



City of Philadelphia

City Council
Chief Clerk's Office
402 City Hall
Philadelphia, PA 19107

BILL NO. 170678

Introduced June 22, 2017

**Councilmember Quiñones Sánchez, Council President Clarke,
Councilmembers Blackwell and Johnson**

**Referred to the
Committee on Rules**

AN ORDINANCE

Amending Title 7 of The Philadelphia Code, entitled "Housing Code," by adding a new Chapter 7-200, entitled "Mixed Income Housing Program," to provide for affordable housing standards; amending Section 14-702 of The Philadelphia Code, entitled "Mixed Income Housing," to make related changes; amending Chapters 14-600 and 14-700 of The Philadelphia Code, entitled, respectively, "Use Regulations" and "Development Standards," to amend certain zoning standards relating to residential development; and making related amendments; all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Title 7 of The Philadelphia Code is hereby amended to read as follows:

TITLE 7. HOUSING CODE.

* * *

CHAPTER 7-200. MIXED INCOME HOUSING PROGRAM

§ 7-201. Definitions. As used in this Chapter, the following terms shall have the meanings set forth below. Words not defined here shall have the meaning set forth in the Zoning Code, where provided, unless the context clearly suggests otherwise.

(1) Affordable Unit.

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(a) If a rental unit: A dwelling unit rented to and occupied by an Eligible Tenant at a rental cost, including rent and utilities, that is affordable to an Eligible Tenant.

(b) If an owner-occupied unit: A dwelling unit owned and occupied by an Eligible Purchaser, at an ownership cost that is affordable to an Eligible Purchaser. The ownership cost shall be determined by the Department based upon the cost of a down payment and a fixed rate 30 year mortgage consistent with the average monthly rate published from time to time by Freddie Mac, in addition to total monthly costs, including but not limited to property taxes, insurance, utilities, and condominium or homeowner association fees.

(c) A rental or ownership cost of an Affordable Unit shall be affordable to an Eligible Tenant or an Eligible Purchaser if that cost does not exceed 30 percent of the maximum income level permitted for an Eligible Tenant or Eligible Purchaser, as set forth in the Eligibility Table found at subsection (6), below.

(2) AMI. Area median income, meaning the median household income for the Philadelphia Primary Metropolitan Statistical Area as calculated and adjusted for household size on an annual basis by the United States Department of Housing and Urban Development.

(3) Core Metropolitan District. The area bounded by the Delaware River, Washington Avenue (extended), Grays Ferry Avenue, South 34th Street, South University Avenue, South 38th Street, North 38th Street (extended), West Girard Avenue, West College Avenue, Poplar Street, South College Avenue, West Girard Avenue, and East Girard Avenue (extended).

(4) Residential Housing Project. Any project which itself, or in combination with any closely related projects, involves the construction or substantial alteration of ten or more dwelling units. For purposes of this definition, substantial alteration means any alteration that requires a zoning permit pursuant to § 14-104(2) (“Compliance Required”) and that costs more than \$7,000 per dwelling unit. In determining whether a development constitutes a Residential Housing Project, the Department shall consider, among other things, whether the development is marketed as a single or unified project, shares common elements, or is a phase of a larger development. This definition shall be interpreted broadly so as to achieve the purposes of this Chapter and to prevent evasion of its terms.

(5) Department. The Department of Planning and Development.

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(6) *Eligible Tenant or Eligible Purchaser.* A tenant or purchaser of a dwelling unit certified by the Department as having:

(a) *At the time of initial occupancy, income, adjusted for household size, of less than or equal to the percentage of AMI provided in the following Eligibility Table:*

	<i>Core Metropolitan District</i>	<i>Elsewhere in the City</i>
<i>Eligible Tenant</i>	50%	30%
<i>Eligible Purchaser</i>	80%	50%

(b) *Satisfied any educational or counseling requirements deemed appropriate by the Department.*

§ 7-202. *Affordability Requirements.*

(1) *No building permit shall be issued pursuant to Section A-301 of Title 4 for any Residential Housing Project, or any portion thereof, unless the Department shall have certified that the applicant has satisfied the requirements of subsections (a), (b), (c) and (d) below.*

