Zoning Resolution

THE CITY OF NEW YORK
Zohran K. Mamdani, Mayor

CITY PLANNING COMMISSION
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27-10 - ADMINISTRATION OF AFFORDABLE HOUSING

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27-10 - ADMINISTRATION OF AFFORDABLE HOUSING

LAST AMENDED
12/5/2024

27-11 - Definitions

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For the purposes of this Section, inclusive, matter in italics is defined either in Section 12-10 (DEFINITIONS) or in this Section.

27-111 - General definitions

LAST AMENDED
12/5/2024

The following definitions shall apply throughout Section 27-10 (ADMINISTRATION OF AFFORDABLE HOUSING), inclusive:

Affordable floor area

(a) Where all of the #dwelling units#, #rooming units# and #supportive housing units# in an #MIH site# or #UAP site#, other than any #super's unit#, are #affordable housing units#, all of

the #residential# #floor area# or #community facility# #floor area# for a #supportive housing project#, in such #UAP site# or #MIH site# is "affordable floor area."

(b) 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#, the #affordable floor area# in such #MIH site# or #UAP site# is the sum of:

(1) all of the #residential# #floor area# of the #affordable housing units# in such #MIH site# or #UAP site#; plus

(2) a figure determined by multiplying the #residential# #floor area# of the #eligible common areas# in such #MIH site# or #UAP site# by a fraction, the numerator of which is all of the #residential# #floor area# of the #affordable housing units# in such #MIH site# or #UAP site# and the denominator of which is the sum of the #residential# #floor area# of the #affordable housing units# in such #MIH site# or #UAP site# plus the #residential# #floor area# of the #dwelling units# or #rooming units# in such #MIH site# or #UAP site#, other than any #super's unit#, that are not #affordable housing units#.

Affordable housing

"Affordable housing" consists of:

(a) #affordable housing units#; and

(b) #eligible common areas#.

Affordable housing application

An “affordable housing application” is an application submitted to #HPD# that specifies how #affordable housing# will be provided on an #MIH site# or a #UAP site#, in compliance with the provisions of Section 27-00 (APPLICABILITY, GENERAL PURPOSES AND DEFINITIONS), inclusive.

Affordable housing fund

With respect to the requirements of paragraph (a)(3)(v) of Section 27-131, the “affordable housing fund” is a fund administered by #HPD#, all contributions to which shall be used for development, acquisition, rehabilitation, or preservation of affordable housing, or other affordable housing purposes as set forth in the #guidelines#. Each contribution into such fund shall be reserved for use within the borough in which the #MIH development# making such contribution is located and, for a minimum of 10 years, shall be reserved for use in the same Community District in which the #MIH development# making such contribution is located. #HPD# shall issue a public report on the use of such fund no less frequently than annually.

Further provisions for the use of such funds may be set forth in the #guidelines#.

Affordable housing regulatory agreement

An “affordable housing regulatory agreement” is a legally binding agreement between the owner of a #building# and a Federal, State, or local agency or instrumentality with respect to a #development#, #enlargement#, or #conversion# from non-#residential# to #residential# #use#, which:

(a) requires all of the #dwelling units#, #rooming units#, or #supportive housing units# in such #building# to be income-restricted and occupied by an eligible household as established by such agreement for a period of no less than 30 years;

(b) for a rental #building#, restricts an amount of #floor area# that would otherwise be required for the #MIH development#, #UAP development# or #qualifying residential site# subject to affordability requirements for the life of such #building#, or, for a #homeownership# #building#, requires such building to be owned by a housing development fund corporation established pursuant to Article XI of the Private Housing Finance Law for the life of such building; and

(c) is entered into in connection with #public funding#.

HPD may impose additional requirements for #buildings# subject to an #affordable housing regulatory agreement# in the #guidelines#.

