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**IN THE MATTER OF** an application submitted by the Department of City Planning, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, to modify Article III, Chapter 2 (Use Regulations), Article IV, Chapter 2 (Use Regulations) and related Sections, to create a special permit for new hotels, motels, tourist cabins, and boatels in Commercial Districts and in M1 Districts paired with Residence Districts.

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This application for a zoning text amendment (N 210406 ZRY) was filed by the Department of City Planning (DCP) on April 29, 2021. The proposed zoning text amendment would create a City Planning Commission (CPC) special permit for new hotels in Commercial Districts and in M1 Districts paired with Residence Districts, thereby limiting development of new hotels citywide.

## **BACKGROUND**

The proposed text amendment would modify provisions throughout the zoning resolution, notably the use provisions in Article III Chapter 2 (use regulations in commercial districts), Article XII Chapter 3 (special Mixed Use districts) and several special purpose districts to require a special permit for hotels. Existing hotel special permits would be replaced in the following special districts: Midtown (East Midtown subdistrict), Hudson Square, Clinton, 125<sup>th</sup> Street, Tribeca Mixed-Use, Garment Center, East Harlem Corridors, Jerome Corridor, and Inwood. The special permit required in these areas would be pursuant to Zoning Resolution Section 74-802.

As of January 2020, New York City remained one of the world's most popular travel destinations, the third largest hotel market in the United States after Las Vegas and Orlando, and with the largest hotel supply pipeline in the nation according to *Lodging Magazine*. In 2019, New York City drew a record 66.6 million visitors, a 2.4 percent increase over 2018 and reflective of an uninterrupted 12-year run of consecutive increases in visitor counts.

The rise in visitation has driven significant new development of hotels in neighborhoods across all five boroughs, resulting in 54,000 additional new hotel rooms since 2007, a 73 percent increase in supply. While the tourism sector remains vital to the city's economic health, the rapid growth of hotels across the city has introduced conflicts and changed the surrounding area of some neighborhoods in unanticipated ways.

In areas where hotels are permitted as-of-right, hotel development has the potential to introduce new activity that may conflict with existing businesses or affect the character of the surrounding area. While hotels are like residential uses in that they contain sleeping accommodations, the transient nature of hotels can change the primarily residential character of some neighborhoods that allow new hotels. In commercial and mixed-use districts, hotels can create conflicts with adjacent uses and residences. Additionally, less centrally located commercial areas often lack infrastructure to both address the safety or meet the needs of hotel guests. At the same time, many C8 (heavy commercial and automotive districts) and mixed-use districts where new hotels have located lack amenities and services, while surrounding business activity and traffic may create hazards for guests.

Over time, the CPC has adopted a variety of hotel special permits to address myriad planning concerns relating to residential development goals, neighborhood character, and conflicts with adjacent uses. Consequently, the City has an inconsistent and patchwork framework for new hotel development.

Although the COVID-19 pandemic caused an abrupt and precipitous drop in hotel occupancy and construction, accompanied by closure of a number of hotels, visitation is expected to return by 2025 along with a demand for new hotels, according to industry experts and NYC Office of Management and Budget. When this occurs, a more uniform zoning framework for new hotels citywide could support more consistent development patterns and limit the extent to which a hotel use may impair the future use or development of the surrounding area. Review of the

project's relationship to area context can result in better configuration of the use on the zoning lot to minimize conflicts with adjacent uses.

### **Proposed Project Area**

The Citywide Hotel Text Amendment is a citywide action, affecting all boroughs and community districts. The proposed changes will require a CPC special permit for new hotels and enlargements where hotels are permitted as-of-right today: C1 commercial districts (except for C1-1, C1-2, C1-3 or C1-4 districts), as well as C2-4, C4, C5, C6, C8, Mixed Use (MX), and other paired M1/R districts. The proposed CPC special permit would replace existing CPC special permits for new hotels in Special Purpose Districts, including Midtown (East Midtown subdistrict), Hudson Square, Clinton, 125<sup>th</sup> Street, Tribeca Mixed-Use, Garment Center, East Harlem Corridors, Jerome Corridor, and Inwood.

The proposed zoning text amendment would affect every community district in the City, since all community districts contain zoning districts that currently permit as-of-right hotel development, either in the form of commercial (C) districts or Mixed Use (MX) districts. In addition, changes to discontinuance provisions described below may apply to existing hotels that are closed on the date of enactment and could apply in all districts, including residence districts, citywide.

### **PROPOSED TEXT AMENDMENT**

The goal of the proposed text amendment is to limit potential conflicts created by new commercial hotels with surrounding uses by requiring site-specific review of all new hotel development, conversion to new hotels from other uses, and significant enlargements of existing hotels. A CPC Special Permit is the proposed mechanism to allow for consideration of all new hotel development by the CPC, Community Boards, and the City Council. The proposed special permit does not preclude hotel development, nor does it deem all future hotels inappropriate.

Rather, it requires the CPC to assess the appropriateness of each development based on the future use and development of the local neighborhood context.

### Applicability

Currently, commercial transient hotels are classified in Section 32-14 of the Zoning Resolution as Use Group 5, while motels and tourist cabins are listed in Use Group 7A (Section 32-16), and are permitted as-of-right in all C1 (except for C1-1, C1-2, C1-3 or C1-4 districts), C2-4, C4, C5, C6, C8, Mixed Use (MX), and paired M1/R districts. For the purposes of this zoning text amendment, transient hotels shall include motels, boatels, and tourist cabins. With the adoption of this proposal, transient hotels will remain in Use Group 5 and Use Group 7A, but a CPC Special Permit would be required for transient hotels in all districts that permit new hotels. The text amendment would also apply to most areas in which zoning already requires special permits for new hotels.<sup>1</sup>

### Findings

By establishing a new CPC special permit, the proposed actions would establish a case-by-case, site-specific review process intended to ensure that new hotels do not create conflicts with surrounding uses. However, the proposed text amendment would retain the existing findings and regulations of the special permit for hotels in M1 districts (N 180349 ZRY), which was adopted in December 2018. The existing rules in M1 districts address specific issues related to common business activities in light manufacturing districts.

- Outside of M1 districts, the citywide hotel special permit would have more generalized findings to address a wider range of conditions that exist in commercial districts and other districts where the M1 special permit does not apply. The findings of the proposed

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<sup>1</sup> The proposed citywide special permit would replace existing special permits for new hotels in the following special districts: East Midtown, Special Hudson Square, Special Clinton, Special 125<sup>th</sup> Street, Special Tribeca Mixed-Use, Special Garment Center, Special East Harlem Corridors, Special Jerome Corridor, and Special Inwood districts

Special Permit would require the CPC to evaluate whether a new hotel development would be appropriate based on a set of criteria that consider the use and its relationship to surrounding uses. In making this determination, the Commission would be required to find that a proposed hotel use shall not impair the future use or development of the surrounding area.

In all districts where the special permit applies, underlying bulk, parking, and signage regulations of the applicable zoning district would apply. The Commission would consider the configuration of the use on the zoning lot and could require changes to limit potential conflicts with other uses in the area, or other changes that would support a mix of uses that would not detract from the orderly growth and development of the surrounding area. The findings entail consideration of the hotel's compatibility with known or anticipated future uses in the surrounding area, which may differ from the present context.

As is the case for all CPC use special permits, the Commission may also prescribe additional conditions and safeguards to minimize adverse effects on the character of the surrounding area.

#### Pandemic Recovery Provisions

The COVID pandemic has had a devastating effect on the hotel industry. Hotel occupancy rates, which averaged approximately 87 percent over the decade from 2009 through 2019, plunged to 30 percent in the summer of 2020. Among hotels operating in summer 2020, nearly two-thirds of the occupancy was attributable to government contracts to temporarily house homeless residents and healthcare workers, typically at rates below pre-pandemic prices. The economic shutdown and steep decline in tourism caused the closure of 146 hotels on either a temporary or permanent basis between March and November of 2020. An estimated 42,000 rooms closed across the city, with the majority concentrated in Midtown Manhattan. By early summer 2021, with the wide availability of vaccines and easing of some travel restrictions, a substantial portion of New York City's closed hotel rooms had reopened. The overall citywide hotel occupancy rate began climbing in November 2020, when it was well below 40 percent, and reached 63 percent in June

2021, higher than the nationwide average. By the end of the first half of 2021, the supply of active hotel rooms had reached approximately 95 percent of the January 2020 supply, a considerable increase over the hotel room supply in September 2020, as detailed in the NYC Hotel Market Analysis Appendix.

While the New York City hotel market has seen noticeable signs of recovery since the fall of 2020, the rebound of the hotel industry in New York City is now lagging behind many other major markets in the United States. While industry analysts project that the U.S. lodging sector as a whole should see recovery by the fourth quarter of 2023, NYC and Company projects that the New York City hotel market is not expected to return to pre-COVID-19 pandemic occupancy rates until 2025.

According to Trepp, a leading provider of data analysis for the structured finance and commercial real estate market, a slow pace of recovery in the New York City hotel market would pose particular challenges for over-leveraged hotels in the city, where 38 percent of hotels with loans in commercial mortgaged-backed securities were 30 days or more past due as of May 2021.

Given these financial conditions and potential setbacks to economic reopening and recovery related to new strains of the virus, it is possible that a segment of the hotel rooms currently in operation as of summer 2021 could close permanently before 2025. Since the CPC special permit has the potential to create regulatory obstacles to creating new hotels or re-opening closed ones, the proposed text amendment includes the following provisions to enable post-pandemic recovery of hotel inventory:

Typically, once a special permit is required of a use, properties containing that use on the date of adoption would be considered nonconforming under zoning, limiting an owner's flexibility to alter, enlarge, or reconfigure the use. Under the proposed text, existing hotels would be considered conforming uses to allow enlargements by up to 20 percent, alterations, and extensions, and to allow the reconstruction of hotels in the event of damage or destruction.

Current zoning that discontinues nonconforming uses which are vacant for two or more years would be suspended for existing hotels in all zoning districts until six years from the date of adoption, thereby allowing hotels existing on the date of enactment to reopen as a hotel without a special permit. The extension of discontinuance allows for hotels that have closed either temporarily or permanently to return to the hotel inventory as demand returns.

Existing hotels located in any zoning district that are converted to other uses would also be permitted to convert back to a hotel until six years from the date of adoption without obtaining a special permit. This provision allows hotels to convert to other uses allowed by zoning before converting back to a hotel within the six-year timeframe granted.

Certain hotel projects already in the development process will be allowed to develop without obtaining a CPC special permit. These are considered “pipeline” projects that would be “vested” – allowed to move forward under the old rules – thereby allowing for some recovery of the inventory lost to pandemic-related closures. Vested projects include hotel developments, enlargements, or conversions with a filed DOB application by the date of referral as well as DOB approval of an application for a new building, foundation, or alteration showing zoning compliance for a hotel by the date of adoption. These vested projects may proceed under current zoning provided that they are completed within six years from the date of adoption. Applications may be revised and retain vested status as long as the floor area is not increased.

However, to limit vesting provisions to those projects that would be likely to develop in the near future, applications for hotels filed at DOB prior to January 1, 2018 must also obtain a foundation or alteration permit by the date of adoption, signaling an intent to move forward with the development.

Projects and land use actions supporting hotel development certified at DCP or filed at the Board of Standards and Appeals (BSA) before the date of adoption and approved by DCP or the BSA after January 1, 2018, would be excluded from the Proposed Action until six years from the date

of adoption. This provision is intended to exempt new hotels that have already been considered recently by either the BSA or CPC but are unlikely to be covered by the DOB vesting provisions described above.

### Public Purpose Hotels

New York City has a legal obligation to provide emergency shelter for all residents and the ability to use commercial hotels is an important tool in allowing the City to be flexible in its commitments. Currently, operators of emergency shelters require the flexibility to configure their facilities as either a transient facility (Use Group 5), a community facility (Use Group 3), or as a residence (Use Group 2) to meet the diverse needs of the population they serve. To retain adequate flexibility to meet the City's obligation to provide shelter to its residents, a CPC special permit will not be required for *purpose-built shelters* configured as Use Group 5, and existing commercial hotels may continue to provide emergency housing as a pre-existing use. Therefore, the proposed zoning specifically exempts from the special permit provisions a transient hotel operated on or after the date of adoption for a public purpose by the City or State of New York or operated by a non-governmental entity pursuant to an active contract with an agency of the City or State for such a public purpose .

Although the proposed text amendment would require operators of new commercial hotels to obtain a special permit, it would permit the conversion of commercial hotels to those of a public purpose that are allowed through zoning in those districts where Use Groups 5 and 7 are permitted. However, under the proposal, an owner wishing to convert transient, purpose-built emergency housing to a commercial hotel would be required to obtain a special permit if the building was developed after adoption of the text amendment.

### **ENVIRONMENTAL REVIEW**

The application (N 210406 ZRY) was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the New York City



Environmental Quality Review Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The lead is the City Planning Commission. The designated CEQR number is 21DCP111Y.

It was determined that this application may have a significant effect on the environment, and that an Environmental Impact Statement (EIS) would be required. A Positive Declaration was issued on December 21, 2020, and subsequently distributed, published, and filed. Together with the Positive Declaration, a Draft Scope of Work for the Draft Environmental Impact Statement (DEIS) was issued on December 21, 2020. A public scoping meeting was held on January 22, 2021 and the Final Scope of Work was issued on May 3, 2021.

A DEIS was prepared and a Notice of Completion for the DEIS was issued on May 3, 2021. Pursuant to SEQRA regulations and the CEQR procedure, a joint public hearing was held on July 14, 2021, in conjunction with the public hearing on the related Uniform Land Use Review Procedure item (N 210406 ZRY). A Final Environmental Impact Statement (FEIS) reflecting comments made during the public review process was completed, and a Notice of Completion for the FEIS was issued on October 8, 2021.

The proposed action as analyzed in the FEIS identified significant adverse impacts with respect to socioeconomic conditions. The identified significant adverse impacts and proposed mitigation measures under the proposed action are summarized in Chapter 17, “Mitigation,” of the FEIS.

## **PUBLIC REVIEW**

The application (N 210406 ZRY) was duly referred on May 12, 2021 to all 59 community boards in all five boroughs, to all borough boards, and to all borough presidents for information and review in accordance with the procedures for referring non-ULURP matters.

