

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2021**

No. 78

Introduced by the Public Advocate (Mr. Williams) and Council Members Salamanca, Reynoso, Chin, Levine, Levin, Lander, Menchaca, Van Bramer, Kallos, Rosenthal, Louis, Ampry-Samuel, Adams, Gibson, Miller, Barron, Rose, Cornegy, Moya, Koo, Ayala, Riley, Cumbo, D. Diaz and Rivera.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to requiring a citywide equitable development data tool and racial equity reports on housing and opportunity

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 25 of the administrative code of the city of New York is amended by adding new sections 25-117 and 25-118 to read as follows:

§ 25-117 Equitable development data tool. a. Definitions. For the purposes of this section, the following terms have the following meanings:

Area median income. The term “area median income” means the income limits as defined annually by the United States department of housing and urban development (HUD) for the New York, NY HUD Metro FMA Area (HMFA).

Department. The term “department” means the department of housing preservation and development and the department of city planning.

Extremely low income (ELI) household. The terms “extremely low income household” and “ELI household” mean a household that has an income of no more than 30 percent of the area median income, adjusted for the size of the household.

Extremely low income affordable housing (ELI-AH) unit. The terms "extremely low income affordable housing unit" and "ELI-AH unit" mean a housing unit that is required to be affordable to an extremely low income household pursuant to a regulatory agreement, restrictive declaration or other similar instrument with a federal, state or local governmental entity or instrumentality.

Higher income (HI) household. The terms "higher income household" and "HI household" mean a household that has an income of more than 165 percent of the area median income, adjusted for the size of the household.

Low income (LI) household. The terms "low income household" and "LI household" mean a household that has an income of more than 50 percent but no more than 80 percent of the area median income, adjusted for the size of the household.

Low income affordable housing (LI-AH) unit. The terms "low income affordable housing unit" and "LI-AH unit" mean a housing unit that is required to be affordable to a low income household pursuant to a regulatory agreement, restrictive declaration or other similar instrument with a federal, state or local governmental entity or instrumentality.

Middle income (MIDI) household. The terms "middle income household" and "MIDI household" mean a household that has an income of more than 120 percent but no more than 165 percent of the area median income, adjusted for the size of the household.

Middle income affordable housing (MIDI-AH) unit. The terms "middle income affordable housing unit" and "MIDI-AH unit" mean a housing unit that is required to be affordable to a middle income household pursuant to a regulatory agreement, restrictive declaration or other similar instrument with a federal, state or local governmental entity or instrumentality.

Moderate income (MI) household. The terms "moderate income household" and "MI household" mean a household that has an income of more than 80 percent but no more than 120 percent of the area median income, adjusted for the size of the household.

Moderate income affordable housing (MI-AH) unit. The terms "moderate income affordable housing unit" and "MI-AH unit" mean a housing unit that is required to be affordable to a moderate income household pursuant to a regulatory agreement, restrictive declaration or other similar instrument with a federal, state or local governmental entity or instrumentality.

Rent burden. The term "rent burden" means household housing costs that exceed 30 percent of the household's income.

Very low income (VLI) household. The terms "very low income household" and "VLI household" mean a household that has an income of more than 30 percent but no more than 50 percent of the area median income, adjusted for the size of the household.

Very low income affordable housing (VLI-AH) unit. The terms "very low income affordable housing unit" and "VLI-AH unit" mean a housing unit that is required to be affordable to a very low income household pursuant to a regulatory agreement, restrictive declaration or other similar instrument with a federal, state or local governmental entity or instrumentality.

b. Equitable development data tool. The department, with the cooperation of any other relevant agencies, shall develop and publish an equitable development data tool. The tool shall be available online for public use and any other use required by law. The tool shall be accessible through the city's website, be updated by the department at least annually, and present the categories, data and indicators set forth in subdivision c of this section at the following levels of

geography: (i) a neighborhood level to be determined by the department, where statistically reliable data is available, (ii) public use microdata area or community district, where statistically reliable data is available, (iii) boroughwide and (iv) citywide. The tool shall be capable of generating reports of such data and indicators for any such level of geography. The department may include additional levels of geography, including census tracts, if statistically reliable data is available.

c. Categories, data and indicators. The equitable development data tool shall include, but need not be limited to, the following categories: (i) demographic conditions, (ii) household economic security, (iii) neighborhood quality of life and access to opportunity, (iv) housing security, affordability and quality, (v) housing production and (vi) a displacement risk index. Where available, such data shall be disaggregated by race and Hispanic origin, and include data for such categories for the prior two decades to describe recent trends over time. The department, with the cooperation of any other relevant agencies, may identify data and indicators for each category, provided that such data and indicators shall include, to the extent available, the following:

1. Demographic conditions, including but not limited to race and Hispanic origin, limited English speaking households, foreign born population and age;