Affordable housing unit

An "affordable housing unit" is:

(a) a #dwelling unit#, other than a #super's unit#, that is used for class A occupancy as defined in the Multiple Dwelling Law, or a #rooming unit#, other than a #super's unit#, that is used for either Class A or Class B occupancy as defined in the Multiple Dwelling Law, and that is or will be restricted, pursuant to an #affordable housing regulatory agreement# or #restrictive declaration#, to occupancy by:

(1) for a #UAP site#:

(i) #households# having an income less than or equal to a weighted average of 60 percent of the #income index# at #initial occupancy#:

(a) with no more than three #income bands#;

(b) no #income band# exceeding 100 percent of the #income index#; and

(c) for #UAP sites# with 10,000 square feet or more of #affordable floor area#, at least 20 percent of such #affordable floor area# at an #income band# of no more than 40 percent of the #income index#.

However, with regard to #preservation affordable housing#, a #grandfathered tenant# shall also be permitted to occupy such #affordable housing unit#; or

(ii) #households# as specified in an #affordable housing regulatory agreement# executed after December 5, 2024; or

(2) for an #MIH site#, #qualifying households#;

(b) a #supportive housing unit# within a #supportive housing project#.

#Affordable housing units# that are restricted to #homeownership#, as defined in Section 27-113, pursuant to an #affordable housing regulatory agreement# or a #restrictive declaration#, must be #dwelling units#.

Capital element

"Capital elements" are, with respect to any #UAP site#, the electrical, plumbing, heating and ventilation systems in such #UAP site#, any air conditioning system in such #UAP site# and all facades, parapets, roofs, windows, doors, elevators, concrete and masonry in such #UAP site# and any other portions of such #UAP site# specified in the #guidelines#.

Completion notice

A “completion notice” is a notice from #HPD# to the Department of Buildings stating that the #affordable housing# in all or a portion of any #MIH site# or #UAP site# is complete and stating the #affordable floor area# of such #affordable housing#.

Eligible common area

An #eligible common area# includes any #residential# #floor area# that is located within a #super’s unit#, and any #residential# #floor area# in such #MIH site# or #UAP site# that is not located within any other #dwelling unit# or #rooming unit#, but shall not include any #residential# #floor area# for which a user fee is charged to residents of #affordable housing units#.

Grandfathered tenant

A “grandfathered tenant” is any #household# that:

(a) occupied an #affordable housing unit# in #preservation affordable housing# on the #restrictive declaration date#, pursuant to a lease, occupancy agreement or statutory tenancy under which one or more members of such #household# was a primary tenant of such #affordable housing unit#; and

(b) has not been certified to have an annual income below the #income band# applicable to such #affordable housing unit#; or

(c) in #homeownership preservation affordable housing#, has been certified to have an annual income below the #income band# applicable to such #affordable housing unit#, but has elected not to purchase such #affordable housing unit#.

In #Mandatory Inclusionary Housing areas#, #grandfathered tenants# may include tenants of #buildings# on an #MIH site# that have been or will be demolished, as set forth in the #guidelines#.

Guidelines

The "guidelines" are the #guidelines# adopted by #HPD#, pursuant to paragraph (k) of Section 27-16 (Requirements for MIH Sites or UAP Sites).

Household

Prior to #initial occupancy# of an #affordable housing unit#, a "household" is, collectively, all of the persons intending to occupy such #affordable housing unit# at #initial occupancy#. After #initial occupancy# of an #affordable housing unit#, a #household# is, collectively, all of the persons occupying such #affordable housing unit#.

HPD

"HPD" is the Department of Housing Preservation and Development or its successor agency or designee, acting by or through its Commissioner or his or her designee.

Income band

An "income band" is a percentage of the #income index# that is the maximum income for occupants of #affordable housing units# at #initial occupancy#. #Income bands# shall all be multiples of 10 percent of the #income index#, except for an #income band# at 135 percent of the #income index# provided pursuant to paragraph (a)(3)(iv) of Section 27-131.

