

Green Fast Track for Housing CEQR Type II Rule

New material is underlined.

[Deleted material is in brackets.]

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

Section 1. Paragraph 3 of subdivision (c) of section 5-02 of Chapter 5 of Title 62 of the Rules of the City of New York is amended by adding the following definitions, in appropriate alphabetical order, as follows:

**Development Site.** “Development site” shall mean the zoning lot all or part of which the applicant proposes to develop through the action.

**Developable Site.** “Developable site” shall mean a zoning lot, including the development site, within the area that is the subject of the action that the lead agency determines is likely to be developed as a result of the action.

**Natural Resource.** “Natural Resource” shall mean surface water bodies; wetland resources; upland resources, such as beaches, shrublands, meadows, and forests; or other significant or sensitive resources.

§ 2. Subdivisions (c) and (d) of section 5-05 of Chapter 5 of Title 62 of the Rules of the City of New York are amended to read as follows:

(c) *Type II.* The following actions are not subject to review under City Environmental Quality Review, the State Environmental Quality Review Act (Environmental Conservation Law, Article 8) or the SEQRA Regulations, subject to 62 RCNY § 5-05(d):

(1) [Special permits for physical culture or health establishments of up to 20,000 gross square feet, pursuant to § 73-36 of the Zoning Resolution;

(2)] Special permits for radio and television towers, pursuant to § 73-30 of the Zoning Resolution;

[[3]2] Special permits for ambulatory diagnostic or treatment health care facilities, pursuant to § 73-125 of the Zoning Resolution;

[[4]3] Special permits to allow a building or other structure to exceed the height regulations around airports, pursuant to § 73-66 of the Zoning Resolution;

[(5) Special permits for the enlargement of buildings containing residential uses by up to 10 units, pursuant to § 73-621 of the Zoning Resolution;]

([6]4) Special permits for eating and drinking establishments of up to 2,500 gross square feet with accessory drive-through facilities, pursuant to § 73-243 of the Zoning Resolution;

([7]5) Acquisition or lease disposition of real property by the City, not involving a change of use, a change in bulk, or ground disturbance;

([8]6) Construction or expansion of primary or accessory/appurtenant park structures or facilities involving less than 10,000 square feet of gross floor area;

([9]7) Park mapping, site selection or acquisition of less than ten (10) acres of existing open space or natural areas;

([10]8) Authorizations for a limited increase in parking spaces for existing buildings without parking, pursuant to § 13-442 and § 16-341 of the Zoning Resolution;

([11]9) Special permits for accessory off-street parking facilities, which do not increase parking capacity by more than eighty-five (85) spaces or involve incremental ground disturbance, pursuant to § 16-351 of the Zoning Resolution;

([12]10) Special permits for public parking garages and public parking lots, which do not increase parking capacity by more than eighty-five (85) spaces or involve incremental ground disturbance, pursuant to § 16-352 of the NYC Zoning Resolution; [and]

([13]11) Special permits for additional parking spaces, which do not increase parking capacity by more than eighty-five (85) spaces or involve incremental ground disturbance, pursuant to § 13-45 of the NYC Zoning Resolution[.]; and

(12) An action listed in subdivision (e) of this section, provided that such action also meets the requirements in subdivision (f) of this section.

(d) *Type II Prerequisites.*

(1) An action listed in 62 RCNY § 5-05(c), which is also classified as Type I pursuant to 6 NYCRR Part 617.4, shall remain Type I and subject to environmental review.

(2) An action listed in 62 RCNY § 5-05(c)([2]1) - ([5]3), or ([8]6) involving ground disturbance shall remain subject to environmental review, unless it is determined that any potentially significant hazardous materials impacts will be avoided.

(3) An action listed in 62 RCNY § 5-05(c)([2]1), ([3]2), [(5), ]or ([8]6) involving excavation of an area that was not previously excavated shall remain subject to environmental review, unless it is determined that the project site is not archaeologically sensitive.

