

Legislation Text

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Amending Title 14 of The Philadelphia Code, entitled "Zoning and Planning," by amending certain provisions of Chapter 14-500, entitled "Overlay Zoning Districts," by creating the "/MIH, Mixed Income Neighborhoods Overlay District"; by revising certain provisions of Chapter 14-702, entitled "Floor Area, Height, and Dwelling Unit Density Bonuses"; and by making related changes, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Title 14 of The Philadelphia Code is hereby amended to read as follows:

TITLE 14. ZONING AND PLANNING.

\* \* \*

CHAPTER 14-300. ADMINISTRATION AND PROCEDURES

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§ 14-303. Common Procedures and Requirements

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(8) Zoning Variances.

\* \* \*

(a) *Additional Criteria for Variances in the /MIN, Mixed Income Neighborhoods Overlay District*

*Where all or part of the property is located in the /MIN, Mixed Income Neighborhoods Overlay District, the Zoning Board shall not approve a variance from use regulations listed in § 14-533(3)(a) and § 14-533(3)(b) unless failure to do so would constitute a taking under Fifth Amendment of the United States Constitution*

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CHAPTER 14-500. OVERLAY ZONING DISTRICTS

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§ 14-513. /TOD, Transit-Oriented Development Overlay District

\* \* \*

(5) TOD Form and Design Standards.

(b) Dimensional Standards.

\* \* \*

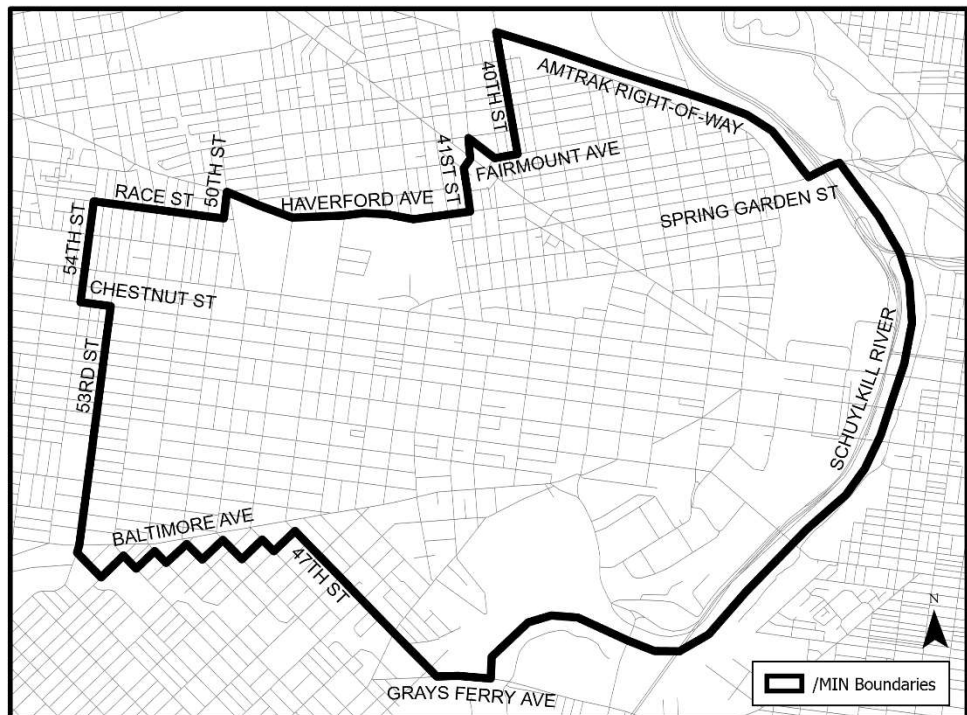
(.2) [Properties] *Except if located within the /MIN, Mixed-Income Neighborhoods Overlay District, properties in a CMX-3, CMX-4, CMX-5, or RMX-3 zoning district are subject to a base maximum floor-area ratio that is thirty percent (30%) greater than that indicated in § 14-701 (Dimensional Standards).*

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

(1) *Applicability. The Mixed Income Neighborhoods Overlay District shall apply to Residential Housing Projects on lots located in the following areas:*

