



CITY PLANNING COMMISSION  
CITY OF NEW YORK

OFFICE OF THE CHAIR

December 13, 2021

City Council  
City Hall  
New York, NY 10007

Re: FRESH 2 Text Amendment  
ULURP No. N 210380 ZRY  
Related Applications: None  
Citywide

Honorable Members of the Council:

The City Planning Commission (the "Commission") has received the attached correspondence, dated December 10, 2021, from the City Council regarding the proposed modification to the above-referenced application submitted by the Department of City Planning for FRESH 2.

In accordance with Section 197-d(d) of the New York City Charter, the Commission, on December 1, 2021, has determined that the City Council's proposed modification does not require additional review of environmental issues or pursuant to Section 197-c of the Charter.

Very truly yours,

A handwritten signature in blue ink that reads "Anita L".

Anita Laremont

c: Jennifer Gravel      D. DeCerbo      A. Plackis      H. Marcus  
D. Answini      R. Singer      A. McCabe

Anita Laremont, Chair  
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December 9, 2021

Honorable Anita Laremont, Chair  
City Planning Commission  
120 Broadway, 31st Floor  
New York, NY 10271

**Re: Application No.: N 210380 ZRY (L.U. No. 924)**

**FRESH II Zoning Text Amendment**

Dear Chair Laremont:

On December 9, 2021 the Land Use Committee of the City Council, by a vote of 16-0-0 for Application N **210380 ZRY**, recommended modifications of the City Planning Commission's decisions in the above-referenced matters.

Pursuant to Section 197-d(d) of the City Charter I hereby file the proposed modifications with the Commission:

**N 210380 ZRY (L.U. No. 924)**

Matter underlined is new, to be added;

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

Matter within # # is defined in Section 12-10, 37-311, 63-01, 97-01, 108-01 or 116-01;

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

Matter ~~double struck out~~ is old, deleted by the City Council;

Matter double-underlined is new, added by the City Council

**Honorable Anita Laremont, Chair**  
**Application No.: N 210380 ZRY**  
**December 9, 2021**  
**Page 2 of 55**

**ARTICLE II**  
**RESIDENCE DISTRICT REGULATIONS**

**Chapter 3**  
**Residential Bulk Regulations in Residence Districts**

\* \* \*

**23-10**  
**OPEN SPACE AND FLOOR REGULATIONS**

\* \* \*

**23-15**  
**Open Space and Floor Regulations in R6 Through R10 Districts**

\* \* \*

**23-154**  
**Inclusionary Housing**

[text struck out in this Section is proposed to be relocated to Section 63-21]

\* \* \*

(b) #Inclusionary Housing designated areas#

The #residential floor area# of a #zoning lot# may not exceed the base #floor area ratio# set forth in the table in this paragraph (b), except that such #floor area# may be increased on a #compensated zoning lot# by 1.25 square feet for each square foot of #low income floor area# provided, up to the maximum #floor area ratio# specified in the table, as applicable. However, the amount of #low 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#, ~~or any #floor area# increase for the provision of a #FRESH food store#,~~ on the #compensated zoning lot#.

\* \* \*

**ARTICLE IV**  
**MANUFACTURING DISTRICT REGULATIONS**

**Chapter 2**  
**Use Regulations**

\* \* \*

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

\* \* \*

**42-12**  
**Use Groups 3A, 6A, 6B, 6D, 6F, 7B, 7C, 7D, 7E, 8, 9B, 9C, 10A, 10B, 10C, 11, 12A, 12C, 12D, 12E, 13, 14 and 16**

M1 M2 M3

**Honorable Anita Laremont, Chair**  
**Application No.: N 210380 ZRY**  
**December 9, 2021**  
**Page 4 of 55**

Use Group 3A shall be limited to museums that are ancillary to existing motion picture production studios or radio or television studios, provided they are located within 500 feet of such studios and do not exceed 75,000 square feet of #floor area#.

Use Groups 6A except that food stores, including supermarkets, grocery stores or delicatessen stores, shall be limited to 10,000 square feet of #floor area# per establishment, 6B, 6D, 6F, 7B, 7C, 7D, 7E, 8, 9B, 9C, 10A, 10B, 10C, 11, 12A, 12C, 12D, 12E, 13, 14 and 16 as set forth in Sections 32-15 to 32-23, inclusive, and Section 32-25. However, in Community District 1, in the Borough of the Bronx, in M1-4 Districts, food stores, including supermarkets, grocery stores or delicatessen stores, shall be limited to 30,000 square feet of #floor area# per establishment. In addition, the regulations of this Section are modified, where applicable, by the regulations of Section 63-11 (Special Use Regulations for FRESH Food Stores in M1 Districts).