(a) *The applicant has recorded an instrument or instruments in favor of the City, in substance satisfactory to the Department and in form satisfactory to the Law Department, committing that at least two and a half percent of all dwelling units (rounded up, if fractional, to the next highest whole number) will be maintained as Affordable Units for at least 99 years on the same site as the Residential Housing Project; that the Affordable Units will be reasonably dispersed throughout the Residential Housing Project such that no single building or floor therein will have a disproportionate percentage of Affordable Units; that the Affordable Units will be constructed and maintained in compliance with the requirements of this Chapter, including § 7-203 (“Construction, Maintenance and Marketing Requirements”); and that the Affordable Units will have access to the same on-site amenities available to market-rate units, including but not limited to common areas and parking facilities.*

(b) *If the Residential Housing Development contains more than ten dwelling units, the applicant has complied with subsection (.1), (.2), or (.3), below. An applicant may, upon approval from the Department, combine partial compliance with subsection (.1), (.2), and (.3) in order to achieve full compliance with this subsection.*

(.1) *The applicant has recorded an instrument or instruments in favor of the City, in substance satisfactory to the Department and in form satisfactory to the Law Department, committing that, in combination with the Affordable Units required*

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by subsection (a), above, at least ten percent of all dwelling units (rounded up, if fractional, to the next highest round number) will be provided and maintained as Affordable Units for at least 99 years; that the Affordable Units will be constructed and maintained in compliance with the requirements of this Chapter, including § 7-203 (“Construction, Maintenance and Marketing Requirements”); that any such Units, if constructed on the same site as the Residential Housing Project, will be reasonably dispersed throughout the Residential Housing Project such that no single building or floor therein will have a disproportionate percentage of Affordable Units, and will have access to the same on-site amenities available to market-rate units, including but not limited to common areas and parking facilities; and that, if the Residential Housing Project is located within the Core Metropolitan District, the Affordable Units will be provided and maintained within the Core Metropolitan District.

(.2) The Applicant and the Department have entered into a binding agreement pursuant to which the Applicant has tendered to the City a payment determined by the Department to be sufficient to provide the quality of Affordable Units required by subsection (a) in such quantity as required by subsection (.1), above, and to satisfy all other requirements of this Chapter; and the Department has agreed to use such money to cover costs related to the administration of this Chapter or for the purposes set forth in Chapter 21-1600 (“Housing Trust Fund”). The Department shall promulgate regulations setting forth its methodology for making this determination, and shall annually publish a schedule of payments that would satisfy this subsection (.2).

(.3) The Applicant has entered into an agreement of sale or lease with the Philadelphia Housing Authority to sell or lease seven and a half percent of all dwelling units within the Residential Housing Project.

(c) The applicant has filed and the Department has approved an Affordable Building Plan, signed by both the applicant and the design professional responsible for the Residential Housing Project, which specifies the quality, quantity, placement, design, and phasing of the Residential Housing Project and of each Affordable Unit, and which acknowledges that the applicant is subject to penalties in the event that the Residential Housing Project fails to conform with such Plan or any approved modifications of such Plan. Any deviation from an approved Affordable Building Plan must comply with the requirements of this Chapter and must be approved by the Department.

(d) Any further requirements that the Department shall impose in order to secure and monitor the applicant’s satisfaction of all obligations imposed by this Chapter.

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(2) *No certificate of occupancy shall be issued pursuant to Section A-701 of Title 4 for any dwelling units included in a Residential Housing Project unless certificates of occupancy have also been issued for all Affordable Units required by subsection (1), above.*

§ 7-203. *Construction, Maintenance and Marketing Requirements.*

(1) *All Affordable Units required by § 7-202 (“Affordability Requirements”) shall be constructed, completed, ready for occupancy, and marketed at the same time as market-rate units within the Residential Housing Project.*

(2) *All Affordable Units required by § 7-202 (“Affordability Requirements”) shall be of comparable quality, in terms of the size, design, exterior appearance, energy efficiency, and overall construction, as any market-rate unit within the Residential Housing Project, except that the Department may authorize, on a case by case basis, variation in lot size, number of stories, or whether units are attached or detached, upon good cause shown. For rental units, this requirement shall apply to any maintenance or renovations performed during the life of the affordability commitment.*

(a) *Affordable Units required by § 7-202 (“Affordability Requirements”) may have interior finishes and features that are functionally equivalent to those of any market-rate unit within the Residential Housing Project, so long as those finishes and features are durable, of good and new quality, and consistent with any further standards which the Department may establish.*

(3) *The Department shall market all Affordable Units that are required by § 7-202 to be constructed and maintained; and shall refer Eligible Tenants and Eligible Purchasers to the owner or manager of the Affordable Units for purposes of leasing or purchase.*