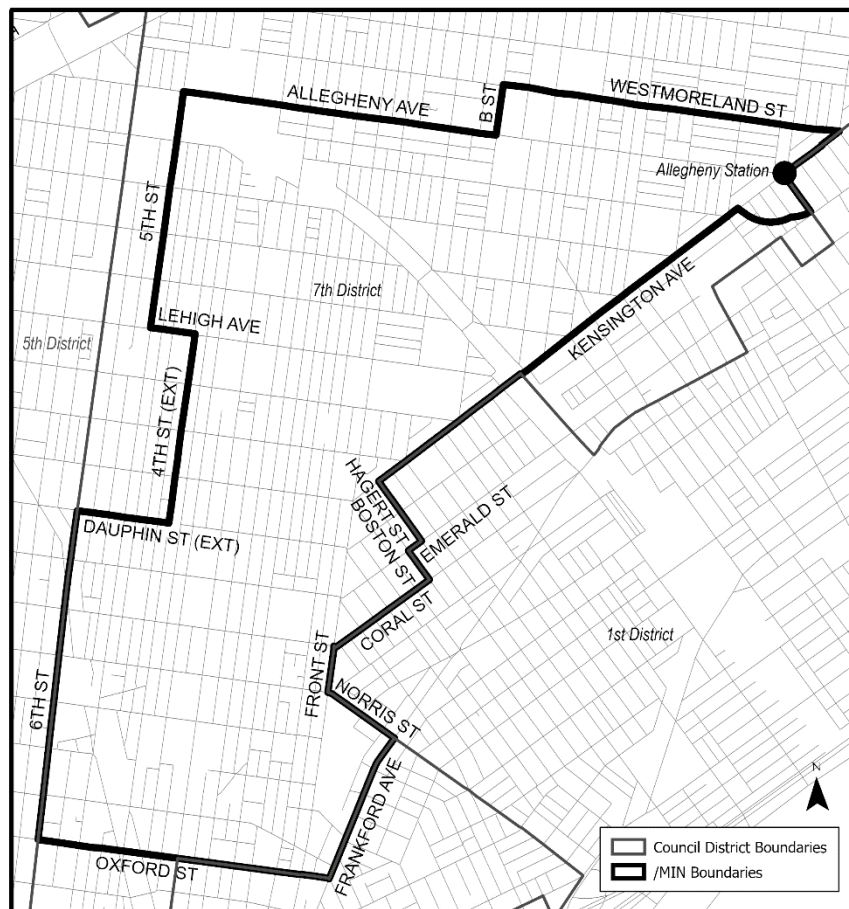
(a) *The area bounded by Haverford Avenue, 41st Street, Olive Street, Fairmount Avenue, 40<sup>th</sup> Street, an Amtrak Rail Right-of-Way, Spring Garden Street, the Schuylkill River, Grays Ferry Avenue, 47th Street, Warrington Avenue, 48th Street, Beaumont Ave, 49th Street, Pentridge Avenue, 50th Street, Willows Avenue, 51st Street, Hadfield Street, 52nd Street, Whitby Avenue, 53rd Street, Chestnut Street, 54th Street, Race Street, and 50th Street, as shown on the following map, for illustrative purposes only;*