\* \* \*

## **ARTICLE VI**

### **SPECIAL REGULATIONS APPLICABLE TO CERTAIN AREAS**

#### **Chapter 3**

#### **Special Regulations Applying to FRESH Food Stores**

#### **63-00**

#### **GENERAL PURPOSES**

The provisions of this Chapter establish special regulations that guide the development of FRESH food stores to promote and protect public health, safety and general welfare. These general goals include, among others, the following purposes:

**Honorable Anita Laremont, Chair**  
**Application No.: N 210380 ZRY**  
**December 9, 2021**  
**Page 5 of 55**

- (a) encourage a healthy lifestyle by facilitating the development of FRESH food stores that sell a healthy selection of food products;
- (b) provide greater incentives for FRESH food stores to locate in neighborhoods underserved by such establishments;
- (c) encourage FRESH food stores to locate in locations that are easily accessible to nearby residents; and
- (d) strengthen the economic base of the City, conserve the value of land and buildings, and protect the City's tax revenues.

**63-01**

**Definitions**

FRESH food store

A "FRESH food store" is a food store #use# as listed in Section 32-15 (Use Group 6), where at least 6,000 square feet of #floor area#, or #cellar# space utilized for retailing, is ~~utilized for~~ allocated to the sale of a general line of food and non-food grocery products, such as dairy, canned and frozen foods, fresh fruits and vegetables, fresh and prepared meats, fish and poultry, intended for home preparation; and consumption ~~and utilization~~. Such retail space ~~utilized for the sale of a general line of food and non-food grocery products~~ shall be distributed as follows:

- (a) ~~at least 3,000 square feet or 50 percent of such retail space, whichever is greater, shall be utilized for the sale of a general line of food products intended for home preparation, consumption and utilization; and~~

**Honorable Anita Laremont, Chair**

**Application No.: N 210380 ZRY**

**December 9, 2021**

**Page 6 of 55**

~~(b)~~(a) at least 2,000 square feet or 3025 percent of such retail space, ~~whichever is greater,~~ shall be ~~utilized for~~ allocated to the sale of perishable goods that shall include dairy, fresh produce, frozen foods and fresh meats, of which at least 500 square feet of such retail space shall be designated for the sale of fresh produce.;

(b) at least 35 percent of such retail space shall be allocated to the sale of non-perishable food; and

(c) at least 6,000 square feet of such retail space shall be located on one #story#.

A food store shall be certified as a #FRESH food store# by the Chairperson of the City Planning Commission, pursuant to Section 63-30 (CERTIFICATION FOR A FRESH FOOD STORE).

## **63-02**

### **Applicability**

The regulations of all other chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control.

## **63-021**

### **Areas permitting FRESH food stores**

~~(a)~~ The provisions of this Chapter shall apply to all #Commercial# and #Manufacturing Districts# in the following #FRESH food store# designated areas, except as provided in

paragraph (b) of this Section Sections 63-022 (Special Purpose Districts where regulations for FRESH food stores are not applicable) and 63-023 (Limitation on location of FRESH food stores):

- (1) ~~in the Borough of the Bronx, Community Districts 1, 2, 3, 4, 5, 6 and 7, except portions of Community District 7, as shown on Map 1 in Appendix A of this Chapter;~~
- (2) ~~in the Borough of Brooklyn, Community Districts 3, 4, 5, 8, 9, 16 and 17, except portions of Community District 8, as shown on Map 2 in Appendix A;~~
- (3) ~~in the Borough of Manhattan, Community Districts 9, 10, 11 and 12, except portions of Community District 9 and 12, as shown on Maps 3 and 4 in Appendix A; and~~
- (4) ~~in the Borough of Queens, the #Special Downtown Jamaica District#; portions of Community District 12 outside of the #Special Downtown Jamaica District#, except those portions shown on Maps 5 and 6 in Appendix A; and those portions in Community District 1 shown on Map 1 in Appendix B of this Chapter.~~

all of Manhattan Community District 10;

all of Bronx Community Districts 1, 4, 5, 6, 7 and 9; and

all of Brooklyn Community Districts 3, 4, 5, 9, 16 and 17.

Portions of other Community Districts in which FRESH food stores are permitted are shown on the maps in Appendix A of this Chapter.



**63-022**

**Special Purpose Districts where regulations for FRESH food stores are not applicable**

(b)The provisions of this Chapter shall not apply to the following Special Purpose Districts:

~~#Special Madison Avenue Preservation District#;~~

~~#Special Manhattanville Mixed Use District#; and~~

~~#Special Park Improvement District#; and~~

~~#Special Hunts Point District#.~~

**63-023**

**Limitation on location of FRESH food stores**

After [date of adoption], no certification shall be issued for increased #residential floor area# for a #FRESH food store# where the sum of the increased #residential floor area# generated pursuant to Section 63-21 (Special Floor Area Regulations) by all #FRESH food stores# within a half-mile radius of the #zoning lot# that is the subject of such certification would exceed 40,000 square feet.

Such calculation shall include increased #residential floor area# on all #zoning lots# containing #FRESH food stores# that have been certified by the Chairperson of the City Planning Commission pursuant to Section 63-30 (CERTIFICATION FOR A FRESH FOOD STORE), including those issued prior to [date of adoption], provided that such certification has not expired, or has not been superseded by a certification pursuant to Section 63-40 (CERTIFICATION FOR CHANGE OF USE OF A FRESH FOOD STORE) or an authorization pursuant to Section 63-50 (AUTHORIZATION FOR BULK AND PARKING MODIFICATIONS).