(4) An action listed in 62 RCNY § 5-05(c)([4]3) shall remain subject to environmental review, unless it is determined that any potentially significant noise impacts will be avoided.

(5) An action listed in 62 RCNY § 5-05(c) ([2]1), ([3]2), [(5), ]or ([8]6) involving the removal or alteration of significant natural resources shall remain subject to environmental review.

(6) An action listed in 62 RCNY § 5-05(c) ([2]1), ([4]3), [(5), (6]4), ([8]6), or ([11]9) - ([13]11) shall remain subject to environmental review if the project site is:

(i) wholly or partially within any historic building, structure, facility, site or district that is calendared for consideration or eligible for designation as a New York City Landmark, Interior Landmark or Scenic Landmark;

(ii) substantially contiguous to any historic building, structure, facility, site or district that is designated, calendared for consideration or eligible for designation as a New York City Landmark, Interior Landmark or Scenic Landmark; or

(iii) wholly or partially within or substantially contiguous to any historic building, structure, facility, site or district, or archaeological or prehistoric site that is listed, proposed for listing or eligible for listing on the State Register of Historic Places or National Register of Historic Places.

§ 3. Section 5-05 of Chapter 5 of Title 62 of the Rules of the City of New York is amended by adding new subdivisions (e) and (f), to read as follows:

(e) Residential Development Type II Actions. The following actions are not subject to review under City Environmental Quality Review, the State Environmental Quality Review Act (Environmental Conservation Law, Article 8) or the SEQRA Regulations, subject to subdivision (f) of this section:

(1) Actions that enable incremental development of at least 1 and no more than 250 new dwelling units or new income-restricted dwelling units, and no more than 35,000 gross square feet of space for non-residential uses, which includes no more than 25,000 gross square feet of space for commercial uses and no more than 25,000 gross square feet of community facility space, and which at the time of the environmental determination are:

(i) located wholly within an existing R5 through R10 Residence zoning district, provided that such action does not include the creation or enlargement of a Special Mixed Use zoning district or a stand-alone Commercial zoning district; or

(ii) located in an existing stand-alone Commercial zoning or Manufacturing zoning district and are being developed pursuant to a regulatory agreement or lease with a government agency to develop housing or a decision by the Board of Standards and Appeals authorizing residential development; or

(2) Actions that enable incremental development of at least 1 and no more than 175 new dwelling units or new income restricted dwelling units, and no more than 20,000 gross square feet of space for non-residential uses, which includes no more than 10,000 gross square feet of space for commercial uses, and no more than 10,000 gross square feet of community facility space, and which at the time of the environmental determination, are located at least partially within an existing R1 through R4 Residence zoning district, provided that such action shall not include actions that include the creation or enlargement of a Special Mixed Use zoning district or a stand-alone Commercial zoning district.

(f) Type II Residential Development Prerequisites. An action listed in subdivision (e) of this section must also comply with all of the following to be a Type II action, at or before the time environmental review is required to be completed:

(1) Any new building or any enlargement of an existing building on the development site shall not burn fossil fuels to supply heat or hot water;

(2) The applicant or development site owner shall have complied with the following site-specific requirements:

(i) for developable sites that include one or more tax lots that do not have an (E) designation for hazardous materials pursuant to section 11-15 of the New York City Zoning Resolution at the time of the environmental determination, completed a Phase I Environmental Site Assessment for the development site and either:

(A) obtained a written signoff from the lead agency that no further environmental investigation is required or that a plan to address any hazardous materials is acceptable; or

(B) consented to the establishment of an (E) designation for hazardous materials pursuant to section 11-15 of the New York City Zoning Resolution and 15 RCNY Chapter 24 on the developable sites, provided that where an (E) designation is not available and the development site will be developed pursuant to a regulatory agreement with a government agency, such government agency shall include protections and development oversight requirements equivalent to an (E) designation found in 15 RCNY Chapter 24 in such regulatory agreement; and