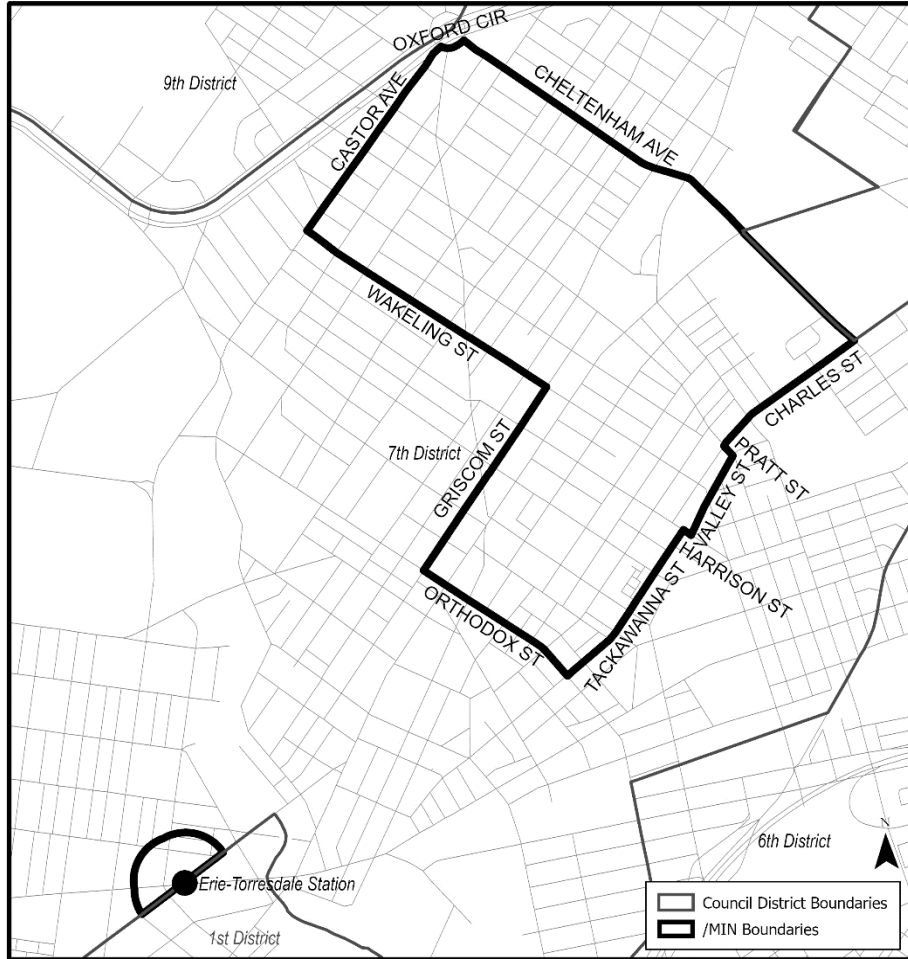
(b) *Any lot that is located both within the /TOD overlay district and the 7<sup>th</sup> Council District,*

as shown on the maps under(c) and (d) below, for illustrative purposes only;

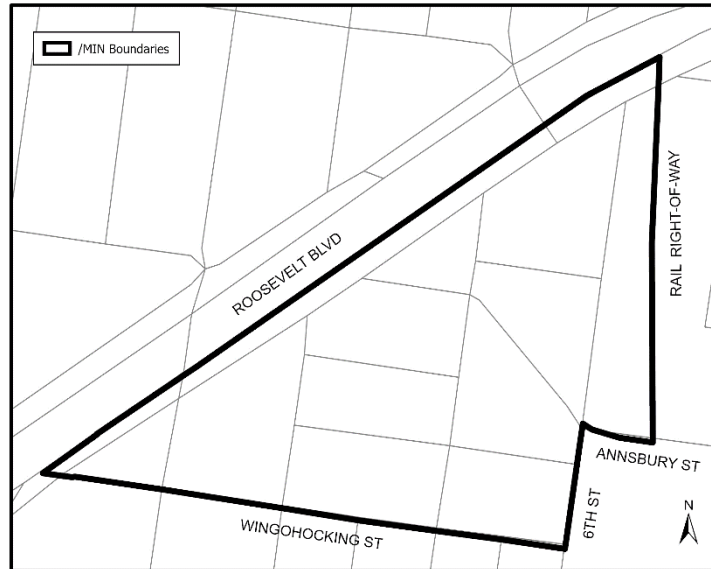
- (c) The area bounded by Westmoreland Street, Kensington Avenue, Hagert Street, Emerald Street, Boston Street, Coral Street, Front Street, Norris Street, Frankford Avenue, Oxford Street, 6<sup>th</sup> Street, Dauphin Street (extended), 4<sup>th</sup> Street (extended), Lehigh Avenue, 5<sup>th</sup> Street, Allegheny Avenue, and B Street, as shown on the following map, for illustrative purposes only;



- (d) The area bounded by Cheltenham Avenue, Charles Street, Pratt Street, Valley Street, Harrison Street, Tackawanna Street, Orthodox Street, Griscom Street, Wakeling Street, Castor Avenue, and Oxford Circle, as shown on the following map, for illustrative purposes only; and