However, for any area that has a sum of more than 40,000 square feet of increased #residential floor area# generated pursuant to Section 63-21, the Chairperson may certify a #FRESH food store# that was previously certified pursuant to Section 63-30, provided such certification has not

Honorable Anita Laremont, Chair  
Application No.: N 210380 ZRY  
December 9, 2021  
Page 9 of 55

lapsed and that there shall be no increase in the amount of increased #residential floor area# beyond what was previously certified for such #FRESH food store#.

**63-10  
SPECIAL USE REGULATIONS**

\* \* \*

**63-20  
SPECIAL BULK AND PARKING REGULATIONS**

**63-21  
Special Floor Area Regulations**

**~~63-211  
For mixed buildings and zoning lots containing both residential and commercial or community facility uses in Commercial Districts with FRESH food stores~~**

~~Where a #FRESH food store# is provided on a #zoning lot#, the maximum #residential floor area# permitted on the #zoning lot# shall be increased by one square foot for each square foot of #FRESH food store floor area# provided, up to 20,000 square feet. the provisions of Section 35-31 (Maximum Floor Area Ratio) relating to the maximum permitted #floor area ratio# on a #zoning lot# for each permitted #use# shall apply as modified in this Section.~~

~~Where all non-#residential uses# on a #zoning lot# have a permitted #floor area ratio# equal to or less than that permitted for a #residential use# and for #zoning lots# containing #Quality Housing buildings#, the total #floor area# permitted for such #zoning lot# may be increased by~~

Honorable Anita Laremont, Chair  
Application No.: N 210380 ZRY  
December 9, 2021  
Page 10 of 55

one square foot of #residential floor area# for each square foot of #FRESH food store floor area#, up to 20,000 square feet.

However, for #zoning lots# that do not contain a #Quality Housing building#, where any non-#residential use# on such #zoning lot# has a permitted #floor area ratio# greater than that permitted for a #residential use#, the total #residential floor area# permitted for such #zoning lot# may be increased by one square foot for each square foot of #FRESH food store floor area#, up to 20,000 square feet, provided the total #floor area ratio# of the #building# does #zoning lot# shall not exceed the maximum permitted #floor area ratio# for a such non-#residential use#.

For #height factor# and #open space ratio# calculations, where applicable, the increased #residential floor area# generated pursuant to this Section shall be exempt from such calculations.

For #compensated developments# or #MIH developments#, as defined in Section 23-911 (General definitions), the requirements of Section 23-154 (Inclusionary Housing) shall not apply to the increased #residential floor area# generated pursuant to this Section.

[text struck out in the Section below is proposed to be included in revisions to Section 63-21 above]

### **63-212**

**~~For mixed buildings and zoning lots containing both residential and commercial or community facility uses in Special Mixed Use Districts with FRESH food stores~~**

~~Where a #FRESH food store# is provided on a #zoning lot#, the provisions of Section 123-64 (Maximum Floor Area Ratio and Lot Coverage Requirements for Zoning Lots Containing Mixed~~

Honorable Anita Laremont, Chair  
Application No.: N 210380 ZRY  
December 9, 2021  
Page 11 of 55

~~Use Buildings) relating to the maximum permitted #floor area ratio# on a #zoning lot# for each permitted #use# shall apply, as modified in this Section.~~

~~Where all non #residential uses# on a #zoning lot# have a permitted #floor area ratio# equal to or less than that permitted for a #residential use# and for #zoning lots# containing #Quality Housing buildings#, the total #floor area# permitted for such #zoning lot# may be increased by one square foot of #residential floor area# for each square foot of #FRESH food store floor area#, up to 20,000 square feet.~~

~~Where any non #residential use# on such #zoning lot# has a permitted #floor area ratio# greater than that permitted for a #residential use#, the total #residential floor area# permitted for such #zoning lot# may be increased by one square foot for each square foot of #FRESH food store floor area#, up to 20,000 square feet, provided the total #floor area# of the #building# does not exceed the maximum permitted #floor area# for a non #residential use#.~~

\* \* \*

63-22

### Authorization to Modify Maximum Building Height

For #zoning lots# #buildings# containing a #FRESH food store# and #residences#, the City Planning Commission may authorize modifications to Sections 35-65 (Height and Setback Requirements for Quality Housing Buildings), and 123-66 (Height and Setback Regulations) or to the height and setback regulations of any Special Purpose District where maximum height limits apply, to allow the applicable maximum #building# height to be increased by up to 15 feet and by up to one #story#, provided that the portion of the first #story# occupied by a #FRESH food store# has a minimum finished floor to finished ceiling height of 14 feet, and provided that such finished ceiling height is at least 14 feet above the #base plane# or #curb level#, as applicable.

In order to grant such authorizations, the Commission shall find that:

- (a) such modifications are necessary to accommodate a first #story# utilized as a #FRESH food store#;
- (b) the proposed modifications shall not adversely affect the essential scale and character of the adjacent #buildings# and any adjacent historic resources; and
- (c) the proposed modifications will not unduly obstruct access to light and air of adjacent properties.

