

DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The Department of Housing Preservation and Development (“HPD”) proposes amendments to Section 41-24 of Chapter 41 of Title 28 of the Rules of the City of New York to update the schedule of Affordable Housing Fund contributions for the Mandatory Inclusionary Housing program, as required by section 23-154(d)(3)(v) of the Zoning Resolution of the City of New York.

When and where is the Hearing? HPD will hold a public hearing on the proposed rule. The public hearing will take place from 11:00 a.m. to 12:00 p.m. on Friday, May 24, 2019. The hearing will be in HPD’s offices at 100 Gold Street, 5th Floor, Room 5-B6, New York, New York 10038.

How do I comment on the proposed rules? Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to HPD through the NYC rules Web site at <http://rules.cityofnewyork.us>.
- **Email.** You can email written comments to rules@hpd.nyc.gov.
- **Mail.** You can mail written comments to Sean Capperis, Executive Director of Policy Development and Special Initiatives, Department of Housing Preservation and Development, 100 Gold Street, Room 5-B17C, New York, New York 10038.
- **Fax.** You can fax written comments to HPD, (212) 863-8375, ATTN: Sean Capperis.
- **Speaking at the Hearing.** Anyone who wants to comment on the proposed rules at the public hearing must sign up to speak. You can sign up before the hearing by calling (212) 863-7679. You can also sign up in the hearing room before the hearing begins on May 24, 2019. You can speak for up to three minutes.

Is there a deadline to submit written comments? All written comments must be submitted on or before May 24, 2019.

What if I need assistance to participate in the Hearing? You must tell HPD if you need a reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone at (212) 863-7679 or e-mail at accessibility@hpd.nyc.gov. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by May 17, 2019.

The location has the following accessibility option(s) available: the building and hearing

room are wheelchair accessible.

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. A few days after the hearing, copies of all comments submitted online, copies of all written comments, and an audiotape of oral comments concerning the proposed rules will be available to the public at Room No. 5-K2, 5th Floor, 100 Gold Street, between 10:00 am and 4:00 pm on weekdays.

What authorizes HPD to make this rule? Sections 1043 and 1802 of the City Charter and Sections 23-96(k) and 23-154(d)(3)(v) of the Zoning Resolution authorize HPD to make this proposed rule amendment.

Where can I find the HPD rules? The HPD rules are in title 28 of the Rules of the City of New York.

What rules govern the rulemaking process? HPD must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043(b) of the City Charter.

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.

The proposed rule amendments would update the schedule for the coming fiscal year (July 1, 2019 through June 30, 2020).

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	[\$1,075] <u>\$1,100</u>
2	301 302 306 402	[\$660] <u>\$750</u>
3	109 110 111 303 304 307 308 401	[\$555] <u>\$575</u>
4	112 208 309 310 311 312 313 314 315 403 404 405 406 407 408 409 411	[\$300] <u>\$320</u>
5	201 202 203 204 205 206 207 209 210 211 212 305 316 317 318 410 412 413 414 501 502 503	[\$265] <u>\$270</u>

Commissioner Eric Enderlin
April 24, 2019

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Amendment of Affordable Housing Fund Contribution Schedule

REFERENCE NUMBER: HPD-60

RULEMAKING AGENCY: Department of Housing Preservation and Development

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Fiona Peach
Mayor's Office of Operations

April 15, 2019
Date

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Amendment of Affordable Housing Fund Contribution Schedule

REFERENCE NUMBER: 2019 RG 018

RULEMAKING AGENCY: Department of Housing Preservation and Development

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Acting Corporation Counsel

Date: April 15, 2019