

DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT

Notice of Adoption

NOTICE IS HEREBY GIVEN that pursuant to section 1043 of the New York City Charter, the Department of Housing Preservation and Development hereby adopts amendments to the Guidelines governing Inclusionary Housing. The proposed rules were published in the City Record on March 17, 2015. A public hearing was held on April 21, 2015.

Statement of Basis and Purpose of Adopted Rule

The adopted rule implements the Department of Housing Preservation and Development's authority pursuant to Zoning Resolution §23-96 to waive certain provisions of the Zoning Resolution. Specifically, Zoning Resolution §23-96(b), (c), and (d) authorize HPD to waive the requirements for height and horizontal distribution, the distribution requirements for bedroom mix, and the size requirements of affordable housing units, respectively, for substantial rehabilitation affordable housing on generating sites. HPD will waive such requirements under one or more of the following circumstances: (1) there are tenants who are returning to such affordable housing units after rehabilitation is completed, (2) the building is the subject of an in rem tax lien foreclosure judgment for the City of New York, or (3) the building is owned by a housing development fund corporation or other entity designated by HPD.

HPD's ability to waive these requirements under these circumstances will help to preserve existing unit configurations to allow occupants to return after rehabilitation is completed. This is important because where buildings are fully or partially occupied the ability to waive these requirements will avoid any diminution in the number of units rehabilitated and ensure that occupants can return to their units. In addition, the ability to waive these requirements can result in the creation of more affordable housing units under certain HPD programs.

"Shall" and "must" denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

New material in the following rule is underlined, deleted material is in [brackets].

Section one. Section 41-16 of Chapter 41 of Title 28 of the Rules of the City of New York is amended by adding a new subdivision (d) to read as follows:

§41-16 **Housing Standards.**

* * *

(d) In accordance with Zoning Resolution §§23-96(b), (c), and (d), and when a waiver will further the goals of the Program, HPD may waive the height, horizontal, bedroom mix and/or size distribution requirements of Affordable Housing Units for Substantial Rehabilitation Affordable Housing on Generating Sites under the following circumstances:

(1) there are tenants who are returning to such Affordable Housing Units after rehabilitation is completed.

(2) the Substantial Rehabilitation Affordable Housing is the subject of an in rem tax lien foreclosure judgment for the City of New York, or

(3) the Substantial Rehabilitation Affordable Housing is currently owned by a housing development fund corporation or other entity designated by HPD.