§ 7-204. *Remedies.*

(1) *Failure to comply with any provision of a recorded instrument required by § 7-202 (“Affordability Requirements”) or any other requirement of this Chapter shall, in addition to any other remedies available by law, be grounds for:*

(a) *Revocation of any building permit, certificate of occupancy or rental license.*

(b) *A fine of \$500 per day of noncompliance.*

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(2) *The Department shall have the right to inspect such documents as may be necessary to determine continued compliance, including but not limited to financial records of any tenants or owners to confirm that they are Eligible Tenants or Eligible Purchasers.*

§ 7-205. *Regulations.*

(1) *The Department shall have the authority to promulgate regulations to clarify, implement or administer any provision of this Chapter.*

SECTION 2. Title 14 of The Philadelphia Code is hereby amended to read as follows:

Key:

1. In Tables that contain bracketed table notes, and in the table notes, deletions are indicated by { } rather than [].

TITLE 14. ZONING AND PLANNING.

* * *

CHAPTER 14-600. USE REGULATIONS.

* * *

§ 14-601. Use Categories.

* * *

(3) **Residential Districts.**

Building types are permitted in Residential districts in accordance with Table 14-602-1.A. Principal uses are allowed in Residential districts in accordance with Table 14-602-1. Uses classified as accessory uses, such as home occupations, are not regulated by the use table. Accessory uses are permitted in conjunction with allowed principal uses, provided they comply with all applicable regulations of § 14-603 (Use-Specific Standards) and § 14-604 (Accessory Uses and Structures).

(a) **Notes for Table 14-602-1.**

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[1] In the RM-1 district, the minimum lot area required per dwelling unit is as follows, provided that, whenever the calculation of permitted number of dwelling units results in a fraction of a dwelling unit, then the number of permitted dwelling units shall be rounded down to the nearest whole number:

(a) A minimum 360 sq. ft. of lot area is required per dwelling unit for the first 1,440 sq. ft. of lot area.

(b) A minimum of 480 sq. ft. of lot area is required per dwelling unit for the lot area in excess of 1,440 sq. ft.; provided that, if the green roof conditions set forth at § 14-602(7) are met, the number of units allowed is 25% greater than indicated by the foregoing lot size requirements, applied prior to the inclusion of any other applicable increases in allowable units. [Whenever the calculation of permitted number of dwelling units results in a fraction of a dwelling unit, then the number of permitted dwelling units shall be rounded down to the nearest whole number.]

(c) *For all lots with a minimum of 3,840 sq. ft. of lot area, the total number of units allowed is increased by 50%.*

* * *

(4) Commercial Districts.

Principal uses are allowed in Commercial districts in accordance with Table 14-602-2. Uses classified as accessory uses, such as home occupations, are not regulated by the use table. Accessory uses are permitted in conjunction with allowed principal uses, provided they comply with all applicable regulations of § 14-603 (Use-Specific Standards) and § 14-604 (Accessory Uses and Structures).

(a) Notes for Table 14-602-2.

* * *

[2] In the CMX-2 district, the number of permitted dwelling units is as follows, provided that, whenever the calculation of permitted number of dwelling units results in a fraction of a dwelling unit, then the number of permitted dwelling units shall be rounded down to the nearest whole number:

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- (a) A maximum of two dwelling units are permitted for lots less than 1,440 sq. ft. in area.
- (b) A maximum of three dwelling units are permitted for lots that are 1,440 sq. ft. to 1,919 sq. ft. in area, and a minimum of 480 sq. ft. of lot area is required per dwelling unit for the lot area in excess of 1,919 sq. ft.
- (c) If the green roof conditions set forth at § 14-602(7) are met, the number of units allowed is 25% greater than indicated by the foregoing lot size requirements, applied prior to the inclusion of any other applicable increases in allowable units. [Whenever the calculation of permitted number of dwelling units results in a fraction of a dwelling unit, then the number of permitted dwelling units shall be rounded down to the nearest whole number.]
- (d) *For all lots greater than 4,320 sq. ft. of lot area, the total number of units allowed is increased by 50%.*

* * *

[8] In the CMX-2.5 district, the minimum lot area required per dwelling unit is as follows, provided that, whenever the calculation of permitted number of dwelling units results in a fraction of a dwelling unit, then the number of permitted dwelling units shall be rounded down to the nearest whole number.

