23-962 - Additional requirements for homeownership affordable housing
The additional requirements of this Section shall apply to homeownership affordable housing on a generating site or MIH site for the entire regulatory period.

(a) Homeowner selection

(1) Upon sale, homeownership affordable housing units shall only be occupied by eligible buyers that are low income households, moderate income households, middle income households or, for MIH sites, qualifying households, as applicable. Upon any subsequent resale for the entire regulatory period, homeownership affordable housing units shall be sold to and occupied by eligible buyers at or below the maximum resale price on the sale date, as applicable. No homeownership affordable housing unit shall be sold to or occupied by any household or any other person without the prior approval of the administering agent.

(2) A homeowner may, with the prior approval of the administering agent, sublet a homeownership affordable housing unit to another low income household, moderate income household, middle income household, eligible buyer or, for MIH sites, qualifying households, as applicable, 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 combined cost of monthly fees, mortgage payments, utilities and property taxes paid by the sublessor.

(3) A homeowner shall reside in the homeownership affordable housing unit, except as provided in paragraph (a)(2) of this Section.

(4) The restrictions in this paragraph, (a), on the ownership of homeownership affordable housing units shall not prevent the exercise of a valid lien by a mortgage lender, cooperative corporation, condominium association or any other entity authorized by the regulatory agreement to take possession of a homeownership affordable housing unit in the event of default by the homeowner. However, any sale or resale by such lien holder shall be to an eligible buyer, in accordance with this paragraph, (a), and the guidelines.

(b) Price

(1) The initial price or maximum resale price of any homeownership affordable housing unit shall be set assuming a mortgage, as defined in Section 23-913 (Definitions applying to homeownership generating sites).

(2) The regulatory agreement shall establish the initial price for each homeownership affordable housing unit. HPD shall set the initial price to ensure that the combined cost of monthly fees, mortgage payments, utilities and property taxes to be paid directly by the homeowner will not exceed 30 percent of the low income limit, moderate income limit or middle income limit, as applicable. For MIH sites, HPD shall establish the initial price based on the incomes of qualifying households in accordance with the guidelines.

(3) Prior to any resale of a homeownership affordable housing unit, the administering agent shall set the maximum resale price for such homeownership affordable housing unit.

(4) The administering agent shall not approve any resale unless the selected eligible buyer provides a down
payment#, as specified in the #guidelines#.

(5) A #homeownership affordable housing unit#, or any shares in a #cooperative corporation# appurtenant thereto, shall not secure any debt unless such debt is a #mortgage# that has been approved by the #administering agent#.

(c) Income

(1) The #administering agent# shall verify the #household# income of a proposed #homeowner#, in accordance with the #guidelines#, prior to the #sale date# of any #homeownership affordable housing unit# in order to ensure that, upon #sale#, it is a #low income household#, #moderate income household#, #middle income household# or, for #MIH sites#, #qualifying household#, as applicable, and that upon #resale#, it is to an #eligible buyer#.

(2) The #administering agent# shall meet reporting requirements on each #sale# and #resale#, as set forth in the #guidelines#.

(3) Each year after the #commencement date#, in the month specified in the #regulatory agreement# or the #guidelines#, the #administering agent# shall submit an affidavit to #HPD# attesting that each #resale# of a #homeownership affordable housing unit# during the preceding year complied with all applicable requirements on the #resale date#.

(d) #Affordable housing plan# and #MIH application#

The following shall apply to #affordable housing plans#:

(1) An #affordable housing plan# shall include the building plans, state the number and bedroom mix of the #homeownership affordable housing units# to be #developed#, rehabilitated or preserved, indicate how #homeowners# will be selected upon each #sale# or #resale# of a #homeownership affordable housing unit#, indicate how the #household# income of #eligible buyers# will be verified prior to such #household's initial occupancy# of a #homeownership affordable housing unit# and include such additional information as #HPD# deems necessary.

(2) An #affordable housing plan# shall demonstrate the feasibility of creating and maintaining #homeownership affordable housing#, including that:

(i) there will be sufficient revenue to provide for adequate maintenance, operation and administration of the #affordable housing#;

(ii) #affordable housing units# will be sold under the supervision of a responsible #administering agent# to #eligible buyers# at each #sale# and #resale#; and

(iii) #homeowners# will be selected in an equitable manner in accordance with laws prohibiting discrimination and all other applicable laws.

(3) The requirements of Section 23-961, paragraph (d)(3), shall apply.

The following shall apply to #MIH applications#:

(4) An #MIH application# shall include the building plans; state the number and bedroom mix of the #homeownership affordable housing units# to be #developed# or #converted#, and the #initial price# of each #homeownership affordable housing unit#; and include such additional information as #HPD# deems necessary to ensure the satisfaction of the requirements of Section 23-90, inclusive.
(5) A copy of any #MIH application# shall be delivered, concurrently with its submission to #HPD#, to the affected Community Board.