(ii) obtained a determination from the New York City Landmarks Preservation Commission (LPC) stating whether any developable site is within an archaeologically sensitive area, is designated, calendared for consideration or eligible for designation as a New York City Landmark or Historic District, is listed on, or formally determined to be eligible for inclusion on, the National Register of Historic Places or the New York State Register of Historic Places, or is substantially contiguous to a sunlight sensitive architectural resource, and

(A) if LPC determines a developable site is within an archaeologically sensitive area, completed an archaeological document study for the development site and obtained a writing from LPC that the development of such development site does not raise archaeological concerns; and

(B) if LPC determines a developable site is designated, calendared for consideration or eligible for designation as a New York City Landmark or Historic District or is listed on, or formally determined to be eligible for inclusion on, the National Register of Historic Places or the New York State Register of Historic Places, obtained a writing from LPC that the development of such development site does not raise historic preservation concerns;

(iii) agreed to prepare and implement a Construction Protection Plan consistent with the requirements of the New York City Department of Buildings Technical Policy and Procedure #10/88 for a development site located at least partially within 90 feet of a building or site formally determined to be eligible for listing on the National Register of Historic Places or the New York State Register of Historic Places or of a building or site that is eligible for designation as a New York City Landmark or Historic District;

(iv) for developable sites within 1000 feet of an air emissions source that operates under a permit issued pursuant to subpart 201-5 of title 6 of the New York Codes, Rules and Regulations (New York State facility permits) or subpart 201-6 of such title (Clean Air Act Title V permits) or either within 400 feet of any existing air emission source with an active or expired industrial permit issued by the New York City Department of Environmental Protection or within 400 feet of any unpermitted industrial source, confirmed to the lead agency based on the emission limits in the permit(s) or, for any unpermitted source, the estimated emission limits from similar source permit(s) provided by the lead agency, that concentrations of any pollutant regulated by the permit(s) or identified by the lead agency for any unpermitted source will not exceed the corresponding National Ambient Air Quality Standards (including background

concentrations) and Annual Guideline Concentration (AGC) and Short-term Guideline Concentration (SGC) in the New York State Department of Environmental Conservation Division of Air Resources Guidelines for Evaluation and Control of Ambient Air Contaminants (DAR-1) at such developable site, as determined in accordance with the industrial source screen in Appendix B of Chapter 5 of Title 62 of the rules of the city of New York (Industrial Air Quality Checklist).

(v) With respect to calculation of noise levels, either:

(A) provided to the lead agency representative peak hour outdoor noise sampling showing less than 70 A-weighted decibels (dBA) L10 ambient noise levels at all developable sites, and provided outdoor noise sampling for all developable site buildings within the line of sight of any railway or elevated subway showing less than 65 dBA Ldn ambient noise levels and confirmed that all developable sites are outside the 65 Day Night Average Sound Level contours established in the Noise Exposure Map (NEM) Report for John F. Kennedy Airport and LaGuardia Airport, or

(B) agreed to establishment of an (E) designation for noise pursuant to section 11-15 of the NYC Zoning Resolution on any developable sites that cannot meet the requirements of item (A) above, provided that where the development site will be developed pursuant to a regulatory agreement with a government agency, such government agency shall include protections equivalent to those imposed by an (E) designation for noise attenuation in such regulatory agreement.

(3) The projected duration of construction at each development site shall not be greater than 24 months and no consecutive projected construction period for all substantially contiguous developable sites shall be greater than 24 months.

(4) No portion of any developable site shall:

(i) be located adjacent to an arterial highway listed in Appendix H to the New York City Zoning Resolution or a vent structure for a tunnel;

(ii) be located within in a Special Coastal Risk District mapped pursuant to Article XIII, Chapter 7 of the New York City Zoning Resolution; or

(iii) contain a natural resource.

(5) The action shall not enable construction of a new building or other structure or enlargement of an existing building or structure with a maximum allowable height greater than 250 feet, including all rooftop bulkheads, mechanical equipment, parapets, and any other parts of the building, or with a maximum possible height greater than 50 feet if substantially contiguous to a public open space other than a street or sidewalk, natural resource or an architectural sunlight sensitive resource identified by LPC under subparagraph (ii) of paragraph (2) of this subdivision above, unless such open space, natural resource or sunlight sensitive resource is entirely within the area between -108° degrees from true north and +108 degrees from true north of the building or other structure or is an architectural resource that is located on a facade that faces directly away from a developable site.

