

Community Board 8 Inclusionary Air Rights



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Community Board 8 Inclusionary Air Rights

Viability:

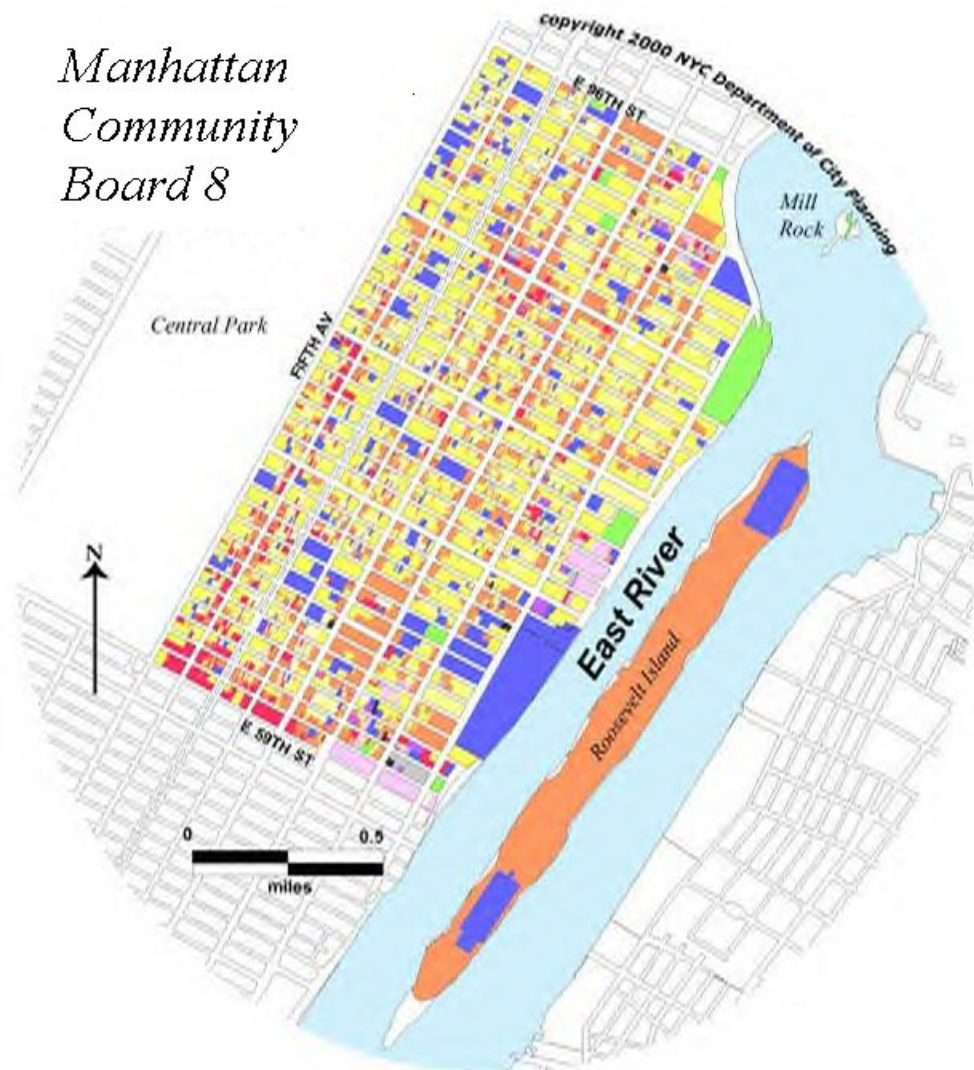
Within R10 (or equivalent) Zoning, in Community Board 6 plus what is outlined in the attached map

Applicable Zoning:

C1-9, C2-8, C4-6, C4-7, C5, C6-4 through C6-9

Offering Description:

Consisting of **73,213 square feet of inclusionary air rights**, which may be applied within Community Board 8 or within one half mile radius of the subject site, **1402 York Avenue (Block: 1486, Lot: 4)**, so long as they are transferred to a property within an R10 (or equivalent) zoning district. Properties in manufacturing districts are not eligible.