## **Community Board Review**

Forty-three community boards adopted resolutions regarding the proposed text amendment, many of which included comments and proposed for modifications. The complete recommendations received from all community boards are attached to this report. A summary of the community board votes and conditions or comments received in their recommendations follows:.

<b>Community Board</b>	<b>Recommendation</b>	<b>Conditions</b>	<b>Comments</b>
Bronx 1	Approval	Yes	No
Bronx 3	Disapproval	No	No
Bronx 6	Disapproval	No	No
Bronx 8	Disapproval	No	No
Bronx 9	Approval	No	No
Bronx 10	Approval	No	No
Bronx 12	Approval	No	No
Brooklyn 1	Approval	No	No
Brooklyn 2	Approval	No	No
Brooklyn 3	Approval	Yes	No
Brooklyn 6	Approval	Yes	No
Brooklyn 10	Approval	Yes	No
Brooklyn 11	Disapproval	No	No
Brooklyn 13	Approval	No	No
Brooklyn 14	Disapproval	No	No

Brooklyn 15	Approval	No	No
Brooklyn 18	Disapproval	No	No
Manhattan 1	Approval	No	No
Manhattan 2	Disapproval	Yes	No
Manhattan 3	Approval	No	Yes
Manhattan 4	Approval	Yes	No
Manhattan 5	Disapproval	Yes	No
Manhattan 6	Disapproval	No	No
Manhattan 7	Disapproval	No	Yes
Manhattan 8	Disapproval	No	No
Manhattan 9	Approval	No	No
Manhattan 10	Approval	No	No
Manhattan 11	Approval	No	No
Manhattan 12	Approval	No	No
Queens 1	Disapproval	No	No
Queens 2	Disapproval	Yes	No
Queens 4	Approval	No	No
Queens 5	Approval	Yes	No
Queens 6	Approval	No	No

Queens 7	Other	No	No
Queens 8	Approval	No	No
Queens 9	Approval	No	No
Queens 10	Approval	Yes	No
Queens 11	Approval	No	No
Queens 12	Approval	No	No
Queens 13	Approval	No	No
Queens 14	Other	No	No
Staten Island 1	Disapproval	No	No
Staten Island 2	Disapproval	No	No
Staten Island 3	Disapproval	No	No

Overall, 43 out of 59 community boards submitted recommendations. Of these, 21 recommended approval, six recommended approval with conditions, two recommended disapproval with conditions, and 14 recommended disapproval. Sixteen did not submit recommendations.

Most community boards expressed support for the project’s overall goal of requiring site specific review of new hotels to ensure that development does not create conflicts or affect the future use of the surrounding area.

Overall, the issues raised in community board review align with three general categories: objection to the exemption of transient hotels operated for a public purpose, a desire for more specific findings for the special permit, and concerns about the effect of the special permit on the hotel industry.

Several community boards supported the proposal but objected to the exemption for transient hotels used for a public purpose, citing concerns about potential conflicts introduced by shelters with respect to surrounding uses, or about the siting of such facilities in locations with insufficient services to meet the needs of the transient population. Community boards recommended applying the special permit to purpose-built, transient shelters, which are exempt from the proposed special permit requirement, or prohibiting the conversion of commercial hotels to transient shelters.

Some community boards that supported the special permit raised concerns that the findings were not specific enough. They recommended that the CPC adopt additional findings that consider neighborhood character, the mix of uses in the area, vehicular and pedestrian conflicts, environmental effects of increased vehicular traffic, streetscape, and bulk. Other community boards recommended retaining existing hotel special permits with more specific findings rather than replacing them with the proposed citywide special permit.

Several community boards voted against the proposal because of the burdens the proposal would place on new hotel development. Some expressed concern that the proposal would affect growth of the hotel and tourism industry over time, or that it would impede recovery of the industry from the pandemic. Others stated that they did not think the land use impacts created by hotels warranted CPC review.

One community board questioned the need for a new special permit as opposed to targeted zoning text changes as a measure to address the potential impacts that a hotel development may cause in the surrounding area.

Two community boards expressed concerns that a limitation on new hotels would drive visitors to Airbnb or other apartment-sharing models and called on the City to increase enforcement against illegal rentals.

## **Borough Board Recommendations**

One Borough Board submitted a recommendation on the proposal. The complete Borough Board resolutions are appended to this report and are summarized below.

The Manhattan Borough Board considered the original application (N 210406 ZRY) on July 15, 2021 and adopted a resolution with conditions. The resolution supported all recommendations made by individual Manhattan community boards, but specifically emphasized the following modifications:

- “1. Strengthen findings to include protections related to the character of historic districts where applicable, as well as findings related to physical, social, and environmental impacts;
2. Allow CPC to prescribe additional conditions regarding certain uses permitted on site;
3. Require that hotel special permits not supersede or conflict with existing special permits on site;
4. Strengthen enforcement related to illegal short-term hotels;
5. Require a special permit for non-emergency public purpose hotels; and
6. Preserve hotel special permit requirements as they exist in certain areas.”

## **Borough President Review**

Four borough presidents submitted resolutions on the proposal. The complete borough board resolutions, summarized below, are appended to this report.

### Brooklyn

The Brooklyn Borough President considered the original resolution (N 210406 ZRY) on July 2, 2021 and adopted a resolution as noted in the table below. The Borough President approved the proposal stating that it would advance consideration for quality of life through more appropriate development, while noting that it would also reduce development.

Manhattan

The Manhattan Borough President considered the original resolution (N 210406 ZRY) on July 19, 2021 and adopted a resolution as noted in the table below. The Borough President approved the proposal stating that tourism has started to return to the city and may exceed pre-pandemic levels. The Borough President also noted that the special permit may result in fewer new hotel rooms, but believe that the special permit will guide development to the most appropriate areas of Manhattan. The Borough President also recommended that the zoning text include additional findings for the CPC to consider density of hotels in the area, impacts on residential areas, vehicular congestion, and pedestrian flow.

Queens

The Queens Borough President considered the original resolution (N 210406 ZRY) on July 2, 2021 and adopted a resolution with conditions as noted in the table below. The Borough President approved the proposal with the conditions that community boards and the Borough President be informed of any potential use of transient hotels for public purposes and that any such public purpose use have complementary services in place to ensure that such use does not become an imposition on the community.

Staten Island

The Staten Island Borough President considered the original resolution (N 210406 ZRY) on July 12, 2021 and disapproved a resolution as noted in the table below.

<b>Borough President</b>	<b>Recommendation</b>	<b>Conditions</b>	<b>Comments</b>
Brooklyn	Approval	No	No
Manhattan	Approval	Yes	Yes

Queens	Approval	Yes	Yes
Staten Island	Disapproval	No	No

OBJ

**City Planning Commission Public Hearing**

On June 23, 2021 (Calendar No. 1), the CPC scheduled July 14, 2021, for a public hearing on this application (N 210406 ZRY). The hearing was duly held on July 14, 2021 (Calendar No. 50). There were 26 speakers in favor and 4 speakers in opposition.

Speakers in support of the proposal included seven City Councilmembers or their representatives, the Manhattan Borough President, and representatives from a social justice organization and the labor union that represents hotel workers.

The Councilmembers representing the 4<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup>, 12<sup>th</sup>, 23<sup>rd</sup>, 34<sup>th</sup>, and 43<sup>rd</sup> Districts provided testimony in support of the proposal, noting concerns about hotel development and a desire that communities be included in future conversations regarding development of hotels. The Councilmember representing the 23<sup>rd</sup> District dismissed concerns that the proposed special permit would slow hotel development, noting New York City’s status as a hub of media entertainment, finance, and tourism. The Councilmember representing the 6<sup>th</sup> District also provided testimony in support of the proposal, suggesting that federal aid would be sufficient in keeping hotels operating until revenues return. The Councilmember representing the 12<sup>th</sup> District noted that while their district is not a tourist destination, it is seeing hotel development.



The Councilmember representing the 4<sup>th</sup> District provided spoken and written testimony in support of the proposal, noting that the existing hotel special permit provisions in East Midtown have resulted in one application since they were adopted in 2017, and citing a request from Community Board 5 to retain the findings of the East Midtown special permit.

The Borough President for Manhattan provided testimony in support of the proposal. The Borough President also expressed support for a permit requirement for hotels of a public purpose.

A representative from a New York City-based social justice organization provided testimony in support of the proposal, suggesting that the ULURP process requirement of a special permit would increase dialogue between hotel developers and the community.

A representative from a community development nonprofit provided testimony in support of the proposal. They stated that when hotels cluster they can cause land use conflicts, annoyances such as traffic and sanitation, and can lead to a change in neighborhood character. They noted the reduction in revenues per available room in hotels and closing or downsizing of some well-known hotels. They challenged the environmental review's findings of potential for a significant adverse impact on the hotel and tourism industry, questioning the assumption that visitation would recover to pre-Covid levels, and suggesting that a long-term reduction in demand for business travel is likely because of widespread adoption of remote work technology.

An attorney representing the labor union that represents hotel workers provided testimony in support of the proposal. They noted their concerns about the rapid development of hotels throughout the city over the last decade; the increase in residential uses in commercial zones; a patchwork approach to hotel development with some areas subject to special permits; and that they do not believe that the proposal would adversely impact the hotel and tourism industries, but rather that it would aid the profitability of existing hotels, prioritizing this over speculative future growth in the industry. They stated that hotels are not allowed in residential districts due to

potential use conflicts and noted that as commercial districts experience more residential development, additional restrictions should be considered to avoid conflicts.

Members of the public provided testimony in support of the proposal. Many raised similar concerns, stating that as hotels developed the character of neighborhoods changed. These members of the public supported increased community input that would occur through a discretionary review process for all new hotels.

Additionally, written testimony in support of the application was submitted by the Councilmembers from the 2<sup>nd</sup>, 21<sup>st</sup>, 28<sup>th</sup>, and 47<sup>th</sup> Districts, as well as from hotel operators, and community groups.

Councilmembers generally registered their support for greater community input, which would occur if a special permit requirement is established. The Councilmember representing the 28<sup>th</sup> District noted their concerns about the number of hotels built in their district that have converted to temporary housing for the homeless. The Councilmember representing the 2<sup>nd</sup> District cited concerns about the rapid proliferation of hotels and potential for hotels to create conflicts. The Councilmember representing the 21<sup>st</sup> District suggested that hotels that may be appropriate to develop in the Manhattan Core or Long Island City, but may not be appropriate in their district and may alter the character of the neighborhoods. The Councilmember representing the 47<sup>th</sup> District cited concerns that a hotel may cause conflicts as visitors increase traffic and create parking concerns.

The Councilmember representing the 21<sup>st</sup> District noted the ability for elected officials and the public to provide input on hotel development and belief that there will continue to be hotel development under a special permit.

The Councilmember representing the 26<sup>th</sup> District similarly noted the increased public input afforded to communities under a special permit.

A representative from BD Hotels provided testimony in favor of the proposal. They raised concerns about oversupply of hotels and its financial impact on the industry. They noted that a special permit could ensure that hotel developers work with the surrounding communities and increase the quality of hotels.

Speakers in opposition include representatives from the Real Estate Board of New York (REBNY), Downtown Brooklyn Partnership, Regional Plan Association, and Real Estate Council of New York.

A representative from REBNY, an organization representing real estate interests, provided testimony in opposition to the proposal. They raised concerns about the potential for a significant adverse impact on the hotel and tourism industries. Citing a study they commissioned, they suggested that the environmental review underestimated impacts because it did not consider effects on City tax revenues or construction activity, and underestimated the effects on other sectors that depend on tourism spending.

A representative from the Downtown Brooklyn Partnership, a business and civic organization, provided testimony in opposition to the proposal. They raised concerns about hampering both job growth and the return of tourism to hubs like Downtown Brooklyn. They further noted that excellent transit connectivity makes Downtown Brooklyn an ideal location for hotel development. In addition, it was noted that there is a growing business sector in the area, and that local hotels allow for travelers to stay within walking distance of many firms and provide meeting space, with other travelers coming to the area for the higher education and other cultural institutions.

A representative from the Regional Plan Association provided testimony in opposition to the proposal. They raised concerns about the zoning framework, stating that the special permit would create an ad hoc process adding unpredictability and non-uniform development. They noted that hotels would be the only significant use subject to a special permit requirement citywide, noting that other land uses are permitted as-of-right in certain districts, and that hotels

should be as well. They also raised concerns about the impacts identified in the environmental review, and suggested that the imposition of a special permit requirement puts at risk thousands of jobs and billions of dollars in wages for a dubious public benefit, and would likely encourage the continued operation of existing hotels that have been the subject of complaints from nearby residents and community officials.

A representative from the Real Estate Council of New York provided testimony in opposition to the establishment of a citywide special permit requirement, suggesting that it ignores the diversity of neighborhoods and subjects proposals to a vague and subjective finding. They suggested that many neighborhoods should be presumed to be suited for hotel use, such as Times Square and the Theater District.

Written testimony in opposition to the proposal was submitted by LW Hospitality Advisors, a firm that provides services focused on hospitality and gaming real estate. They raised concerns about the geographic applicability of the proposal, the assumptions in the DEIS that development would continue rather than cease under a citywide special permit requirement, and hotel development trends throughout the country, and questioned the stated rationale for the proposal. They noted that the proposal would require a special permit in high-density commercial zoning districts, where they suggest hotels would not be in conflict with surrounding uses. They raised concern about the lack of development under the existing hotel special permit requirements, and suggested that the proposal would exacerbate the already declining feasibility of hotel development nationwide, caused by high labor costs and fees. They raised concerns regarding the rationale for the proposal, citing the exemption for public purpose hotels, which they claimed can have impacts on a neighborhood that are similar to or greater than those of a commercial hotel.

There were no other speakers, and the hearing was closed.

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## **WATERFRONT REVITALIZATION PROGRAM CONSISTENCY REVIEW**

The original application (N 210406 ZRY) was reviewed by the Department of City Planning for consistency with the policies of the New York City Waterfront Revitalization Program (WRP), as amended, approved by the New York City Council on October 20, 2013 and by the New York State Department of state on February 2, 2016, pursuant to the New York State Waterfront Revitalization and Coastal Resources Act of 1981, (New York State Executive Law, Section 910 et seq.). The designated WRP number is 21-060. This action was determined to be consistent with the policies of the New York City Waterfront Revitalization Program.

### **CONSIDERATION**

The Commission believes that the application for the text amendment (N 210406 ZRY), as modified herein, is appropriate.