Income index

The “income index” is 200 percent of the Very Low-Income Limit established by the U.S. Department of Housing and Urban Development (HUD) for Multifamily Tax Subsidy Projects (MTSPs) in accordance with Internal Revenue Code Sections 42 and 142, as amended by Section 3009(a) of the Housing and Economic Recovery Act of 2008, as adjusted for #household# size. #HPD# shall adjust such figure for the number of persons in a #household# in accordance with such methodology as may be specified by HUD or in the #guidelines#. #HPD# may round such figure to the nearest 50 dollars or in accordance with such methodology as may be specified by HUD or in the #guidelines#. If HUD ceases to establish, or changes the standards or methodology for the establishment of, such income limit for MTSPs or ceases to establish the methodology for adjusting such figure for #household# size, the standards and methodology for establishment of the #income index# shall be specified in the #guidelines#.

Initial occupancy

“Initial occupancy” is:

(a) in rental #affordable housing#, the first date upon which a particular #household# occupies a particular #affordable housing unit# as a tenant, and shall not refer to any subsequent renewal lease of the same #affordable housing unit# to the same tenant #household#; or

(b) in #homeownership affordable housing#, the first date upon which a particular #household# occupies a particular #affordable housing unit# as a #homeowner#.

For any #household# occupying an #affordable housing unit# of #preservation affordable housing# on the #restrictive declaration date#, #initial occupancy# is the #restrictive declaration date#.

Mandatory Inclusionary Housing area

A “Mandatory Inclusionary Housing area” is a specified area in which the Mandatory Inclusionary Housing Program is applicable, pursuant to the regulations set forth for such areas in Section 27-10,

inclusive. The locations of #Mandatory Inclusionary Housing areas# are identified in APPENDIX F of this Resolution or in Special Purpose Districts, as applicable.

MIH development

An "MIH development" is a #development#, #enlargement# or #conversion# that complies with the provisions of paragraphs (a)(3)(i) through (a)(3)(vi) or (a)(5) of Section 27-131 (Mandatory Inclusionary Housing), provides #affordable housing# as specified in an #affordable housing regulatory agreement# executed after December 5, 2024, or provides #affordable housing# or a contribution to the #affordable housing fund# as modified by special permit of the Board of Standards and Appeals pursuant to Section 73-623 (Reduction or modification of Mandatory Inclusionary Housing requirements).

MIH site

An "MIH site" is a #building# containing #affordable floor area# that satisfies either the special #floor area# provisions for #zoning lots# in #Mandatory Inclusionary Housing areas# in paragraphs (a)(3)(i) through (a)(3)(vi) or (a)(5) of Section 27-131 (Mandatory Inclusionary Housing), provides #affordable housing# as specified in an #affordable housing regulatory agreement# executed after December 5, 2024, or provides #affordable housing# or a contribution to the #affordable housing fund# as modified by special permit of the Board of Standards and Appeals pursuant to Section 73-623 (Reduction or modification of Mandatory Inclusionary Housing requirements).

Any temporary or final certificate of occupancy issued after December 5, 2024, for an #MIH site# shall state that such #building# or portion thereof contains #affordable housing#, and shall state that such certificate of occupancy may be amended or superseded to reflect that the #residential units# in the #building# or portion thereof that are #affordable housing units# be used other than as #affordable housing units# only in accordance with the provisions of this Zoning Resolution.

MIH zoning lot

An "MIH zoning lot" is a #zoning lot# that contains an #MIH development#.

New construction affordable housing

"New construction affordable housing" is #affordable housing# that:

(a) is located in a #building# or portion thereof that did not exist on a date which is 60 months prior to the #restrictive declaration date#;

(b) is located in #floor area# for which the Department of Buildings first issued a temporary or permanent certificate of occupancy on or after the #restrictive declaration date#; and

(c) complies with such additional criteria as may be specified by #HPD# in the #guidelines#.

Permit notice

For #UAP developments#, a #permit notice# is a notice from #HPD# to the Department of Buildings stating that building permits may be issued for such #UAP development#. Such #permit notice# shall state the amount of #affordable floor area# provided on a #UAP site#.

For #MIH developments#, a #permit notice# is a notice from #HPD# to the Department of Buildings stating that building permits may be issued for any #development#, #enlargement# or #conversion# subject to the special #floor area# requirements of paragraph (a) of Section 27-131 (Mandatory Inclusionary Housing), provides #affordable housing# as specified in an #affordable housing regulatory agreement# executed after December 5, 2024, or provides #affordable housing# a contribution to the #affordable housing fund# as modified by special permit of the Board of Standards and Appeals pursuant to Section 73-623 (Reduction or modification of Mandatory

Inclusionary Housing requirements).