- (a) A minimum of 360 sq. ft. of lot area is required per dwelling unit for buildings less than or equal to 45 ft. in height.
- (b) A minimum of 270 sq. ft. of lot area is required per dwelling unit for buildings greater than 45 ft. in height.
- (c) *If the green roof conditions set forth at § 14-602(7) are met, the number of units allowed is 25% greater than indicated by the foregoing lot size requirements, applied prior to the inclusion of any other applicable increases in allowable units.*
- (d) *For all lots containing buildings less than or equal to 45 ft. in height with a minimum of 3,240 sq. ft. of lot area, the total number of units allowed is increased by 50%.*

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(.e) For all lots containing buildings greater than 45 ft. in height with a minimum of 2,430 sq. ft. of lot area, the total number of units allowed is increased by 50%.

Table 14-602-2: Uses Allowed in Commercial Districts

* * *

Previous District Name	C-1	C-2/RC-2	(NCC)	C-3/RC-3	C-4	C-5	C-7/NSC	ASC	
District Name	CMX-1	CMX-2	CMX-2.5	CMX-3	CMX-4	CMX-5	CA-1	CA-2	Use-Specific Standards
Y = Yes permitted as of right S = Special exception approval required N = Not allowed (expressly prohibited) Uses not listed in this table are prohibited See § 14-602(4)(a) (Notes for Table 14-602-2) for information pertaining to bracketed numbers (e.g., “[2]”) in table cells.									
Residential Use Category									
Household Living (as noted below)									
		*	*	*					
Multi-Family	[1][2]	Y[2][3]	Y[3][8]	Y	Y	Y	N	N	
		*	*	*					

CHAPTER 14-700. DEVELOPMENT STANDARDS.

§ 14-701. Dimensional Standards.

* * *

(2) Residential District Dimensional Tables.

(c) Notes for Table 14-701-2.

* * *

[5] (.a) If abutting lots on both sides of an attached house contain only two stories of habitable space, stories above the second story of the attached house shall be set back an additional eight ft. from the minimum setback shown in this table; except this requirement shall not apply to corner lots.

(.b) If ten or more housing units are provided, the maximum height is increased to 45 ft.

* * *

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[10] If ten or more housing units are provided, the base maximum floor-area ratio is multiplied by 1.3.

Table 14-701-2: Dimensional Standards for Higher Density Residential Districts

Previous District Name	R8/9/10/10B/ 18/19	R11/11A/ 12/13	R14	R15/R16	RC-6	WRD /ITD	RC-4
District Name	RM-1	RM-2	RM-3	RM-4	RMX-1	RMX-2	RMX-3
See § 14-701(2)(c) (Notes for Table 14-701-2) for information pertaining to bracketed numbers (e.g., “[2]”) in table cells. Denotes building type not permitted or zoning requirements not applicable.							
* * *							
Floor Area Ratio (FAR)							
Maximum FAR (% of lot area, except as otherwise provided)	No Limit	70[10]	150[10]	350[10]	150 of district area, excluding streets [10]	250 of district area, excluding streets [10]	500 [10]

(3) Commercial Districts Dimensional Table.

(a) Notes for Table 14-701-3.

* * *

[3] If ten or more housing units are provided, the maximum height is increased to 45 ft.

[4] If ten or more housing units are provided, the base maximum floor-area ratio is multiplied by 1.3.

Table 14-701-3: Dimensional Standards for Commercial Districts

Previous District Name	C1	C2/RC2	Commercial Corridor Overlays	C3/RC3	C4 C5	C7/NSC	ASC
District Name	CMX-1	CMX-2	CMX-2.5	CMX-3	CMX-4/CMX-5	CA-1	CA-2
See § 14-701(3)(a) (Notes for Table 14-701-3) for information pertaining to bracketed numbers (e.g., “[2]”) in table cells. Denotes zoning requirements not applicable.							
* * *							
Height							
Max. Height (ft.)	[1]	38 [3]	55			38	38
Min. Cornice Height (ft.)	[1]		25				
Floor Area Ratio							

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Previous District Name	C1	C2/RC2	Commercial Corridor Overlays	C3/RC3	C4 C5	C7/NSC	ASC
District Name	CMX-1	CMX-2	CMX-2.5	CMX-3	CMX-4/CMX-5	CA-1	CA-2
See § 14-701(3)(a) (Notes for Table 14-701-3) for information pertaining to bracketed numbers (e.g., “[2]”) in table cells.							
Max. Floor Area (% of lot area)	[1]			500 [4]	CMX-4: 500 [4] CMX-5: 1200 [2]/[4] See also § 14-701(5) (CMX-4 and CMX-5 Bulk and Massing Controls)		

(4) Industrial District Dimensional Table.