The Commission notes the long history of complaints from the public and elected officials about hotels and proposals to scrutinize their siting, based on the potential conflicts hotel development may create in various neighborhoods throughout the city. Such concerns have arisen even in neighborhoods where on some sites hotel development would be appropriate considering the future use and development of the surrounding area. This special permit will require the Commission to review each hotel development to consider whether potential exists for conflicts of access and egress, loading and unloading of visitors and their belongings, or other site planning issues, and to incorporate such changes into the site plans as necessary to avoid them.

The Commission has carefully considered the recommendations made by community boards, borough boards, borough presidents, and others at the public hearing. It also acknowledges the significant concerns raised by several Commissioners during the review of this proposal, which to a degree have been addressed by the modifications made herein by the Commission, but some of which pertain to core elements of the proposal. In particular, concerns that a special permit would undermine the fundamental as-of-right nature of the City's zoning regime have been the subject of extensive deliberation on the part of the Commission. These concerns highlight the

importance of the land use rationale described for this action, which focuses on the singular nature of transient accommodations, and avoids the inference that widespread discretionary review of uses, which would have troubling implications for the city's adaptability and economic resiliency, is desirable or necessary.

The Commission believes that this proposal, as modified, would enable it to review hotel development in commercial and paired M1/residential districts to ensure that it would not negatively affect the surrounding area. This review would allow the CPC to consider whether a proposed hotel development would create conflicts with surrounding uses and ensure changes that would configure the use in a way that is more sensitive to the surrounding neighborhood context and compatible with known or anticipated future development in the surrounding area.

The Commission does not expect that the Citywide Hotel Text Amendment will preclude all hotel development, nor will its site-by-site review deem all future hotels inappropriate. Rather, it will allow the Commission, community boards, and local elected officials to address the appropriateness of hotel development based its implications for the future use and development of the surrounding area.

The public comments and borough president, borough board, and community board recommendations considered below fall into six general categories: the appropriateness of a citywide hotel special permit requirement; findings and applicability; the exemption of public purpose hotels; the effect on the hotel and tourism industries; mitigation; and vesting modifications.

### **Appropriateness of a Citywide Hotel Special Permit**

New York City's hotels provide an important amenity for all New Yorkers and for this reason have long been permitted with limited regulation in districts with varied land use context in much of the city. Hotels serve a diverse set of customers in all five boroughs, from international tourists in Midtown, airline workers in Jamaica, clients of film studios in Astoria and Long

Island City, and relatives visiting with friends or family living in any of New York City's neighborhoods.

While it is important to support a vibrant tourism economy and meet the diverse needs of residents and businesses that hotels continue to be able to locate on appropriate sites throughout the City, the pace and patterns of development, driven by record-high visitation, have at times resulted in conflicts with adjacent uses.

The Commission notes the testimony in support of the proposal from members of the Council, community development organizations, community boards, the labor union representing hotel workers, and individual residents who echoed concerns about the rapid development of new hotels and the negative effect they perceive on their neighborhoods, and the need to ensure that hotel development is compatible with neighborhood conditions. In some cases the concern is introducing a transient population into areas that are predominantly residential; in others concern relates to the limited availability of services.

The Commission heard testimony from opponents of the proposal that it lacks a sufficient land use rationale to subject hotels to a higher degree of discretionary review than for other uses. To this criticism, the Commission acknowledges that the proposed special permit requirement would be unusual, but notes that hotels are a unique use with characteristics of both residential uses and commercial uses. While hotels can be appropriate and desirable uses in districts that permit other commercial uses, there are a wide range of such districts with varied character. Particularly when hotels are developed at the pace that has occurred in recent years, a hotel development can influence the prevailing character of the neighborhood, conflicting with adjacent uses or affecting future development of a surrounding area in ways that are undesirable. Site-specific review will aid in avoiding the introduction of conflicts or impairment of the future use and development of the surrounding area.

While supporters of the proposals emphasized the desirability of increased community involvement and review of individual hotels, the Commission also heard from some planners,

industry members, and civic organizations that not allowing any as-of-right hotel development anywhere in the city would set a precedent to limit development of other uses, limiting the city's ability to accommodate growth.

The Commission believes that community input in the siting and configuration of new hotels, subject to review by the Commission, can support more orderly development consistent with the existing and anticipated future conditions. However, it does not expect the proposal to bring new hotel development to a complete halt. With respect to concerns raised about the precedent setting implications of unnecessarily subjecting a common land use to a special permit requirement in all locations, the Commission agrees that such a precedent would be deeply troubling. The ability for businesses and other land uses to find space within the city in a timely manner, without the delays or costs associated with discretionary review, is essential to the city's economic health and its ability to adapt quickly to shifts in the economic environment. However, the Commission observes that the unique nature of transient accommodations, as noted above, are such that special measures taken to regulate this use must not be construed to suggest that other uses should be subjected to broadly applicable discretionary review regimes. The Commission recognizes and emphasizes the need to maintain locations for as-of-right development for all uses, and to allow for a range of appropriate uses in any given district, to support the city's capacity to provide enough space for a wide range of uses to meet its ever-evolving needs.

The Commission also heard testimony that significant amounts of new hotel development are adversely affecting the profitability of existing hotels, and that the special permit is a tool by which the Commission can privilege existing participants in the industry over potential future participants. The Commission notes that the purpose of the proposal is not to stifle competition or to protect any segment of the hotel industry, nor to influence the profitability of any individual business or set of businesses, and that such purposes are outside the Commission's purview. The purpose of the proposal is to address potential land use impacts of new hotels.



The Commission also heard testimony from organizations and individuals representing the interests of commercial real estate, the tourism industry, and regional planning suggesting that there is insufficient evidence in support of the stated purpose and need, which is to address the potential for new hotels to create land use conflicts or impair future development of the surrounding area.

The city has experienced rapid growth in new hotel development, accounting for an increase in new rooms of over 70 percent since 2007 and over 40 percent since 2015. The rapid growth of hotels across the city, especially in locations that had not historically experienced much hotel development, has raised concerns in communities and led to calls for better review of development to address conflicts and potential nuisances. The text amendment standardizes the many ways in which special permit requirements have been imposed in rezoned neighborhoods. This proposal does not suggest that hotels are categorically inappropriate in the districts where they are permitted today; it suggests that context-specific considerations may influence the determination as to whether a hotel is appropriate in a specific location.

The Commission notes that a hotel development may cause conflicts such as those related to traffic, both vehicular and pedestrian, resulting from the configuration of drop off and pick up, insufficient loading areas, or access and egress locations that have the potential to create conflicts with pedestrians, cyclists, and vehicles. The Commission heard concerns from real estate and business groups that a special permit is a blunt instrument to address the land use impacts associated with hotels, and that interventions to address signage, building design, wayfinding, or curb cuts would be as effective without an adverse effect on the hotel industry. The Commission understands that such measures may support better integration of a new hotel in the specific context within which it is locating. However, it is difficult to establish a general approach to such solutions because of the wide array of potential issues to address. Instead, the proposed action aims to adopt a uniform, citywide approach to the criteria by which localized and site-specific concerns related to new hotel development will be reviewed.

Representatives of real estate, civic, and business organizations stated that the special permit should not apply in the city’s major business and tourism districts since these are categorically appropriate locations for hotel development, and hotel development is unlikely to create impacts that are worse than or different from the impacts of other permitted uses. The Commission agrees that hotels are often appropriate within the city’s major business districts, which support a diverse mix of commercial and residential uses, and considered but rejected potential mitigations that would excluded these areas from the proposed special permit requirement. These are discussed in further detail below.

### **Applicability and Findings**

The text amendment aims to create a consistent development framework for new hotels. Hotels will continue to be allowed in a wide range of neighborhood contexts where different considerations would be relevant. To allow hotels to proceed in a wide variety of neighborhood contexts, while also allowing latitude for the Commission to address concerns unique to specific developments and locations, the proposed text amendment initially included only one general finding related to the future use or development of the surrounding area.

The Commission heard concerns expressed by several community boards, members of the development community, and elected officials that the finding does not provide adequate guidance when considering whether a hotel is appropriate. The Commission notes that the finding that a new hotel “shall not impair the future use or development of the surrounding area” is consistent with other use special permits in the Zoning Resolution and allows the latitude for the CPC to consider a hotel within its particular context. This finding is relevant to the diverse neighborhoods where hotels are permitted but is limited to land use characteristics that define the surrounding area.

However, the Commission believes that augmenting the findings can provide clearer guidance on considerations for participants in the public review process, while retaining flexibility to consider

the particular context of a new hotel development. The Commission is therefore modifying the proposal to incorporate additional findings that include consideration of potential conflicts related to access and egress to the building and to service areas, and the potential for undue vehicular or pedestrian congestion.

The Commission heard recommendations from several community boards to include findings related to neighborhood and historic character, bulk, and design. The Commission notes that the proposed special permit is a use permit, and does not modify the underlying bulk regulations. The permit's findings are intended to ensure that a new hotel does not impair existing or future uses in the surrounding area, and thus may examine such features of the proposal as access and egress with respect to neighboring activities, but the overall bulk and design of the building are not germane to the nature of the special permit.

The Commission heard requests from representatives of hotel developers and from some community boards to maintain the findings of existing hotel special permits. As noted above, the proposal aims to create a consistent process for new hotel development. The Commission believes the proposed findings are appropriate citywide. The exception is in M1 districts, where the recently adopted special permit has additional findings that address issues unique to industrial areas. Those findings are retained in the proposed text amendment. However, the Commission believes that the variety of findings in other special permits should be made consistent as proposed under the citywide hotel special permit.

### **Exemption of Public Purpose Hotels**

The proposal would exclude transient hotels operated exclusively for the public purpose of providing temporary housing assistance.

Members of community boards and residents who testified at the public hearing stated that transient facilities for a public purpose also introduce land use impacts and must be required to go through the CPC special permit review process. Others expressed concerns that commercial

hotels approved through the CPC special permit process would later convert to a public purpose shelter.

While the Commission acknowledges these concerns, it also recognizes that there is a chronic shortage of temporary housing for the homeless population and that it is the City's legal obligation to provide eligible individuals and families with access to shelter. While the creation of hotels is not the focus of the City's long-term strategy for the provision of shelter, measures that further limit siting options for temporary housing assistance could impede the City's ability to address these emergency conditions. The exemption for facilities built as shelters as-of-right allows the construction of Use Group 5 transient accommodations as well as Use Group 3 community facilities or Use Group 2 residences, to provide sufficient flexibility for the city and nonprofit providers of emergency shelter to most efficiently, affordably, and appropriately shelter a population with very diverse needs, pursuant to law that requires the city to provide shelter. The ability to shelter individuals in hotels was an important tool during the pandemic. The Commission notes that the proposed Citywide Hotels Text Amendment is based on land use concerns associated with commercial hotels and was never intended to affect current policies and practices for sheltering the homeless, including the construction of facilities that serve the public purpose of providing temporary housing assistance. Transient facilities that are developed for this purpose are currently built as-of-right in many commercial, mixed-use, and paired M1/residential districts, and the proposed action would not change that.

The Commission also heard concerns from communities, residents, and some developers that excluding transient facilities used for temporary housing assistance from the requirement to obtain a CPC special permit could potentially result in proliferation or concentration of such facilities.

The Commission notes that because the proposal would result in fewer new commercial hotels over time, it will become less, not more likely for commercial hotels to contract with the City or other providers to provide emergency shelter. The exemption does not create a "loophole" for

either shelters or hotels, because new shelters constructed as-of-right following adoption of the proposed amendment would be required to obtain a special permit if they seek later to convert to a commercial hotel. The exemption retains the as-of-right option for Use Group 5 transient accommodations, along with Use Group 3 community facilities and Use Group 2 residences, to maintain flexibility for the City and nonprofit providers of emergency shelter to most efficiently, affordably, and appropriately shelter a population with very diverse needs, pursuant to law that requires the City to provide shelter.

### **Effects on the hotel industry**

The zoning text amendment requires a CPC special permit for all new commercial hotels in the city, with exemptions to accommodate projects for which substantial planning and investment have already occurred. These include applications already approved by or before the CPC or Board of Standards and Appeals, or in the Department of Buildings permitting process. The time, cost, and uncertainty of the discretionary review process would be an obstacle to new development and accordingly is expected to reduce new hotel construction in the city. The Department estimates that the text amendment would result in approximately 47,000 fewer hotel rooms citywide by 2035 than would be expected if the regulations remained unchanged. The DEIS concluded that the potential shortfall of rooms could result in a significant adverse impact on the hotel and tourism industries.

Members of the real estate development community, current and former city planners, and representatives of civic and business groups testifying against the proposal cited as a concern the projected significant adverse impacts on the hotel and tourism industries. Many also stated that the timing was inappropriate in light of the effects of the pandemic on visitation and hotel occupancy.

Critics of the proposal, who included many representatives of the real estate community, critiqued the Draft Environmental Impact Statement's assessment of the effects on the hotel and

tourism industries underestimates the economic impacts of the proposal because the analysis did not consider economic effects of foregone tax revenue and economic activity related to new hotel construction. The Commission notes that the effects of land use actions on tax revenues are not a subject of CEQR review, though the economic effects of the proposal are part of the Commission's overall consideration of land use issues. The environmental review assessed the potential socioeconomic impacts on the hotel and tourism industries. This analysis included certain economic considerations, such as hotel industry employment and tourist spending as a means of contextualizing the scope of the room loss to assess the effect on these industries.

Representatives of the union that represents hotel workers and a spokesperson for a nonprofit community development research organization testified in support of the proposal and suggested that the analysis of environmental impacts was based on overly conservative assumptions that exaggerate the potential room shortfall and industry impacts caused by the text amendment. They questioned the assumption that New York City would fully recover from pandemic-related losses to visitation by 2025, and specifically noted that the Department should consider how the rapid adoption of new teleconferencing and remote work technology by prospective business travelers may result in a permanent shift away from business travel.

The Commission notes that the pandemic has had a significant short-term effect on the city's tourism industry, and the analysis of the possible effects on the hotel and tourism industries were based on the best available information at the time, which conservatively assumed that visitation will return to pre-pandemic levels over time. The analysis assumed that demand for hotels in the city will return to a level high enough for some hotel operators to pursue the special permit but would also result in an overall decline in hotel rooms due to the additional restrictions posed by a special permit.

The Commission acknowledges that the hotel and tourism industries are beginning to slowly recover from the effects of the pandemic as closed hotels have reopened and occupancy is rising.