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

## **63-23**

### **Special Transparency Requirements**

For all #developments# containing #FRESH food stores#, or #ground floor level enlargements# containing #FRESH food stores#, the following provisions shall apply. For the portion of the #building# containing a #FRESH food store#, the ground floor level of the #street wall# fronting upon a #primary street frontage#, ~~as defined in Section 37-311,~~ shall be glazed in accordance with the provisions of Section 37-34 (Minimum Transparency Requirements).

Furthermore, for #buildings# #FRESH food stores# with frontage on two or more #streets#, the Chairperson of the City Planning Commission may certify that the glazing requirements of this Section shall only be applicable to the #street wall# fronting upon the principal #street#, as determined by the Chairperson.

In addition, the Chairperson may, by certification, allow a reduction in the glazing requirements of this Section, provided that the Chairperson finds that such ~~#mixed building#, or #mixed use building#, as defined in Section 123-11, #building#~~ is a recipient of ~~#public funding# as defined in Section 23-911 (General definitions)~~. For the purposes of this Section, defined terms shall include those in Sections 12-10, 23-911 and 37-311.

## **63-24**

### **Required Accessory Off-street Parking Spaces in Certain Districts**

For #FRESH food stores# provided as part of a #development# or #enlargement#, for any portion of such #FRESH food store# subsequently changed to any other #use# pursuant to Section 63-40 (CERTIFICATION FOR CHANGE OF USE OF A FRESH FOOD STORE) or Section 63-50 (AUTHORIZATION FOR BULK AND PARKING MODIFICATIONS), if such change of #use# occurs less than 25 years after the initial issuance of a certificate of occupancy for such #FRESH food store#, #accessory# off-street parking regulations shall apply to such changed #use# as if the #use# is at that time occurring as part of a #development# or #enlargement#. Application may be made for an authorization pursuant to Section 63-50.

- (a) In C1-1, C1-2, C1-3, C2-1, C2-2, C2-3 Districts mapped within R6, R7, R8, R9 and R10 Districts and in C4-2 and C4-3 Districts, the #accessory# off-street parking regulations in Section 36-20 (REQUIRED ACCESSORY OFF-STREET PARKING SPACES FOR COMMERCIAL OR COMMUNITY FACILITY USES) applicable to a C1-4 District shall apply to any #FRESH food store# a #FRESH food store# shall provide one parking space per 1,000 square feet of #floor area# or #cellar# space utilized for retailing. The provisions of Section 36-23 (Waiver of Requirements for Spaces Below Minimum Number) shall not apply to #FRESH food stores#. In lieu thereof, no #accessory# off-street parking spaces shall be required for the #FRESH food store# if the #floor area# of such #use# is less than 40,000 square feet. In cases where there is more than one #commercial use# or #community facility use# on the #zoning lot#, the total number of #accessory# off-street parking spaces required pursuant to the provisions of Section 36-23 shall not include off-street parking spaces #accessory# to #FRESH food stores#.

- (b) In C1-1, C1-2, C1-3, C2-1, C2-2, C2-3 Districts mapped within R3, R4 and R5 Districts and in C4-1 Districts, a #FRESH food store# shall provide one parking space per 400 square feet of #floor area# or #cellar# space utilized for retailing. The provisions of Section 36-23 shall not apply to #FRESH food stores#. In lieu thereof, no #accessory# off-street parking spaces shall be required for the #FRESH food store# if the #floor area# of such #use# is less than 10,000 square feet. In cases where there is more than one #commercial use# or #community facility use# on the #zoning lot#, the total number of #accessory# off-street parking spaces required pursuant to the provisions of Section 36-23 shall not include off-street parking spaces #accessory# to #FRESH food stores#.
- (b) ~~In the Borough of Brooklyn, in those portions of Community District 5 located south of Flatlands Avenue and east of the centerline prolongation of Schenck Avenue, and in the Borough of Queens, where applicable in Community District 12 outside of the #Special Downtown Jamaica District#, a #FRESH food store# shall provide #accessory# off street parking spaces as required for #uses# in parking requirement category B in the applicable #Commercial# and #Manufacturing Districts#.~~
- (c) In C8-1, C8-2, M1-1, M1-2 and M1-3 Districts, a #FRESH food store# shall provide one parking space per 1,000 square feet of #floor area# or #cellar# space utilized for retailing, up to a maximum of 15,000 square feet. The underlying off-street parking regulations in Sections 36-20 or 44-20 shall apply to the #floor area# or #cellar# space, in excess of 15,000 square feet, utilized for retailing in such #FRESH food store#.
- (d) The provisions of this Section shall not apply to:
- (1) ~~in the Borough of the Bronx, portions of Community District 7 and in the Borough of Manhattan, portions of Community District 12, as shown on Map 1 in Appendix C of this Chapter;~~
- (2)(1) in the Borough of Brooklyn, to M1 Districts in portions of Community Districts 5, 16 and 17, as shown on Maps 1 and 2 in Appendix C-Appendix B of this Chapter; and

**Honorable Anita Laremont, Chair**  
**Application No.: N 210380 ZRY**  
**December 9, 2021**  
**Page 15 of 55**

~~(3) in the Borough of Brooklyn, portions of Community Districts 16 and 17, as shown on Map 3 in Appendix C ; and~~