2. Household economic security, including but not limited to median household income, distribution of households by income levels corresponding to ELI, VLI, LI, MI, MIDI, and HI households, labor force participation, employment by occupation or industry sector, average wages by occupation or industry sector, and educational attainment;

3. *Neighborhood quality of life and access to opportunity, including but not limited to health outcomes, access to open space, indicators of public safety, indicators of school quality, indicators of access to transit and employment opportunities;*

4. *Housing security, affordability and quality, including but not limited to median rent, median home value, housing tenure, share of housing units that are rent-stabilized, share of housing units that are income-restricted, share of households that are rent-burdened, share of housing units affordable to ELI, VLI, LI, MI, MIDI and HI households, residential eviction cases filed in housing court and residential evictions executed by city marshals pursuant to a warrant issued in accordance with section 749 of the real property actions and proceedings law, share of housing units with three or more maintenance deficiencies, share of housing units that are overcrowded, affordable housing lottery applicants and awardees as described in the most recent report required by section 26-2602 and number of individuals and families in the shelter system operated by the department of homeless services or a provider under contract or similar agreement with the department of homeless services by community district based on last known address of such individuals or families, where known.*

5. *Housing production, including but not limited to total additions and subtractions to housing units; ELI-AH, VLI-AH, LI-AH, MI-AH and MIDI-AH unit production; ELI-AH, VLI-AH, LI-AH, MI-AH and MIDI-AH unit preservation; and portion of area that is within historic districts; and*

6. *A displacement risk index comprised of indicators of population vulnerability, housing conditions and neighborhood change, including but not limited to race and Hispanic origin, income, English language proficiency, share of housing units that are renter-occupied, share of housing units that are rent-stabilized, share of housing units that are income-restricted, share of*

households experiencing rent burden, trends in housing prices and rents, and share of housing units with three or more maintenance deficiencies.

d. Availability. The equitable development data tool shall be available for public use by April 1, 2022, provided that the department shall release a draft equitable development data tool before such date and shall hold a public hearing regarding such draft tool not fewer than 60 days after such release.

e. Updates of methodologies and indicators. The department, with the cooperation of any other relevant agencies, shall update the methodologies and indicators comprising the equitable development data tool as new data sources and analytical tools are developed. The website where the tool is available to the public shall include the sources for all data used in the tool, information about limitations or statistical reliability of such data, information about the methodology used to select and weigh the indicators included in the displacement risk index and any necessary explanation about such data that is unavailable or unreliable at any level of geography described in subdivision b of this section. Whenever the department updates such a methodology or indicators the department shall post on such website a description of the update and the reasons for the update.

§ 25-118 Racial equity report on housing and opportunity. a. Definitions. For the purposes of this section, the following terms have the following meanings:

Area median income. The term “area median income” has the meaning given to that term in section 25-117.

Community profile. The term “community profile” means data for a local study area drawn from the equitable development data tool required by section 25-117. Such community profile

shall include all categories, data and indicators available from such equitable development data tool for a local study area that best approximates a half-mile radius of the project area based on aggregation of public use microdata areas or community districts or a neighborhood level of geography to be determined by the department.

Department. The term “department” means an agency or agencies designated by the mayor to administer this section.

Extremely low income (ELI) household. The terms "extremely low income household" and “ELI household” have the meaning given to those terms in section 25-117.

Extremely low income affordable housing (ELI-AH) unit. The terms "extremely low income affordable housing unit" and “ELI-AH unit” have the meaning given to those terms in section 25-117.

Floor area. The term “floor area” has the meaning given to that term in section 12-10 of the zoning resolution.

Higher income (HI) household. The terms “higher income household” and “HI household” have the meaning given to those terms in section 25-117.

Housing cost burden. The term “housing cost burden” means household housing costs that exceed 30 percent of the household’s income.

Low income (LI) household. The terms "low income household" and “LI household” have the meaning given to those terms in section 25-117.

Low income affordable housing (LI-AH) unit. The terms "low income affordable housing unit" and “LI-AH unit” have the meaning given to those terms in section 25-117.

Manufacturing. The term “manufacturing” has the meaning given to that term in section 12-10 of the zoning resolution.

Manufacturing district. The term “manufacturing district” has the meaning giving to that term in section 12-10 of the zoning resolution.

Middle income (MIDI) household. The terms "middle income household" and “MIDI household” have the meaning given to those terms in section 25-117.

Middle income affordable housing (MIDI-AH) unit. The terms "middle income affordable housing unit" and “MIDI-AH unit” have the meaning given to those terms in section 25-117.

Moderate income (MI) household. The terms "moderate income household" and “MI household” have the meaning given to those terms in section 25-117.

Moderate income affordable housing (MI-AH) unit. The terms "moderate income affordable housing unit" and “MI-AH unit” have the meaning given to those terms in section 25-117.

Preserved. The term "preserved" means received physical rehabilitation or financial operating assistance for existing buildings, or both, in exchange for affordability for existing and future tenants.

