

## **NEW YORK CITY PLANNING COMMISSION**

### **NOTICE OF ADOPTION**

NOTICE IS HEREBY GIVEN in accordance with the requirements of Section 1043 of the New York City Charter, and pursuant to the authority vested in the City Planning Commission (the “Commission”) by Sections 1043(a) and 197-f of the New York City Charter, that the Commission adopts a new Chapter 13 to Title 62 of the Rules of the City of New York to establish the methodology to calculate the affordable housing development rate in each community district for the purposes of implementing the Affordable Housing Fast Track under Section 197-f of the New York City Charter.

The Commission published a notice of proposed rulemaking in the City Record on February 25, 2026, and held a public hearing on the proposed rule on April 1, 2026.

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

On November 4, 2025, New York City voters approved amendments to the City Charter that alter the City’s land use process, including by establishing a new Affordable Housing Fast Track contained in the new Section 197-f to Chapter 8.

The City Planning Commission, following consultation with the Commissioner of Housing Preservation and Development, has adopted an amendment to its rules adding a new Chapter 13 to Title 62 of the Rules of the City of New York to implement the Affordable Housing Fast Track pursuant to Section 197-f of the Charter. These rules establish a methodology to calculate the total number of affordable dwelling units in a community district as required by section 197-f, as well as a methodology for determining the total number of housing units located in each community district at the start of each five-year cycle, for the purpose of measuring the rate of affordable housing development in each community district.

These rules have been adopted to fulfill the Charter’s mandate for the City Planning Commission, in consultation with the commissioner of housing preservation and development, to develop a methodology for calculating the total number of affordable dwelling units in each community district. Moreover, these rules enable the director of city planning to fulfill the task of determining which 12 community districts had the lowest rate of affordable housing development in the preceding five years, which is necessary for the implementation of the Affordable Housing Fast Track as set forth in Section 197-f of the Charter.

### **The Affordable Housing Fast Track**

The Affordable Housing Fast Track is intended to increase the production of affordable housing units in the City and help ensure that every neighborhood contributes to providing affordable housing by enabling an alternative public review process for land use applications that are legally required to deliver affordable housing under the City’s Mandatory Inclusionary Housing (MIH) program in the 12 community districts that produced the least affordable housing over the prior five years.

Under Section 197-f, every five years beginning no later than October 1, 2026, the Director of the Department of City Planning must identify the 12 community districts that, during the preceding five years, had the lowest rate of affordable housing development based on the total number of new affordable dwelling units in a community district as a percentage of the total number of housing units located in that community district at the start of each five-year period.

$$\text{Rate of Affordable Housing Development} = \frac{\text{New Affordable Dwelling Units}}{\text{Total Housing Units At The Start Of Each 5-Year Cycle}}$$

Section 197-f directs the City Planning Commission (CPC), in consultation with the Commissioner of Housing Preservation and Development, to adopt a methodology for determining the total number of affordable housing units in each community district. This methodology will be used to calculate the rate of affordable housing development.

Under the Affordable Housing Fast Track, applications that deliver affordable housing in the 12 community districts with the lowest rate of affordable housing production as determined by the Director that would otherwise be subject to the Uniform Land Use Review Procedure review set forth in Charter section 197-c and 197-d would now be subject to an expedited public review process set forth in Charter section 197-e – with review by the Community Board, the affected Borough President, and the City Planning Commission. In determining whether to approve such application, the City Planning Commission must make findings regarding the application’s consistency with the Fair Housing Plan submitted pursuant to section 16-a of the New York City Charter, and the adequacy of existing transportation, sewer, and other infrastructure.

### **Transparency and Data Integrity**

To promote transparency, efficiency, and accuracy, the adopted methodology uses existing public records produced by:

- the Department of Housing Preservation and Development (HPD),
- U.S. Census Bureau,
- the Department of Buildings (DOB), and
- the Department of City Planning (DCP).

Specifically, the adopted methodology relies on HPD’s existing biannual reporting mechanism for new affordable units, which is already disclosed in the Mayor’s Management Report and is also subject to public disclosure under New York City’s Open Data Policy. The adopted methodology also leverages the U.S. Census Bureau’s count of the number of housing units contained in a community district, as well as DCP’s Housing Database, which biannually reports on the change in legal housing units over time and relies on public records and open data from the Department of Buildings.

Reliance on these existing public disclosure mechanisms:

- serves interests of transparency because these reporting mechanisms are well established and familiar to interested members of the public and rely on publicly available open data,

- promotes efficiency by avoiding the need to develop new, potentially duplicative reporting mechanisms to facilitate implementation of Section 197-f, and
- promotes accuracy because agencies responsible for these existing reporting mechanisms have established processes to review data and promote data integrity.

### **Affordable Housing Production Formula Calculation Details**

Under Section 197-f, the rate of affordable housing development is measured by calculating two components:

- (1) “the total number of new affordable dwelling units in a community district” and
- (2) “the total number of housing units located in such community district at the start of each five-year cycle.”

