

MANDATORY INCLUSIONARY HOUSING

GOAL: The MIH program is designed to promote the creation of housing for residents with varied incomes and to enhance local economic diversity in developing neighborhoods. Currently the City has a voluntary program, mapped only in certain areas, that exchanges permission to build a larger building for an affordable housing requirement of 20% of the building provided for families generally making 80% of the Area Median Income. Instead of operating through an incentive, MIH would mandate an affordability set-aside for all significant residential development in areas that are rezoned to allow for more housing development.

Original Proposal:

The original proposal for MIH would apply to new housing development in areas of the City that undergo a rezoning to allow for increased housing development. The program would consist of several options for a mandatory affordability set-aside based on a percentage of the total residential floor area in the building. When a new upzoning occurs, the Council would, through a public review process, make one or more of the options apply to the area. Each option requires that the affordable units be reserved for families with incomes below a certain level, with affordable rents defined as 30% of gross family income. The income levels are based on the Area Median Income (AMI) levels set forth by the US Department of Housing and Urban Development (HUD).

- Three options included:
 - Option 1: 25% of building provided for families making an average of 60% AMI
 - Option 2: 30% of building provided for families making an average of 80% AMI
 - Workforce Option: 30% of building provided for families making an average of 120% AMI (only to be applied outside of lower Manhattan, and in combination with options 1 or 2)
- All units provided under the MIH program would be permanently affordable
- Affordability set aside requirement would apply to new development with more than 10 residential units
- Developments containing 25 units or less would be permitted to satisfy the affordability requirement through payment of an in-lieu fee. The amount of the fee would be set by the Department of Housing, Preservation, and Development based on the actual cost of providing affordable housing.
- In all cases, developments could satisfy the affordable set-aside requirement by providing an equivalent amount of affordable housing offsite, within the same community board or within one half mile from the development.

Council Modifications:

The City Council's modifications to MIH centered on providing deeper affordability while retaining the program's flexibility, tightening regulations to emphasize production of equitable on-site affordable housing, and improving transparency to ensure that the program fulfills its goals.

In addition, the Council has secured commitments from the administration to support new legislation to combat tenant harassment and displacement, and establish new standards for construction safety and local hiring.

**This document is a simplified summary. For the actual regulations please consult the full modified Zoning Text.*

Deeper affordability:

Recognizing the need for more housing for lower-income New Yorkers, the Council has significantly deepened the affordability provided in MIH by adding a new option that would require an affordable housing set-aside of 20% of the building provided for families making an average of 40% AMI, and a new set-aside to require 10% of the building for families at 40% AMI within the original 60% AMI option. The Council also modified the workforce option by lowering the overall average AMI requirements for affordable units to 115% AMI and adding two new set-asides at 90% and 70% AMI.

MIH (as proposed)	Council Modifications
<p>Option 1: 25% of new buildings to be provided for families making an average of 60% AMI</p> <p>Option 2: 30% of new buildings to be provided for families making an average of 80% AMI</p> <p>Workforce Option: 30% of new buildings to be provided for families making an average of 120% AMI</p>	<p>Option 1: Require 10% of new buildings to be provided for families making 40% AMI within the larger 25% at 60% AMI option</p> <p>Option 2: Remains as proposed</p> <p>Workforce Option: 30% of new buildings for families making 115% AMI. Within this set-aside, require 5% of the building for families making 90% AMI and 5% for families making 70% AMI</p> <p>NEW Deep Affordability Option: 20% of the building for families making 40% AMI (only applied in conjunction with options 1 and 2 and without subsidy if no additional affordable units are provided)</p>

AMI	Income for Single	Rent for Studio	Income for Household of 3	Rent for 2 Bedroom
40%	\$24K	\$600	\$31K	\$775
60%	\$37K	\$925	\$46K	\$1,150
80%	\$48K	\$1,200	\$62K	\$1,550
100%	\$60K	\$1,500	\$78K	\$1,950
120 %	\$73K	\$1,825	\$93K	\$2,350

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The Administration has also committed to the Council to work closely with local communities and local Council Members to use all possible tools, including financing programs like ELLA or SARA, to ensure that housing is provided at depths of affordability that include AMIs as low as 30% AMI in MIH rezoned neighborhoods.

Strengthen Board of Standards and Appeals process:

In the original MIH proposal, developers could file a claim for financial hardship with the BSA to waive affordability requirements. The Council believes the public deserves more transparency in these cases.