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INCLUSIONARY AIR RIGHTS

In order to retain and promote the blend of low and upper income housing within neighborhoods which are experiencing a shift from mixed to upper income housing, the Inclusionary Housing Program (Sections 23-90 to 23-95 of the New York City Zoning Resolution) (the "IH Program") confers on developers of low income housing (a "LIH Developer") transferable development rights (called "Inclusionary Air Rights") which may be used as a financing tool for the construction or rehabilitation of such lower income housing.

The IH Program, which is administered through the New York City Department of Housing Preservation and Development ("HPD"), grants the right to construct up to 4 square feet of additional space for each square foot of qualified lower income housing constructed. As a result, the floor area ratio ("FAR") of the residential property to which the Inclusionary Air Rights are transferred is elevated (to a maximum of 12.0, for an increase of 20% in buildable space).

In contrast to 421-a Negotiable Certificates, which may benefit any qualified new residential construction in New York City, transferability of Inclusionary Air Rights is geographically limited to R-10 properties located either within the same community district as, or (if not within in the same community district) within a half-mile radius of, such lower income housing. The IH Program works as follows:

The LIH Developer must file a "Lower Income Housing Plan" with HPD. The Zoning Resolution provides that, in order to qualify as lower income housing, each unit must be occupied by a "lower income household", which is defined as a family having an income equal to or less than the income limits for New York City residents established by the U.S. Department of Housing and Urban Development pursuant to §3(b)(2) of the United States Housing Act of 1937, as amended, for lower income families receiving housing assistance payments. At initial occupancy of a lower income housing unit, the annual "fair rent" must be equal to not more than either (i) the public assistance shelter allowance (if the family receives public assistance), or (ii) 30% of the annual income of the tenant of such lower income housing (provided that such tenant is a lower income household at the time of such initial occupancy).

HPD and the LIH Developer then enter into a "Written Agreement" which regulates the use and management of the lower income housing - thereby generating the LIH Developer's right to receive Inclusionary Air Rights. The lower income housing is to be managed by a responsible "administering agent", which must be approved by HPD (and is usually a not-for-profit organization). Before HPD will enter into the Written Agreement, though, a number of requirements must be first met, including a satisfactory investigation by HPD of the principals of the LIH Developer. The timing of this process will vary, depending on the prior level of experience of the LIH Developer with HPD, but can be expected to take several months.

Before the issuance of the Inclusionary Air Rights, a restrictive declaration running with the land is recorded against the zoning lot which comprises the lower income housing, setting forth the obligation of the owner and all successors in interest to provide lower income housing in accordance with the Lower Income Housing Plan. A copy of the Lower Income Housing Plan is incorporated in and attached as an exhibit to the restrictive declaration. Once the LIH Developer finds a buyer for the Inclusionary Air Rights, the LIH Developer notifies HPD that the Inclusionary Air Rights will be transferred to the "compensated development" (i.e., an R-10 property located either within the same community district as, or within a half-mile radius of, such lower income housing).



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INCLUSIONARY AIR RIGHTS (continued)

The zoning lot which comprises the lower income housing cannot be encumbered by a mortgage after the Inclusionary Air Rights are issued.

In order for the New York City Building Department to approve construction plans for the compensated development which reflect additional floor area attributable to the Inclusionary Air Rights, HPD must present a letter (the "HPD-DOB Letter") certifying that: (a) a Written Agreement has been entered into by HPD and the LIH Developer, and (b) a portion (or all, as the case may be) of the Inclusionary Air Rights to be produced pursuant to the Written Agreement has been allocated to the compensated development.

Upon completion of the lower income housing to the satisfaction of HPD, HPD issues a "certificate of completion of affordable units" and a "certificate of eligibility", which sets forth total amount of Inclusionary Air Rights which will be issued that are attributable to such lower income housing.

New York City's zoning regulates permitted uses of the property; the size of the building allowed in relation to the size of the lot ("floor to area ratio"); required open space on the lot, the number of dwelling units permitted; the distance between the building and the street; the distance between the building and the lot line; and the amount of parking required. The commercial district structure has eight different classifications, which affect all commercial activity, from local shops to large office centers.

The offering is transferable to an R10 (or equivalent) district, which allows residential development. The maximum residential FAR for this district is 10.0. However, with the transferred air rights, a property with an FAR of 10.0 could be augmented to a maximum of 12.0.

