



City of Philadelphia

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

BILL NO. 230323

Introduced April 27, 2023

Councilmember Gauthier

**Referred to the
Committee on Rules**

AN ORDINANCE

Amending Section 14-533 of The Philadelphia Code, entitled “/MIN, Mixed Income Neighborhoods Overlay District,” to create a mechanism for satisfying certain use standards related to the construction of affordable housing in the portion of the MIN Overlay District located in the Third Councilmanic District, all under certain terms and conditions.

WHEREAS, the City seeks to preserve existing affordable housing in Philadelphia and incentivize the creation of new affordable housing;

WHEREAS, one way the City has sought to incentivize the creation of new affordable housing is through the /MIN Overlay, which incentivizes private developers to create new, privately owned affordable housing;

WHEREAS, one method for the City to acquire land to support affordable housing development is to encourage the donation of land in exchange for waiving existing affordable housing requirements;

WHEREAS, the City has developed a new option by which property owners potentially can donate land and receive credit for affordable housing the City plans to have constructed on that land, for purposes of satisfying certain affordable housing requirements, including those set forth in the /MIN Overlay;

WHEREAS, the City has entered into an agreement with IBID Associates dated March 17, 2023 to resolve litigation instituted by IBID in the District Court for the Eastern District of Pennsylvania at docket number 22-cv-00954 and this amendment to the /MIN Overlay is intended to, in part, implement Section 3 of that agreement;

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WHEREAS, that agreement includes provisions that may serve as a model for the new option;

WHEREAS, pursuant to the agreement, IBID has agreed to transfer a parcel of land to the City;

WHEREAS, the City plans to have approximately 70 units of affordable housing built on the transferred parcel; and

WHEREAS, in exchange for the transfer, the City will: (1) credit IBID's remaining property with having constructed the 70 units the City plans to have built for purposes of the /MIN Overlay's affordable housing requirements; and (2) confirm that the applicable /MIN Overlay's affordable housing requirement for IBID's remaining property will be further reduced from 20 percent to 15 percent of future dwelling units; now, therefore,

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Section 14-533 of The Philadelphia Code is hereby amended as follows:

TITLE 14. ZONING AND PLANNING

* * *

CHAPTER 14-500. OVERLAY ZONING DISTRICTS

* * *

§ 14-533. /MIN, Mixed Income Neighborhoods Overlay District.

* * *

(3) Use Regulations.

The following standards shall apply in addition to those of the applicable base zoning district:

* * *

(c) *For any lot to which this Overlay District applies that is located within the Third Councilmanic District, the requirements of §§ 14-533(3)(a) and (3)(b)(.1) shall be deemed to have been satisfied, without the requirement of the grant of a waiver, provided all the following conditions are met:*

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- (.1) *A portion of the lot was subdivided and transferred to the City, with respect to which portion the Director of Planning and Development has certified, in the Director's sole discretion, that the City intends to build, itself or through a third-party developer, affordable dwelling units that meet all the conditions of Subsection (6) (Affordability) below, which units will satisfy affordable housing requirements in connection with the lot with respect to which zoning approval is sought (which transferred portion is referred to in this subsection (c) as the "City Lot"). Those units identified in such certification, in combination with any other affordable dwelling units to be provided on the lot with respect to which zoning approval is sought, must equal or exceed the number of affordable dwelling units that would be necessary to satisfy the requirements of § 14-533(3)(a) if all such affordable dwelling units were provided on the same lot;*
- (.2) *At the time of the transfer, the City Lot was part of the same lot on which all other dwelling units will be provided; and*
- (.3) *The applicant meets the conditions of § 14-533(3)(b)(.1)(.b), provided that the value of the City Lot transferred pursuant to (.1) shall be deducted, on a dollar-per-dollar basis, from the payment calculated under that subsection.*
 - (.a) *The value of the City Lot shall be based on the average of (i) the City's assessed value of the original parent lot and (ii) an appraisal, identified by the applicant, by a third-party certified appraiser that was made within 18 months of the transfer, multiplied by the fraction of the size of the City Lot as the numerator and the size of the parent lot from which the City lot was subdivided out as the denominator.*
 - (.b) *If the value of the payment calculated in § 14-533(3)(b)(.1)(.b) exceeds that of the City Lot, the applicant shall tender a payment to the City in the amount of the balance pursuant to the requirements of such subsection.*

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(.c) *If the value of the City Lot exceeds that of the payment calculated in § 14-533(3)(b)(.1)(.b), the applicant shall not be entitled to compensation or refund in any manner.*

(.4) *The provisions of this Subsection (c) shall apply to and benefit the entire remaining lot from which the City Lot was divided, notwithstanding the future subdivision of such remaining lot; provided, however, that each affordable dwelling unit identified in the Director of Planning and Development’s certification under Subsection 3(c)(.1) above shall only be credited once in connection with the affordable dwelling unit requirement applicable to such remaining lot as it may be subdivided.*

(.5) *Subsections (.2) and (.3) of §14-533(3)(b) shall not apply to application of this Subsection (c).*

* * *

[(c)] (d)

* * *

[(d)] (e)

* * *

Table 14-533-1: Household Living Uses in the /MIN Overlay District

District Name	RSD-1/2/3; RSA-1/2/3/4/5	RTA-1	RM-1	CMX-1/2	CMX-2.5	RM-2/3/4, RMX-1/2/3, CMX-3/4/5, IRMX, SP-ENT	CA-1/2, ICMX, I-1/2/3/P, SP-INS/STA/PO-A/PO-P/AIR
Y = Yes permitted as of right N = Not allowed (expressly prohibited) See {§ 14-533(3)(d)} § 14-533(3)(e) for information pertaining to bracketed numbers (e.g., “[2]”) in table cells.							
* * *							

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SECTION 2. This Ordinance shall take effect immediately.

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Explanation:

[Brackets] indicate matter deleted.

Italics indicate new matter added.

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