- (e) *The area bounded by Roosevelt Boulevard, a former Conrail Right-of-Way, Annsbury Street, 6th Street, and Wingohocking Street, as shown on the following map, for illustrative purposes only.*



(2) *Definition of Residential Housing Project.*

(a) *For the purposes of this §14-533, a Residential Housing Project is any development which itself, or in combination with any closely related development, involves the construction of ten or more dwelling units, twenty or more sleeping units, or both, and that is located in whole or in part within the Mixed Income Neighborhoods Overlay District, provided a Residential Housing Project is not:*

- (.1) *Any development in which all dwelling units are developed by an educational institution for the exclusive use and occupancy of such institution's students or other institution-affiliated persons such as resident advisors or house masters; or*
- (.2) *Any development where less than 25% of gross floor area will be in residential use.*
- (.3) *A Personal Care Home as defined in § 14-603(11) of the Code.*

(b) *In determining whether a development constitutes a Residential Housing Project, the City shall consider, among other things, whether the development is marketed as a single or unified project, shares common ownership, including common membership in a corporation, mailing address and contact information for owner of record, or other elements, or is a phase of a larger development. This definition shall be interpreted broadly to achieve the purposes of this Chapter and to prevent evasion of its terms.*

(3) *Use Regulations. The following standards shall apply in addition to those of the applicable base zoning district:*

(a) *At least 15% of all dwelling units (rounded up, if fractional) shall be provided and maintained as affordable on the same site as all other dwelling units.*

(b) *Including dwelling units provided pursuant to subsection (a), above, a minimum of 20% of all dwelling units and 20% of all sleeping units (rounded up, if fractional) shall be provided and maintained as affordable on the same site as all other dwelling units, except as follows:*

*(.1) The applicant may request that the Department of Planning and Development grant a waiver, such that, in lieu of meeting the conditions of subsection (b), above, the applicant may instead meet at least one of the following conditions, in addition to the requirement of subsection (a):*

*(.a) Including dwelling units provided pursuant to subsection (a), above, a minimum of 20% of all dwelling units and 20% of all sleeping units (rounded up, if fractional) shall be provided and maintained as affordable within one-half mile of the remaining units included in the Residential Housing Project; or*

*(.b) An owner has entered into a binding agreement with the City, prior to the issuance of a building permit, pursuant to which the owner has tendered to the City a payment in lieu of providing affordable housing and the Department of Planning and Development has agreed to use such money for the purposes set forth in § 21-1605 (Trust Fund Assets Held in the Non-Recording Fee Sub-Fund) or § 21-1603 (Creation, Distribution and Use of the Trust Fund's Assets), including to defray any additional administrative costs associated with the review and enforcement of affordable housing units required by this Mixed Income Neighborhoods Overlay. The payment shall be calculated as follows:*

*(i) For lots located in an RM-2, RM-3, RM-4, RMX-1, RMX-2, RMX-3, IRMX, CMX-3, CMX-4, or CMX-5 zoning district: the maximum total gross floor area allowed under this section § 14-533, multiplied by nine dollars (\$9);*

*(ii) For lots located in an RM-1, CMX-1, CMX-2, or CMX-2.5 zoning district: the maximum total number of dwelling units allowed under this section § 14-533, multiplied by ten thousand nine hundred dollars (\$10,900); and*

*(iii) For lots located in any other zoning district: the sum of the number of sleeping units divided by two and the number of dwelling units, multiplied by ten thousand nine hundred dollars (\$10,900).*

*(.2) The Department of Planning and Development shall only grant this waiver upon a demonstration of exceptional circumstances based on a particular substantial public benefit that would be derived from the proposed off-site development or that the granting of the waiver would otherwise further the general purposes of this chapter in a particular way, as may be further defined in regulations of the Commission. This waiver may specify which of the options listed in (.1), above, shall be available to the application.*

(.3) *An applicant may only submit a request for this waiver after having submitted an application for a zoning permit to L&I for the relevant Residential Housing Project. If the Department of Planning and Development does not respond to a written request for this waiver within 45 days of its receipt, the request will be deemed granted, provided that the waiver shall specify that only option (.b), above, shall be available to the applicant.*

