

CITY OF NEW ORLEANS

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ZONING INTERPRETATION MEMORANDUM

Memorandum Z-25-02

DATE: **March 11, 2025**

FROM: **Tammie Jackson, Director**

BY: Kelly Butler, Inclusionary Zoning Administrator *KB*

RE: Request for clarification of the application of the Mandatory Inclusionary Zoning (MIZ) requirements under Article 28 of the Comprehensive Zoning Ordinance.

The Department of Safety and Permits has received a request to clarify the application of the Mandatory Inclusionary Zoning requirements of Article 28 of the Comprehensive Zoning Ordinance (CZO), specifically Section 28.1, Applicability. The purpose of this interpretation memo is to clarify the regulations in CZO 28.1 for “applicability” requirements in the Mandatory Inclusionary Zoning Sub-Districts.

The request received by the Zoning Division is for an interpretation to confirm that Article 28 only applies to newly established residential units in the MIZ Sub-districts and specifically:

1. *For an existing mixed-use project containing both residential and hotel units, where hotel units are being converted to residential use, the affordable unit requirement (Section 28.3.1) applies only to the newly converted residential units, while the pre-existing residential units would not be subject to the requirement.*
2. *For an existing residential development where an addition is proposed that is otherwise permitted by the CZO, the affordable unit requirements apply only to the new units in the addition and the existing residential units are not subject to the requirement.*

The Mandatory Inclusionary Zoning Sub-Districts are intended to promote the public health, safety and welfare throughout the City by providing for a full range of housing choices for households of all incomes. The Sub-districts require the inclusion of Affordable Housing Units as a portion of new residential development. These developments are defined in the CZO as Affordable Housing Developments.

Article 28, Section 28.1, Applicability, states the Mandatory Inclusionary Zoning Sub-districts apply to “All developments, including new construction, substantial improvement, expansion, mixed-use projects, or a change of use that contain 10 or more multi-family residential dwelling units (multi-family dwellings, established multi-family dwellings, dwellings above the ground floor).” Section 28.1 does not clearly contemplate whether the applicability of the MIZ regulations



would apply to existing dwellings in developments which have existed prior to the adoption of the MIZ regulations¹, or if the requirements only apply to only the newly added or converted units.

The Department of Safety and Permits determines that the intent of the MIZ regulations is to require affordable housing unit set asides in those developments that provide newly created dwelling units, whether through new construction, change of use, expansion, or substantial improvement since the adoption of the MIZ regulations in 2019. Similarly to how existing multi-family or mixed-use developments are not required to retroactively provide affordable housing set asides neither are existing developments that already contain residential dwellings. Therefore, if a development contains existing dwelling units, the regulations in CZO 28.3.1 Affordable Housing Rental Development Use Standards and Guidelines would only apply to the newly added or converted dwelling units and not to the existing residential dwellings established prior to the adoption of the MIZ regulations of Article 28 in the CZO.

¹ Ordinance No. 28,178, 9-5-19