

Affordable Neighborhoods for New Yorkers:

485 - X

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# 485-x “ANNY” Affordable Neighborhoods for New Yorkers Tax Incentive

On April 20, 2024, New York State introduced the "485-x" program as part of the annual Budget Bill, aimed at promoting affordable housing development in New York City.





This new tax incentive program replaces the previous 421-a program, which expired on June 15, 2022. While the 485-x program shares many similarities with its predecessor, it introduces more stringent income allowances and incorporates construction wage requirements that vary based on the project size.

Additionally, the affordability criteria with the 485-x program is determined by a weighted average of 60% through 80% AMI, depending on the scale of the project. (See summary below)



Options	Project type	Location & Zone	Affordability Requirement	Benefit Duration	Tax Benefit Structure	Construction Wage
OPTION A	150+ Units in Zone A: Very Large Rental Project	150+ Units In Zone A**	25% @ Weighted average of 60% AMI*	40 Years	Construction Period: <ul style="list-style-type: none"><li>• 5 years</li><li>• No base AV</li></ul> Years 1-40: <ul style="list-style-type: none"><li>• 100% exemption</li><li>• Base AV</li></ul>	Lesser of \$72.45/hr increasing by 2.5% annually (commencing 7/1/25) or 65% of prevailing wage
	150+ Units in Zone B: Very Large Rental Project	150+ Units In Zone B***	25% @ Weighted average of 60% AMI*	40 Years	Construction Period: <ul style="list-style-type: none"><li>• 3 years</li><li>• No base AV</li></ul> Years 1-40: <ul style="list-style-type: none"><li>• 100% exemption</li><li>• Base AV</li></ul>	Lesser of \$63.00/hr increasing by 2.5% annually (commencing 7/1/25) or 60% of prevailing wage
	100+ Units: Large project	100+ Units: (General)	25% @ Weighted average of 80% AMI*	35 Years	Construction Period: <ul style="list-style-type: none"><li>• 3 years</li><li>• Base AV</li></ul> Years 1-35: <ul style="list-style-type: none"><li>• 100% exemption</li><li>• Base AV</li></ul>	\$40.00/hr increasing by 2.5% annually (commencing 7/1/25)
OPTION B	6-99 Units: Modest Rental Project	GENERAL	20% @ Weighted average of 80% AMI*	35 Years	Construction Period: <ul style="list-style-type: none"><li>• 3 years</li><li>• Base AV</li></ul> Years 1-25: <ul style="list-style-type: none"><li>• 100% exemption</li><li>• Base AV</li></ul> Years 26-35: <ul style="list-style-type: none"><li>• Exemption equal to % of affordable</li><li>• Base AV</li></ul>	Not Required
OPTION C	6-10 units: Small Rental Project <small>*excluding projects that can build more than 12,500 sqft</small>	GENERAL	50% of the units to be rent stabilized	10 Years	Construction Period: <ul style="list-style-type: none"><li>• 3 years</li><li>• Base AV</li></ul> Years 1-10: <ul style="list-style-type: none"><li>• 100% exemption</li><li>• Base AV</li></ul>	Not Required
OPTION D	Homeownership Project	GENERAL	Average AV post completion can not exceed \$89/sqft	20 Years	Construction Period: <ul style="list-style-type: none"><li>• 3 years</li><li>• Base AV</li></ul> Years 1-14: <ul style="list-style-type: none"><li>• 100% exemption</li><li>• Base AV</li></ul> Years 15-20: <ul style="list-style-type: none"><li>• 25% Exemption</li><li>• Base AV</li></ul>	Based on project size: refer to options A, B, and C above

**\*Income Tiers:**

- The affordable requirements are based on a weighted average
- Project can not include more than 3 income tiers
- Project may not contain affordable housing greater than 100% AMI

**\*\*Zone A:**

- Manhattan - south of 96 Street
- Greenpoint
- Williamsburg
- South Williamsburg
- East Williamsburg
- Long Island City

**\*\*\*Zone B:**

- Brooklyn Heights
- Downtown Brooklyn
- Fort Greene
- Clinton Hill
- Carroll Gardens
- Park Slope
- Prospect Heights
- Queens bridge



METROPOLITAN  
Realty Exemptions

# Project Eligibility

The Commencement Date for eligible projects should be on or after June 16, 2022, and on or before June 15, 2034. Projects must be completed by June 15, 2038.

Projects that commenced construction prior to June 15, 2022, cannot opt into the 485x program, unlike the former 421a program that allowed later opt-ins.