~~(4)(2) in the Borough of Queens, to the #Special Downtown Jamaica District#.~~

**63-30**

### **CERTIFICATION FOR A FRESH FOOD STORE**

Upon application, the Chairperson of the City Planning Commission shall certify that a food store #use# is a #FRESH food store#, provided that:

- (a) drawings have been submitted to the Chairperson that clearly specify:
- (1) all #floor area# or #cellar# space utilized as a #FRESH food store#, showing in the form of an illustrative layout that such designated space is designed and arranged to meet the requirements for perishable and non-perishable food ~~and non-food-grocery~~ products, pursuant to Section 63-01;
  - (2) all #floor area# that will result from any permitted increase in #floor area#, pursuant to Section 63-21, including the location of such #floor area#;
  - (3) the size, format and location of the required #sign#, pursuant to Section 63-12, including detailed information about dimensions of the #sign#, lettering, color and materials; and



**Honorable Anita Laremont, Chair**  
**Application No.: N 210380 ZRY**  
**December 9, 2021**  
**Page 16 of 55**

- (4) the location of the ground floor level ~~#street wall#~~ fronting upon a ~~principal #street#~~ #primary street frontage#, pursuant to Section 63-23;
- (b) a signed lease or written commitment from the prospective operator of the #FRESH food store# has been provided in a form acceptable to the Chairperson for utilization of such #floor area# or #cellar# space and its operation as a #FRESH food store#; and
- (c) for #zoning lots# containing increased #residential floor area# generated pursuant to Section 63-21 (Special Floor Area Regulations), a legal commitment, in the form of a declaration of restrictions has been executed, in a form acceptable to the Department of City Planning, binding upon the owner and its successor and assigns, and providing for continued utilization of all #floor area# or #cellar# space as a #FRESH food store#, the operation of which shall commence within a reasonable period following the issuance of a temporary certificate of occupancy for the #floor area# or #cellar# space to be utilized by the #FRESH food store#.

Such declaration of restrictions shall provide that the legal commitment for continued occupancy of the #floor area# or #cellar space# as a #FRESH food store# shall not apply during any:

- (1) six (6) month period from the date such #floor area# or #cellar# space is vacated by the operator, provided that the owner timely notifies the Department of City Planning of such vacancy in accordance with the requirements of the restrictive declaration; or
- (2) event of force majeure, as determined by the Chairperson.

The filing and recordation of the declaration of restrictions in the Office of the City Register of the City of New York against all tax lots comprising the #FRESH food store#, and receipt of proof of recordation of such declaration in a form acceptable to the Department, shall be a precondition to certification by the Chairperson ~~the issuance of any building permit, including any foundation or alteration permit, for any #development# or #enlargement# under this Chapter.~~

**Honorable Anita Laremont, Chair**  
**Application No.: N 210380 ZRY**  
**December 9, 2021**  
**Page 17 of 55**

Certification by the Chairperson shall be a precondition to the issuance of any building permit, including any foundation or alteration permit, for any #development#, #enlargement# or change of #use# under this Chapter.

~~In granting the certification, the Chairperson may specify that minor changes in store layout consistent with the definition of a #FRESH food store# shall not warrant further certification pursuant to this Section.~~

Changes to the store layout of a #FRESH food store# that has been constructed pursuant to a previous certification under this Section, where such changes result in a #FRESH food store# that continues to comply with the requirements of this Chapter, shall not require subsequent certification by the Chairperson under this Section. #FRESH food stores# certified prior to [date of adoption] that do not comply with paragraph (c) of the definition of #FRESH food store# may change the floor layout provided that there is no increase in the degree of non-compliance with such requirement.

~~No later than the date on which an application for certification is first submitted, a copy of the drawings submitted pursuant to paragraph (a) of this Section shall be submitted by the applicant to the affected Community Board, which shall have 45 days to review said application. The Chairperson shall not issue a certification for an application during the Community Board review period, unless the Community Board has submitted to the Chairperson comments regarding such proposal or informed the Chairperson that the Community Board has no comments.~~

A copy of an application for certification pursuant to this Section shall be sent by the Department of City Planning to the affected Community Board, which may review such proposal and submit comments to the Chairperson. If the Community Board elects to comment on such application, it must be done within 45 days of receipt of such application. The Chairperson will not act on such application until the Community Board's comments have been received, or the 45-day comment period has expired, whichever is earlier.

**Honorable Anita Laremont, Chair**  
**Application No.: N 210380 ZRY**  
**December 9, 2021**  
**Page 18 of 55**

For #zoning lots# containing increased #residential floor area# generated pursuant to Section 63-21 (Special Floor Area Regulations), if a #development# or horizontal #enlargement# fails to comply with the provisions of Section 11-331 (Right to construct if foundations completed) with respect to completion of foundations within four years of the date of certification pursuant to this Section, such certification and such building permit shall lapse, and any new building permit will require a new certification pursuant to this Section.