Residential. The term “residential” has the meaning giving to that term in section 12-10 of the zoning resolution.

Very low income (VLI) household. The terms "very low income household" and “VLI household” have the meaning given to those terms in section 25-117.

Very low income affordable housing (VLI-AH) unit. The terms "very low income affordable housing unit" and “VLI-AH unit” have the meaning given to those terms in section 25-117.

b. Racial equity report on housing and opportunity. For an application submitted on or after June 1, 2022, an applicant shall file, in accordance with this subdivision, a racial equity report described in this section. Such report shall be required for all applications submitted pursuant to section 201 of the charter for a citywide amendment to the zoning resolution affecting 5 or more community districts, applications submitted for designation of historic districts pursuant to section 3020 of the charter affecting at least 4 city blocks, and for applications submitted pursuant to subdivision a of section 197-c of the charter that seek approval for (i) an acquisition or disposition of land to facilitate a non-residential project containing at least 50,000 square feet of floor area, (ii) an acquisition or disposition of land to facilitate a residential project, other than a residential project consisting of a building to be preserved, provided that such equity report shall only be required related to a building in such project containing at least 50,000 square feet of floor area, (iii) an increase in permitted residential floor area of at least 50,000 square feet, (iv) an increase in permitted non-residential floor area by at least 200,000 square feet or (v) a decrease in permitted floor area or number of housing units on at least four contiguous city blocks. However, in addition to the foregoing, any application seeking approval of change to the permitted floor area for any use in a manufacturing district or change to the use regulations of a manufacturing district, whether by change to the zoning map pursuant to section 197-c of the charter, change to the text of the zoning resolution pursuant to section 201 of the charter, or by special permit pursuant to section 197-c of the charter, related to a building in such project containing at least 100,000 square feet of floor area, shall be subject to the requirements of this section. Within nine days of such application being certified or referred by the department of city planning or, in the case of an application for designation of historic districts, within 15 days of such application being

designated by the landmarks preservation commission, the department shall provide copies of the racial equity report to the affected community board and borough president, as defined in section 196 of the charter, the affected council member, the public advocate and the speaker of the council, and shall also promptly post such report on its website. The racial equity report need not be updated if a project changes after an application has been certified or referred by the department of city planning or designated by the landmarks preservation commission. The department, with the cooperation of other relevant agencies, shall establish minimum standards for the preparation of the racial equity report and may establish by rule guidance for applicants preparing the report.

c. Contents of racial equity report. A racial equity report filed pursuant to this section shall include:

1. For all projects, a first section comprised of an executive summary written in plain language.

2. For projects with residential floor area other than a designation of a historic district, a second section listing the number of ELI-AH, VLI-AH, LI-AH, MI-AH and MIDI-AH units and units that are not income-restricted that are expected to be created and their expected rents or prices, as well as the household incomes needed to afford such units without incurring housing cost burden.

3. For projects with non-residential floor area when specific non-residential uses are being proposed, other than the designation of a historic district, a second section listing the projected number of jobs in each sector or occupation, median wage levels of such jobs based on the most recently available quarterly census data on employment and wages or other publicly available

data, and the racial and ethnic composition and educational attainment of the workforce for the projected sectors of such jobs.

4. For all projects other than applications submitted pursuant to section 201 of the charter, the community profile, including a summary of the data on existing conditions and of trends in the prior two decades, and comparison of the community profile for the local study area with the borough and citywide data obtained from the equitable development data tool required by section 25-117, for all categories, data and indicators provided therein, and disaggregated by race and Hispanic origin. For projects with residential floor area, other than a designation of a historic district, such community profile shall first include a summary of the distribution of households by income levels corresponding to ELI, VLI, LI, MI, MIDI and HI households disaggregated by race and Hispanic origin, and of the available data on affordable housing lottery applicants and awardees as described in the most recent report required by section 26-2602.

5. For all projects, a narrative statement by the applicant of how the proposed project relates to the goals and strategies to affirmatively further fair housing and promote equitable access to opportunity identified within the city's fair housing plan that is indicated in the department's rules.

6. For all projects, an estimate of the number of construction jobs to be created by the project.

d. Failure to provide racial equity report. 1. The department shall identify on its website any application for which an applicant does not submit a racial equity report as required by this section. The department shall promptly notify any person required to receive such report pursuant to subdivision b of this section that such report was not timely filed, and if such report is subsequently filed, shall notify any such person of such filings.

2. This section shall not be construed to create a private right of action to enforce its provisions.

§ 3. This local law takes effect immediately.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on June 17, 2021 and returned unsigned by the Mayor on July 19, 2021.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 78 of 2021, Council Int. No. 1572-B of 2019 to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council, presented to the Mayor and neither approved nor disapproved within thirty days thereafter.

STEPHEN LOUIS, Acting Corporation Counsel.