Zoning Description

R10

R10 districts are mapped along portions of Fifth and Park Avenues in Manhattan; however, most buildings that conform to the R10 building envelope are found in commercial districts with a residential district equivalent of R10, the highest residential density in the city. Much of Midtown, Lower Manhattan and major avenues in Manhattan, as well as parts of Downtown Brooklyn and Long Island City, are mapped at R10 density. The floor area ratio (FAR) is 10.0. Developers may choose between Quality Housing regulations or tower regulations; height factor regulations are not applicable.

Residential and mixed buildings can receive a residential floor area bonus for the creation or preservation of affordable housing, pursuant to the Inclusionary Housing Program.

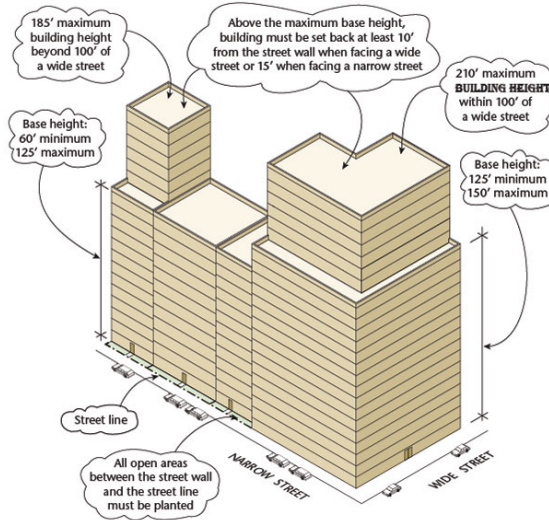
Off-street parking is not required in the Manhattan Core, Long Island City or portions of Downtown Brooklyn. Elsewhere, parking is required for at least 40% of dwelling units.

Quality Housing Regulations

Quality Housing contextual regulations (the same as for R10A Districts) produce large, high lot coverage buildings set at or near the street line which maintain the traditional high street wall found along major streets and avenues. On wide streets, the base height before setback is 125 to 150 feet with a maximum building height of 210 feet. On narrow streets, in order to ensure more light and air at street level, the

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base height before setback is 60 to 125 feet. The maximum building height is 185 feet. Interior amenities for residents are mandatory pursuant to the Quality Housing Program.



R10 General Residence District: Quality Housing Regulations



Upper East Side, Manhattan

R10 General Residence District: Quality Housing Regulations							
R10'		FAR (max)	Lot coverage (max)		Base Height (min/max)	Building Height (max)	Required Parking ³ (min)
			Corner Lot	Interior/Through Lot			
			Wide Street	10.0 ²			
Narrow Street				60 ft-125 ft	185 ft		

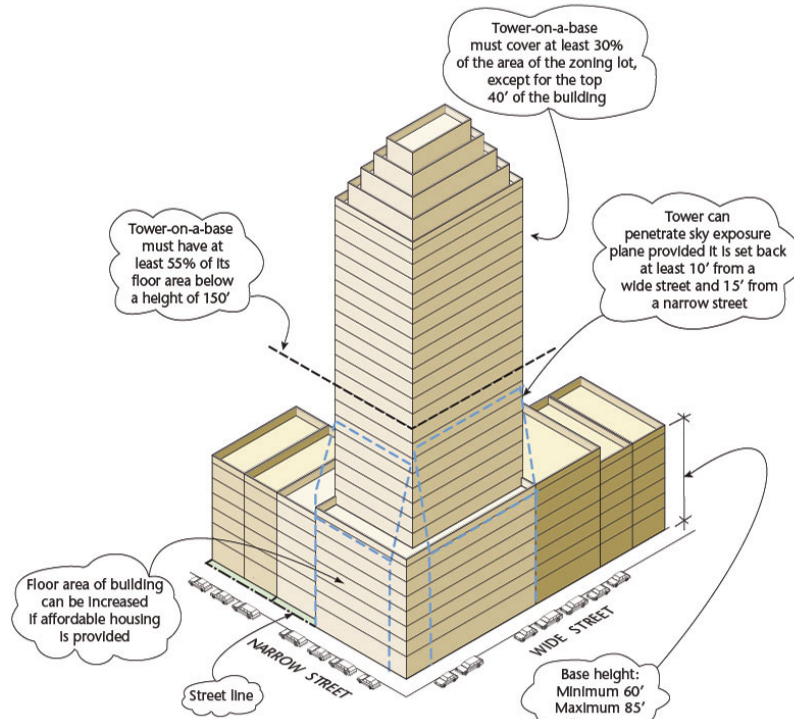
¹ Commercial districts with an R10 residential district equivalent are C1-9, C2-8, C4-6, C4-7, C5, C6-4, C6-5, C6-6, C6-7, C6-8 and C6-9
² Up to 12.0 FAR with Inclusionary Housing Program bonus
³ Waived in Manhattan Core and Long Island City
⁴ 20% if zoning lot is between 10,001 and 15,000 square feet; waived if zoning lot is 10,000 square feet or less, or if 15 or fewer spaces required

