

DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT

Notice of Adoption

Notice is hereby given that pursuant to the authority vested in the Commissioner of the Department of Housing Preservation and Development (“HPD”) by Sections 1043 and 1802 of the New York City Charter and Sections 23-96(k) and 23-154(d)(3)(v) of the Zoning Resolution of the City of New York, HPD is adopting amendments to Chapter 41 of Title 28 of the Rules of the City of New York. HPD determined, pursuant to New York City Charter section 1043(e), that a public hearing on the proposed repeal of the rule would serve no public purpose. A notice of proposed rulemaking was published in the City Record on May 19, 2020.

Statement of Basis and Purpose of Proposed Rule

The Mandatory Inclusionary Housing (“MIH”) program requires new housing developments, enlargements, or conversions of more than 10 dwelling units or more than 12,500 square feet of residential floor area constructed in areas designated for MIH in the Zoning Resolution of the City of New York (“Zoning Resolution”) to provide permanently affordable housing to qualified households.

MIH areas are designated through the land use review process as part of zoning actions that increase housing capacity. The MIH program allows developments, enlargements or conversions that increase the number of dwelling units by no more than 25 and increase the residential floor area on the zoning lot by less than 25,000 square feet of residential floor area to instead make a contribution to the Affordable Housing Fund, which is defined in section 23-911 of the Zoning Resolution. The contribution amount must approximate the cost of providing affordable floor area in the community district where the MIH Development is located.

HPD established a schedule setting forth the Affordable Housing Fund contribution amounts in Section 41-24 of Chapter 41 of Title 28 of the Rules of the City of New York. The Zoning Resolution requires this schedule to be updated annually. HPD rules provide that, for purposes of this schedule, HPD must group together Community Districts with similar market characteristics into “Fee Tiers,” using Department of Finance sales data for residential condominium units and, where necessary, for one- to four-unit residential buildings. Each Fee Tier is associated with a different Affordable Housing Fund contribution amount.

Section 41-24(b) of Chapter 41 of Title 28 of the Rules of the City of New York provides that the amount of the Affordable Housing Fund contribution per square foot for each Fee Tier is determined by calculating the difference between the Market Price (which is based on the sales data) and the Affordable Price (which is based on area median income) for each Fee Tier, except for the minimum Affordable Housing Fund contribution amount per square foot that is based on the approximate maximum per square foot subsidy offered by the City of New York’s Extremely Low & Low-Income Affordability (ELLA) Program. Therefore, the Affordable Housing Fund contribution amount for each Fee Tier will fluctuate from year to year based on changes in the sales data for that Fee Tier and the area median income.

The adopted rule amendments would update the schedule for the coming fiscal year (July 1, 2020 through June 30, 2021).

New material is underlined.
 [Deleted material is in brackets.]

“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.

Section 1. The schedule of Affordable Housing Fund contribution amounts set forth in Paragraph one of Subdivision c of Section 41-24 of Chapter 41 of Title 28 of the Rules of the City of New York is amended to read as follows:

Fee Tier	Community District	Amount of Affordable Housing Fund Contribution Per Square Foot
1	101 102 103 104 105 106 107 108	[\$1,100] <u>\$1,165</u>
2	<u>110</u> 301 302 306 <u>308</u> 402	[\$750] <u>\$735</u>
3	109 [110] 111 303 [304] 307 [308] 401	[\$575] <u>\$470</u>
4	112 208 309 310 311 312 313 314 315 403 404 405 406 407 408 409 411	[\$320] <u>\$325</u>
5	201 202 203 204 205 206 207 209 210 211 212 <u>304</u> 305 316 317 318 410 412 413 414 501 502 503	[\$270] <u>\$230</u>

Commissioner Louise Carroll
 June 30, 2020