Zoning Resolution

THE CITY OF NEW YORK
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CITY PLANNING COMMISSION
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27-16 - Requirements for MIH Sites or UAP Sites

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27-16 - Requirements for MIH Sites or UAP Sites

LAST AMENDED
12/5/2024

#Affordable housing# in an #MIH site# or #UAP site# shall meet each of the requirements set forth in this Section for the entire #regulatory period#, except that #affordable housing# restricted pursuant to an #affordable housing regulatory agreement# shall only be required to comply with paragraphs (a) and (j) of this Section.

(a) Location of #MIH site# or #UAP site# and #MIH zoning lot# or #UAP zoning lot#

Where an #MIH site# or #UAP site# is not located within the #MIH zoning lot# or the #UAP zoning lot#, as applicable:

(1) the #MIH site# or #UAP site# and the #MIH zoning lot# or #UAP development#, as applicable, shall be located within the same Community District; or

(2) the #MIH site# or #UAP site# and the #MIH zoning lot# or #UAP zoning lot#, as applicable, shall be located in adjacent Community Districts and within one-half mile of each other, measured from the perimeter of each #zoning lot#.

Outside of #UAP offsite option areas#, a #UAP site# must be located within the #UAP zoning lot#.

(b) Distribution of #affordable housing units#

In #new construction affordable housing#, where one or more of the #dwelling units# or #rooming units# in an #MIH site# or #UAP site#, other than any #super's unit#, are not #affordable housing units#:

(1) the #affordable housing units# shall be distributed on not less than 65 percent of the #residential stories# of such #MIH site# or #UAP site#, or, if there are insufficient #affordable housing units# to comply with this requirement, the distribution of #affordable housing units# shall be as specified in the #guidelines#; and

(2) not more than two-thirds of the #dwelling units# and #rooming units# on any #story# of such #MIH site# or #UAP site# shall be #affordable housing units#, unless not less than two-thirds of the #dwelling units# and #rooming units# on each #residential story# of such #MIH site# or #UAP site# are #affordable housing units#. #HPD# may waive such requirement for any #new construction affordable housing# that is located on an #interior lot# or #through lot# with less than 50 feet of frontage along any #street#.

Where one or more of the #dwelling units# or #rooming units#, other than any #super's unit#, are not #affordable housing units#, the #affordable housing units# shall share a common primary entrance with the other #dwelling units# or #rooming units#. However, if an #MIH site# or #UAP site# contains both #homeownership# and rental housing and no #affordable housing units# are #homeownership# housing, the distribution requirements above shall only apply to #residential stories# containing rental housing. In addition, the distribution requirements above shall not apply if all #affordable housing units# are rental #affordable housing# and all other #dwelling units# are #homeownership# housing, and shall not apply to any #affordable housing units# that are also #supportive housing units# or #affordable independent residences for seniors#.

In addition, #HPD# may waive these requirements for #affordable floor area# created in an #MIH site# or #UAP site# through #enlargement#, as specified in the #guidelines#.

#HPD# may disapprove any #building# configuration that would frustrate the intent and purpose of this Section by segregating #affordable housing units# or stigmatizing residents of such #affordable housing units#.

(c) Bedroom mix of #affordable housing units#

(1) In #new construction affordable housing#, where one or more of the #dwelling units# in an #MIH site# or #UAP site#, other than any #super's unit#, are not #affordable housing units#, either:

(i) the #dwelling units# that are #affordable housing units# shall contain a bedroom mix at least proportional to the bedroom mix of the #dwelling units#, other than any #super's unit#, that are not #affordable housing units#; or

(ii) not less than 50 percent of the #dwelling units# that are #affordable housing units# shall contain two or more bedrooms and not less than 75 percent of the #dwelling units# that are #affordable housing units# shall contain one or more bedrooms.

However, such bedroom mix requirements shall not apply to #affordable independent residences for seniors#. #HPD# may also waive such bedroom mix requirements for any #new construction affordable housing# that is located on an #interior lot# or #through lot# with less than 50 feet of frontage along any #street#. In addition, #HPD# may waive these requirements for #affordable floor area# created in an #MIH site# or #UAP site# through #enlargement#, as specified in the #guidelines#.

