Zoning Resolution

THE CITY OF NEW YORK
Zohran K. Mamdani, Mayor

CITY PLANNING COMMISSION
Sideya Sherman, Chair

27-111 - General definitions

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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#.