The Commission acknowledges the current uncertainty, but notes that that the assumptions about the text amendments' effect on the hotel and tourism industries are based on the best available information, and that it is prudent to base planning assumptions on the return of tourism and business travel, which make significant contributions to the city's economy and tax revenues.

### **Potential Mitigations Considered**

While many speakers urged the Commission not to adopt the proposal, several speakers proposed modifications to the proposal to mitigate the impact on the hotel and tourism industries, and other related ideas were considered by the Commission. Suggested modifications included a sunrise to postpone implementation of the proposal, to enable greater recovery of the hotel industry before the special permit requirements become effective; a sunset to nullify the proposal after six years was discussed by the Commission, to enable reexamination of the effects of the proposal; exclusion of the key business districts and tourism destinations; and excluding small hotels. The Commission notes that the Department considered several proposed alternatives and potential mitigations identified in the Draft Environmental Impact Statement. These included a geographic exclusion, size threshold exclusion, sunset provision, and a sunrise provision.

With respect to the proposal of a sunset of the proposal after six years, the Commission observes that such provisions have been instituted in rare instances such as the 1982 rezoning of West Midtown, in which more permissive regulations were established for a time-limited period, in order to further encourage near-term investment. These conditions are not analogous to the current proposal. The Commission is frequently faced with questions about uncertain outcomes that are inherent in actions it is taking. As in those other instances, the Commission can revisit subject matter at a future date as warranted by events, but establishing an expiration date to a policy for the purpose of reevaluating it would only add uncertainty for future investment. In addition, the Commission notes that since visitation is projected to return to pre-pandemic levels at or about the time a sunset would take effect, it is expected that the conditions driving hotel

construction patterns today would resume and a sunset would, therefore, not address the purpose and need of the proposal, which is to ensure new hotels do not impair the future use and development of the surrounding area.

The Commission explored and rejected a sunrise provision as a potential alternative, with two options studied: a one-year period before the special permit requirements become effective, and a six-year period. The one-year sunrise would not provide meaningful mitigation as only active projects would be affected, many of which already would be included in the vesting provisions. The six-year sunrise could provide more meaningful mitigation; however, it could also have the effect of promoting rapid hotel development in the near future, counter to the purpose and need of the proposal.

The Commission notes that hotels may be appropriate within the City's major business districts. A soft site analysis identified many potential hotel development sites sufficient to partially satisfy anticipated demand in 2035. However, excluding these central business district locations from the proposed special permit requirement would create an inconsistent regime and an incentive that could unduly concentrate hotel development in these geographies. Approximately 20 percent of the City's existing hotel inventory and approximately 19 percent of the vested pipeline of new hotels are located within these geographies. To direct a substantial share of new hotel development into locations that house a limited share of hotel supply today would produce an irrational distribution of hotels within the city and potentially affect the future use and development of these areas, creating an inconsistency with the purpose and need of the proposal.

The Commission heard recommendations from elected officials and representatives of the real estate and development interests to mitigate potential industry impacts by retaining an as-of-right option for small hotels, limiting applicability of the special permit to large hotels, which may be more likely to result in land use impacts. The Commission notes that the Final Environmental Impact Assessment analyzed an exclusion of hotels smaller than 150 rooms. This option would



result in a smaller room deficit, partially mitigating the impact on the industry, but would not be consistent with the intention to address concerns with the rapid development of hotels in many areas, where the potential would remain for this to impair the future use and development of the surrounding area.

The Commission notes that the text amendment includes provisions to support the industry's recovery from the pandemic, with the intention of allowing for an inventory adequate to support pre-pandemic visitation.

These provisions included:

Modified vesting to allow applications for new hotels filed with the Department of Buildings (DOB) to proceed provided that the application is approved by the date of adoption of the proposal;

Exemption of developments resulting from applications containing a hotel that were filed with the Board of Standards and Appeals (BSA) or certified by the City Planning Commission (CPC) by the date of adoption and approved after 2018;

Allowances for modest expansions and reconfiguring of existing hotels; and

Relaxation of discontinuance rules to allow for permitted interim uses and more time for closed hotels to reopen.

### **Vesting Modifications**

A review of the status of filed and certified applications as of June 30, 2021 indicates that several projects may not have obtained required approvals in time to meet vesting and exclusion criteria,

and therefore may require additional time to obtain approval and flexibility to modify the proposal.

The Commission acknowledges that although the Department assumed most filed applications would vest by the date of adoption of the text amendment, many projects have not had sufficient time to process applications. The Commission also notes that the requiring projects with active applications before the CPC, BSA, and DOB to apply for a CPC special permit would impose a significant burden on property owners and developers pursuing projects in good faith under existing rules. Therefore, the Commission is adopting the following modifications to the exclusion and vesting provisions to increase the likelihood that vested hotels can built or be adapted to changing market conditions:

Extending by one year the time allowed for vested hotels in the DOB permitting process to obtain plan approval;

Allowing vested projects to increase floor area by up to 20 percent, provided that the increase does not exceed the hotel floor area permitted by underlying zoning; and

Vesting of filed applications for renewal of BSA applications that were approved prior to 2018.

### **Addition of findings from M1 special permit**

The Commission heard requests from Manhattan Community Boards 2, 4, and 7 that the findings of the proposed special permit for hotels should be more specific. The Commission notes that two of the findings in the existing M1 special permit for hotels are applicable to a wide range of neighborhood contexts and therefore is adopting the following additional findings for the citywide hotel special permit:

the site plan of the proposed hotel incorporates elements that address any potential conflicts between the proposed hotel and adjacent land uses, such as the location of the proposed access to the hotel and to service areas for refuse and laundry, and the building's orientation and landscaping; and

the proposed hotel will not cause undue vehicular or pedestrian congestion on local streets or unduly inhibit vehicular or pedestrian movement or loading operations.

### **Other Modifications**

Lastly, the Commission notes the Citywide Hotels Text Amendment proposal will remove hotel special permits found in special purpose districts to create a consistent process for new hotel development. Since the application's referral into public review, the Gowanus Neighborhood Plan (C 210177 ZMK), which has a separate hotel special permit applicable in the new Special Gowanus Mixed Use District, has been approved by the Commission. Consistent with its citywide approach, the Commission modifies the Citywide Hotels Text Amendment proposal to remove this area-specific hotel special permit in the Gowanus area. The provisions of the Citywide Hotels Text Amendment will apply.

The rapid growth of hotels across the city in recent decades, especially in locations that had not historically experienced much hotel development, has raised concerns in communities and led to calls for more extensive review of development to address conflicts and potential nuisances. This text amendment standardizes the many ways in which special permit requirements have been imposed in rezoned neighborhoods, and extends them citywide. This proposal does not suggest that hotels are categorically inappropriate in the districts where they are permitted today; it

suggests that context-specific considerations may influence the determination as to whether a hotel is appropriate in a specific location.

The Commission takes seriously concerns about applying special permit review to commonly occurring land uses, or the economic and land use implications of measures that would curtail the ability of businesses to locate as-of-right. The approval of this proposal is premised on the notion that hotels are a unique use with characteristics of both residential uses and commercial uses, and that requirements for their site-specific review do not imply that other uses should be subjected to similar individual review.

The Commission also acknowledges concerns about the recovery of the hotel and tourism industries in New York City. The incorporation of provisions to support the industry's recovery from the pandemic, with the intention of allowing for an inventory adequate to support pre-pandemic visitation, is a key factor in its finding that the proposal, as modified, is appropriate.

## **RESOLUTION**

**RESOLVED**, that having considered the Final Environmental Impact Statement (FEIS), for which a Notice of Completion was issued on October 8, 2021 with respect to this application (CEQR No. 21DCP111Y), the City Planning Commission finds that the requirements of the New York State Environmental Quality Review Act and Regulations have been met and that:

1. The environmental impacts disclosed in the FEIS were evaluated in relation to the social, economic, and other considerations associated with the action that are set forth in this report; and
2. Consistent with social, economic and other essential considerations, from among the reasonable alternatives provided in the application, the action is one which minimizes or avoids adverse environmental impacts to the maximum extent practicable; and

3. The adverse environmental impacts disclosed in the FEIS will be minimized or avoided to the maximum extent practicable.

The report of the City Planning Commission, together with the FEIS constitutes the written statement of findings that form the basis of the decision, pursuant to Section 617.11(d) of the SEQRA regulations, and be it further

**RESOLVED** that the City Planning Commission, in its capacity as the City Coastal Commission, has reviewed the waterfront aspects of this application and finds that the proposed action is consistent with WRP policies; and be it further

**RESOLVED**, by the City Planning Commission, pursuant to Section 200 of the New York City Charter, that based on the environmental determination, and the consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:

#### **Documents from BPs and CBs**

**Docket**

***CITYWIDE HOTELS TEXT AMENDMENT***

**CITYWIDE**

**N 210406 ZRY**

**IN THE MATTER OF** an application submitted by the Department of City Planning, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, to modify Article III, Chapter 2 (Use Regulations), Article IV, Chapter 2 (Use Regulations) and related Sections, to create a special permit for new hotels, motels, tourist cabins and boatels in Commercial Districts and in M1 Districts paired with Residence Districts.

Matter underlined is new, to be added;

Matter ~~struck out~~ is to be deleted;

Matter within # # is defined in Section 12-10 or other, as applicable;

\* \* \* indicates where unchanged text appears in the Zoning Resolution.

\* \* \*

**ARTICLE III  
COMMERCIAL DISTRICT REGULATIONS**

**Chapter 2  
Use Regulations**

**32-00  
GENERAL PROVISIONS**

\* \* \*

**32-02  
Special Provisions for Hotels**

#Transient hotels#, as listed in Section 32-14 (Use Group 5), and #motels#, #tourist cabins# or #boatels#, as listed in Section 32-16 (Use Group 7A), shall be subject to the special provisions of this Section. For the purposes of this Section, #transient hotels# shall include #motels#, #tourist cabins# and #boatels#.

In all Districts, #transient hotels# shall be permitted only as set forth in this Section.

(a) Applicability

A special permit for #transient hotels#, by the City Planning Commission, pursuant to Section 74-802 (Transient hotels within Commercial Districts) shall be applicable to:

- (1) the #development# of a #transient hotel#;
- (2) a change of #use# or #conversion# to a #transient hotel#, or an #enlargement#, containing a #transient hotel#, of a #building# that, as of [date of adoption], did not contain such #use#; or
- (3) an #enlargement# or #extension# of a #transient hotel# that existed prior to [date of adoption], that increases the #floor area# of such #use# by 20 percent or more.

(b) Exclusions

Notwithstanding the above, the provisions of this Section shall not apply to the following:

- (1) a #transient hotel# operated exclusively for the public purpose of temporary housing assistance by the City or State of New York, or operated by a non-governmental entity pursuant to an active contract or other written agreement with an agency of the City or State specifying such public purpose;
- (2) where an application for a project containing a #transient hotel#, including an application for an extension of time to complete construction, has been filed at the Board of Standards and Appeals before [date of adoption] and such application has been approved after January 1, 2018, provided that:
  - (i) such #transient hotel# was considered in such application, as evidenced by its description or assessment at a specified location in an application or in environmental review documents; and
  - (ii) in the event that a temporary or final certificate of occupancy has not been issued by [six years after date of adoption], the building permit shall automatically lapse and the right to continue construction shall terminate. An application to renew the building permit may be made to the Board of Standards and Appeals not more than 30 days after the lapse of such building permit pursuant to the applicable provisions of Section 11-332 (Extension of period to complete construction); or

(3) where an application for a project containing a #transient hotel# has been certified by the City Planning Commission before [date of adoption] and has been approved by the Commission after January 1, 2018, provided that:

- (i) such #transient hotel# was considered in such application, as evidenced by its description or assessment at a specified location in a land use application or in environmental review documents; and
- (ii) in the event that a temporary or final certificate of occupancy has not been issued by [six years after date of adoption], the building permit shall automatically lapse and the right to continue construction shall terminate. An application to renew the building permit may be made to the Board of Standards and Appeals not more than 30 days after the lapse of such building permit pursuant to the applicable provisions of Section 11-332. For such applications where a special permit for a #transient hotel# has been certified by the Commission pursuant to a #Special Purpose District#, such application may continue pursuant to the regulations and term of years proposed or in effect at the time such special permit was certified by the Commission.

(c) Existing hotels

- (1) Any #transient hotel# existing on [date of adoption] shall be considered a conforming #use# and may be continued, structurally altered, #extended# or #enlarged# subject to the limitations set forth in this Section and subject to the applicable #bulk# regulations. However, if for a continuous period of two years such #transient hotel# is discontinued, the space allocated to such #transient hotel# shall thereafter be used only for a conforming #use# other than a #transient hotel#, or may be utilized for a #transient hotel# only if the Commission grants a special permit for such #use# in accordance with the provisions of Section 74-802 or other applicable section of this Resolution.
- (2) The provisions of paragraph (c)(1) of this Section shall be modified up to [six years after date of adoption] to allow a #transient hotel# existing on [date of adoption] to be restored to such #use# regardless of more than two years of discontinuance of the #use#, and regardless of any change of #use# between [date of adoption] and [six years after date of adoption].
- (3) In the event a casualty damages or destroys a #transient hotel# that was in such #use# as of [date of adoption], such #building# may be reconstructed and used as a #transient hotel# without obtaining a special permit. A #non-complying



building# may be reconstructed pursuant to Section 54-40 (DAMAGE OR DESTRUCTION IN NON-COMPLYING BUILDINGS).

(d) Vesting regulations

The provisions of Section 11-30 (BUILDING PERMITS ISSUED BEFORE EFFECTIVE DATE OF AMENDMENT) regarding the right to continue construction shall apply. As an alternative, the following provisions shall apply.

- (1) If, on or before [date of referral], an application for a #development#, #enlargement# or #conversion# to a #transient hotel# has been filed with the Department of Buildings, and if, on or before [one year after the date of adoption], the Department of Buildings has approved an application for a foundation, a new #building# or an alteration based on a complete zoning analysis showing zoning compliance for such #transient hotel#, such application may be continued, and construction may be started or continued.
- (2) However, in the case of an application for a #development#, #enlargement# or #conversion# to a #transient hotel# that has been filed with the Department of Buildings prior to January 1, 2018 and has not received a permit contingent on zoning approval on or before [one year after date of adoption], the provisions of paragraph (d)(1) of this Section shall not apply. In lieu thereof, the provisions of this paragraph shall apply. For such applications, if, on or before [one year after date of adoption] a permit contingent on zoning approval was lawfully issued by the Department of Buildings, such construction may be started or continued.