- Under Council modifications:
 - Ensure that permit expires in 4 years unless significant construction has begun
 - HPD needs to submit comments to BSA/appear at hearing

Maximizing on-site affordable housing:

Economic integration is crucial to the fostering vibrant, diverse neighborhoods. The Council modified the MIH proposal to disincentivize the construction of off-site affordable housing.

- If a developer provided the affordable housing offsite, the council modification would increase the applicable affordability set-aside so that an additional amount would be required equal to 5% of the building.
- Developments providing offsite affordable housing would be subject to lowered height limits.

Use of Affordable Housing Fund

The Council is also modifying the proposal to require that payments into the fund be reserved for the same community board as the associated development. After the ten year period, the funds will be reserved for the borough in which they originated.

Equitable distribution of affordable units:

Currently, voluntary inclusionary housing requires that affordable units must be distributed throughout 65% of the floors of the building. MIH originally proposed to decrease this distribution to 50%.

- The Council modification requires that MIH affordable units must be distributed throughout 65% of the floors building
- This would uphold the current standard in the voluntary program and avoid over-concentration of affordable units on a single floor of a building.

Access to Amenities:

- HPD design requirements will be amended to ensure that tenants are not denied access to amenities due to affordability housing status

Improving Transparency:

With the expanded production of affordable housing under the MIH program, the Council believes it is important to track and monitor the program's growth and ensure that units stay affordable.

- Tracking units in MIH:
 - HPD must create a system to secure the affordable units created through the MIH program so they will continue to exist for their intended purpose.
 - The City must establish a thorough process that ensures the housing from this program is created, registered and monitored for permanent affordability.
- The Administration will develop an approach to report annually its commitments for City-initiated neighborhood rezonings through the Mayor's Office of Operations.
- BSA will provide notice of applications to community & council members
- Report on use of the Affordable Housing Fund
- BSA will post application materials online

Curbing Tenant Harassment:

With costs of living and market pressures on the rise, the Council believes in stringent measures to prevent tenant harassment.

- Administration supports legislation for a city-wide Certification of No Harassment or similarly-focused policy.
- Details will be worked out through a working group process to include HPD, Council and other stakeholders

Manufacturing Districts:

DCP will refer the Hotels/Mini-Storage Text Amendment for public review by the fall.

Neighborhood Development Fund:

The Administration has committed to develop an approach to report annually its commitments for City-initiated neighborhood rezonings through the Mayor's Office of Operations. All Neighborhood Development Fund projects will be incorporated in those reports.

MIH Enforcement:

The Mayor's Office will work with the Council to enact a local law to permit HPD to enforce MIH and IH requirements through OATH, ECB and/or HPD hearings.

Local hiring:

Local residents should have access to the employment opportunities presented by the expansion of affordable housing in their communities.

- Moving forward on HPD RFPs: 15% of the granted points for the category Developer Track Record and Capacity will be awarded to Applicants who demonstrate a plan for outreach to residents of the Community District
- Developers receiving over \$2 million in city subsidies must work with HireNYC to encourage local hiring
- SBS will commit \$2 million for outreach activities to link residents to new job opportunities

Retail Access:

To further the shared goal of incentivizing fresh food groceries, the Administration has agreed to expand the FRESH initiative to additional appropriate areas where additional zoning and financial incentives can promote access to healthy foods. An on-going working group with the Council will be created to provide on-going feedback and consultation including an updated look at program indicators.

RFP Consultation with CMs:

Prior to issuing any RFP for housing on land they control, HPD, NYCHA, or EDC (whichever is the lead for the RFP) will inform the local council member of the nature of the RFP in as much detail as is consistent with the City's obligation to ensure the integrity of the procurement process.

Construction Safety:

- The Department of Buildings will require construction superintendents for all major construction projects at buildings under 10 stories
- HPD will require as part of its regulatory agreement that every construction superintendent assigned to HPD project construction sites, will have to review sites daily and log all safety information, and send a report to HPD containing information that DOB will require superintendents to log as well as any notifications made to DOB. That report will be factored into the HPD Sponsor Review process for all future HPD projects.
- Contractors who fail to comply will be issued stop-work orders and penalties from \$5,000 to \$25,000 for repeat infractions or other proactive enforcement measures, as necessary.
- HPD, for all projects, will require a construction superintendent to send a report to HPD containing information that DOB will require superintendents to log as well as any notifications made to DOB.
- Report will be factored into the HPD Sponsor Review process for all future HPD projects.

Re-examine voluntary inclusionary housing program:

The administration has committed to support a reexamination of the voluntary IH program including R10 and designated areas, with look at stigmatization issues (separate doors) and percentage of affordable units.