(.4) *The Department of Planning and Development and the Commission are authorized to promulgate regulations to implement the provisions of this subsection (b). These regulations may include other requirements and penalties for non-compliance.*

(c) *Any development that meets either of the following conditions will not be required to meet the requirements of subsections (a) and (b), above:*

(.1) *The applicant demonstrates to the satisfaction of the Department of Planning and Development that 51% or more units will meet the definition of “Affordable Housing Property” under § 7-202(1); or*

(.2) *The Residential Housing Project is otherwise subject to a recorded instrument such that average monthly costs for all rental units may not exceed the standards described under § 14-702(7)(1)(a).*

(d) *Household Living is permitted in accordance with Table 14-533-1. The notes for Table 14-533-1 are as follows:*

[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 240 sq. ft. of lot area is required per dwelling unit for the first 1,440 sq. ft. of lot area.*

(.b) *A minimum of 320 sq. ft. of lot area is required per dwelling unit for the lot area in excess of 1,440 sq. ft.*

[2] *In the CMX-1 and CMX-2 districts, a minimum of 320 sq. ft. of lot area is required per dwelling unit, provided that whenever the calculation of the 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.*

[3] *In the CMX-2.5 district, the minimum lot area required per dwelling unit is as follows, provided that, whenever the calculation of the 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 240 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 180 sq. ft. of lot area is required per dwelling unit for buildings greater than 45 ft. in height.

**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
<i>Y = Yes permitted as of right   N = Not allowed (expressly prohibited) See § 14-533(3)(d) for information pertaining to bracketed numbers</i>							
<b>Residential Use Category</b>							
Household Living (as noted below)							
Single-Family	Y	Y	Y	Y	Y	Y	N
Two-Family	N	Y	Y	Y	Y	Y	N
Multi-Family	N	N	Y[1]	Y[2]	Y[3]	Y	N

**(4) Development Standards**

The maximum occupied area, height limit, and maximum floor area ratio are as indicated in Tables 14-533-2, 14-533-3, and 14-533-4. All other development standards are as indicated elsewhere in the Zoning Code.

**(a) Notes for Table 14-533-2**

[1] Maximum occupied area is as indicated in § 14-701 (Dimensional Standards).

[2] Maximum occupied area is as indicated in Chapter 14-400 (Base Zoning Districts).

**Table 14-533-2: Maximum Occupied Area in the /MIN Overlay District**

District Name	RSD-1/2/3, RSA-1/2/3/4/5, RTA-1, RM-1/2 RMX-3 CMX-1/2.5/4/5, CA-1,2 ICMX, I-1/2/3/P	RM-3	RM-4, CMX-2/3	RMX-1	RMX-2	IRMX	SP-INS/ENT/PO-A/PO-P/AIR
<i>See § 14-533(4)(a) (Notes for Table 14-533-2) for information pertaining to bracketed numbers (e.g., "[2]") in table cells.</i>							
<b>Floor Area Ratio</b>							
Max. Occupied Area (% of lot)	[1]	75	Intermediate: 85 Corner: 90	65	85	Intermediate: 75 Corner: 80	[2]

**(b) Notes for Table 14-533-3**

[1] In the IRMX zoning district, the following regulations shall apply:

(a) For any lot frontage facing a street 35 ft. or less in width, the first 8 ft. of lot depth shall have a maximum building height of 38 ft. and the second 8 ft. of lot



depth shall have a maximum building height of 75 ft;

(b) If an industrial use accounts for a floor area equal to at least 50% of the ground floor area, the property may exceed the maximum occupied area set forth in the table or the maximum height set forth in the table, the maximum height shall be 79 ft., subject to compliance with (a) above, and subject to a maximum occupied area as a percentage of the lot of 50% for intermediate lots and 55% for corner lots for those portions of the building above 67 ft. in height.

(c) No height bonuses may be earned in this zoning district, except for those earned pursuant to § 14-702(7) (Mixed-Income Housing), subject to the restrictions of § 14-533(7), below.

[2] Height maximums are as indicated in Table 14-701-4: Dimensional Standards for Industrial Districts.