### **63-31**

#### **Requirements for Certificate of Occupancy**

No certificate of occupancy shall be issued for any portion of the #development# or #enlargement# identified in the drawings submitted pursuant to paragraph (a)(2) of Section 63-30 until a temporary certificate of occupancy has been issued for the #FRESH food store# space. No final certificate of occupancy shall be issued for any such portion of the #development# or #enlargement# identified in such drawings until the #FRESH food store# space has been completed in accordance with the drawings submitted pursuant to paragraph (a)(1) of Section 63-30 and a final certificate of occupancy has been issued for the #FRESH food store# space. The declaration of restrictions, where required pursuant to paragraph (c) of Section 63-30, shall be noted on any temporary or final certificate of occupancy for the #building#.

### **63-40**

#### **CERTIFICATION FOR CHANGE OF USE OF A FRESH FOOD STORE**

A #FRESH food store# for which a certification has been issued pursuant to Section 63-30 may be changed to any #use# permitted by the underlying district upon certification by the Chairperson of the City Planning Commission that such change of #use# would not create a new #non-compliance#, increase the degree of #non-compliance# of #buildings# on the #zoning lot#, or result in ~~reduction in the number of required~~ fewer #accessory# off-street parking spaces than required by the new #use# pursuant to Section 63-24 (Required Accessory Off-street Parking Spaces in Certain Districts) ~~under the applicable district regulations.~~

**Honorable Anita Laremont, Chair**  
**Application No.: N 210380 ZRY**  
**December 9, 2021**  
**Page 19 of 55**

If a certification pursuant to this Section is granted, a notice of cancellation, in a form acceptable to the Department of City Planning, of the declaration of restrictions recorded pursuant to Section 63-30 shall be executed and recorded in the Office of the City Register of the City of New York against all tax lots comprising the former #FRESH food store#.

**63-50**

**AUTHORIZATION FOR BULK AND PARKING MODIFICATIONS**

The City Planning Commission may, by authorization, permit modifications to the #bulk# and #accessory# off-street parking requirements of the applicable zoning districts when a change of #use# of a #FRESH food store# for which a certification has been issued, pursuant to Section 63-30, would create a new #non-compliance#, increase the degree of #non-compliance# of #buildings# on the #zoning lot#, or result in ~~a reduction in the number of required~~ fewer #accessory# off-street parking spaces than required by the new #use# pursuant to Section 63-24 (Required Accessory Off-street Parking Spaces in Certain Districts) ~~under the applicable district regulations~~, provided that such #use# is permitted by the underlying districts.

\* \* \*

**63-60**

**COMPLIANCE**

No later than June 30th of the year; beginning in the ~~first~~ second calendar year following the calendar year in which certification was made, and at three-year intervals thereafter, the Chairperson of the City Planning Commission shall be provided with an affidavit, in a form acceptable to the Department of City Planning, regarding compliance with the requirements of the declaration of restrictions and the regulations of this Chapter, as of a date of inspection which shall be no earlier than June 1st of the year in which the affidavit is filed. Such affidavit shall be

**Honorable Anita Laremont, Chair**  
**Application No.: N 210380 ZRY**  
**December 9, 2021**  
**Page 20 of 55**

provided by the owner(s) of the tax lot(s) on which the #FRESH food store# is located. Such affidavit shall include, without limitation:

\* \* \*

## **Appendix A**

### **FRESH Food Store Designated Areas: ~~Excluded Portions~~**

The #FRESH food store# designated areas are: ~~listed by community district and borough in Section 63-02 (Applicability). Excluded portions of community districts are shown on the following maps.~~

all of Manhattan Community District 10;