Such #permit notice# shall state the amount of #affordable floor area# provided on an #MIH site# or the amount of #floor area# for which a contribution to the #affordable housing fund# has been made.

Preservation affordable housing

"Preservation affordable housing" is #affordable housing# that:

(a) is a #UAP site# that existed and was legally permitted to be occupied on the #restrictive declaration date#, except as permitted in the #guidelines#; and

(b) complies with the provisions of paragraph (e) of Section 27-161 (Additional requirements for rental affordable housing) or paragraph (c) of Section 27-162 (Additional requirements for homeownership affordable housing), as applicable.

Public funding

"Public funding" is any grant, loan or subsidy from any Federal, State or local agency or instrumentality, including, but not limited to, the disposition of real property for less than market value, purchase money financing, construction financing, permanent financing, the utilization of bond proceeds and allocations of low income housing tax credits, except as may be otherwise provided in the #guidelines#. #Public funding# shall not include the receipt of rent subsidies pursuant to any rental assistance program administered by any Federal, State, or local agency or instrumentality or any as-of-right exemption or abatement of real property taxes, except as may be otherwise provided in the #guidelines#.

Qualifying household

A “qualifying household” is a #household# that satisfies:

(a) the applicable #income band# requirements of paragraphs (a)(3)(i) through (a)(3)(iv) of Section 27-131 (Mandatory Inclusionary Housing);

(b) income requirements as specified in an #affordable housing regulatory agreement# executed after December 5, 2024; or

(c) the applicable #income band# requirements as provided by special permit of the Board of Standards and Appeals pursuant to Section 73-623 (Reduction or modification of Mandatory Inclusionary Housing requirements).

Regulatory period

With respect to any #UAP site#, the #regulatory period# is the entire period of time during which #affordable floor area# on such #UAP site# provides #affordable housing# for a #UAP development#, is the subject of a permit, temporary certificate of occupancy or permanent certificate of occupancy issued by the Department of Buildings, or is otherwise under construction or in use.

With respect to any #MIH site#, the #regulatory period# is the entire period of time during which #affordable floor area# on such #MIH site# satisfies the requirements of the special #floor area# provisions for #zoning lots# in #Mandatory Inclusionary Housing areas# in Section 27-131 (Mandatory Inclusionary Housing) for an #MIH development# or any modification of such provisions by special permit of the Board of Standards and Appeals pursuant to Section 73-623 (Reduction or modification of Mandatory Inclusionary Housing requirements), is the subject of a permit, temporary certificate of occupancy or permanent certificate of occupancy issued by the Department of Buildings, or is otherwise under construction or in use.

Restrictive declaration

A “restrictive declaration” is a restrictive declaration approved by #HPD#, or is any other document as provided in the #guidelines#, that requires compliance with all applicable provisions of an #affordable housing application#, Section 27-00, inclusive, other applicable provisions of this Resolution, and the #guidelines#.

Restrictive declaration date

The “restrictive declaration date” is, with respect to any #affordable housing#, the date of execution of the applicable #restrictive declaration#. If a #restrictive declaration# is amended at any time, the #restrictive declaration date# is the original date of execution of such #restrictive declaration#, without regard to the date of any amendment.

Super’s unit

A “super’s unit” is, in any #MIH site# or #UAP site#, not more than one #dwelling unit# or #rooming unit# that is reserved for occupancy by the superintendent of such #building#.

UAP development

A “UAP development” (“Universal Affordability Preference development”) is a #development# or #enlargement# outside of a #Mandatory Inclusionary Housing area# that provides #affordable housing# or a #supportive housing project# that satisfies the requirements of this Chapter.

The #residential# #floor area ratio# in a #UAP development# may exceed that for standard #residences# set forth in Section 23-22 (Floor Area Regulations for R6 Through R12 Districts) only by the amount of #affordable housing# provided, either on the #UAP zoning lot# or, for #UAP developments# within a #UAP Offsite Option Area#, on a #UAP site# pursuant to paragraph (a) of Section 27-16 (Requirements for MIH Sites or UAP Sites).