All such applications may be revised and retain vested status, provided that the #floor area# for the #transient hotel# is not increased by more than 20 percent of the final approved application, or for a proposed #enlargement#, by more than 20 percent of the proposed new #floor area# of the final approved application.

In the event that a temporary or final certificate of occupancy has not been issued by [six years after date of adoption], the building permit shall automatically lapse and the right to continue construction shall terminate. An application to renew the building permit may be made to the Board of Standards and Appeals not more than 30 days after the lapse of such building permit pursuant to the applicable provisions of Section 11-332 (Extension of period to complete construction).

\* \* \*

## USES PERMITTED AS-OF-RIGHT

\* \* \*

### 32-14

#### Use Group 5

C1\* C2\*\* C4 C5 C6 C8

Use Group 5 consists of hotels used primarily for transient occupancy.

##### A. Transient Accommodations

#Hotels, transient#\*\*\* [PRC-H]

##### B. #Accessory Uses#

- \* In a C1-1, C1-2, C1-3 or C1-4 District, a #transient hotel# shall not be permitted
- \*\* In a C2-1, C2-2, C2-3 or C2-4 District, each #transient hotel# shall be located on a #zoning lot# in whole or in part within a 1,000-foot radius of the entrance or exit of a limited-access expressway, freeway, parkway, or highway, all of which prohibit direct vehicular access to abutting land and provide complete separation of conflicting traffic flows, measured from the centerline of the entrance or exit ramp at its intersection with the nearest adjacent #street#
- \*\*\* Subject to the provisions of Section 32-02 (Special Provisions for Hotels)

\* \* \*

### 32-16

#### Use Group 7

C2 C6\* C8

Use Group 7 consists primarily of home maintenance or repair services which:

- (1) fulfill recurrent needs of residents in nearby areas;
- (2) have a relatively small service area and are, therefore, widely distributed throughout the City; and

- (3) are incompatible in primary retail districts since they break the continuity of retail frontage.

A. Transient Accommodations

#Motels#, #tourist cabins# or #boatels#\*\* [PRC-H]

In C2 Districts, each #motel# or #tourist cabin# shall be located on a #zoning lot# in whole or in part within a 1,000 foot radius of the entrance or exit of a limited-access expressway, freeway, parkway or highway, all of which prohibit direct vehicular access to abutting land and provide complete separation of conflicting traffic flows, measured from the centerline of the entrance or exit ramp at its intersection with the nearest adjacent #street#

\* \* \*

E. #Accessory Uses#

\* In a C6-1A District, #uses# in Use Group 7 are not permitted

\*\* Subject to the provisions of Section 32-02 (Special Provisions for Hotels)

\* \* \*

**32-30  
USES PERMITTED BY SPECIAL PERMIT**

**32-31  
By the Board of Standards and Appeals**

In the districts indicated, the following #uses# are permitted by special permit of the Board of Standards and Appeals, in accordance with standards set forth in Article VII, Chapter 3.

C4-1  
Amusement arcades [PRC-E]

C2 C4 C6 C7

#Automotive service stations#, open or enclosed, with sites of not less than 7,500 square feet per establishment, and provided that facilities for lubrication, minor repairs, or washing are permitted only if located within a #completely enclosed building#

€3

#Boatels# [PRC-H]

C1 C2 C3

Camps, overnight or outdoor day [PRC-H]

\* \* \*

## **ARTICLE IV MANUFACTURING DISTRICT REGULATIONS**

### **Chapter 2 Use Regulations**

\* \* \*

#### **42-10 USES PERMITTED AS-OF-RIGHT**

#### **42-11 Use Groups 4A, 4B, 4C, 5, 6C, 6E, 7A, 9A and 12B**

M1

Use Groups 4B, 4C, 5, 6C, 6E, 7A, 9A and 12B as set forth in Sections 32-13, 32-14, 32-15, 32-16, 32-18, 32-21.

Use Group 4A shall be limited to all health facilities requiring approval under Article 28 of the Public Health Law of the State of New York that, prior to July 10, 1974, have received approval of Part I of the required application from the Commissioner of Health, ambulatory diagnostic or treatment health care facilities, as listed in Section 22-14 (Use Group 4), and houses of worship. Such #uses# are not subject to the special permit provisions of Sections 42-32 and 74-921.

#Transient hotels#, as listed in Section 32-14 (Use Group 5), and #motels#, #tourist cabins# or #boatels#, as listed in Section 32-16 (Use Group 7A), shall be subject to the special provisions of Section 42-111 (Special provisions for hotels in M1 Districts) or, where applicable, Section 32-

02 (Special Provisions for Hotels). For the purposes of this Section, inclusive, #transient hotels# shall include #motels#, #tourist cabins# and #boatels#.

## 42-111

### Special provisions for hotels in M1 Districts

In M1 Districts, #transient hotels# shall be permitted only as set forth in this Section. The City Planning Commission may permit #transient hotels# in an M1 District pursuant to a special permit set forth in another Section of this Resolution, or pursuant to Section 74-803 (Transient hotels within M1 Districts), as applicable.

(a) Applicability

Such special permit for #transient hotels# pursuant to Section 74-803 shall be applicable to:

- (1) #development# of a #transient hotel#;
- (2) a change of #use# or #conversion# to a #transient hotel#, or an #enlargement#, containing a #transient hotel#, of a #building# that, as of December 20, 2018, did not contain such #use#; or
- (3) #enlargement# or #extension# of a #transient hotel# that existed prior to December 20, 2018, that increases the #floor area# of such #use# by 20 percent or more.

(b) Exclusions

The provisions of this Section shall not apply to the following:

- (1) ~~A special permit shall not be required for a #transient hotel# operated exclusively for the public purpose of temporary housing assistance by the City or State of New York, or operated by a non-governmental entity pursuant to an active contract or other written agreement with an agency of the City or State specifying such public purpose.~~
- (1) ~~In addition, a special permit pursuant to the provisions of Section 74-803 shall not be required for #developments#, #enlargements#, #extensions# or changes of #use# of #transient hotels# in:~~

- (i)(2) a #transient hotel# located within John F. Kennedy International Airport and LaGuardia Airport, which shall include property under the jurisdiction of the Port Authority of New York and New Jersey for airport use;
- (ii)(3) a #transient hotel# in an M1-6D District, a #Special Mixed Use District# or any other #Special Purpose District# where any M1 District is paired with a #Residence District#, all of which shall instead be subject to the provisions of Section 32-02 (Special Provisions for Hotels); or
- (iii) ~~an M1 District where another special permit in this Resolution permitting such #use# is applicable, subject to approval by the City Planning Commission, including, but not limited to, a special permit for a #transient hotel# applicable within a Special Purpose District or in a Historic District designated by the Landmarks Preservation Commission.~~
- (4)(2) ~~A special permit pursuant to the provisions of Section 74-803 shall also not be required in an M1-2 District for a change of #use# to a #transient hotel# that occupies no more than 30 percent of the #floor area# on the #zoning lot# and where such #zoning lot# contains a minimum #lot area# of 100,000 square feet, comprises an entire #block#, and contains #buildings# with a minimum total of 500,000 square feet of #floor area# on December 20, 2018.~~

(c) Within M1-5A and M1-5B Districts

Within an M1-5A or M1-5B District, a special permit pursuant to Section 74-803 shall be required in conjunction with a special permit pursuant to Section 74-781 (Modifications by special permit of the City Planning Commission of uses in M1-5A and M1-5B Districts) except that a permit pursuant to Section 74-781 shall not be required for a #transient hotel# located above the ground floor level, where the #floor area# used for such #use# on the ground floor does not exceed an amount minimally necessary to access and service such #transient hotel#.

(d) Existing hotels

- (1) Any #transient hotel# existing prior to December 20, 2018, within an M1 District shall be considered a conforming #use# and may be continued, structurally altered, #extended# or #enlarged# subject to the limitations set forth in this Section and subject to the applicable #bulk# regulations. However, if for a continuous period of two years such #transient hotel# is discontinued, or the active operation of substantially all the #uses# in the #building or other structure# is discontinued, the space allocated to such #transient hotel# shall thereafter be

used only for a conforming #use#, or may be utilized ~~#used#~~ for a #transient hotel# only if the Commission grants a special permit for such #use# in accordance with the provisions of Section 74-803 or other applicable section of this Resolution.

- (2) The provisions of paragraph (d)(1) of this Section shall be modified up to [six years after date of adoption] to allow a #transient hotel# existing on [date of adoption] to be restored to such #use# regardless of more than two years of discontinuance of the #use#, and regardless of any change of #use# between [date of adoption] and [six years after date of adoption].
- (3) In ~~addition, in~~ the event a casualty damages or destroys a #transient hotel# within an M1 District that was in such #use# as of December 20, 2018, such #building# may be reconstructed and used as a #transient hotel# without obtaining a special permit. A #non-complying building# may be reconstructed pursuant to Section 54-40 (DAMAGE OR DESTRUCTION IN NON-COMPLYING BUILDINGS).

(e) Vesting

The provisions of Section 11-30 (BUILDING PERMITS ISSUED BEFORE EFFECTIVE DATE OF AMENDMENT) regarding the right to continue construction shall apply. As an alternative, if on or before April 23, 2018, a building permit for a #development#, #enlargement# or #conversion# to a #transient hotel#, or a partial permit for a #development# of a #transient hotel# was lawfully issued by the Department of Buildings, such construction may be started or continued. In the event that construction has not been completed and a certificate of occupancy including a temporary certificate of occupancy, has not been issued by December 20, 2021, the building permit shall automatically lapse and the right to continue construction shall terminate. An application to renew the building permit may be made to the Board of Standards and Appeals not more than 30 days after the lapse of such building permit pursuant to the applicable provisions of Section 11-332 (Extension of period to complete construction).

Any special permit approved by the City Council for a #transient hotel# prior to December 20, 2018, shall be permitted and this Section shall not apply to such #transient hotel#, subject to the provisions of Section 11-42 (Lapse of Authorization or Special Permit Granted by the City Planning Commission Pursuant to the 1961 Zoning Resolution).

\* \* \*

**42-30**

**USES PERMITTED BY SPECIAL PERMIT**

\* \* \*

**42-32**

**By the City Planning Commission**

In the districts indicated, the following #uses# are permitted by special permit of the City Planning Commission, in accordance with standards set forth in Article VII, Chapter 4.

\* \* \*

M1 M2 M3

Trade expositions, with rated capacity of more than 2,500 persons [PRC-D]

~~M1~~

~~#Transient hotels#, as listed in Section 32-14 (Use Group 5), and #motels#, #tourist cabins# or #boatels#, as listed in Section 32-16 (Use Group 7A), pursuant to the special provisions of Section 42-111 (Special provisions for hotels in M1 Districts)~~

M1 M2 M3

#Uses# listed in a permitted Use Group for which #railroad or transit air space# is #developed#

\* \* \*

**42-40**

**SUPPLEMENTARY USE REGULATIONS AND SPECIAL PROVISIONS APPLYING ALONG DISTRICT BOUNDARIES**

\* \* \*

**42-48**

**Supplemental Use Regulations in M1-6 Districts**

\* \* \*

**42-483**

**Commercial uses**



The #commercial use# regulations applicable in M1 Districts shall apply in M1-6D Districts, except that:

- (a) ~~#Transient hotels# shall be allowed, except that #developments# or #enlargements# of #transient hotels# with greater than 100 sleeping units on #zoning lots# where #residential use# is permitted as of right, in accordance with paragraph (a) of Section 42-481 (Residential use), shall only be allowed upon certification by the Chairperson of the City Planning Commission to the Commissioner of Buildings that the residential development goal has been met for the area in which such #transient hotel# is located, as set forth in this paragraph, (a), or where such residential development goal has not been met, by special permit pursuant to Section 74-802 (In M1-6D Districts).~~

The residential development goal shall be met when at least 865 #dwelling units#, permitted pursuant to the provisions of Section 42-481, on #zoning lots# located within an area bounded by West 28th Street, West 30th Street, a line 100 feet west of Seventh Avenue, and a line 100 feet east of Eighth Avenue, have received temporary or final certificates of occupancy subsequent to September 21, 2011.

- ~~(b)~~(a) Food stores, including supermarkets, grocery stores and delicatessen stores, shall not be limited as to size of establishment.
- ~~(e)~~(b) On #narrow streets#, ground floor #commercial uses# shall be subject to special streetscape provisions, as set forth in Section 42-485.
- ~~(d)~~(c) All #uses# listed in Use Group 10 shall be permitted without limitation, except as provided for in paragraph ~~(e)~~(b) of this Section.

\* \* \*

## ARTICLE VII ADMINISTRATION

### Chapter 3 Special Permits by the Board of Standards and Appeals

\* \* \*

#### ~~73-25~~ Boatels

In C3 Districts, the Board of Standards and Appeals may permit ~~#boatels#~~ provided that the following findings are made:

- (a) ~~that such #use# is so located as not to impair the essential character or the future use or development of the nearby residential neighborhood; and~~
- (b) ~~that any restaurant permitted in connection with such #use# satisfies the conditions for issuance of special permits to eating or drinking places, as set forth in Section 73-24.~~

The Board may ~~modify the regulations relating to #signs# in C3 Districts to permit a maximum total #surface area# of 50 square feet of non-#illuminated# or #illuminated# non-#flashing signs# on each of not more than three #street# or water frontages.~~

The Board may ~~prescribe appropriate conditions or safeguards to minimize adverse effects on the character of the surrounding area, including requirements with respect to the location of #illuminated signs#, the shielding of floodlights or adequate screening.~~

~~73-26~~

73-25

**Children's Amusement Parks**

\* \* \*

~~73-27~~

73-26

**Funeral Establishments**

\* \* \*

~~73-28~~

73-27

**Newspaper Publishing**

\* \* \*

~~73-29~~

73-28

**Utilization of Explosives in Manufacturing Processes**

\* \* \*

## Chapter 4 Special Permits by the City Planning Commission

\* \* \*

### 74-80 TRANSIENT HOTELS

\* \* \*

#### 74-802 ~~In M1-6D Districts~~

~~In M1-6D Districts, in areas that have not met the residential development goal set forth in paragraph (a) of Section 42-483 (Commercial uses), the City Planning Commission may permit #developments# or #enlargements# of #transient hotels# with greater than 100 sleeping units on #zoning lots# where #residential use# is permitted as of right, in accordance with Section 42-481 (Residential use), provided the Commission finds that:~~

- ~~(a) a sufficient development site is available in the area to meet the residential development goal; or~~
- ~~(b) a harmonious mix of #residential# and non-#residential uses# has been established in the area, and such #transient hotel# resulting from a #development# or #enlargement# is consistent with such character of the surrounding area.~~

~~The Commission may prescribe additional conditions and safeguards to minimize adverse effects on the character of the surrounding area.~~

#### Transient hotels within Commercial Districts

In C1 Districts, except C1-1, C1-2, C1-3 and C1-4 Districts, in C2 Districts, except C2-1, C2-2, C2-3 and C2-4 Districts where #transient hotels# are not permitted pursuant to Section 32-14 (Use Group 5), in C4, C5, C6 and C8 Districts, in M1 Districts paired with a #Residence District#, and in M1-6D Districts, #transient hotels#, as listed in Section 32-14 (Use Group 5), and #motels#, #tourist cabins# or #boatels#, as listed in Section 32-16 (Use Group 7A), shall be permitted only by special permit of the City Planning Commission. In order to grant such special permit, the Commission shall find that:

- (a) the site plan incorporates elements that address any potential conflicts between the proposed #use# and adjacent #uses#, such as the location of the proposed access to the #building# and to service areas for refuse and laundry, and the #building's# orientation and landscaping;
- (b) such #use# will not cause undue vehicular or pedestrian congestion on local #streets# or unduly inhibit vehicular or pedestrian movement or loading operations; and
- (c) such #use# will not impair the future use or development of the surrounding area.