all of Bronx Community Districts 1, 4, 5, 6, 7 and 9; and

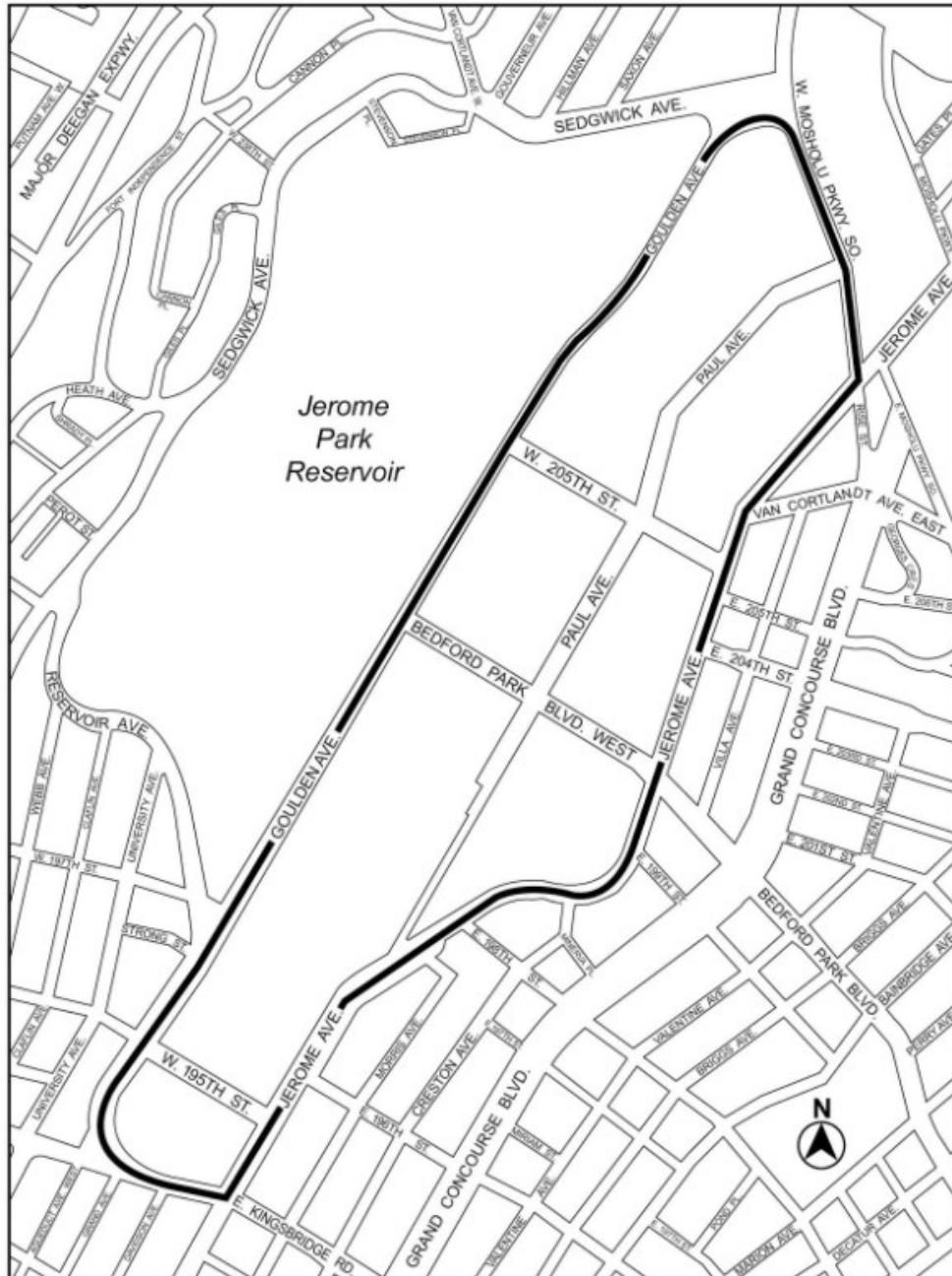
all of Brooklyn Community Districts 3, 4, 5, 9, 16 and 17.

Portions of other Community Districts are shown on Maps 1 through 16 in this Appendix A.

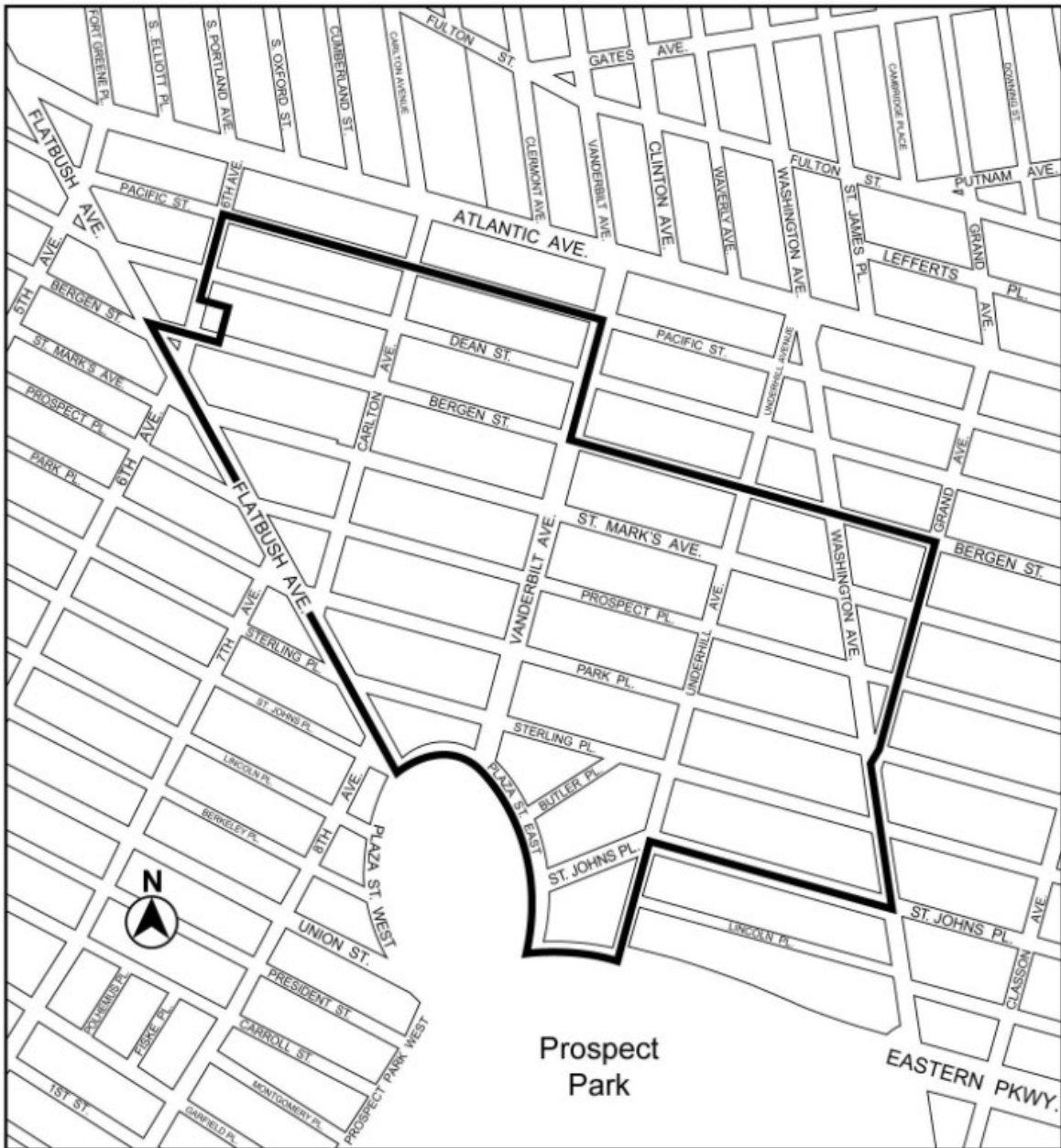
[EXISTING MAPS – TO BE DELETED]