However, #UAP developments# within a #UAP Offsite Option Area# may exceed the #floor area ratios# for standard #residences# set forth in Section 23-22 by utilizing #affordable housing# provided on a #generating site#, as such term was defined prior to December 5, 2024, at the rate set forth in Section 23-154, as such Section existed prior to December 5, 2024, provided that such #generating site# has vested pursuant to the provisions of Section 27-132.

UAP Offsite Option Area

A "UAP offsite option area" ("Universal Affordability Preference offsite option area") is a former Inclusionary Housing Designated Area or R10 District outside of a former Inclusionary Housing Designated Area within which the limited UAP offsite option is applicable, pursuant to the regulations set forth for such areas in Section 27-00, inclusive. The locations of former Inclusionary Housing Designated Areas are identified in APPENDIX F of this Resolution.

UAP site

A "UAP site" ("Universal Affordability Preference site") is a #building# that contains #affordable housing# or a #supportive housing project# for a #UAP development#

Any temporary or final certificate of occupancy issued after December 5, 2024, for a #UAP site# shall state that such #building# or portion thereof contains #affordable housing#, and shall state that such certificate of occupancy may be amended or superseded to reflect that the #residential units# in the #building# or portion thereof that are #affordable housing units# be used other than as #affordable housing units# only in accordance with the provisions of this Zoning Resolution.

UAP zoning lot

A "UAP zoning lot" ("Universal Affordability Preference zoning lot") is a #zoning lot# that contains a #UAP development# and utilizes the #floor area# regulations of Section 23-22 (Floor Area

Regulations for R6 Through R12 Districts) or the height and setback regulations of Section 23-432 (Height and setback requirements) applicable to #qualifying affordable housing#.

27-112 - Definitions applying to rental affordable housing

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12/5/2024

The following definitions shall apply to rental #affordable housing#:

Legal regulated rent

A "legal regulated rent" is, with respect to any #affordable housing unit#, the initial #monthly rent# registered with the Division of Housing and Community Renewal at #rent-up# in accordance with paragraph (b) of Section 27-161 (Additional requirements for rental affordable housing).

Maximum monthly rent

The "maximum monthly rent" for an #affordable housing unit# is a rent that is affordable to an occupant in the #income band# applicable to such #affordable housing unit#, as set forth in the #guidelines# or #restrictive declaration#.

Monthly rent

The "monthly rent" is the monthly amount charged, pursuant to paragraph (b) of Section 27-161 (Additional requirements for rental affordable housing), to a tenant in an #affordable housing unit#.

Rent stabilization

"Rent stabilization" is the Rent Stabilization Law of 1969 and the Emergency Tenant Protection Act of 1974 and all regulations promulgated pursuant thereto or in connection therewith. If the Rent Stabilization Law of 1969 or the Emergency Tenant Protection Act of 1974 is repealed, invalidated or allowed to expire, #rent stabilization# shall be defined as set forth in the #guidelines#.

Rent-up

"Rent-up" is the first rental of vacant #affordable housing units# on or after the #restrictive declaration date#, except that, where one or more #affordable housing units# in #preservation affordable housing# were occupied by #grandfathered tenants# on the #restrictive declaration date#, #rent-up# shall have the same meaning as #restrictive declaration date#.

Rent-up date

The "rent-up date" is the date upon which leases for a percentage of vacant #affordable housing units# set forth in the #guidelines# have been executed, except that, where one or more #affordable housing units# in #preservation affordable housing# were occupied by #grandfathered tenants# on the #restrictive declaration date#, the #rent-up date# is the #restrictive declaration date#.

Supportive housing project

A #supportive housing project# is a #building# or a portion thereof that is a non-profit institution with sleeping accommodations, as specified in Section 22-13 (Use Group III – Community Facilities), inclusive, restricted to use as #affordable housing# for persons with special needs pursuant to a regulatory agreement with a Federal, State, or local agency or instrumentality.