The Commission may prescribe additional conditions and safeguards to minimize adverse effects on the character of the surrounding area.

### **74-803**

#### **Transient hotels within M1 Districts**

In M1 Districts, pursuant to Section 42-111 (Special provisions for hotels in M1 Districts), #transient hotels#, as listed in Section 32-14 (Use Group 5), and #motels#, #tourist cabins# or #boatels#, as listed in Section 32-16 (Use Group 7A), shall be permitted only by special permit of the City Planning Commission. In order to grant such special permit, the Commission shall find that:

- (a) the site plan incorporates elements that address any potential conflicts between the proposed #use# and adjacent #uses#, such as the location of the proposed access to the #building# and to service areas for refuse and laundry, and the #building's# orientation and landscaping;
- (b) the site plan demonstrates that the proposed #street wall# location and the design and landscaping of any area of the #zoning lot# between the #street line# and all #street walls# of the #building# and their prolongations will result in a site design that does not impair the character of the existing streetscape;
- (c) such #use# will not cause undue vehicular or pedestrian congestion on local #streets# or unduly inhibit vehicular or pedestrian movement or loading operations; and
- (d) such #use# will not impair the essential character including, but not limited to, existing industrial businesses, or future use or development of the surrounding area.

The Commission may prescribe additional conditions and safeguards to minimize adverse effects on the character of the surrounding area.

\* \* \*

## ARTICLE VIII SPECIAL PURPOSE DISTRICTS

### Chapter 1 Special Midtown District

\* \* \*

### 81-60 SPECIAL REGULATIONS FOR THE EAST MIDTOWN SUBDISTRICT

\* \* \*

#### 81-62 Special Use Provisions

#### ~~81-621 Special provisions for transient hotels~~

~~Within the East Midtown Subdistrict, as shown on Map 1 (Special Midtown District and Subdistricts) in Appendix A of this Chapter, the #development# of a #building# containing a #transient hotel#, as listed in Use Group 5, or the #conversion# or change of #use# within an existing #building# to a #transient hotel#, shall only be allowed by special permit of the City Planning Commission pursuant to the provisions of this Section. In addition, in Subareas other than the Vanderbilt Corridor, as shown on Map 2 (Special East Midtown District and Subareas), the #enlargement# of a #building# containing a #transient hotel# shall only be allowed by special permit of the City Planning Commission pursuant to the provisions of this Section.~~

However, in the event a casualty damages or destroys a #building# within the East Midtown Subdistrict that was used as a #transient hotel# as of May 27, 2015, in the Vanderbilt Corridor Subarea or on August 9, 2017, in other Subareas, such #building# may be reconstructed and used as a #transient hotel# without obtaining a special permit, provided the #floor area# of such reconstructed #building#, less the #floor area# of any other #buildings# on the #zoning lot# does not exceed the applicable basic maximum #floor area ratio# for the #zoning lot# set forth in Section 81-60, inclusive. #Transient hotels# existing on May 27, 2015 within the Vanderbilt

~~Corridor Subarea or on August 9, 2017, in other Subareas, shall be considered conforming #uses#.~~

~~To permit such a #transient hotel#, the Commission shall find that such #transient hotel# will:~~

- ~~(a) be appropriate to the needs of businesses in the vicinity of the East Midtown area; and~~
- ~~(b) provide on-site amenities and services that will support the area's role as an office district. Such business-oriented amenities and services shall be proportionate to the scale of the #transient hotel# being proposed, and shall include, but shall not be limited to, conference and meeting facilities, and telecommunication services.~~

~~The Commission may prescribe additional conditions and safeguards to minimize adverse effects on the character of the surrounding area.~~

~~However, after August 9, 2017, #development# of a #building# containing a #transient hotel# shall be permitted under the regulations which were in effect prior to August 9, 2017, if a new building application for such #development# was filed at the Department of Buildings after June 9, 2016, and a partial permit for such application was issued by the Department of Buildings on or prior to July 20, 2017, and a temporary certificate of occupancy for the entire #building# has been granted prior to January 31, 2020. In the event that such temporary certificate of occupancy has not been granted prior to such date, and an application is filed prior to such date, pursuant to this Section, with the Board of Standards and Appeals, the Board may permit the new building permit to be renewed for a term of one year upon the following findings:~~

- ~~(1) that the applicant has been prevented from completing such construction by hardship or circumstances beyond the applicant's control;~~
- ~~(2) that the applicant has not recovered all or substantially all of the financial expenditures incurred in construction, nor is the applicant able to recover substantially all of the financial expenditures incurred through development that conforms and complies with any applicable amendment to this Resolution; and~~
- ~~(3) that there are no considerations of public safety, health and welfare that have become apparent since the issuance of the permit that indicate an overriding benefit to the public in enforcement of the special permit provisions of this Section. In the event that the Board permits the renewal, the temporary certificate of occupancy shall be obtained by no later than January 31, 2021.~~

**81-622**

**81-621**

**Location of uses in mixed buildings**

\* \* \*

**81-70**

**SPECIAL REGULATIONS FOR THEATER SUBDISTRICT**

\* \* \*

**81-72**

**Use Regulations Modified**

\* \* \*

**81-722**

**Use Group T**

The following #uses# are subject to the limitations on location and #floor area# of the underlying zoning district:

\* \* \*

#Use#

Hotels, where permitted pursuant to Section 32-02 (Special Provisions for Hotels) - lobby space limited to 20 percent of total #zoning lot# frontage on #wide streets#

\* \* \*

**Chapter 3**

**Special Limited Commercial District**

\* \* \*

**83-03**

**Use Group “LC”**

Use Group “LC” comprises #residential uses# listed in Use Groups 1 and 2, and a group of specially related #uses# selected from Use Groups 3, 4, 5, 6, 8 and 9 to provide for the special needs, comfort, convenience, enjoyment, education and recreation of the residents of the surrounding communities and of the many visitors who are attracted to its activities.

\* \* \*

H. Transient Accommodations

#Hotels, transient#, where permitted pursuant to Section 32-02 (Special Provisions for Hotels)

\* \* \*

**Chapter 4  
Special Battery Park District**

\* \* \*

**84-10  
ZONE A GENERAL DISTRICT REGULATIONS**

\* \* \*

**84-12  
Use Regulations**

In the areas indicated as permitted #commercial# locations in Appendices 2.3 and 3.3, the #use# regulations applying in a C2 District shall apply, except as provided in Sections 84-031 (Special permit uses), 84-032 (Uses not permitted), 84-121 (Uses along Esplanade) and this Section.

In the case of a #mixed building# containing #residential# and #commercial uses#, #residential uses# are permitted on the same #story# as a #commercial use#, provided no access exists between such #uses# at any level containing #residences# and provided any #commercial uses# are not located over any #residences#. However, such #commercial use# may be located over #residences# by authorization of the City Planning Commission upon finding that sufficient separation of #residences# from #commercial uses# exists within the #building#.

Notwithstanding any other provisions of this Resolution, the permitted #uses# listed in Use Groups 6, 7, 8, 9 or 14 and the additional #uses# permitted hereunder shall be limited, per establishment, to 10,000 square feet of #floor area# of any #story# and shall not be located above the first #story# ceiling, except that:

- (a) in any #building# containing an #arcade# required in Section 84-134 (Mandatory arcades), any permitted #use# may be located above the first #story# ceiling and below the second #story# ceiling; and
- (b) supermarkets are permitted with no limitation on #floor area#.



Notwithstanding any other provisions of this Resolution, the #zoning lot# south of First Place and east of Battery Place may contain #residential uses#, #transient hotel uses# where permitted pursuant to Section 32-02 (Special Provisions for Hotels), or both #residential# and hotel #uses#.

In the case of hotel #uses# on this #zoning lot#:

- (1) a #physical culture or health establishment# may be permitted; and
- (2) an eating and drinking establishment, as permitted in Section 32-15 (Use Group 6), and a #physical culture and health establishment# or a non-#residential accessory use#, may be located above a #story# containing #residential uses#.

\* \* \*

## **Chapter 8 Special Hudson Square District**

\* \* \*

### **88-10 SUPPLEMENTAL USE REGULATIONS**

\* \* \*

#### **88-13 Commercial Use**

The #commercial use# regulations applicable in M1 Districts shall apply in the #Special Hudson Square District#, except that:

- (a) food stores, including supermarkets, grocery stores or delicatessen stores, shall not be limited as to the size of the establishment;
- (b) #uses# listed in Use Group 6A, other than food stores, and Use Groups 6C, pursuant to Section 42-13, 6E, 10 and 12B, shall be limited to 10,000 square feet of #floor area# at the ground floor level, per establishment. Portions of such establishments located above or below ground floor level shall not be limited in size;
- (c) ground floor #commercial uses# shall be subject to special streetscape provisions set forth in Section 88-131;
- (d) #commercial uses# permitted in M1 Districts shall be subject to the modifications set forth in Section 123-22 (Modification of Use Groups 16, 17 and 18), inclusive;

(e) ~~#transient hotels# shall be subject to the provisions of Section 32-02 (Special Provisions for Hotels); and allowed, except that:~~

~~(1) #development# or #enlargement# of #transient hotels# with greater than 100 sleeping units on #zoning lots# where #residential use# is permitted as of right, in accordance with paragraph (a) of Section 88-11, shall only be allowed upon certification by the Chairperson of the City Planning Commission to the Commissioner of Buildings that the residential development goal has been met for the #Special Hudson Square District# as set forth in this paragraph (e)(1), or, where such residential development goal has not been met, by special permit pursuant to Section 88-132 (Special permit for large transient hotels). The residential development goal shall be met when at least 2,255 #dwelling units#, permitted pursuant to the provisions of Section 88-11, within the #Special Hudson Square District#, have received temporary or final certificates of occupancy subsequent to March 20, 2013; and~~

~~(2) a change of #use# within a #qualifying building# to a #transient hotel# with greater than 100 sleeping units shall only be allowed by special permit, pursuant to Section 88-132; and~~

(f) eating or drinking establishments with entertainment and a capacity of more than 200 persons, or establishments of any capacity with dancing, are permitted only by special permit of the Board of Standards and Appeals, pursuant to Section 73-244.

\* \* \*

## **88-132**

### **Special permit for large transient hotels**

~~(a) #Developments# or #enlargements# In the #Special Hudson Square District#, prior to the residential development goal set forth in paragraph (e) of Section 88-13 (Commercial Use) having been achieved, the City Planning Commission may permit #developments# or #enlargements# of #transient hotels# with greater than 100 sleeping units on #zoning lots# where #residential use# is permitted as of right, in accordance with paragraph (a) of Section 88-11, provided the Commission finds that:~~

~~(1) sufficient development sites are available in the area to meet the residential development goal; or~~

~~(2) a harmonious mix of #residential# and non-#residential uses# has been established in the surrounding area, and such #transient hotel# resulting from a~~

~~#development# or #enlargement# is consistent with the character of such surrounding area.~~

- (b) ~~Changes of #use# In the #Special Hudson Square District#, the City Planning Commission may permit the change of #use# of #floor area# within #qualifying buildings# to a Use Group 5 #transient hotel# with greater than 100 sleeping units provided that, at minimum, the amount of #floor area# changed to such #transient hotel# is:~~
- ~~(1) preserved for Use Group 6B office #use# within a #qualifying building# located within the #Special Hudson Square District#; or~~
  - ~~(2) created for Use Group 6B office #use# within a #building developed# after March 20, 2013, or within the #enlarged# portion of a #building#, where such #enlargement# was constructed within one year of the date an application pursuant to this Section is filed with the Department of City Planning (DCP). Such #developed# or #enlarged buildings# may be located anywhere within the #Special Hudson Square District#, and shall have either temporary or final certificates of occupancy for Use Group 6B office #use#.~~

~~In order to permit such change of #use#, the Commission shall find that the proposed #transient hotel# is so located as not to impair the essential character, or the future use or development, of the surrounding area.~~

~~A restrictive declaration acceptable to the DCP shall be executed and recorded, binding the owners, successors and assigns to preserve an amount of Use Group 6B office #use# within a #qualifying building#, or created within a #development# or #enlargement#, as applicable. Such restrictive declaration shall be recorded in the Office of the City Register. A copy of such declaration shall be provided to the Department of Buildings upon application for~~

~~any building permit related to a change in #use# from Use Group 6B office #use# to any other #use#.~~

~~The Commission may prescribe additional conditions and safeguards to minimize adverse effects on the character of the surrounding area.~~

\* \* \*

## ARTICLE IX SPECIAL PURPOSE DISTRICTS

\* \* \*

**Chapter 4  
Special Sheepshead Bay District**

\* \* \*

**94-06  
Special Use Regulations**

\* \* \*

**94-061  
Permitted residential, community facility and commercial uses**

A. #Residential# and #community facility uses#

#Uses# listed in Use Groups 1, 2, 3 and 4 shall be allowed anywhere within the Special District, except as set forth in Section 94-065 (Restriction on ground floor use).