(2) Where all of the #dwelling units# in an #MIH site# or #UAP site#, other than any #super's unit#, in #new construction affordable housing# are #affordable housing units#, the bedroom mix shall be as set forth in the #guidelines#.

(3) #Supportive housing units# shall contain such configuration as #HPD# shall require.

(4) For purposes of this paragraph (c), fractions equal to or greater than one-half resulting from any calculation shall be considered to be one #dwelling unit#.

(d) Size of #affordable housing units#

(1) In #new construction affordable housing#, the average size of #affordable housing units# of a particular bedroom count shall be not less than the average size of #dwelling units# that are not #affordable housing units# with the same number of bedrooms, or the minimum size specified below for a #dwelling unit# of a particular bedroom count, whichever is less:

(i) 400 square feet of #floor area# within the perimeter walls for a zero bedroom #dwelling unit#;

(ii) 575 square feet of #floor area# within the perimeter walls for a one bedroom #dwelling unit#;

(iii) 775 square feet of #floor area# within the perimeter walls for a two bedroom #dwelling unit#; or

(iv) 950 square feet of #floor area# within the perimeter walls for a three bedroom #dwelling unit#.

However, these unit size requirements shall not apply to #affordable independent residences for seniors#.

#HPD# may specify the method of measuring #floor area# within #affordable housing units# in the #guidelines#, compliant with Department of Buildings practice; and

(2) Where all of the #dwelling units# in an #MIH site# or #UAP site#, other than any #super's unit#, in #new construction affordable housing# are #affordable housing units#, such #affordable housing units# shall comply with the size requirements as set forth in the #guidelines#.

(3) #Supportive housing units# shall comply with the size requirements specified by #HPD#.

(e) Records

For a period of time specified in the #guidelines#, the owner of the #affordable housing units# shall maintain all records setting forth the facts that form the basis of any affidavit submitted to #HPD#, and shall make such records available for inspection and audit by #HPD# upon request.

(f) #Restrictive declaration#

(1) The #restrictive declaration# shall require compliance with and shall incorporate by reference the #affordable housing application# and the applicable provisions of this

Zoning Resolution and the #guidelines# and shall contain such additional terms and conditions as #HPD# deems necessary.

(2) The #restrictive declaration# shall require that #HPD# be provided with documentation indicating the amount of #affordable floor area#. For #new construction affordable housing# such documentation shall include, but shall not be limited to, plans meeting the requirements of paragraph (c) of Section 27-14 (Methods of Providing Affordable Housing).

(3) The #restrictive declaration# shall be recorded against all tax lots comprising the portion of the #zoning lot# within which the #MIH site# or #UAP site# is located and shall set forth the obligations, running with such tax lots, of the owner and all successors in interest to provide #affordable housing# in accordance with the #affordable housing application# for the entire #regulatory period#.

(4) Where applicable in accordance with paragraph (b) (Monthly rent) of Section 27-161 (Additional requirements for rental affordable housing), the #restrictive declaration# shall provide that certain obligations shall survive the #regulatory period#.

(g) Housing standards

Upon the date that #HPD# issues the #completion notice#, the #MIH site# or #UAP site# shall be free of violations of record issued by any City or State agency pursuant to the Multiple Dwelling Law, the Building Code, the Housing Maintenance Code and this Zoning Resolution, except as may otherwise be provided in the #guidelines#.

(h) Insurance

The #affordable housing# shall at all times be insured against any damage or destruction in an

amount not less than the replacement value of such #affordable housing#.

(i) Duration of obligations

The obligation to provide and maintain a specified amount of #affordable housing# on an #MIH site# or #UAP site# shall run with the #zoning lot# containing such #MIH site# or #UAP site# for not less than the #regulatory period#.