[3] Height maximums are as indicated in Chapter 14-400 (Base Zoning Districts).

**Table 14-533-3: Maximum Height in the /MIN Overlay District**

District Name	RSD-1/2/3, RSA-1/2/3/4/5, RTA-1, CA- 1/CA-2	RM-1, CMX- 1/2	CMX-2.5	RM-2/3/4, RMX-1/2/3, CMX-3/4/5	IRMX	ICMX, 1- 1/2/3/P	SP-INS/ENT/ PO- A/PO-P/AIR
See § 14-533(4)(b) (Notes for Table 14-533-3) for information pertaining to bracketed numbers (e.g., “[2]”) in table cells.							
		Denotes zoning requirements not applicable.					
<b>Height</b>							
Maximum (ft.)	38	45	62		[1]	[2]	[3]

(c) Notes for Table 14-533-4

[1] The maximum floor area ratio is for the district area, excluding streets

[2] The maximum floor area ratio is subject to the provisions of § 14-701(5) (CMX-4 and CMX-5 Bulk and Massing Controls)

[3] The maximum floor area ratio for lots zoned CMX-5 located within the boundaries of the Center City/University City Floor Area Ratio Map (as shown in § 14-701(3)(a)[2]) is increased to 2,000% of lot area. Such lots shall not be subject to the provisions of § 14-513(5)(a)(.2).

[4] The maximum floor area ratios are as indicated in Table 14-701-4: Dimensional Standards for Industrial Districts.

[5] The maximum floor area ratios are as indicated in Chapter 14-400 (Base Zoning Districts).

**Table 14-533-4: Maximum Floor Area Ratios in /MIN Overlay District**

District Name	RSD-1/2/3, RSA-1/2/3/4/5, RTA-1, RM-1, CMX-1/2/2.5 CA-1/CA-2	RM-2	RM-3	RM-4	RMX-1	RMX-2	RMX-3, CMX-3 (except within /TO D), IRMX	CMX-3 (within / TOD)	CMX-4	CMX-5	ICMX, 1- 1/2/3/P	SP-INS/ENT/ PO -A/PO-P/AIR
See § 14-533(4)(c) (Notes for Table 14-533-4) for information pertaining to bracketed numbers (e.g., "[2]") in table cells.												
Denotes zoning requirements not applicable.												
<b>Floor Area Ratio</b>												
Maximum FAR (% of lot area, except as otherwise provided)		120	225	525	225 [1]	375 [1]	750	800	750 [2]	1,600 [2] [3]	[4]	[5]

(d) Except as stated otherwise in this section § 14-533, bonuses may be earned under the provisions of section § 14-702.

**(5) Motor Vehicle Parking Ratios**

The minimum required parking spaces for household living is as indicated in Table 14-533-5. All other parking and loading standards are as indicated elsewhere in the Zoning Code.

**Table 14-533-5: Minimum Required Parking Spaces in the /MIN**

	RSD-1/2/3 RSA- 1/2/3/4/5 RTA-1 RM-1 CMX-1/2/2.5	RM-2/3/4 RMX-2/3 CMX-3/4/5 IRMX	RMX-1
Household Living	0	2/10 units	2/3 units

**(6) Affordability**

Affordable dwelling and sleeping units required shall be provided under the following standards. For the purposes of this section, a household shall consist of every person who lives or intends to live in the unit, regardless of age, dependency status, or relationship. The imputed household size for determining unit affordability and occupancy requirements of this section shall be equal to 1.5 people per each bedroom in the unit, except for studios, efficiencies, and sleeping units for which the imputed household size is 1 person.

