an #MIH site# that is not an #MIH zoning lot#. Such additional #affordable floor area# shall be provided for #qualifying households# at income levels that comply with the average #income bands# specified in paragraphs (a)(3)(i) through (a)(3)(iv) of this Section, as applicable to the #MIH development#.

27-132 - Affordable housing plans approved prior to December 5, 2024

LAST AMENDED
12/5/2024

All terms in this Section shall be as defined by Section 23-911 prior to December 5, 2024.

Any #generating site# that, as of December 5, 2024, is subject to a #regulatory agreement#, shall continue to be subject to the Inclusionary Housing Program as set forth in Sections 23-154 and 23-90, as such Sections existed prior to December 5, 2024.

Any #generating site# for which (i) on or before December 5, 2024, an application for #new construction affordable housing# has been filed with the Department of Buildings, (ii) on or before December 5, 2025, the Department of Buildings has approved an application for a foundation, a new #building# or an alteration based on a complete zoning analysis showing zoning compliance for such #new construction affordable housing# with the applicable rules existing prior to December 5, 2024, and (iii) on or before December 5, 2026, a #regulatory agreement# has been executed and recorded against such #generating site#, shall continue to be subject to the Inclusionary Housing Program as set forth in Sections 23-154 and 23-90, as such Sections existed prior to December 5, 2024.

Any #generating site# for which (i) on or before December 5, 2024, an application for #preservation affordable housing# has been filed with #HPD#, and (ii) on or before December 5, 2025, a #regulatory agreement# for #preservation affordable housing# has been executed and recorded against such #generating site#, shall continue to be subject to the Inclusionary Housing Program as set forth in Sections 23-154 and 23-90, as such Sections existed prior to December 5, 2024.

Properties being #developed# pursuant to a special permit for a #large-scale general development# or a #large-scale residential development# pursuant to Article VII, Chapter 4 that has been certified by the City Planning Commission on or before December 5, 2024, and #generating sites# that generate #floor area compensation# for a #large-scale general development# meeting the criteria of this paragraph, may continue to be subject to the provisions of the Inclusionary Housing Program in effect prior to December 5, 2024.

Parcels declared, prior to December 5, 2024, as properties to be developed as a single parcel pursuant to Section 62-362 prior to December 5, 2024 may continue to be subject to the provisions of the Inclusionary Housing Program set forth in Sections 62-352 and 62-354 in effect prior to December 5, 2024.

27-133 - Mandatory Inclusionary Housing areas

LAST AMENDED
12/5/2024

The Mandatory Inclusionary Housing Program shall apply in #Mandatory Inclusionary Housing areas#.

The Mandatory Inclusionary Housing Program shall also apply in special purpose districts when specific zoning districts or areas are defined as #Mandatory Inclusionary Housing areas# within the special purpose district.

Additionally, the Mandatory Inclusionary Housing Program shall apply as a condition of City Planning Commission approval of special permits as set forth in Section 74-06 (Additional Considerations for Special Permit Use and Bulk Modifications), in special purpose districts as set forth in Section 27-134 (Special permit approval in special purpose districts) and in waterfront areas as set forth in Section 62-831 (General provisions).

#Mandatory Inclusionary Housing areas#, with the applicable income mix options for each #Mandatory Inclusionary Housing area#, are listed in APPENDIX F of this Resolution.

27-134 - Special permit approval in special purpose districts

LAST AMENDED
12/5/2024

Where a special purpose district includes a provision to grant modification of #use# or #bulk# by special permit of the City Planning Commission, and an application for such special permit would allow a significant increase in permitted #residential# #floor area# where the special #floor area# requirements in #Mandatory Inclusionary Housing areas# are not otherwise applicable, the Commission, in establishing the appropriate terms and conditions for the granting of such special permit, may apply such requirements where consistent with the objectives of the Mandatory Inclusionary Housing program as set forth in Section 27-12 (General Provisions). However, where the Commission finds that such special permit application would facilitate significant public infrastructure or public facilities addressing needs that are not created by the proposed #development#, #enlargement# or #conversion#, or where the area affected by the special permit is eligible to receive transferred development rights pursuant to the Hudson River Park Act, as amended, the Commission may modify the requirements of Section 27-131 (Mandatory Inclusionary Housing).