(j) One #MIH site# or #UAP site# may satisfy requirements for multiple #MIH zoning lots# or #UAP zoning lots#, as applicable

Any #MIH site# or #UAP site# may contain #affordable housing# that satisfies the requirements of this Chapter, for more than one #MIH development# or #UAP development#, as applicable, provided that no #affordable floor area# shall be counted more than once in satisfying the requirements of such #MIH developments# or #UAP developments#, or for the purposes of utilizing #floor area# provisions applicable to #qualifying affordable housing# in Section 23-22 (Floor Area Regulations for R6 Through R12 Districts).

(k) #Guidelines#

#HPD# shall adopt and may modify #guidelines# for the implementation of the provisions of Section 27-00, inclusive.

27-161 - Additional requirements for rental affordable housing

LAST AMENDED
12/5/2024

The additional requirements of this Section shall apply to rental #affordable housing# for the entire #regulatory period#, except that rental #affordable housing# restricted pursuant to an #affordable housing regulatory agreement# shall not be required to comply with this Section.

(a) Tenant selection

(1) Upon #rent-up# and any subsequent vacancy for the entire #regulatory period#, #affordable housing units# shall only be leased to and occupied by #households# that satisfy the #income bands# applicable to such unit.

(2) A tenant may, with the prior approval of #HPD#, sublet an #affordable housing unit# for not more than a total of two years, including the term of the proposed sublease, out of the four-year period preceding the termination date of the proposed sublease. The aggregate payments made by any sublessee in any calendar month shall not exceed the #monthly rent# that could be charged to the sublessor in accordance with the #restrictive declaration#.

(3) A #household# may rent an #affordable housing unit# that is restricted to occupancy by #households# of higher #income bands#, provided that the #household# is able to utilize rent subsidies pursuant to a rental assistance program administered by any Federal, State, or local agency or instrumentality to afford the applicable #monthly rent#.

(4) #Affordable housing units# shall be marketed and leased in accordance with the #guidelines#.

(b) Monthly rent

(1) Unless alternative provisions are established in the #restrictive declaration# or #guidelines#, the #restrictive declaration# shall provide that each #affordable housing unit# shall be registered with the Division of Housing and Community Renewal at the initial #monthly rent# established by #HPD# and shall thereafter remain subject to #rent stabilization# for the entire #regulatory period# and thereafter until vacancy.

However, any #affordable housing unit# of #preservation affordable housing# that is both occupied by a #grandfathered tenant# and subject to the Emergency Housing Rent Control Law on the #restrictive declaration date# shall remain subject to the Emergency Housing Rent Control Law until the first vacancy following the #restrictive declaration date# and shall thereafter be subject to #rent stabilization# as provided herein.

The #restrictive declaration# shall provide that upon each annual registration of an #affordable housing unit# with the Division of Housing and Community Renewal, the #legal regulated rent# for such #affordable housing unit# shall be registered with the Division of Housing and Community Renewal at an amount not exceeding the #maximum monthly rent#. However, the #restrictive declaration# shall provide that this requirement shall not apply to an #affordable housing unit# occupied by a #grandfathered tenant# until the first vacancy after the #restrictive declaration date#.

(2) Unless alternative provisions are established in the #restrictive declaration# or #guidelines#, the #restrictive declaration# shall provide that the #monthly rent# charged to the tenant of any #affordable housing unit# at #initial occupancy# and in each subsequent renewal lease shall not exceed the lesser of the #maximum monthly rent# or the #legal regulated rent#. However, the #restrictive declaration# shall provide that these requirements shall not apply to an #affordable housing unit# occupied by a #grandfathered tenant#, until the first vacancy after the #restrictive declaration date#.

However, #HPD# may adopt #guidelines# to permit the #monthly rent# to exceed the #maximum monthly rent#, provided that the #monthly rent#, less rent subsidies pursuant to a rental assistance program administered by any Federal, State, or local agency or instrumentality, does not exceed the lesser of the #maximum monthly rent# or the #legal regulated rent#.

(3) Each year after #rent-up#, in the month specified in the #restrictive declaration# or the #guidelines#, the owner of the #affordable housing units# shall submit an affidavit to #HPD# attesting that each lease or sublease of an #affordable housing unit# or renewal thereof during the preceding year complied with the applicable #monthly rent# requirements at the time of execution of the lease or sublease or renewal thereof.