(e) Housing standards

The requirements of Section 23-96, paragraph (g), shall apply. In addition, each #homeowner# shall be obligated to maintain each #homeownership affordable housing unit# in accordance with minimum quality standards set forth in the #guidelines#. Prior to any #resale#, #HPD#, or its designee as specified in the #guidelines#, shall inspect the #affordable housing unit# and shall either require the #homeowner# to remedy any condition that violates such minimum quality standards before the #sale date#, or require the retention of a portion of the #resale# proceeds to pay the cost of remedying such condition.

(f) Optional provisions for certain #new construction homeownership affordable housing#

In Community District 3, Borough of Manhattan, #HPD# may modify the requirements for #new construction homeownership affordable housing# to facilitate #development# on a site that has been disposed of pursuant to Article 16 of the General Municipal Law as set forth in this paragraph (g), inclusive.

(1) #HPD# may permit a #household# to occupy a #new construction homeownership affordable housing unit# as rental #affordable housing# if:

   (i) no more than 120 days prior to the #regulatory agreement date#, such #household# occupied a #dwelling unit# or #rooming unit# in a #building# located on the #zoning lot# of such #new construction homeownership affordable housing#, pursuant to a lease or occupancy agreement to which one or more members of such #household# was a party or pursuant to a statutory tenancy;

   (ii) no more than 120 days prior to the #regulatory agreement date#, the average rent for all occupied #dwelling units# or #rooming units# in such #building# did not exceed 30 percent of the #low income limit# divided by 12; and

   (iii) after the #regulatory agreement date#, such #building# is demolished and replaced with #new construction homeownership affordable housing#.

(2) #HPD# may permit a #household# that is not an #eligible buyer#, but that meets the requirements of paragraph (f)(1) of this Section, to purchase a #new construction homeownership affordable housing unit# at #sale#, provided that such #household# is a #low income household#, #moderate income household# or #middle income household#, as applicable.

Where a #new construction homeownership affordable housing unit# is purchased at a nominal price, the #appreciated price# for such #homeownership affordable housing unit# shall be the product of the #initial price# of such #homeownership affordable housing unit# and the #appreciation index# applicable at #resale# as specified in the #guidelines#.

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

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

(1) on the #regulatory agreement date#, the #generating site# shall be an existing #building# containing #residences#;

(2) on the #regulatory agreement date#, the average of the #legal regulated rents#, as such term is defined in Section
23-912, for all #homeownership affordable housing units# in the #generating site# that are occupied by #grandfathered tenants# shall not exceed 30 percent of the #low income limit# divided by 12;


(3) where #grandfathered tenants# continue in residence subsequent to the #regulatory agreement date#, any #affordable housing unit# that is occupied by a #grandfathered tenant# shall be operated subject to the restrictions of Section 23-961 (Additional requirements for rental affordable housing) until such #affordable housing unit# is purchased and occupied by an #eligible buyer#;

(4) on the #regulatory agreement date#, #HPD# shall have determined that the condition of the #generating site# is sufficient, or will be sufficient after required improvements specified in the #affordable housing plan# and the #regulatory agreement#, 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 #regulatory agreement date#, #HPD# shall have determined either that no #capital element# is likely to require replacement within 30 years from the #regulatory agreement date# or that, with regard to any #capital element# that is likely to require replacement within 30 years from the #regulatory agreement date#, a sufficient reserve has been established to fully fund the replacement of such #capital element#;

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


(h) Special requirements for #homeownership substantial rehabilitation affordable housing#

The additional requirements in this paragraph (h) shall apply to #homeownership substantial rehabilitation affordable housing#:

(1) on the #regulatory agreement date#, the #generating site# or #MIH site# shall be an existing #building#;

(2) such #affordable housing# shall be created through the rehabilitation of such existing #building# at a cost per completed #homeownership affordable housing unit# that exceeds a minimum threshold set by #HPD# in the #guidelines#;

(3) on the #regulatory agreement date#, the average of the #legal regulated rents# for all #homeownership affordable housing units# in the #generating site# that are occupied by #grandfathered tenants# shall not exceed 30 percent of the #low income limit# divided by 12;

(4) where #grandfathered tenants# continue in residence subsequent to the #regulatory agreement date#, any #affordable housing unit# that is occupied by a #grandfathered tenant# shall be operated subject to the restrictions of Section 23-961 until such #affordable housing unit# is purchased and occupied by an #eligible buyer#;

(5) on the #regulatory agreement date#, #HPD# shall have determined that the condition of such #generating site# is sufficient, or will be sufficient after required improvements specified in the #affordable housing plan# and the #regulatory agreement#, 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#;

(6) on the #regulatory agreement date#, #HPD# shall have determined either that no #capital element# is likely to require replacement within 30 years from the #regulatory agreement date# or that, with regard to any #capital element# that is likely to require replacement within 30 years from the #regulatory agreement date#, a sufficient reserve has been established to fully fund the replacement of such #capital element#; and
such affordable housing shall comply with such additional criteria as may be specified by HPD in the guidelines.