B. #Commercial uses#

In Areas A, B, C, D and E, as indicated in Appendix A (Special Sheepshead Bay District Map) of this Chapter, only those #commercial uses# listed in Section 94-062 (Use Group SB), those #uses# listed in Section 62-211 (Water-Dependent (WD) uses) from Use Groups 6, 7, where permitted pursuant to Section 32-02 (Special Provisions for Hotels), 9 and 14, and those #uses# permitted pursuant to Section 94-063 (Uses permitted by special permit), shall be allowed. In addition, in Area B, a food store, as listed in Section 32-15 (Use Group 6), shall also be allowed on a #zoning lot# existing on May 27, 2015, for a period of 10 years from such date. Such food store shall be limited to one such establishment per #zoning lot# and shall be limited to 15,000 square feet of #floor area# utilized for the sale of food and non-food grocery products, and further such establishment shall be limited to an additional 6,500 square feet of #floor area# for #accessory# office and storage space. There shall be no limitation on the amount of #floor area# utilized for eating or drinking places as listed in Use Group SB, pursuant to Section 94-062.

In Area F, only #commercial uses# listed in Use Group 6 and those listed in Section 62-211 from Use Groups 6, 7, where permitted pursuant to Section 32-02 (Special Provisions for Hotels), 9 and 14 shall be allowed within the underlying #Commercial Districts#.

In Area G, only #commercial uses# listed in Use Groups 6, 7, where permitted pursuant to Section 32-02 (Special Provisions for Hotels), 8 and 9 and those listed in Section 62-211 from Use Groups 6, 7, 9 and 14 shall be allowed within the underlying #Commercial Districts#.

In Area H, except for #uses# permitted pursuant to Section 94-063, #commercial uses# shall be limited to those listed in Section 62-211 from Use Groups 6, 7, 9 and 14 and the following #uses#:

\* \* \*

#Hotels, transient#, #motels# or #boatels#, where permitted pursuant to Section 32-02 (Special Provisions for Hotels)

Jewelry or art metal craft shops

~~#Motels# or #boatels#~~

\* \* \*

## **Chapter 6 Special Clinton District**

\* \* \*

### **96-30 OTHER AREAS**

\* \* \*

### **96-34 Special Regulations in Northern Subarea C1**

Within Northern Subarea C1, Special Use Regulations Areas C1-1 and C1-2, as shown on the map in Appendix A of this Chapter, are subject to the special #use# regulations of this Section. In addition, the special Inclusionary Housing regulations set forth in this Section shall apply in Area C1-1.

- (a) Inclusionary Housing Program

The boundaries of the #Inclusionary Housing designated area# within the #Special Clinton District# are shown on Map 2 in Manhattan Community District 4, in APPENDIX F of this Resolution. Such area shall be an #Inclusionary Housing designated area#, pursuant to Section 12-10 (DEFINITIONS), for the purpose of making the Inclusionary Housing Program regulations of Section 23-90, inclusive, applicable as modified within the Special District.

Within such #Inclusionary Housing designated area# the following special regulations shall apply. The #residential floor area# of the #zoning lot# may be increased by 1.25 square feet for each square foot of #low income floor area# provided, or by 0.625 square feet for each one square foot of #middle income floor area# provided, up to the maximum #floor area# set forth in Section 23-154 (Inclusionary Housing). However, the amount of #low income floor area# plus half the amount of #middle income floor area# required to receive such #floor area compensation# need not exceed 20 percent of the total #floor area#, exclusive of ground floor non-#residential floor area# on the #compensated zoning lot#, provided that no more than 8,000 square feet of #middle income floor area# may be included within this calculation.

(b) Special #use# regulations

(1) In Special Use Regulations Areas C1-1 and C1-2, the following #uses# shall be permitted below the level of the lowest floor occupied by #dwelling units#:

(i)(1) automobile showrooms or sales with preparation of automobiles for delivery; and

(ii)(2) automobile repairs.

(2) ~~#Transient hotels# shall not be permitted within the portion of Area C1-1 that is located between Eleventh Avenue and a line 250 feet west of Eleventh Avenue, and in the portion located between West 57th Street and a line 100 feet south of West 57th Street, except by special permit of the City Planning Commission, pursuant to the provisions of this paragraph (b)(2).~~

~~The Commission may permit #transient hotels#, resulting from a #development#, #enlargement#, #extension# or change of #use#, provided that the Commission shall find that such #transient hotel# is so located as not to impair the essential character of, or the future use or development of the surrounding area.~~

~~The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.~~

\* \* \*

## Chapter 7 Special 125th Street District

\* \* \*

### 97-14

#### ~~Transient Hotels Within the Park Avenue Hub Subdistrict~~

~~Within the Park Avenue Hub Subdistrict, as shown on Map 1 in Appendix A of this Chapter, the #development# or #enlargement# of a #building# containing a #transient hotel#, as listed in Section 32-14 (Use Group 5), or the #conversion# or change of #use# within an existing #building# to a #transient hotel#, shall only be allowed:~~

- ~~(a) upon certification by the Chairperson of the City Planning Commission to the Commissioner of Buildings that the residential development goal, as set forth in this Section, has been met; or~~
- ~~(b) where such residential development goal, has not been met, by special permit by the City Planning Commission. To permit such a #transient hotel#, the Commission shall find that:
  - ~~(1) sufficient sites are available in the area to meet the #residential development# goal; or~~
  - ~~(2) a harmonious mix of #residential# and non-#residential uses# has been established in the area, and such #transient hotel# is consistent with the character of the surrounding area.~~~~

~~The Commission may prescribe additional conditions and safeguards to minimize adverse effects on the character of the surrounding area.~~

~~For the purpose of applying the provisions of this Section, the #residential development# goal shall be met when at least 3,865 #dwelling units# within the combined areas of the #Special East Harlem Corridors District#, and the Park Avenue Hub Subdistrict, as shown on Map 1 in Appendix A of this Chapter, have received temporary or final certificates of occupancy subsequent to November 30, 2017.~~

\* \* \*

### 97-412

## Maximum floor area ratio in the Park Avenue Hub Subdistrict

Within the Park Avenue Hub Subdistrict, as shown on Map 1 in Appendix A of this Chapter, the maximum #floor area ratio# for #zoning lots# is set forth in paragraph (a) of this Section, and is modified for certain #zoning lots# in accordance with paragraph (b) of this Section.

- (a) Maximum #floor area ratio# The maximum #floor area ratio# shall be 12.0. Where a #development# or #enlargement# contains #residential floor area#, such #zoning lot# shall satisfy the provisions of either:
- (1) a minimum non-#residential floor area ratio# of 2.0 shall be provided on such #zoning lot#. Such #floor area# shall not include any #floor area# containing a #transient hotel# pursuant to the provisions of Section 97-14 (Transient Hotels Within the Park Avenue Hub Subdistrict); or

\* \* \*

## Chapter 9 Special Madison Avenue Preservation District

\* \* \*

### 99-03 Special Use Regulations

\* \* \*

#### 99-031 Use Group MP

Use Group MP comprises a group of #commercial# establishments selected to promote and strengthen the existing #commercial# character of the Special District. The #commercial uses# listed in Table A of this Section are permitted in any portion of the Special District located within a C1 District. The #commercial uses# listed in Tables A and B of this Section are permitted in any portion of the Special District located within a C5 District.

#### Table A

- A. Transient Accommodations



#Hotels, transient#, where permitted pursuant to Section 32-02 (Special Provisions for Hotels)

\* \* \*

**ARTICLE XI  
SPECIAL PURPOSE DISTRICTS**

**Chapter 1  
Special Tribeca Mixed Use District**

\* \* \*

**111-10  
SPECIAL USE REGULATIONS**

\* \* \*

**111-13  
Additional Use Regulations**

\* \* \*

(d) ~~Areas A4, A5, A6 and A7~~

~~#Transient hotels# shall be allowed, except that #developments#, #enlargements#, #extensions# or changes of #use# that result in a #transient hotel# with greater than 100 sleeping units shall only be allowed pursuant to Section 111-31 (Special Permit for Large Transient Hotels). However, any #transient hotel# that received a special permit pursuant to Section 74-711, granted prior to October 13, 2010, may continue under the terms of such approval.~~

~~(e)~~(d) Environmental conditions for Area A2

\* \* \*

**~~111-31  
Special Permit for Large Transient Hotels~~**

~~In Areas A4 through A7, the City Planning Commission may permit #transient hotels# that are comprised of more than 100 sleeping units, provided the Commission shall find that such~~

~~#transient hotel#, resulting from a #development#, #enlargement#, #extension# or change of #use#, is so located as not to impair the essential residential character of, or the future use or development of, the surrounding area. The Commission may prescribe additional conditions and safeguards to minimize adverse effects on the character of the surrounding area.~~

**111-32  
Special Permit for Certain Large Commercial Establishments**

\* \* \*

**ARTICLE XII  
SPECIAL PURPOSE DISTRICTS**

**Chapter 1  
Special Garment Center District**

\* \* \*

**121-10  
SPECIAL USE REGULATIONS**

\* \* \*

**121-11  
Transient Hotels and Offices**

~~In the #Special Garment Center District#, #transient hotels#, as listed in Section 32-14 (Use Group 5), and #motels#, #tourist cabins# or #boatels#, as listed in Section 32-16 (Use Group 7A), shall be permitted only by special permit of the City Planning Commission pursuant to Section 121-70 (Special Permit for Transient Hotels).~~

~~However, a special permit shall not be required for a #transient hotel# operated exclusively for the public purpose of temporary housing assistance by the City or State of New York, or operated by a non-governmental entity pursuant to an active contract or other written agreement with an agency of the City or State specifying such public purpose.~~

~~Furthermore, for~~ For a #building# subject to the provisions of Section 121-60 (ANTI-HARASSMENT AND DEMOLITION REGULATIONS IN SUBDISTRICT A-2) and for which #HPD# issued a #certification of no harassment# that was in effect on June 11, 2018, a special

permit pursuant to Section 74-802 (Transient hotels within Commercial Districts) shall not be required where such #building# is #enlarged# and a portion of which is subsequently converted to #residences# pursuant to Article I, Chapter 5 (Residential Conversions Within Existing Buildings), provided all new #transient hotel# rooms shall be located in the #enlarged# portion of such #building#, and except for #transient hotel# lobbies and #accessory uses# located below the floor level of the second #story#, the non-#enlarged# portion of such #building# shall contain only permanently affordable #residences# pursuant to a #regulatory agreement# enforceable by #HPD#.

~~Any #transient hotel# existing prior to December 20, 2018, within the #Special Garment Center District#, shall be considered a conforming #use#. Any #enlargement# or #extension# of such existing conforming #use# shall not require a special permit. In the event a casualty damages or destroys a #building# within the #Special Garment Center District# that was used as a #transient hotel# as of December 20, 2018, such #building# may be reconstructed and continue as a #transient hotel# without obtaining a special permit, provided the #floor area# of such reconstructed #building# does not exceed the #floor area# permitted pursuant to the provisions of Section 121-31 (Maximum Permitted Floor Area Within Subdistrict A-1) or Section 121-41 (Maximum Permitted Floor Area Within Subdistrict A-2), as applicable.~~

In Subdistrict A-2, any #development# or #enlargement# that includes offices, as listed in Section 32-15 (Use Group 6B) #developed# or #enlarged# after January 19, 2005, shall be permitted only pursuant to Section 93-13 (Special Office Use Regulations).

\* \* \*

## **121-70 SPECIAL PERMIT FOR TRANSIENT HOTELS**

~~In the #Special Garment Center District#, the City Planning Commission may permit a #transient hotel# as listed in Use Group 5, including #motels#, #tourist cabins# or #boatels# as listed in Use Group 7, that is not otherwise permitted pursuant to Section 121-10 (SPECIAL USE REGULATIONS), provided that:~~

- ~~(a) the location of such proposed #transient hotel# within the Special District will not impair the achievement of a diverse and harmonious mix of #commercial#, #manufacturing# and #community facility uses# within Subdistrict A-1 and of #residential#, #commercial#, #manufacturing# and #community facility uses# in Subdistrict A-2, consistent with the applicable district regulations;~~
- ~~(b) the site plan for such #transient hotel# demonstrates that the design is appropriate, does not impair the character of the area and incorporates elements that are necessary to~~

~~address any potential conflicts between the proposed #use# and adjacent #uses#, such as the location of the proposed access to the #building#, the orientation of the #building# and landscaping;~~

- ~~(e) such #transient hotel use# will not cause undue vehicular or pedestrian congestion on local #streets; and~~
- ~~(d) such #transient hotel use# is consistent with the planning objectives of the Special District.~~

~~The Commission may prescribe additional conditions and safeguards to minimize adverse effects on the character of the surrounding area.~~

\* \* \*

## **ARTICLE XIII SPECIAL PURPOSE DISTRICTS**

### **Chapter 1 Special Coney Island District**

\* \* \*

#### **131-10 SPECIAL USE REGULATIONS**

\* \* \*

#### **131-11 Use Group 5**

For the purposes of this Chapter, the definition of #transient hotel# shall be modified to allow only such hotels used exclusively for transient occupancy. Such #transient hotels# used exclusively for transient occupancy shall be permitted only in specified locations as set forth in this Chapter, where permitted pursuant to Section 32-02 (Special Provisions for Hotels).

\* \* \*

#### **131-13 Special Use Regulations in Subdistricts**

\* \* \*

#### **131-131**

## Coney East Subdistrict

The #use# regulations of the underlying C7 District are modified as set forth in this Section. The provisions of Section 32-02 (Special Provisions for Hotels) are modified to apply in a C7 District. The locations of the mandatory ground floor #use# regulations of paragraphs (b), (c), (d) and (f) of this Section are shown on the #streets#, or portions of #streets#, specified on Map 2 in the Appendix to this Chapter. #Transient hotels# and Use Groups A, B and C, as set forth in Sections 131-11 through 131-123, inclusive, and #public parking garages#, shall be the only #uses# allowed in the Coney East Subdistrict, and shall comply with the following regulations:

\* \* \*

### (e) #Transient hotels#

- (1) Where permitted pursuant to Section 32-02, ~~#Transient~~ transient hotels# shall be permitted only on #blocks# with Surf Avenue frontage, except that no #transient hotels# shall be permitted on that portion of the #block# bounded by West 15th and West 16th Streets south of the prolongation of the centerline of Bowery.
- (2) #Transient hotel use# shall not be permitted within 50 feet of Bowery on the ground floor level of a #building#, except that where a #zoning lot# has frontage only on Bowery, a #transient hotel# lobby may occupy up to 30 feet of such frontage.
- (3) For #transient hotels# located on #zoning lots# with at least 20,000 square feet of #lot area#, an amount of #floor area# or #lot area# of Use Group A1 #uses# equal to at least 20 percent of the total #floor area# permitted on such #zoning lot# shall be provided either onsite or anywhere within the Coney East Subdistrict.
- (4) The #street wall# of the ground floor level of a #transient hotel# shall be occupied by active #accessory uses# including, but not limited to, lobbies, retail establishments, eating and drinking establishments and amusements.
- (5) #Accessory# retail establishments within a #transient hotel# shall be limited to 2,500 square feet of #floor area#.