(a) Affordable rental units shall:

(1) Have total monthly costs (including rent and utility costs) that do not exceed thirty percent (30%) of gross monthly income for households earning up to forty percent (40%) of the Area Median Income (AMI), adjusted for household size, as reported by the U.S. Department of Housing and Urban Development (HUD) for the Philadelphia Metropolitan Statistical Area;

(2) Be occupied by households earning up to forty percent (40%) of the Area Median Income (AMI), adjusted by household size, as reported by HUD for the Philadelphia

*Metropolitan Statistical Area at the time of the household's initial occupancy of the unit; and*

*(.3) At no time be occupied by households earning greater than eighty percent (80%) of the Area Median Income (AMI), adjusted by household size, as reported by HUD for the Philadelphia Metropolitan Statistical Area; provided that, in the event the income of a tenant is found by the Department of Planning and Development to exceed the maximum income provided for by this subsection (.3), a rental unit shall nonetheless be deemed in compliance with this subsection (.3), until the first expiration of a lease occurring after the tenant's income first exceeded the maximum permitted by this subsection (.3). In such event, the owner or their property manager may raise rent on the existing household's unit at the owner or their property manager's discretion, taking into account any applicable laws, rules, or policies regarding rent increases, provided that the owner or their property manager must make the next available unit of comparable size available to a new income-qualified household.*

*(b) Affordable owner-occupied units shall:*

*(.1) Have a maximum sale and resale price, during the term of affordability, calculated on the basis of a down payment of no more than five percent (5%) of the purchase price, a fixed rate 30 year mortgage, consistent with the average monthly rate published from time to time by Freddie Mac, and total monthly costs (including mortgage principal and interest, property taxes, property insurance, and condominium or homeowner association fees) that do not exceed thirty percent (30%) of gross monthly income for households earning up to sixty percent (60%) of the AMI, adjusted for household size, as reported by HUD for the Philadelphia Metropolitan Statistical Area;*

*(.2) Be sold to one or more members of a household with household earnings up to sixty percent (60%) of the AMI, adjusted for household size, as reported by HUD for the Philadelphia Metropolitan Statistical Area at the time of sale; and*

*(.3) Be the principal residence of at least one person who owned the unit during the period of affordability.*

*(c) The standards of §14-702(7)(b)(.2) through (.5) shall apply, except that, notwithstanding the provisions of 14-702(7)(b)(.3), off-site development pursuant to subsection (b) is permitted, provided that off-site units meet all conditions of this overlay.*

*(d) Applicants shall be encouraged to partner with community development corporations and other community-based organizations in developing and executing plans for marketing units and evaluating the qualifications of potential occupants.*

*(e) Compliance check, remedies, and regulations of § 14-702(7)(d) through (g) shall apply.*

*(7) Marketing and Equal Opportunity*

*Any development shall be subject to the requirement that no zoning permit shall be issued unless an*

*applicant has met with Registered Community Organizations (“RCOs”) whose boundaries include the applicant’s property to present a Marketing and Occupancy Plan and an Economic Opportunity Plan, in accordance with subsections (a) through (c), below; has subsequently filed the Plans with either a division of the Department of Commerce responsible for monitoring participation by minority, women, and disabled-owned businesses or any other City agency designated by the Mayor; and has subsequently made available a copy of the Plans to the RCOs.*

*(a) A Marketing and Occupancy Plan shall describe how the permit applicant will market and occupy affordable and market-rate units within the development.*

*(b) An Economic Opportunity Plan shall include a description of all efforts to be taken to foster meaningful and representative opportunities for participation by M/W/DSBEs and an appropriately diverse workforce in connection with the project. Such description shall include certification and documentation of any and all actions taken with respect to solicitation and other activities as set forth in subparagraphs (1)(d)(.3)(.a)-(c) of Section 17-1603 of the Code (“Economic Opportunity Plan: Contents”); a statement of past practices to develop diversity at any and all levels of the organization, as described in subsection (1)(f) of 17-1603; and a statement of equity ownership, as described in subsection 17-1603(1)(g)(.2); provided that the requirements of § 17-1600 shall not otherwise apply to this § 14-533.*

*(c) The applicant must meet the applicable requirements of § 14-303(12) (Neighborhood Notice and Meetings), regardless of whether those provisions would otherwise apply. The applicant may fulfill the requirement of meeting with RCOs in this subsection (c) by presenting such Plans at the Neighborhood Meeting required under § 14-303(12).*

*(d) L&I and the Commission are authorized to promulgate such regulations as are necessary and appropriate to implement the provisions of this section.*

*(8) Bonuses available under the provisions of § 14-702(7) (Mixed Income Housing) may be earned only where a Residential Housing Project meets the requirements of § 14-702(7)(b) in addition to, and not including, any dwelling units, sleeping units, and payments in-lieu provided pursuant to the requirements of this section § 14-533.*

*(9) Reporting*

*All affordable units produced pursuant to the requirements of this overlay shall be included in the annual report published pursuant to §14-702(7)(f) (Reporting).*

\* \* \*

CHAPTER 14-700. DEVELOPMENT STANDARDS.