Tower-on-a-Base Regulations

Tower regulations allow a building to penetrate the sky exposure plane, which results in buildings taller than those allowed under Quality Housing regulations. Most avenues on the Upper East Side of Manhattan are mapped as R10 districts, (or C1-9 and C2-8 districts which have a residential district equivalent of R10 and are predominantly residential districts that permit ground level retail uses).

A tower-on-a-base is the only type of tower that can be built on a wide street in an R10, C1-9 or C2-8 district; the building envelope of a contextual base topped by a tower portion ensures compatibility with existing buildings along these avenues. The height of the base is between 60 and 85 feet. On a wide street, the street wall must extend continuously along the street line. On a narrow street, the open area between the street wall and the street line must be planted. The tower portion must be set back at least 10 feet from a wide street and 15 feet from a narrow street, and the lot coverage must be between 30% and 40%. The height of the tower is controlled by a distribution rule, which requires at least 55% of the floor area on the zoning lot to be located below a height of 150 feet.

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Upper East Side, Manhattan

R10 General Residence District: Tower-on-a-base

R10 General Residence District: Tower-on-a-Base				
R10'	FAR (max)	Base Height (min/max)	Tower Lot Coverage (min/max)	Required Parking ⁴ (min)
	10.0 ²	60–85 ft	30%–40% ³	40% of dwelling units ⁵

¹ Commercial districts with an R10 residential district equivalent are C1-9, C2-8, C4-6, C4-7, C5, C6-4, C6-5, C6-6, C6-7, C6-8 and C6-9

² Up to 12.0 FAR with Inclusionary Housing Program bonus

³ Up to 50% for a zoning lot smaller than 20,000 square feet

⁴ Waived in Manhattan Core and Long Island City

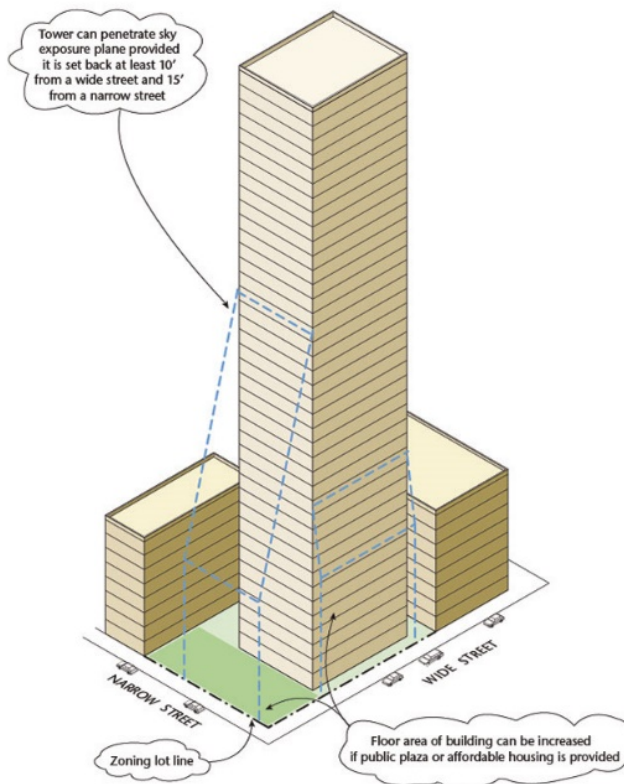
⁵ 20% if zoning lot is between 10,001 and 15,000; waived if zoning lot is 10,000 square feet or less, or if 15 or fewer spaces required