#### The Total Number of New Affordable Dwelling Units in a Community District

Section 197-f directs the CPC to develop a “methodology to calculate the total number of affordable dwelling units in each community district, considering data that includes, but need not be limited to, the total number of affordable dwelling units for which the Department of Buildings has issued a permit for construction work and, where applicable, the date upon which an affordable housing unit becomes subject to a regulatory agreement or other similar instrument that provides for the creation of one or more affordable dwelling units.”

The adopted methodology for calculating the total number of new affordable dwelling units in each community district takes into account both permitting data from DOB and the date upon which an affordable housing unit becomes subject to a regulatory agreement or other similar instrument as reported by HPD, as well as other data. Specifically, the number of new affordable dwelling units will be calculated based on the number of affordable dwelling units that have within the applicable five-year cycle achieved both a “start date,” as such term is defined in the rules, and the issuance of a permit for construction work by DOB.

To achieve a start date, an affordable dwelling unit either must have:

- (i) become subject to a regulatory agreement or restrictive declaration (typically in the case of publicly financed affordable housing or affordable housing created through zoning incentives), or
- (ii) begun marketing, through receipt of a Notice of Intent (typically in the case of privately financed affordable housing receiving only a tax exemption).

HPD’s reporting mechanism captures the range of new income-restricted affordable housing units to be counted under the rule, including those units created through private financing, zoning incentives, and public financing (whether City, state, or federal, including new income-restricted units subject to a regulatory agreement in partnership with NYCHA).

By relying on the milestones of a “start date” and issuance of a DOB permit, the methodology ensures that new affordable units are sufficiently far along in the development process that they are reasonably certain to be delivered. Where a unit has achieved only one of a Start Date or DOB permit within an applicable five-year cycle it will not be counted as an affordable dwelling

unit for purposes of that cycle, but will be counted as an affordable unit in a subsequent cycle if at such time it achieves the latter milestone.

### The Total Number of Housing Units Located in a Community District at the Start of each Five-Year Cycle

To calculate the total number of housing units in a community district at the start of each five-year cycle, these rules provide for counting the number of housing units identified in the most recent Decennial Census for the applicable five-year cycle, then making adjustments to account for units added or lost as a result of new building, alteration, and demolition projects as identified by DOB public records and reflected in DCP's existing Housing Database.

These rules further provide that no later than October 1, 2026, and every five years thereafter, the director of city planning will determine and post on DCP's website a list of the 12 community districts with the lowest rate of affordable housing development over the prior five-year cycle. To promote finality and enable reliance on the list for the purposes of planning, the rules further clarify that the Director of DCP's determination of the list is final, that this determination will rely on specified data at the time such list is posted, and that any revisions, corrections, or changes to that data after the posting of the list will not alter the validity of the list or any action taken in reliance on the list under these rules or the Charter.

### The Five-Year Cycle

Section 197-f requires that the Director of DCP determine by October 1<sup>st</sup> of every fifth year those 12 community districts that "during the preceding five years, had the lowest rate of affordable housing development." The adopted rule defines the relevant five-year period as running from July 1<sup>st</sup>, 2021 and ending on June 30<sup>th</sup>, 2026, and repeating on the 1<sup>st</sup> of July and ending on the 30<sup>th</sup> of June for every fifth year thereafter. This five-year period allows the City to utilize existing bi-annual reporting mechanisms established by HPD and DCP, which publish data based on the end of the City's fiscal year on June 30<sup>th</sup>. This five-year period also ensures that the October 1<sup>st</sup> determination of the twelve community districts can consider the most recent data on new affordable units published by HPD, in contrast to a rule that would define the five-year cycle by calendar year.

### **Public Comments**

The City Planning Commission published a Notice of Public Hearing and Opportunity to Comment on the proposed Affordable Housing Fast Track Methodology rulemaking in the City Record on February 25, 2026, and held a public hearing on the proposed rule on April 1, 2026. Twenty-five (25) written comments were received and twenty (20) oral comments were made at the public hearing. Submitted comments are posted on the Department of City Planning's website at <https://www.nyc.gov/content/planning/pages/commission/participate-and-comment#proposed-rules>.

Submitted comments covered a range of topics. Many comments concerned subjects outside the scope of this methodology, such as recommendations related to the process and consideration of applications that ultimately qualify for the Affordable Housing Fast Track. Many other comments

called for the methodology to account for factors that, under the text of Charter Section 197-f, cannot be considered in determining the rate of affordable housing development, such as the stock of existing affordable housing within a community district. Overall, the Commission's rule hews closely to the text of the Charter; remains faithful to the primary purpose of the reform, which is to encourage new affordable housing construction; and adopts a simple rule grounded in existing and publicly disclosed sources of data. As a result, no changes to the rule were made in response to the comments received.

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The City Planning Commission's authority for these rules is found in Sections 1043 and 197-f of the New York City Charter.

### **Adopted Rules**

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.

### **Chapter 13: Affordable Housing Fast Track**

#### **§ 13-01 Purpose.**

These rules establish a methodology to calculate the total number of new affordable dwelling units in each community district, and a methodology to calculate the total number of housing units in each community district at the start of a five-year cycle, for purposes of determining the rate of affordable housing development in each community district during the preceding five-year cycle pursuant to subdivision a of Section 197-f of the Charter.