Supportive housing unit

A “supportive housing unit” is #floor area# in a #supportive housing project# that consists of sleeping quarters for persons with special needs and any private living space appurtenant thereto.

27-113 - Definitions applying to homeownership affordable housing

LAST AMENDED
12/5/2024

Eligible buyer

An “eligible buyer” is a #household# that qualifies to buy a specific #homeownership# #affordable housing unit#. Such a #household# shall, except as otherwise provided in the #guidelines#:

(a) be, at the time of application for an initial sale or resale of an #affordable housing unit#, a #household# that satisfies the #income band# applicable to such unit; and

(b) meet such additional eligibility requirements as may be specified in the #guidelines#.

Homeowner

A “homeowner” is a person or persons who:

(a) owns a condominium #homeownership# #affordable housing unit# and occupies such condominium #homeownership# #affordable housing unit# in accordance with owner occupancy requirements set forth in the #guidelines#; or

(b) owns shares in a #cooperative corporation#, holds a proprietary lease for a #homeownership# #affordable housing unit# owned by such #cooperative corporation# and occupies such #homeownership# #affordable housing unit# in accordance with owner occupancy requirements set forth in the #guidelines#.

Homeownership

"Homeownership" is a form of tenure for housing, including #dwelling units# occupied by either the owner as a separate condominium, a shareholder in a cooperative corporation pursuant to the terms of a proprietary lease, a #grandfathered tenant# or an authorized subletter pursuant to the #guidelines#.

27-12 - General Provisions

LAST AMENDED
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MIH and UAP are established to promote the creation and preservation of affordable housing for residents with varied incomes citywide and to enhance neighborhood economic diversity and thus to promote the general welfare. Requirements for affordable housing are set forth in Section 27-00, inclusive.

Wherever the provisions of Section 27-00, inclusive, provide that approval is required, #HPD# may specify the form of such approval in the #guidelines#.

27-13 - Applicability

LAST AMENDED

27-131 - Mandatory Inclusionary Housing

LAST AMENDED
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).

27-14 - Methods of Providing Affordable Housing

(a) For #UAP developments#, #affordable housing# shall be either #new construction affordable housing#, #preservation affordable housing# or a #conversion# from non-#residential# to #residential use#. For #MIH developments#, #affordable housing# shall be either #new construction affordable housing# or a #conversion# from non-#residential# to #residential use#. #Conversions# shall comply with the requirements of Section 27-10 (ADMINISTRATION OF AFFORDABLE HOUSING), inclusive, applicable to #new construction affordable housing#.

(b) When determining whether #affordable housing# is #new construction affordable housing# or #preservation affordable housing#, or when making a determination as to which #building# constitutes a #UAP site#, #HPD# may separately consider each #building# on a #zoning lot#. Where any such #building# consists of two or more contiguous sections separated by walls or other barriers, #HPD# may consider all relevant facts and circumstances when determining whether to consider the sections of such #building# separately or collectively, including, but not limited to, whether such sections share systems, utilities, entrances, common areas or other common elements and whether such sections have separate deeds, ownership, tax lots, certificates of occupancy, independent entrances, independent addresses or other evidence of independent functional use.

(c) The amount of #affordable floor area# in any #MIH site# or #UAP site# shall be determined based upon plans for such #MIH site# or #UAP site# which have been approved by the Department of Buildings and which indicate thereon the amount of #floor area# devoted to #affordable housing# and the amount of #floor area# devoted to other #residential uses#. However, for #UAP sites# where the Department of Buildings does not require #floor area# calculations, the amount of #affordable floor area# shall be determined by methods specified in the #guidelines#.

(d) The amount of qualifying #floor area# for any #income band# in an #MIH site# or #UAP site# shall be determined by the same method as the calculation of #affordable floor area#.

(e) #Affordable housing units# shall be either rental #affordable housing# or #homeownership affordable housing#.

