23-95 - Compensated Zoning Lots
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LAST AMENDED
3/22/2016

The #residential floor area ratio# of a #compensated zoning lot# may be increased, and the #residential floor area ratio# of an #MIH zoning lot# shall be determined, in accordance with the applicable provisions of Section 23-154 (Inclusionary Housing).

23-951 - Height and setback for compensated developments in Inclusionary Housing designated areas

LAST AMENDED
3/22/2016

In #Inclusionary Housing designated areas#, the #compensated development# shall comply with the height and setback regulations of Sections 23-66 or 35-65 (Height and Setback Requirements for Quality Housing Buildings) as applicable, except that:

(a) in #Special Mixed Use Districts#, the #compensated development# shall comply with the provisions of paragraphs (a) or (b) of Section 123-662 (All buildings in Special Mixed Use Districts with R6, R7, R8, R9 and R10 District designations), as applicable. However, where the #Residence District# designation is an R6 District without a letter suffix, the #compensated development# shall comply with the height and setback regulations of Section 23-66, regardless of whether the #building# is #developed# or #enlarged# pursuant to the Quality Housing Program;

(b) in R10 Districts without a letter suffix, the #compensated development# shall comply with the underlying height and setback regulations for such district; and

(c) on #waterfront blocks# and in R7-3 Districts, the #compensated development# shall comply with the special regulations applying in the #waterfront area# set forth in Section 62-30 (SPECIAL BULK REGULATIONS), inclusive.

23-952 - Height and setback in Mandatory Inclusionary Housing areas

LAST AMENDED
2/14/2018

In #Mandatory Inclusionary Housing areas#, the provisions of Section 23-951 shall apply to #MIH developments#, except as modified in this Section.

(a) In R9 Districts without a letter or number suffix, the regulations of Section 23-651 (Tower-on-a-base) may apply, provided such #MIH development# is on a #zoning lot# that meets the requirements set forth in paragraph (a) of Section 23-65 (Tower Regulations).

(b) In R6 through R9 Districts without a letter suffix within #Mandatory Inclusionary Housing areas#, the height and setback regulations of Section 23-64 (Basic Height and Setback Regulations) may apply, except that towers shall not be permitted in an R9-1 District. In addition, for R9 Districts without a letter or number suffix that do not meet the requirements of paragraphs (a) and (c) of Section 23-65 (Tower Regulations), the tower provisions of Section 23-652 (Standard tower) may apply, subject to the #lot coverage# provisions of Section 23-65. However, when the height and setback and tower regulations specified in this paragraph are utilized, the maximum #floor area ratio# on an #MIH zoning lot# shall be determined in accordance with the provisions of Section 23-151 (Basic regulations for R6 through R9 Districts).
(a) **Compensated development** or **MIH development** building permits

1. **HPD** may issue a **permit notice** to the Department of Buildings at any time on or after the **regulatory agreement date**. The Department of Buildings may thereafter issue building permits to a **compensated development** that utilizes **floor area compensation** or an **MIH development**, based on the **affordable housing** or contribution to the **affordable housing fund** described in such **permit notice**.

2. If **HPD** does not receive confirmation that the **regulatory agreement** has been recorded within 45 days after the later of the **regulatory agreement date** or the date upon which **HPD** authorizes the recording of the **regulatory agreement**, **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 **regulatory agreement** 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 **compensated development** or **MIH development**.

(b) **Compensated development** or **MIH development** certificates of occupancy

1. The Department of Buildings shall not issue a temporary or permanent certificate of occupancy for any portion of the **compensated development** that utilizes **floor area compensation** or **MIH development** until **HPD** has issued a **completion notice** with respect to the **affordable housing** that generates such **floor area compensation** or satisfies the requirements of paragraph (d) of Section 23-154 (Inclusionary Housing) or any modification of such provisions by special permit of the Board of Standards and Appeals pursuant to Section 73-624 (Reduction or modification of Mandatory Inclusionary Housing requirements). However, where any **story** of a **compensated development** or **MIH development** contains one or more **affordable housing units**, the Department of Buildings may issue any temporary or permanent certificate of occupancy for such **story** if such temporary or permanent 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 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 **generating site** or **MIH site** unless:

   i. the Department of Buildings has issued temporary or permanent 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 **generating site** contains **affordable housing** that had a valid certificate of occupancy on the **regulatory agreement 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 **regulatory agreement** has been completed and all obligations with respect to the creation of such **affordable housing** have been fulfilled in accordance with the applicable **regulatory agreement**.