



## Zoning Resolution

THE CITY OF NEW YORK

Eric Adams, Mayor

CITY PLANNING COMMISSION

Daniel R. Garodnick, Chair

# **23-154 - Inclusionary Housing**

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## 23-154 - Inclusionary Housing

LAST AMENDED

2/14/2018

For #developments# or #enlargements# providing #affordable housing# pursuant to the Inclusionary Housing Program, as set forth in Section [23-90](#), inclusive, the maximum #floor area ratio# permitted in R10 Districts outside of #Inclusionary Housing designated areas# shall be as set forth in paragraph (a) of this Section, and the maximum #floor area ratio# in the #Inclusionary Housing designated areas# existing on March 22, 2016, shall be as set forth in paragraph (b) of this Section. Special provisions for specified #Inclusionary Housing designated areas# are set forth in paragraph (c) of this Section. Special #floor area# provisions for #zoning lots# in #Mandatory Inclusionary Housing areas# are set forth in paragraph (d) of this Section. The maximum #lot coverage# shall be as set forth in Section [23-153](#) (For Quality Housing buildings) for the applicable zoning district. For the purpose of this Section, defined terms include those set forth in Sections [12-10](#) and [23-911](#).

(a) R10 Districts outside of #Inclusionary Housing designated areas#

The #residential# #floor area ratio# of a #compensated zoning lot# may be increased from a base #floor area ratio# of 10.0 to a maximum #floor area ratio# of 12.0 at the rate set forth in this Section, if such #compensated zoning lot# provides #affordable housing# that is restricted to #low income floor area#.

For each square foot of #floor area# provided for a type of #affordable housing# listed in the table in this paragraph (a), the #floor area# of the #compensated zoning lot# may be increased by the amount of square feet set forth in the table, as applicable. Any #generating site# for which #public funding# has been received within the 15 years preceding the #regulatory agreement date#, or for which #public funding# is committed to be provided subsequent to such date, shall be deemed to be provided with #public funding#.

### OPTIONS

Without #public funding#	#New construction affordable housing# or #substantial rehabilitation affordable housing#	3.5
	#Preservation affordable housing#	2.0
With #public funding#	#New construction affordable housing#, #substantial rehabilitation affordable housing# or #preservation affordable housing#	1.25

(b) #Inclusionary Housing designated areas#

The #residential# #floor area# of a #zoning lot# may not exceed the base #floor area ratio# set forth in the table in this paragraph (b), except that such #floor area# may be increased on a #compensated zoning lot# by 1.25 square feet for each square foot of #low income floor area# provided, up to the maximum #floor area ratio# specified in the table, as applicable. However, the amount of #low income floor area# required to receive such #floor area compensation# need not exceed 20 percent of the total #floor area#, exclusive of ground floor non-#residential# #floor area# on the #compensated zoning lot#.

MAXIMUM RESIDENTIAL FLOOR AREA RATIO

District	Base #floor area ratio#	Maximum #floor area ratio#
R6B	2.00	2.20
R6 <sup>1</sup>	2.20	2.42
R6 <sup>2</sup> R6A R7-2 <sup>1</sup>	2.70	3.60
R7A R7-2 <sup>2</sup>	3.45	4.60
R7-3	3.75	5.0
R7D	4.20	5.60
R7X	3.75	5.00
R8	5.40	7.20
R9	6.00	8.00
R9A	6.50	8.50
R9D	7.5	10.0
R9X	7.3	9.70
R10	9.00	12.00

<sup>1</sup> for #zoning lots#, or portions thereof, beyond 100 feet of a #wide street#

<sup>2</sup> for #zoning lots#, or portions thereof, within 100 feet of a #wide street#

(c) Special provisions for specified #Inclusionary Housing designated areas#

(1) Optional provisions for #large-scale general developments# in C4-6 or C5 Districts

Within a #large-scale general development# in a C4-6 or C5 District, the special optional regulations as set forth in this paragraph (c)(1), inclusive, modify the provisions of paragraph (b) of this Section:

- (i) The #residential# #floor area# of a #development# or #enlargement# may be increased by 0.833 square feet for each one square foot of #moderate income floor area#, or by 0.625 square feet for each one square foot of #middle income floor area#, provided that for each square foot of such #floor area compensation# there is one square foot of #floor area compensation#, pursuant to paragraph (b) of this Section;
- (ii) However, the amount of #affordable housing# required to receive such #floor area compensation# need not exceed the amounts specified in this paragraph, (c)(1)(ii). If #affordable housing# is provided for both #low income# and #moderate income households#, the amount of #moderate income floor area# need not exceed 15 percent of the total #floor area#, exclusive of ground floor non-#residential# #floor area#, on the #zoning lot#, provided that the amount of #low income floor area# is at least 10 percent of the total #floor area#, exclusive of ground floor non-#residential# #floor area#, on the #zoning lot#. If #affordable housing# is provided for both #middle income households# and #low income households#, the amount of #middle income floor area# need not exceed 20 percent of the total #floor area#, exclusive of ground floor non-#residential# #floor area#, on the #zoning lot#, provided that the amount of #low income floor area# is at least 10 percent of the total #floor area#, exclusive of ground floor non-#residential# #floor area#, on the #zoning lot#.

For the purposes of this paragraph, (c)(1), inclusive, #low income floor area# may be considered #moderate income floor area# or #middle income floor area#, and #moderate income floor area# may be considered #middle income floor area#.