§ 4. Chapter 5 of Title 62 of the Rules of the City of New York is amended by adding a new Appendix B, to read as follows:

Appendix B to Chapter 5 of Title 62: Industrial Air Quality Checklist

To determine the potential for exceedance of the New York State Department of Environmental Conservation (DEC) Division of Air Resources Guidelines for Evaluation and Control of Ambient Air Contaminants (DAR-1) guidelines at a developable site resulting from industrial emissions, emissions from industrial sources within 400 feet of the development site shall be determined from emission limits in permits issued by the New York City Department of Environmental Protection (DEP) or for unpermitted sources, from the estimated emission limits provided by the lead agency and for Title V or state facility-permitted sources within 1000 feet of the development site, from the emissions limits in the DEC Title V or state facility permits. For purposes of this Appendix, industrial sources shall mean air emission sources (direct and fugitive emissions) that have or should have an existing or expired DEP Clean Air Tracking System industrial permit, concrete batching plants, or material handling facilities. The emissions from any existing industrial or state permitted source or emission assumptions for any unpermitted industrial source must first be converted into grams/second. This converted emission rate must then be multiplied by the value in the table below corresponding to the minimum distance between the industrial source and the building containing the new dwelling units to determine if the National Ambient Air Quality Standards (including background concentrations) and AGC/SGC values in the DAR-1 guidelines are exceeded. Values are provided for 1-hour and annual averages to enable the comparison of pollutant levels to SGCs (1- hour averaging period) or AGCs (annual averaging period).

<u>Distance from Source</u>	<u>1-Hour Averaging Period (ug/m3)</u>	<u>3-Hour Averaging Period (ug/m3)</u>	<u>8-Hour Averaging Period (ug/m3)</u>	<u>24-Hour Averaging Period (ug/m3)</u>	<u>Annual Averaging Period (ug/m3)</u>
<u>30 ft</u>	<u>124,848</u>	<u>61,874</u>	<u>46,700</u>	<u>38,284</u>	<u>5,251</u>
<u>60 ft</u>	<u>31,284</u>	<u>15,479</u>	<u>12,721</u>	<u>10,292</u>	<u>1,386</u>
<u>90 ft</u>	<u>13,936</u>	<u>6,884</u>	<u>6,098</u>	<u>4,858</u>	<u>645</u>
<u>120 ft</u>	<u>7,857</u>	<u>4,028</u>	<u>3,658</u>	<u>2,877</u>	<u>378</u>
<u>150 ft</u>	<u>5,038</u>	<u>2,721</u>	<u>2,476</u>	<u>1,926</u>	<u>252</u>
<u>180 ft</u>	<u>3,507</u>	<u>1,982</u>	<u>1,808</u>	<u>1,393</u>	<u>181</u>
<u>210 ft</u>	<u>2,599</u>	<u>1,520</u>	<u>1,390</u>	<u>1,063</u>	<u>138</u>
<u>240 ft</u>	<u>2,038</u>	<u>1,211</u>	<u>1,109</u>	<u>844</u>	<u>110</u>
<u>270 ft</u>	<u>1,684</u>	<u>992</u>	<u>910</u>	<u>692</u>	<u>90</u>
<u>300 ft</u>	<u>1,449</u>	<u>831</u>	<u>764</u>	<u>580</u>	<u>75</u>
<u>330 ft</u>	<u>1,282</u>	<u>714</u>	<u>653</u>	<u>496</u>	<u>64</u>
<u>360 ft</u>	<u>1,153</u>	<u>631</u>	<u>566</u>	<u>431</u>	<u>56</u>
<u>400 ft</u>	<u>1,015</u>	<u>559</u>	<u>477</u>	<u>364</u>	<u>47</u>