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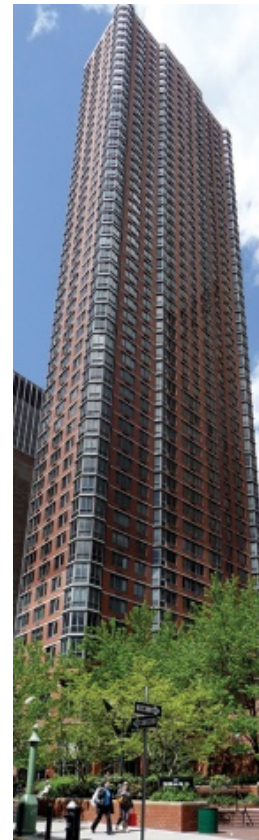
Tower Regulations

Tower regulations allow a building to penetrate the sky exposure plane, which results in buildings taller than those allowed under Quality Housing regulations. Most of midtown and Lower Manhattan are mapped R10 districts or high density commercial districts with an R10 residential district equivalent.

Standard towers, which do not require a base, are permitted only on narrow streets in R10, C1-9 and C2-8 districts, and on both wide and narrow streets in primarily commercial districts (C4-6, C4-7, C5, C6-4, C6-5, C6-6, C6-7, C6-8, C6-9). The tower footprint may cover no more than 40% of the area of the zoning lot, or up to 50% on lots smaller than 20,000 square feet. Like a tower-on-a-base, a standard tower must be set back from the street line at least 10 feet on a wide street, and 15 feet on a narrow street. Unlike a tower-on-a-base, there is no minimum lot coverage requirement and no rule regarding distribution of floor area. In mixed buildings, a floor area bonus of up to 20% can be achieved by providing a public plaza. Together, these regulations produce the tallest residential buildings in the city.



R10 General Residence District: Standard



**Tower in Tribeca,
Manhattan**

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R10 General Residence District: Standard Tower			
R10 ¹	FAR (max)	Tower Lot Coverage (max)	Required Parking ⁴ (min)
		10.0 ²	40% ³

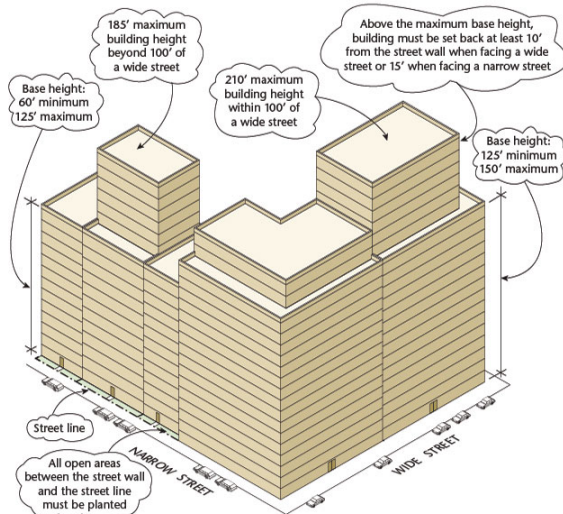
- ¹ Commercial districts with an R10 residential district equivalent are C1-9, C2-8, C4-6, C4-7, C5, C6-4, C6-5, C6-6, C6-7, C6-8 and C6-9
- ² Up to 12.0 FAR with *Inclusionary Housing Program* or *public plaza* bonus
- ³ Up to 50% on zoning lots smaller than 20,000 square feet
- ⁴ Waived in *Manhattan Core*, Long Island City and Downtown Brooklyn, as applicable
- ⁵ 20% if zoning lot is between 10,001 and 15,000 square feet; waived if zoning lot is 10,000 square feet or less, or if 15 or fewer spaces required

R10A

The Quality Housing contextual regulations, mandatory in R10A districts, typically produce the substantial apartment buildings set on the avenues and wide streets of Manhattan, such as West End Avenue and Broadway on the Upper West Side. Commercial districts which are R10A residential district equivalent, such as C4-6A districts on Broadway and C2-8A districts on some blocks of East 96th Street, are lined with large apartment houses with street level stores. Towers are not permitted in R10A districts.