(2) Special provisions for #large-scale general developments# in Community District 1 in the Borough of Queens

Special provisions shall apply to #zoning lots# within a #large-scale general development# that contains R6B, R7A and R7-3 Districts within an #Inclusionary Housing designated area#, as follows:

- (i) For #zoning lots#, or portions thereof, that are located within R6B, R7A or R7-3 Districts, the base #floor area ratio# set forth in paragraph (b) of this Section shall not apply. No #residential# #development# or #enlargement# shall be permitted unless #affordable floor area# is provided pursuant to the provisions of this paragraph. The amount of #low-income floor area# provided shall equal no less than 10 percent of the #floor area# on such #zoning lot#, excluding any ground floor non-#residential# #floor area#, #floor area# within a #school#, or any #floor area# increase resulting from the provision of a #FRESH food store# and the amount of #moderate-income floor area# provided shall equal no less than 15 percent of the #floor area# on such #zoning lot#, excluding any ground floor non-#residential# #floor area#, #floor area# within a #school#, or any #floor area# increase resulting from the provision of a #FRESH food store#. For the purposes of this paragraph (c)(2)(i), inclusive, #low income floor area# may be considered #moderate income floor area#; and
- (ii) The amount of #affordable floor area# utilizing #public funding# that may count toward satisfying the #affordable floor area# required in paragraph (c)(2)(i) of this Section shall be determined in accordance with procedures prescribed by the City Planning Commission pursuant to the provisions of Section [74-743](#) (Special provisions for bulk modification).

(3) Special provisions for #compensated zoning lots#

Special provisions shall apply to #compensated zoning lots# located within:

- (i) R6, R7-3 and R8 Districts on #waterfront blocks# in #Inclusionary Housing designated areas# within Community District 1, Borough of Brooklyn, as set forth in Section [62-352](#); or

(ii) the #Special Hudson Yards District#, #Special Clinton District# and #Special West Chelsea District#, as set forth in Sections [93-23](#), [96-21](#) and [98-26](#), respectively.

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

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 [73-624](#) (Reduction or modification of Mandatory Inclusionary Housing requirements), or as provided in paragraph (d) (4) of this Section [23-154](#), no #residential# #development#, #enlargement# or #conversion# from non-#residential# to #residential use# shall be permitted unless #affordable housing#, as defined in Section [23-911](#) (General definitions) is provided or a contribution is made to the #affordable housing fund#, as defined in Section [23-911](#), pursuant to the provisions set forth in paragraph (d)(3)(i) through (d)(3)(v) and (d)(5) of this Section, inclusive.

(2) Maximum #floor area ratio#

The maximum #floor area ratio# for the applicable zoning district in #Inclusionary Housing designated areas# set forth in paragraph (b) of this Section shall apply to the applicable zoning district in a #Mandatory Inclusionary Housing area#, except:

- (i) in an R6 District, without a letter suffix, the maximum #floor area ratio# shall be 3.6 in the following areas:
  - (a) Mandatory Inclusionary Housing Program Area 1, as of May 24, 2017, in Community District 9 in the Borough of the Bronx; and
  - (b) Mandatory Inclusionary Housing Program Area 2, as of September 7, 2017, in Community District 14 in the Borough of Queens.
- (ii) in an R7-1 or R7-2 District, the maximum #floor area ratio# shall be 4.6, except that the maximum #floor area ratio# for an R7-2 District in a #Mandatory Inclusionary Housing area# in Community District 5, Borough of Brooklyn, mapped on or before April 20, 2016, shall be as set forth in paragraph (b) of this Section;
- (iii) in an R7-3 or R7X District, the maximum #floor area ratio# shall be 6.0; and
- (iv) in an R9-1 District the maximum #floor area ratio# shall be 9.0.

In addition, in R6, R7-1, R7-2, R8 and R9 Districts without a letter suffix, where the basic height and setback requirements are utilized pursuant to paragraph (b) of Section [23-952](#), the maximum #floor area ratio# shall be determined in accordance with the provisions of Section [23-151](#) (Basic regulations for R6 through R9 Districts).

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

(3) Options for compliance with affordable housing requirement

Options for compliance with the affordable housing requirement of paragraph (d)(1) of this Section are set forth in the following paragraphs (d)(3)(i) through (d)(3)(v). These options shall be applicable within #Mandatory Inclusionary Housing areas# as indicated in [APPENDIX F](#) of this Resolution. The Deep Affordability Option or the Workforce Option shall only be made applicable in combination with Option 1 or Option 2. Regardless of whether every option specified in this paragraph (d)(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 (d)(3), inclusive, shall be part of the subject matter of each such application throughout the land use review process. The Workforce Option 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, the Deep Affordability Option, the Workforce Option, or the Affordable Housing Fund Option, as applicable.

When a #building# containing #residences# is #enlarged#, the following shall be considered part of the #enlargement# for the purposes of this paragraph (d)(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) Deep Affordability Option

For #MIH developments# utilizing the Deep Affordability Option, 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) Workforce Option

For #MIH developments# utilizing the Workforce Option, 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 5 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#.

The Workforce Option 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, the Workforce Option shall apply to an #MIH development# that has filed an #MIH 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 Workforce Option in such #Mandatory Inclusionary Housing area#.

The Workforce Option 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#.

(4) Exceptions

The requirements of paragraph (d) 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 (d)(3), inclusive, of this Section by special permit of the Board of Standards and Appeals pursuant to Section [73-624](#) (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 [23-96](#) (Requirements for Generating Sites or MIH Sites), the amount of #affordable floor area# required pursuant to paragraphs (d)(3)(i) through (d)(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 (d)(3)(i) through (d)(3)(iv) of this Section, as applicable to the #MIH development#.