# Exemption Value

The exemption value will be **the increase above the base AV** of a tax year prior to the commencement of construction, similar to the 421a program.

# Preliminary Filing with HPD

Eligible sites must file a preliminary notification with HPD. For projects with a Commencement Date after June 15, 2022, and before April 19, 2024, the notification must be filed within six months after April 19, 2024, or six months after the form is made available, whichever is later.

For projects commencing after April 19, 2024, the notification must be filed within six months after the project's commencement date or six months after the form is available, whichever is later.

## Affordable Unit Mix

Affordable units must either pass the proportionality test or consist of at least 50% two-bedroom units or larger, with no more than 25% studios, consistent with the requirements under the 42 la program.

# Market Units

Market units are not subject to rent stabilization, unlike the 42 la program, where if a market unit was below the Market Rate Threshold (\$3,040.09 as of 2024) during the initial lease-up, it was subject to stabilization.

## M/WBE Requirement

An eligible site is required to exhibit all reasonable efforts throughout the design and construction phases to designate at least 25% of the total applicable costs to Minority and Women-Owned Business Enterprises (MWBE). This was not a requirement with the 42 la program.

## Restriction Period

Affordable units and stabilized units (applicable for Small Rental Projects) will be permanently subject to rent stabilization, unlike the 42 la program where the restriction lasted only for the duration of the benefit.

# Condominium Requirements:

Condominiums outside Manhattan are eligible if the average initial assessed value post-completion is at or below \$89 per square foot, and home buyers commit to occupying these units as their primary residence for five years. This provision allows for larger units in certain areas to be eligible, a departure from the 421a program which based eligibility on an average AV of \$65k for all units post-completion.

# Prevailing Wages for Building Service Employees:

Buildings with more than 30 units must pay service employees the prevailing wage.

1. Those regularly scheduled to work fewer than eight hours per week at the eligible site can be exempt.
2. If 100% of the building is affordable and at least fifty percent of the units are restricted to no more than 90% AMI can be exempt .

This contrasts with the 421a program where 100% affordable projects were limited to 50% at 125 AMI.



# Construction Wage Requirements

Construction wages are mandatory for projects with more than 100 units. This differs from the 42 la program, which only required construction wages for projects in certain areas with more than 300 units.

## For Large Projects (100+ Units) :

- Large projects must comply with labor law sections 220 and 220 B. They are required to pay a minimum hourly wage of \$40, with an annual increase of 2.5% starting on July 1, 2025 .

## For Very Large Projects (150+ Units):

- Zone A: Workers must be paid the lesser of \$72.45 per hour (increasing by 2.5% annually starting July 1, 2025 ) or 65% of the prevailing wage .
- Zone B: Workers must be paid the lesser of \$63 per hour (increasing by 2.5% annually starting July 1, 2025) or 60% of the prevailing wage .

# Notification Requirement for Construction Wage

Applicants must notify both the NYC Comptroller's Office and HPD 90 days before construction begins if the project is subject to construction wage requirements. Failure to notify can result in penalties up to \$5,000 per day and forfeiture of the exemption if construction starts before the required notice.

## Record Maintenance

The owner is required to maintain payroll records according to Labor Law for six years. The General Contractor (GC) can manage payroll records; however, both the GC and the owner will be held liable.



# Filing Fee

- \$3,000 per dwelling unit for sites with more than five but fewer than eleven residential rental units.
- \$4,000 per dwelling unit for sites with more than eleven but fewer than one hundred residential units.
- \$4,000 per dwelling unit for any homeownership project, regardless of size.
- \$5,000 per dwelling unit for sites with one hundred or more residential units.

This differs from the 421a program, which had a flat fee of \$3,000 for all projects.

# Replacement Ratio Requirement



This applies to any eligible site where dwelling units were demolished, removed, or reconfigured within three years prior to the Commencement Date. The owner is required to replace these units with an equivalent number of affordable units to maintain the pre-existing housing capacity, consistent with the 421a program.

## Commercial Space

The program allows commercial, community facility, and accessory use space up to 12% of the project's aggregate floor area to be exempt along with the residential portion, similar to the 421a program.

# No Isolation

All rental dwelling units in an eligible multiple dwelling shall share the same common entrances and common areas as market rate units in such eligible multiple dwelling and shall not be isolated to a specific floor or area of an eligible multiple dwelling, consistent with the 421a program.

## Penalties

When violations of affordability and rent stabilization occur on or after the expiration of benefits, fines will be levied against the owner at the time of the violation, even if the property has changed hands.

Unpaid fines may lead to a lien and other legal actions.