(f) An #MIH site# that is part of an #MIH zoning lot#, or a #UAP site# that is part of a #UAP zoning lot#, in which at least two-thirds of the #dwelling units# are #affordable housing units# shall be either a #building# that:

(1) shares a common #street# entrance with another #building# on the #zoning lot# in which less than one-third of the #dwelling units# are #affordable housing units#; or

(2) is independent, from grade at the #street wall line# to the sky, of any other #building# on the #zoning lot# in which less than one-third of the #dwelling units# are #affordable housing units#, and such #building# shall have its primary entrance on a #street# frontage that has primary entrances for other #residential buildings#.

(3) #HPD# may waive the requirements of this paragraph (f) if it determines that the #buildings# on the #zoning lot# are otherwise located in a manner that does not stigmatize occupants of #affordable housing units#.

(g) #HPD# shall have the right, in its sole discretion, to deny any #affordable housing application# proposing #preservation affordable housing#, and shall have the right, in its sole discretion, to deny any #affordable housing application# that includes #homeownership affordable housing#, #qualifying senior housing#, or a #supportive housing project#, and instead require that such #MIH site# or #UAP site# be developed with rental #affordable housing#. Pursuant to paragraph (k) of Section 27-16 (Requirements for MIH Sites or UAP Sites), #HPD# may adopt #guidelines# for the implementation of this paragraph (g).

27-15 - MIH Zoning Lots and UAP Zoning Lots

LAST AMENDED
12/5/2024

27-151 - Additional requirements for MIH developments and UAP developments

LAST AMENDED
12/5/2024

(a) #MIH development# or #UAP development# building permits#

(1) HPD# may issue a #permit notice# to the Department of Buildings at any time on or after the #restrictive declaration date#. The Department of Buildings may thereafter issue building permits to an #MIH development# or a #UAP development# based on the #affordable housing# or, in the case of an #MIH development#, contribution to the #affordable housing fund# described in such #permit notice#.

(2) If #HPD# does not receive confirmation that the #restrictive declaration# has been recorded within 45 days after the later of the #restrictive declaration date# or the date upon which #HPD# authorizes the recording of the #restrictive declaration#, #HPD# shall suspend or revoke such #permit notice#, notify the Department of Buildings of such suspension or revocation and not reinstate such #permit notice# or issue any new #permit notice# until #HPD# receives confirmation that the #restrictive declaration# has been recorded or any applicable alternate procedure has been completed. Upon receipt of notice from #HPD# that a #permit notice# has been suspended or revoked,

the Department of Buildings shall suspend or revoke each building permit issued pursuant to such #permit notice# which is then in effect for any #MIH development# or #UAP development#.

(b) #MIH development# or #UAP development# certificates of occupancy

(1) The Department of Buildings shall not issue a permanent certificate of occupancy for any #MIH development# or #UAP development# until #HPD# has issued a #completion notice# with respect to the #affordable housing# that satisfies the requirements of this Chapter. However, where any #story# of an #MIH development# or #UAP development# contains one or more #affordable housing units#, the Department of Buildings may issue a temporary certificate of occupancy for such #story# if such temporary certificate of occupancy either includes each #affordable housing unit# located in such #story# or only includes #dwelling units# or #rooming units# that are #affordable housing units#. Nothing in the preceding sentence shall be deemed to prohibit the granting of a temporary certificate of occupancy for the standard #residential floor area# in a #UAP development# or the granting of a temporary or permanent certificate of occupancy for a #super's unit#.

(2) #HPD# shall not issue a #completion notice# with respect to any portion of any #MIH site# or #UAP site# unless:

(i) the Department of Buildings has issued temporary certificates of occupancy for all #affordable housing# described in such #completion notice# and such certificates of occupancy have not expired, been suspended or been revoked; or

(ii) where a #UAP site# contains #affordable housing# that had a valid certificate of occupancy on the #restrictive declaration date# and no new temporary or

permanent certificate of occupancy is thereafter required for the creation of such #affordable housing#, #HPD# has determined that all renovation and repair work required by the applicable #restrictive declaration# has been completed and all obligations with respect to the creation of such #affordable housing# have been fulfilled in accordance with the applicable #restrictive declaration#.

(c) #UAP developments# and #MIH developments# that are restricted pursuant to an #affordable housing regulatory agreement# shall not be required to comply with this Section.

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#.