(4) For any #affordable housing unit# subject to #rent stabilization#, the applicable #restrictive declaration# shall provide that the lessor of an #affordable housing unit# shall not utilize any exemption or exclusion from any requirement of #rent stabilization# to which such lessor might otherwise be or become entitled with respect to such #affordable housing unit#, including, but not limited to, any exemption or exclusion from the rent limits, renewal lease requirements, registration requirements, or other provisions of #rent stabilization#, due to:

(i) the vacancy of a unit where the #legal regulated rent# exceeds a prescribed maximum amount;

(ii) the fact that tenant income or the #legal regulated rent# exceeds prescribed maximum amounts;

(iii) the nature of the tenant; or

(iv) any other reason.

(5) Unless alternative provisions are established in the #restrictive declaration# or #guidelines#, the #restrictive declaration# and each lease of an #affordable housing unit# shall contractually require the lessor of each #affordable housing unit# to grant all tenants the same rights that they would be entitled to under #rent stabilization# without regard to whether such #affordable housing unit# is statutorily subject to #rent stabilization#. If any court declares that #rent stabilization# is statutorily inapplicable to an #affordable housing unit#, such contractual rights shall thereafter continue in effect for the remainder of the #regulatory period#.

(6) Unless alternative provisions are established in the #restrictive declaration# or #guidelines#, the #restrictive declaration# shall provide that each #affordable housing unit# that is occupied by a tenant at the end of the #regulatory period# shall thereafter remain subject to #rent stabilization# for not less than the period of time that such tenant continues to occupy such #affordable housing unit#, except that any occupied #affordable housing unit# that is subject to the Emergency Housing Rent Control Law at the end of the #regulatory period# shall remain subject to the Emergency Housing Rent Control Law until the first vacancy.

(c) Income

(1) Each #affordable housing unit# shall be leased to and occupied by #households# of the applicable #income band# for the entire #regulatory period#, except as may be otherwise set forth in the #guidelines# with respect to internal transfers.

(2) The owner of the #affordable housing units# shall verify the #household# income of the proposed tenant prior to leasing any vacant #affordable housing unit# in order to ensure that it is a #household# that qualifies at the #income band# applicable to such unit, except as may be otherwise set forth in the #guidelines# with respect to internal transfers.

(3) Each year after #rent-up#, in the month specified in the #restrictive declaration# or the #guidelines#, the owner of the #affordable housing units# shall submit an affidavit to #HPD# attesting that each #household# that commenced occupancy of a vacant #affordable housing unit# during the preceding year, and each #household# that subleased an #affordable housing unit# during the preceding year, complied with the applicable income eligibility requirements at the time of #initial occupancy#.

(d) #Affordable housing application

(1) #An #affordable housing application# shall include the building plans, state the number, bedroom mix and #income band# applicable to the #affordable housing units# to be #developed#, #converted#, or preserved, and include such additional information as #HPD# deems necessary to ensure the satisfaction of the requirements of Section 27-10, inclusive.

(2) A copy of any #affordable housing application# shall be delivered, concurrently with its submission to #HPD#, to the affected Community Board.

(e) Special requirements for rental #preservation affordable housing#

The additional requirements of this paragraph, (e), shall apply to rental #preservation affordable housing#:

(1) all of the #dwelling units#, #rooming units# and #supportive housing units# in the #UAP site#, other than any #super's unit#, shall be #affordable housing units# that are leased to and occupied by #households# within the applicable #income band# for the entire #regulatory period#;

(2) on the #restrictive declaration date#, the average of the #legal regulated rents# for all #affordable housing units# in the #UAP site# that are occupied by #grandfathered tenants# shall not exceed 30 percent of 60 percent of the income index divided by 12;

(3) on the #restrictive declaration date#, #HPD# shall have determined that the condition of the #UAP site# is sufficient, or will be sufficient after required improvements specified in the #affordable housing application# and the #restrictive declaration#, to ensure that, with normal maintenance and normal scheduled replacement of #capital elements#, the #affordable housing units# will provide a decent, safe and sanitary living environment for the entire #regulatory period#;