\* \* \*

§ 14-702. Floor Area, Height, and Dwelling Unit Density Bonuses.

\* \* \*

(7) Mixed Income Housing.

(a) Affordability.

\* \* \*

(.1) Moderate Income.

(.a) Moderate Income rental units shall:

\* \* \*

(iii) At no time be occupied by households earning greater than one hundred twenty percent (120%) of the Area Median Income (AMI), adjusted by household size, as reported by HUD for the Philadelphia Metropolitan Statistical Area; provided that, in the event the income of a tenant is found by the Department of Planning and Development to exceed the maximum income provided for by this subsection (iii), a [tenant] *rental unit* shall nonetheless be deemed in compliance with this subsection (iii) until the first expiration of a lease occurring after the tenant's income first exceeded the maximum permitted by this subsection (iii). [The Department of Planning and Development may waive this requirement upon a showing of exceptional circumstances.] *In such event, the owner or their property manager may raise rent on the existing household's unit at the owner or their property manager's discretion, taking into account any applicable laws, rules, or policies regarding rent increases, provided that the owner or their property manager must make the next available unit of comparable size available to a new income-qualified household.*

\* \* \*

(.2) Low Income

(.a) Low Income Rental units shall:

\* \* \*

(iii) At no time be occupied by households earning greater than one hundred percent (100%) of the Area Median Income (AMI), adjusted by household size, as reported by HUD for the Philadelphia Metropolitan Statistical Area; provided that, in the event the income of a tenant is found by the Department of Planning and Development to first exceed the maximum income provided for by this subsection (iii), a [tenant] *rental unit* shall nonetheless be deemed in compliance with this subsection (iii) until the first expiration of a lease occurring after the tenant's income exceeded the maximum permitted by this subsection (iii). [The

Department of Planning and Development may waive this requirement upon a showing of exceptional circumstances.] *In such event, the owner or their property manager may raise rent on the existing household's unit at the owner or their property manager's discretion, taking into account any applicable laws, rules, or policies regarding rent increases, provided that the owner or their property manager must make the next available unit of comparable size available to a new income-qualified household.*

\* \* \*

*(i) Applicability of Mixed Income Neighborhoods Overlay District (/MIN).*

*The terms and conditions of this section § 14-702(7) (Mixed Income Housing) shall not apply to Residential Housing Projects within the /MIN, Mixed Income Neighborhoods Overlay District, as defined in §14-533(2), except as otherwise provided by section §14-533 (Mixed Income Neighborhoods Overlay District).*

\* \* \*

SECTION 2. Effective date. This Ordinance shall take effect six months following its enactment. Construction pursuant to a valid zoning permit application that was filed prior to the effective date shall not be counted for purposes of determining whether a project is a Residential Housing Project within the meaning of §14-533(2) of The Philadelphia Code, as added by Section 1 of this Ordinance.

SECTION 3. Purpose and Intent. The intent of the /MIN, Mixed Income Neighborhoods Overlay, is to promote the public health and welfare by increasing the supply of affordable housing for a range of family sizes and promoting economic integration within the Overlay boundaries. Due to the unique circumstances involved with development within these areas, the existing land use regulatory mechanisms do not serve to carry out the purposes and intent of Section 14-100 and all provisions of this Zoning Code. Specifically, the intent of the Mixed Income Neighborhoods Overlay is to encourage quality, economically balanced development by:

- Leveraging development activity by connecting the production of affordable housing with the current market production of housing units;
- Encouraging diverse and balanced housing available for households of all income levels and ensuring that when developing the limited supply of developable land, housing opportunities for persons of a variety of income levels are provided; and
- Because land appropriate for residential development within the Overlay is limited, it is essential that a reasonable proportion of such land be developed into housing units affordable to low and moderate-income people.