(a) Notes for Table 14-701-4.

* * *

[6] If ten or more housing units are provided, the base maximum floor-area ratio is multiplied by 1.3.

Table 14-701-4: Dimensional Standards for Industrial Districts

Previous District Name	New District	L4/L5	L1/L2/L3	G1/G2	LR	PI
District Name	IRMX	ICMX	I-1	I-2	I-3	I-P [2]
See § 14-701(4)(a) (Notes for Table 14-701-4) for information pertaining to bracketed numbers (e.g., “[2]”) in table cells.						
Denotes zoning requirements not applicable						
Lot Dimensions						
Floor Area Ratio (FAR)						
Max. Floor Area Ratio (FAR) (% of lot area)	500[6]	500	500	500	500	

§ 14-702. Floor Area and Height Bonuses.

(3) Floor Area Bonus Options Summary Table.

The following table summarizes the floor area bonus options in this section. In the event of conflict between the provisions of Table 14-702-1 and the text of this Zoning Code, the text shall govern.

Table 14-702-1: Floor Area Bonus Summary

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Bonus Category	Additional Gross Floor Area, as Percent of Lot Area (see § 14-701(2) (Residential District Dimensional Tables) and § 14-701(3) (Commercial Districts Dimensional Table) for the maximum allowed base floor area ratios for each district.)				
	RMX-3	CMX-3 as provided in § 14-702(2)(c)	CMX-3 (within /TOD only)	CMX-4	CMX-5
* * *					
{Mixed Income Housing (§ 14-702(7))}	{N/A}	{150%}	{200%}	{150%}	{300%}
* * *					

(3.1) Building Height Bonus Options Summary Table.

The following table summarizes the building height bonus options in this section. In the event of conflict between the provisions of Table 14-702-2 and the text of this Zoning Code, the text shall govern.

Table 14-702-2: Building Height Bonus Summary

Bonus Category	Additional Building Height	
	/CDO	/ECO
* * *		
{Mixed Income Housing (§ 14-702(7))}	{Up to 48 ft.}	{Up to 48 ft.}
* * *		

(7) [Mixed Income Housing.

(a) Criteria.

A floor area bonus may be earned by providing affordable housing, provided that it meets the following standards:

(.1) At least 10% of a minimum of five residential dwelling units constructed using base floor area ratio shall be affordable, as defined in § 14-702(7)(a)(.3) and § 14-702(7)(a)(.4), below.

(.2) This bonus is not available to developers of subsidized housing where 51% or more of the dwelling units will be affordable as defined by § 14-702(7)(a)(.3) or § 14-702(7)(a)(.4).

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(.3) Rental housing shall have total monthly costs (including rent and utility costs) that are affordable to households earning up to 80% of the Area Median Income (AMI) reported by the U.S. Department of Housing and Urban Development for the Philadelphia Metropolitan Fair Market Rent Area.

(.4) Owner-occupied units shall have total monthly costs (including mortgage principal and interest, property taxes, property insurance, and condominium or homeowner association fees) that are affordable to households earning up to 100% of the AMI reported by the U.S. Department of Housing and Urban Development for the Philadelphia Primary Metropolitan Statistical Area.

(.5) Affordable units shall be affordable for a term of not less than 15 years, with future sales within such period governed by a restrictive covenant or long-term ground lease.

(.6) Affordable units shall be constructed and available at the same time as market-rate units and reasonably dispersed throughout the development.

(.7) Affordable units shall be comparable to market-rate units in exterior building materials and finishes; overall construction quality; and energy efficiency.

(.8) A developer may choose to make a payment in lieu of building affordable units. The in lieu payment will be contributed to the Philadelphia Housing Trust Fund and shall be the lesser of:

(.a) the amount that a household at 80% of AMI adjusted for household size could afford to pay for purchase of a qualifying unit; or

(.b) the average cost of constructing a qualifying unit.

(b) Bonus Floor Area or Building Height.

The additional gross floor area or building height earned for providing mixed-income housing is:

Additional Gross Floor Area, as Percentage of Lot Area	Additional Building Height
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CMX-3 as provided in § 14-702(2)(c) (except in /TOD)	CMX-3 (within /TOD only)	CMX-4	CMX-5	/CDO	/ECO
150%	200%	150%	300%	48 ft.	48 ft.

]

Reserved.

* * *