

## **NOTICE OF ADOPTION**

**NOTICE IS HEREBY GIVEN**, pursuant to the authority vested in the City Planning Commission by Sections 192 and 1043 of the New York City Charter, that the City Planning Commission hereby adopts the addition of a new rule under Chapter 3 of Title 62 of the Rules of the City of New York, regarding the contribution amount for the West Chelsea Affordable Housing Fund under paragraph (c) of Section 98-262 of the New York City Zoning Resolution. This rule was first published for comment in the City Record on October 24, 2017, and a public hearing thereon was held on November 29, 2017. On November 29, 2017, Cal. No. 15, the hearing was closed. This rule shall take effect 30 days from the date hereof.

### **Statement of Basis and Purpose of Rule**

**Background:** Section 98-30 of the New York City Zoning Resolution established a High Line Transfer Corridor (“HLTC”) within the Special West Chelsea District (“WCh”). Within WCh, certain receiving sites may increase floor area up to a maximum set forth in Section 98-22 by purchasing unused transferable development rights (“TDRs”) from properties within the HLTC.

- **Example:** A receiving site in WCh purchases 10,000 square feet (“sf”) of TDR from a site in the HLTC. That purchase increases the maximum permitted floor area on the receiving site by 10,000 sf, and reduces the maximum permitted floor area on the HLTC site by 10,000 sf. It transfers the floor area from one site to the other.

Because these TDRs are finite, Section 98-262(c) provides an alternate way for receiving sites to achieve the maximum floor area set forth in Section 98-22: Once the Chairperson of the City Planning Commission has determined that more than 90 percent of the HLTC TDRs have been transferred, a developer may increase the floor area on a receiving site by making a dollar contribution per square foot increase to the West Chelsea Affordable Housing Fund (“WCAHF”).

- **Example:** Once the WCAHF is in effect, a receiving site in WCh that needs to increase maximum permitted floor area by 10,000 sf can either: (1) purchase 10,000 sf of TDR from an HLTC site OR (2) make a per-square-foot contribution to the WCAHF for 10,000 sf of development rights.

As provided in Section 98-262(c), the WCAHF is to be administered by the Department of Housing Preservation and Development to support the production and preservation of affordable housing in Manhattan Community District 4.

Section 98-262(c) further provides that the Commission shall determine the contribution amount per square foot increase through a rulemaking process, and that such amount may be adjusted by rule not more than once per year.

**Rule:** On September 7, 2017, the Chairperson determined that 90 percent of the HLTC TDRs have been transferred. This rule establishes a contribution amount per square foot increase into the WCAHF.

Neither the Zoning Resolution nor the Commission Report approving the WCh text amendment (N 050161(A) ZRM) specifies a method of valuation for the contribution to the WCAHF, which the City Council created through its modification to the Commission-approved version of the WCh text amendment in accordance with City Charter Section 200. At the time of approval, the previous Mayoral Administration entered into a Points of Agreement with the City Council

stipulating that the amount of the contribution would be based on the price of HLTC TDRs at the time when 90 percent of the TDRs had been transferred. The contribution amounts for similar mechanisms in the Special Hudson Yards District (ZR 93-31) and the Theater Subdistrict of the Special Midtown District (ZR 81-744) are also based, in part, on the market price of development rights in those areas. The Department believes the approach in WCh fits with those precedents.

The Department analyzed the price per square foot of all 19 arms'-length transactions over the five years preceding the Chairperson determination that 90 percent of the HLTC TDRs had been transferred and determined that the weighted average for these transactions, rounded to the nearest \$25, is \$625 per square foot.

The City Planning Commission's authority for these rules is found in section 1043 and 192 of the New York City Charter and Section 98-262(c) of the New York City Zoning Resolution.

New material is underlined.

"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.

Title 62 of the Rules of the City of New York is amended by adding a new Section 11 to Chapter 3, to read as follows:

§3-11. Contributions to the West Chelsea Affordable Housing Fund Pursuant to Section 98-262(c) of the New York City Zoning Resolution.

Contributions to the West Chelsea Affordable Housing Fund pursuant to Section 98-262(c) of the New York City Zoning Resolution shall be made in an amount equal to \$625 per square foot of floor area increase as of the effective date of this rule.

This amount shall be adjusted each year by a factor equal to the ratio of the per square foot contribution to the MIH Affordable Housing Fund for eligible MIH developments in Manhattan Community District 4 for the current year to such per square foot contribution for the prior year. Such adjustments shall take effect automatically upon adjustment by HPD to the contribution rate to the MIH Affordable Housing Fund pursuant to Section 41-23 of Title 28 of the Rules of the City of New York.

The City Planning Commission retains the ability to adjust the contribution amount for the West Chelsea Affordable Housing by rule pursuant to Section 98-262(c) of the New York City Zoning Resolution.