(4) on the #restrictive declaration date#, #HPD# shall have determined either that no #capital element# is likely to require replacement within 30 years from the #restrictive declaration date# or that, with regard to any #capital element# that is likely to require replacement within 30 years from the #restrictive declaration date#, a sufficient reserve has been established to fully fund the replacement of such #capital element#;

(5) except with the prior approval of #HPD#, #monthly rents# charged for #affordable housing units# shall not be increased to reflect the costs of any repair, renovation, rehabilitation or improvement performed in connection with qualification as a #UAP site#, even though such increases may be permitted by other laws;

(6) proceeds from sales of offsite #affordable floor area# must be approved by #HPD# as set forth in the #guidelines# or #restrictive declaration#; and

(7) such #affordable housing# shall comply with such additional criteria as may be specified by #HPD# in the #guidelines#.

27-162 - Additional requirements for homeownership affordable housing

LAST AMENDED
12/5/2024

The additional requirements of this Section shall apply to #homeownership affordable housing# for the entire #regulatory period#, except that #homeownership affordable housing# restricted pursuant to an #affordable housing regulatory agreement# shall not be required to comply with this Section.

(a) #Affordable housing application

(1) #An #affordable housing application# shall:

(i) include the building plans;

(ii) state the number and bedroom mix of the #homeownership affordable housing units# to be #developed#, #converted#, or preserved and the #income band# applicable to each #homeownership affordable housing unit#; and

(iii) include such additional information as #HPD# deems necessary to ensure the satisfaction of the requirements of Section 27-10, inclusive.

(2) A copy of any #affordable housing application# shall be delivered, concurrently with its submission to #HPD#, to the affected Community Board.

(b) #Homeownership affordable housing units# shall only be occupied by #eligible buyers#, and #HPD# shall establish the initial and resale prices based on the incomes of #households# in accordance with the #guidelines#. #Homeownership affordable housing# on an #MIH site# or #UAP site# shall comply with the additional requirements set forth in the #guidelines# for the entire #regulatory period#.

(c) Special requirements for #homeownership preservation affordable housing#

The additional requirements in this paragraph (g) shall apply to #homeownership preservation affordable housing#:

(1) on the #restrictive declaration date#, the #UAP site# shall be an existing #building# containing #residences#;

(2) on the #restrictive declaration date#, the average of the #legal regulated rents#, as such term is defined in Section 27-112 (Definitions applying to rental affordable housing), for all #homeownership affordable housing units# in the #UAP site# that are occupied by #grandfathered tenants# shall not exceed 30 percent of 60 percent of the #income index# divided by 12;

(3) where #grandfathered tenants# continue in residence subsequent to the #restrictive declaration date#, any #affordable housing unit# that is occupied by a #grandfathered tenant# shall be operated subject to the restrictions of Section 27-161 (Additional requirements for rental affordable housing) until such #affordable housing unit# is purchased and occupied by an #eligible buyer#;

(4) on the #restrictive declaration date#, #HPD# shall have determined that the condition of the #UAP site# is sufficient, or will be sufficient after required improvements specified in the #affordable housing application# and the # restrictive declaration #, to ensure that, with normal maintenance and normal scheduled replacement of #capital elements#, the #affordable housing units# will provide a decent, safe and sanitary living environment for the entire #regulatory period#;

(5) on the #restrictive declaration date#, #HPD# shall have determined either that no #capital element# is likely to require replacement within 30 years from the #restrictive declaration date# or that, with regard to any #capital element# that is likely to require replacement within 30 years from the #restrictive declaration date#, a sufficient reserve has been established to fully fund the replacement of such #capital element#;

(6) proceeds from sales of offsite #affordable floor area# must be approved by #HPD# as set forth in the #guidelines# or #restrictive declaration; and

(7) such #affordable housing# shall comply with such additional criteria as may be specified by #HPD# in the #guidelines#.