\* \* \*

## 131-132 Coney North and Coney West Subdistricts

In the Coney North and Coney West Subdistricts, #uses# allowed by the underlying district regulations shall apply, except as modified in this Section for #uses# fronting upon #streets# specified on Map 2 (Mandatory Ground Floor Use Requirements) in the Appendix to this Chapter. For the purposes of this Section, the “building line” shown on Parcel F on Map 2 shall be considered a #street line# of Ocean Way or Parachute Way, as applicable. Furthermore, an open or enclosed ice skating rink shall be a permitted #use# anywhere within Parcel F in the Coney West Subdistrict.

(a) Mandatory ground floor level #uses# along certain #streets#

Any #use# listed in Use Groups A, B and C, as set forth in Section 131-12, inclusive, not otherwise allowed by the underlying district regulations, shall be permitted within 70 feet of Riegelmann Boardwalk and within 100 feet of all other designated #streets#, as shown on Map 2.

(1) Riegelmann Boardwalk

Only #uses# listed in Use Groups A, B and C and, where permitted pursuant to Section 32-02 (Special Provisions for Hotels), #transient hotels# located above the ground floor level are permitted within 70 feet of Riegelmann Boardwalk, except that a #transient hotel# lobby may occupy up to 30 feet of such ground floor frontage along Riegelmann Boardwalk. Use Group C #uses# shall be limited to 2,500 square feet of #floor area# and 30 feet of #street# frontage for each establishment. All other establishments shall be limited to 60 feet of #street# frontage, except that for any establishment on a corner, one #street# frontage may extend up to 100 feet. All ground floor #uses# within #buildings# shall have a depth of at least 15 feet measured from the #street wall# of the #building#. However, such minimum depth requirement may be reduced where necessary in order to accommodate vertical circulation cores or structural columns associated with upper #stories# of the #building#.

(2) #Streets# other than Riegelmann Boardwalk

At least 20 percent of the frontage of a #building# or of an open #use#, on a #street# specified on Map 2, shall be allocated exclusively to #uses# listed in Use Groups A, B or C. The remaining frontage of such #building# or open #use#, on a specified #street#, shall be allocated to #commercial uses# permitted by the underlying district regulations or, where permitted pursuant to Section 32-02, a #transient hotel#. In addition, a #residential# lobby may occupy up to 40 feet of frontage along a specified #street# frontage.

There shall be at least four separate ground floor or open #commercial# establishments fronting upon each #block# fronting on Surf Avenue.

All ground floor #commercial uses# within #buildings# shall have a depth of at least 50 feet measured from the #street wall# of the #building#. Such minimum 50 foot depth requirement may be reduced where necessary in order to accommodate a #residential# lobby, vertical circulation cores or structural columns associated with upper #stories# of the #building#.

(b) Prohibited ground floor level #uses# along #streets# other than Riegelmann Boardwalk

No #use# listed in this paragraph, (b), shall be permitted within 50 feet of a #street# specified on Map 2. Lobbies or entryways to non-ground floor level #uses# are permitted, provided the length of #street# frontage occupied by such lobbies or entryways does not exceed, in total, 60 feet.

\* \* \*

From Use Group 5A:

All #uses#, except that #transient hotels# shall be permitted within 200 feet of Surf Avenue between Stillwell Avenue and West 16th Street, where permitted pursuant to Section 32-02

\* \* \*

#### **Chapter 4 Special Governors Island District**

[NOTE: Modifications to this chapter are based on zoning changes proposed pursuant to the current Governors Island Text Amendment N 210126 ZRM]

\* \* \*

#### **134-10 SPECIAL USE REGULATIONS**

#### **134-11 Permitted Uses**

\* \* \*

### **134-111**

#### **Permitted uses in subdistricts**

In the Northern Subdistrict and the Southern Subdistrict, the following #uses# shall be permitted, except as otherwise specified in Section 134-112 (Permitted uses in the Open Space Subarea). In addition, in the Northern Subdistrict, the provisions of Section 134-14 (Certification for Large Commercial Establishments) shall apply to any #commercial use# exceeding 7,500 square feet of #floor area#.

From Use Groups 1 through 4, as set forth in Sections 22-11 through 22-14:

All #uses#.

From Use Group 5, as set forth in Section 32-14:

All #uses#, where permitted pursuant to Section 32-02 (Special Provisions for Hotels).

From Use Group 6, as set forth in Section 32-15:

All #uses#, except automobile supply stores, drive-in banks, carpet, rug, linoleum or other floor covering stores, furniture stores, loan offices, medical or orthopedic appliance stores, paint stores, sewing machine stores or typewriter stores.

From Use Group 7, as set forth in Section 32-16:

All #uses# in Use Group 7A, where permitted pursuant to Section 32-02 (Special Provisions for Hotels).

From Use Group 7B: bicycle rental or repair shops, sailmaking establishments, and sign painting shops, limited to 2,500 square feet of #floor area# per establishment.

\* \* \*

### **134-112**

#### **Permitted uses in the Open Space Subarea**

In the Open Space Subarea of the Southern Subdistrict, the following #uses# shall be permitted.

\* \* \*



(b) On any pier in the Open Space Subarea, #uses# shall be limited to the following:

From Use Group 4, as set forth in Section 22-14:

Clubs, limited to non-profit private beach clubs and non-profit private boat clubs.

From Use Group 6, as set forth in Section 32-15:

Docks for water taxis, with a vessel capacity of up to 99 passengers.

From Use Group 7, as set forth in Section 32-16:

#Boatels#, where permitted pursuant to Section 32-02 (Special Provisions for Hotels)

\* \* \*

**Chapter 8  
Special East Harlem Corridors District**

\* \* \*

**138-10  
SPECIAL USE REGULATIONS**

\* \* \*

**138-12  
Transient Hotels**

~~C1-5 C2-5 C4-6 C6-4 M1-6/R9 M1-6/R10~~

~~In the districts indicated, the #development# or #enlargement# of a #building# containing a #transient hotel#, as listed in Section 32-14 (Use Group 5), or the #conversion# or change of #use# within an existing #building# to a #transient hotel#, shall only be allowed:~~

~~(a) upon certification by the Chairperson of the City Planning Commission to the Commissioner of Buildings that the residential development goal, as set forth in this Section, has been met, or~~

~~(b) where such residential development goal, has not been met, by special permit by the City Planning Commission. To permit such a #transient hotel#, the Commission shall find that:~~

~~(1) sufficient sites are available in the area to meet the #residential development# goal; or~~

~~(2) a harmonious mix of #residential# and non-#residential uses# has been established in the area, and such #transient hotel# is consistent with the character of the surrounding area.~~

~~The Commission may prescribe additional conditions and safeguards to minimize adverse effects on the character of the surrounding area.~~

~~For the purpose of applying the provisions of this Section, the #residential development# goal shall be met when at least 3,865 #dwelling units# within the combined areas of the #Special East Harlem Corridors District#, and the Park Avenue Hub Subdistrict, as shown on Map 1 in Appendix A of Article IX, Chapter 7 (Special 125th Street District), have received temporary or final certificates of occupancy subsequent to November 30, 2017.~~

### **138-13 Physical Culture or Health Establishments**

Within the #Special East Harlem Corridors District#, the provisions of Section 73-36 (Physical Culture or Health Establishments) shall not apply. In lieu thereof, #physical culture or health establishments# shall be permitted as-of-right in C2-5, C4-6 and C6-4 Districts, and in M1 Districts paired with an R9 or R10 District.

### **138-14-138-13 Public Parking Garages**

\* \* \*

### **Chapter 9 Special Gowanus Mixed Use District**

\* \* \*

**139-10**  
**SPECIAL USE REGULATIONS**

\* \* \*

[Removing provisions relating to hotels in the CPC approved Special Gowanus Mixed-Use District (N 210178 ZRK) to be superseded by the Citywide Hotel Text Amendment.]

**139-17**  
**~~Transient Hotels~~**

~~In all districts, the #development# of a #transient hotel#, a change of #use# or #conversion# to a #transient hotel#, or an #enlargement#, containing a #transient hotel#, of a #building# that, as of [date of adoption], did not contain such #use#, or an #enlargement# or #extension# of a #transient hotel# that existed prior to [date of adoption] that increases the #floor area# of such #use# by 20 percent or more, shall be permitted only by special permit of the City Planning Commission pursuant to the provisions of this Section.~~

~~In order to permit such a #transient hotel#, the Commission shall find that such #transient hotel# is so located as not to impair the essential character of, or the future use or development of, the surrounding area.~~

~~Any #transient hotel# existing prior to [date of adoption] shall be considered a conforming #use# and may be continued, structurally altered, #extended# or #enlarged# subject to the limitations set forth in this Section, and subject to the applicable district #bulk# regulations. However, if for a continuous period of two years such #transient hotel# is discontinued, or the active operation of substantially all the #uses# in the #building or other structure# is discontinued, the space allocated to such #transient hotel# shall thereafter be used only for a conforming #use#, or may be #used# for a #transient hotel# only if the Commission grants a special permit for such #use# in accordance with the provisions of this Section. In addition, in the event a casualty damages or destroys a #transient hotel#, that was in such #use# as of [date of adoption], such #building# may be reconstructed and used as a #transient hotel# without obtaining a special permit. A #non-complying building# may be reconstructed pursuant to Section 54-40 (DAMAGE OR DESTRUCTION IN NON-COMPLYING BUILDINGS).~~

~~The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.~~

\* \* \*

## ARTICLE XIV SPECIAL PURPOSE DISTRICTS

### Chapter 1 Special Jerome Corridor District

\* \* \*

#### 141-10 SPECIAL USE REGULATIONS

\* \* \*

#### 141-11 Special Permit for Transient Hotels

The ~~#development# or #enlargement# of a #building# containing a #transient hotel#, as listed in Section 32-14 (Use Group 5), or the #conversion# or change of #use# within an existing #building# to a #transient hotel#, shall only be allowed in C2 Districts, subject to the locational criteria set forth in the double-asterisked footnote of Use Group 5 in Section 32-14, and in C4 Districts;~~

- ~~(a) upon certification by the Chairperson of the City Planning Commission to the Commissioner of Buildings that the #residential development# goal, as set forth in this Section, has been met; or~~
- ~~(b) by special permit by the City Planning Commission where such #residential development# goal, has not been met. To permit such a #transient hotel#, the Commission shall find that:
  - ~~(1) sufficient sites are available in the area to meet the #residential development# goal; or~~
  - ~~(2) a harmonious mix of #residential# and non-#residential uses# has been established in the area, and such #transient hotel# is consistent with the character of the surrounding area.~~~~

~~The City Planning Commission may prescribe additional conditions and safeguards to minimize adverse effects on the character of the surrounding area.~~

~~For the purpose of applying the provisions of this Section, the #residential development# goal shall be met when at least 3,006 #dwelling units# within the #Special Jerome Corridor District# have received temporary or final certificates of occupancy subsequent to March 22, 2018.~~

**141-12**

**Physical Culture or Health Establishments**

~~#Physical culture or health establishments# shall be permitted as-of-right in C2 and C4 Districts. For the purposes of applying the underlying regulations to such #use#, a #physical culture or health establishment# shall be considered a Use Group 9 #use# and shall be within parking requirement category B.~~

**141-13-141-12**

**Modification of Supplemental Use Provisions**

\* \* \*

**Chapter 2**

**Special Inwood District**

\* \* \*

**142-10**

**SPECIAL USE REGULATIONS**

\* \* \*

**142-11**

**Permitted Uses**

\* \* \*

**142-111**

**~~Special provisions for transient hotels~~**

~~The #development# or #enlargement# of a #building# containing a #transient hotel#, as listed in Section 32-14 (Use Group 5), or the #conversion# or change of #use# within an existing~~

~~#building# to a #transient hotel#, shall only be allowed in C2 Districts, subject to the locational criteria set forth in the double-asterisked footnote of Use Group 5 in Section 32-14, and in C4, C6 or M1 Districts:~~

- ~~(a) upon certification by the Chairperson of the City Planning Commission to the Commissioner of Buildings that the residential development goal, as set forth in this Section, has been met, or~~
- ~~(b) where such residential development goal has not been met, by special permit by the City Planning Commission. To permit such a #transient hotel#, the Commission shall find that:
  - ~~(1) sufficient sites are available in the area to meet the residential development goal;~~  
~~or~~
  - ~~(2) a harmonious mix of #residential# and non-#residential# uses has been established in the area, and the #transient hotel# is consistent with the character of the surrounding area.~~~~

~~The Commission may prescribe additional conditions and safeguards to minimize adverse effects on the character of the surrounding area.~~

~~For the purpose of applying the provisions of this Section, the residential development goal shall be met when at least 3,860 #dwelling units# within the #Special Inwood District# have received temporary or final certificates of occupancy subsequent to August 8, 2018.~~

## **142-112**

### **Regulations for manufacturing uses in Subareas B2 and B3**

\* \* \*

The above resolution (N 210406 ZRY), duly adopted by the City Planning Commission on October 20, 2021 (Calendar No. 9), is filed with the Office of the Speaker, City Council, and the Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

**ANITA LAREMONT, *Chair***

**KENNETH J. KNUCKLES, ESQ., *Vice Chairman***

**DAVID J. BURNEY, ALLEN P. CAPPELLI, ALFRED C. CERULLO, III,  
JOSEPH DOUEK, HOPE KNIGHT, ORLANDO MARIN, RAJ RAMPERSHAD,  
*Commissioners***

**RICHARD W. EADDY, ANNA HAYES LEVIN, *Commissioners*, VOTING NO**