Typical new buildings are 22-story apartment buildings with high lot coverage and street walls set at or near the street line. The floor area ratio (FAR) is 10.0. Residential and mixed buildings can receive a residential floor area bonus for the creation or preservation of affordable housing, on-site or off-site, pursuant to the Inclusionary Housing Program. The maximum base height before setback, which is 150 feet within 100 feet of a wide street and 125 feet on a narrow street, is designed to match the height of many older apartment buildings. Above the base height, the required minimum setback is 10 feet on a wide street and 15 feet on a narrow street. The maximum height of a building is 210 feet within 100 feet of a wide street and 185 feet beyond 100 feet of a wide street.

Off-street parking is not required in the Manhattan Core. Elsewhere, it is required for 40% of the dwelling units.



R10A General Residence District: Quality Housing Regulations



West End Avenue, Manhattan

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R10A General Residence District: Quality Housing Regulations							
R10A ¹		FAR (max)	Lot coverage (max)		Base Height (min/max)	Building Height (max)	Required Parking ³ (min)
			Corner Lot	Interior/Through Lot			
		Wide Street	10.0 ²	100%	70%	125 ft–150 ft	210 ft
	Narrow Street	60 ft–125 ft				185 ft	

¹ Commercial districts with an R10A residential district equivalent are C1-9A, C2-8A, C4-6A, C4-7A, C5-1A, C5-2A and C6-4A

² Up to 12.0 FAR with Inclusionary Housing Program bonus

³ Waived in Manhattan Core

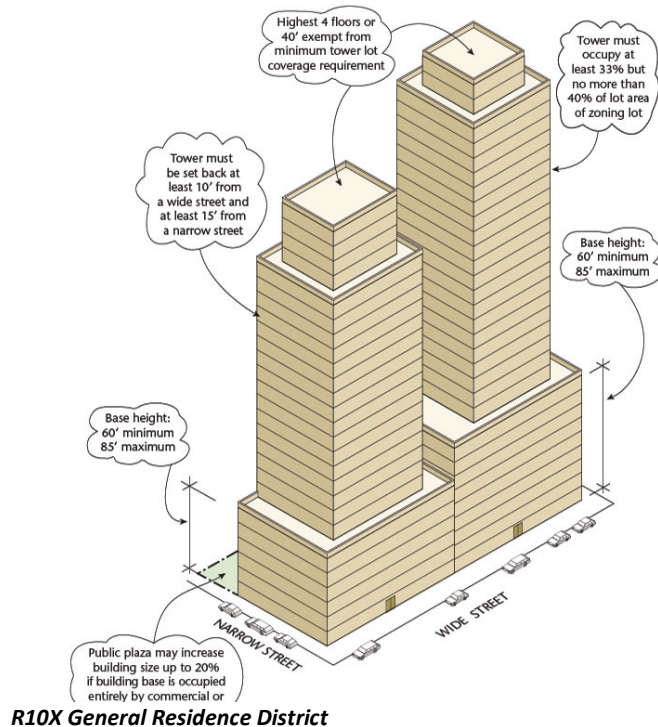
⁴ 20% if zoning lot is between 10,001 and 15,000 square feet; waived if zoning lot is 10,000 square feet or less, or if 15 or fewer spaces required

R10X

R10X districts, and C6-4X districts which have an R10X residential district equivalent, are subject to Quality Housing regulations but instead of a maximum height, the portion of the building above the required setback is subject to tower regulations. A C6-4X district is mapped along Sixth Avenue in Chelsea.

The floor area ratio (FAR) of 10.0 may be increased to 12.0 if affordable housing is provided pursuant to the Inclusionary Housing Program or, for a mixed building, if a public plaza is provided along a narrow street. Public plazas are permitted only in buildings with a commercial or community facility base. The building base must be between 60 and 85 feet high and extend along the entire frontage of a wide street. A tower is permitted above 85 feet provided it is set back at least 10 feet from a wide street and at least 15 feet from a narrow street. To prevent excessively tall and narrow towers, a tower must have a minimum lot coverage of 33%.

Off-street parking is not required.



Chelsea, Manhattan



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R10X General Residence District						
R10X	FAR (max)	Lot Coverage (max)		Base Height (min/max)	Tower Lot Coverage (min/max)	Required Parking (min)
		Corner Lot	Interior/Through Lot			
		10.0'	100%	70%	60 ft–85 ft	33%–40%

¹ Up to 12 FAR with Inclusionary Housing Program or public plaza bonus