#### **§ 13-02 Definitions.**

For the purposes of this chapter, the following terms have the following meanings:

**Affordable housing.** The term "Affordable Housing" means a residential building subject to a regulatory agreement, restrictive declaration, or other similar instrument with a federal, state, or local agency or instrumentality that provides for the creation of one or more Affordable Dwelling Units.

**Affordable Housing Building.** The term "Affordable Housing Building" means (i) the construction of a new building that contains at least one Affordable Dwelling Unit or (ii) the alteration of an existing building that results in at least one new Affordable Dwelling Unit through the conversion of existing non-residential space or by enlargement.

**Affordable Dwelling Unit.** The term "Affordable Dwelling Unit" means an income-restricted dwelling unit in an affordable housing building.

**Five-Year Cycle.** The term "Five-Year Cycle" means a five-year period beginning on July 1, 2021 and ending on June 30, 2026, and repeating on the first of July and ending on the thirtieth of June for every fifth year thereafter.

**Marketing Handbook.** The term “Marketing Handbook” means the Marketing Handbook published by the department of housing preservation and development, as amended, or any successor document designated by such department.

**Net New Housing Units.** The term “Net New Housing Units” means the change in the number of housing units from department of buildings permits for new build, alteration, and demolition projects completed after the first of April of the year in which the prior Decennial Census occurred through the thirtieth of June of the prior Five-Year Cycle as publicly reported by the department of city planning’s Housing Database, or any successor public reporting mechanism.

**Notice of Intent.** The term “Notice of Intent” means a Notice of Intent to Begin Marketing as described in the Marketing Handbook, or such other document designated by the department of housing preservation and development that initiates the marketing of an Affordable Dwelling Unit.

**Regulatory Agreement.** The term “Regulatory Agreement” means a regulatory agreement with a federal, state or local agency or instrumentality which is recorded against a property and restricts the income of occupants of an Affordable Dwelling Unit.

**Restrictive Declaration.** The term “Restrictive Declaration” means a restrictive declaration approved by a federal, state or local agency or instrumentality which is recorded against a property and restricts the income of occupants of an Affordable Dwelling Unit.

**Start Date.** The term “Start Date” means the earlier of (i) the date on which an Affordable Dwelling Unit becomes subject to a Regulatory Agreement or a Restrictive Declaration, or (ii) the date on which the department of housing preservation and development receives a Notice of Intent with respect to an Affordable Dwelling Unit.

#### § 13-03 Rate of Affordable Housing Development.

The rate of affordable housing development in a community district is measured by the total number of new affordable dwelling units in a community district as a percentage of the total number of housing units located in such community district at the start of each five-year cycle pursuant to subdivision a of Section 197-f of the Charter.

#### § 13-04 Methodology to Calculate the Total Number of New Affordable Dwelling Units in a Community District.

(a) The methodology to calculate the total number of new affordable dwelling units in a community district pursuant to subdivision a of Section 197-f of the Charter is set forth in this section.

(b) The total number of new affordable dwelling units in a community district shall consist only of the total number of Affordable Dwelling Units in Affordable Housing Buildings that have achieved both of the following milestones by the end of the applicable Five-Year Cycle, provided at least one such milestone is achieved during such Five-Year Cycle:

(i) a Start Date as publicly reported by the department of housing preservation and development at the time the director of city planning shall determine the list of twelve community districts pursuant to subdivision a of Section 197-f of the Charter; and

(ii) a permit for construction work issued by the department of buildings as identified by public records of the department of buildings at the time the director of city planning shall

determine the list of twelve community districts pursuant to subdivision a of Section 197-f of the Charter.

(c) The total number of new affordable dwelling units shall not include Affordable Dwelling Units in an existing residential building subject to a preservation program where the owner of such building receives financial assistance for rehabilitation or operating expenses in exchange for affordability for existing and future occupants.

§ 13-05 Methodology to Calculate the Total Number of Housing Units in a Community District at the Start of a Five-Year Cycle.

(a) The methodology to calculate the total number of housing units located in a community district at the start of each Five-Year Cycle pursuant to subdivision a of Section 197-f of the Charter is set forth in this section.

(b) The total number of housing units located in a community district shall consist only of the number of housing units identified in the prior Decennial Census plus the number of Net New Housing Units as publicly reported by the department of city planning's Housing Database, or any successor public reporting mechanism, at the time the director of city planning shall determine the list of twelve community districts pursuant to subdivision a of Section 197-f of the Charter.

§ 13-06 Determination and Posting of Community District List.

No later than October 1, 2026, and every five years thereafter, the director of city planning shall determine pursuant to the methodology established in these rules and post on the website of the department a list of the twelve community districts that, during the preceding five years, had the lowest rate of affordable housing development. Such determination shall be final and shall rely solely on data reported by the Decennial Census, the department of housing preservation and development, the department of buildings, and the department of city planning at the time such list is posted. Any revisions, corrections, or changes to such data following the posting of such list shall not affect or impair the validity of such list or any subsequent decision of the city planning commission or other agency or official pursuant to these rules or Section 197-f of the Charter.

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