Honorable Anita Laremont, Chair  
Application No.: N 210380 ZRY  
December 9, 2021  
Page 21 of 55

Map 1. Excluded portions of Community District 7, the Bronx

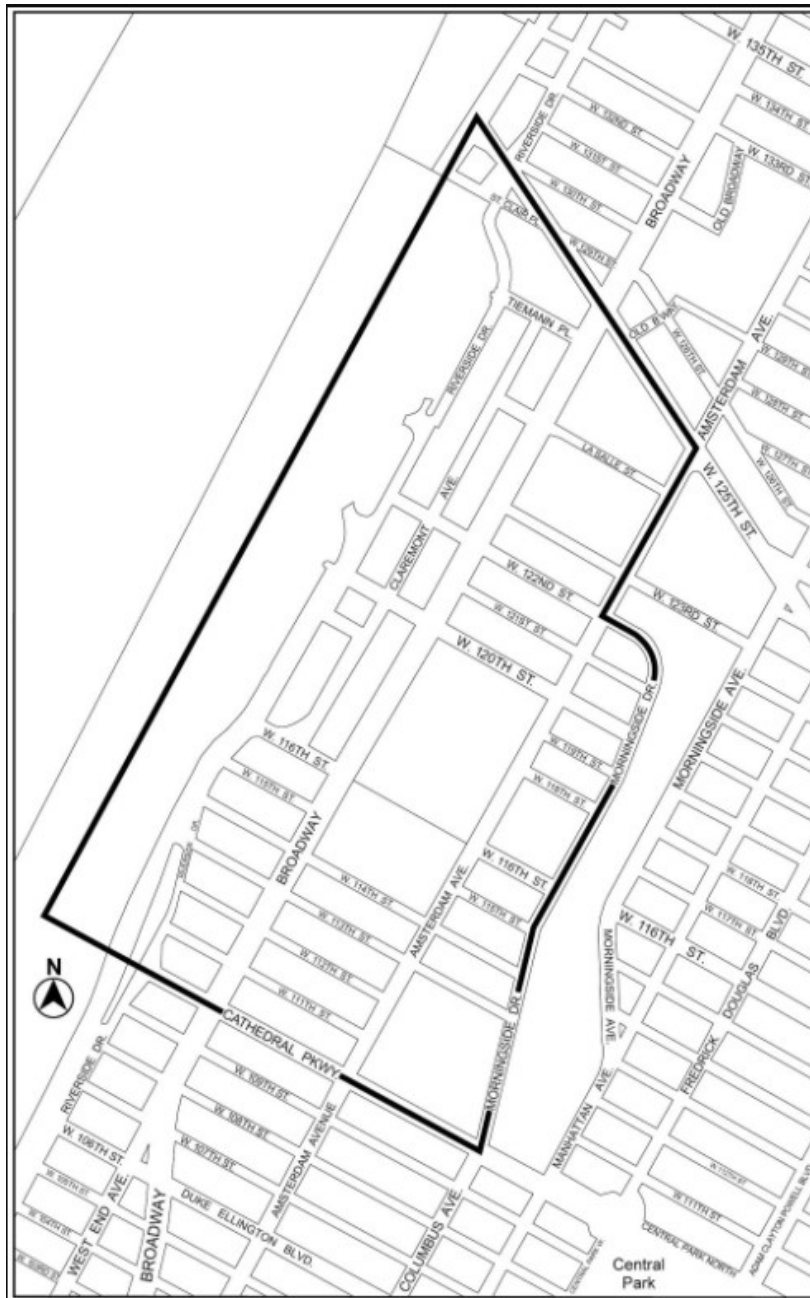


Map 2. Excluded portions of Community District 8, Brooklyn



Honorable Anita Laremont, Chair  
Application No.: N 210380 ZRY  
December 9, 2021  
Page 23 of 55

Map 3. Excluded portions of Community District 9, Manhattan







Honorable Anita Laremont, Chair  
Application No.: N 210380 ZRY  
December 9, 2021  
Page 25 of 55

Map 5. Excluded portions of Community District 12, Queens

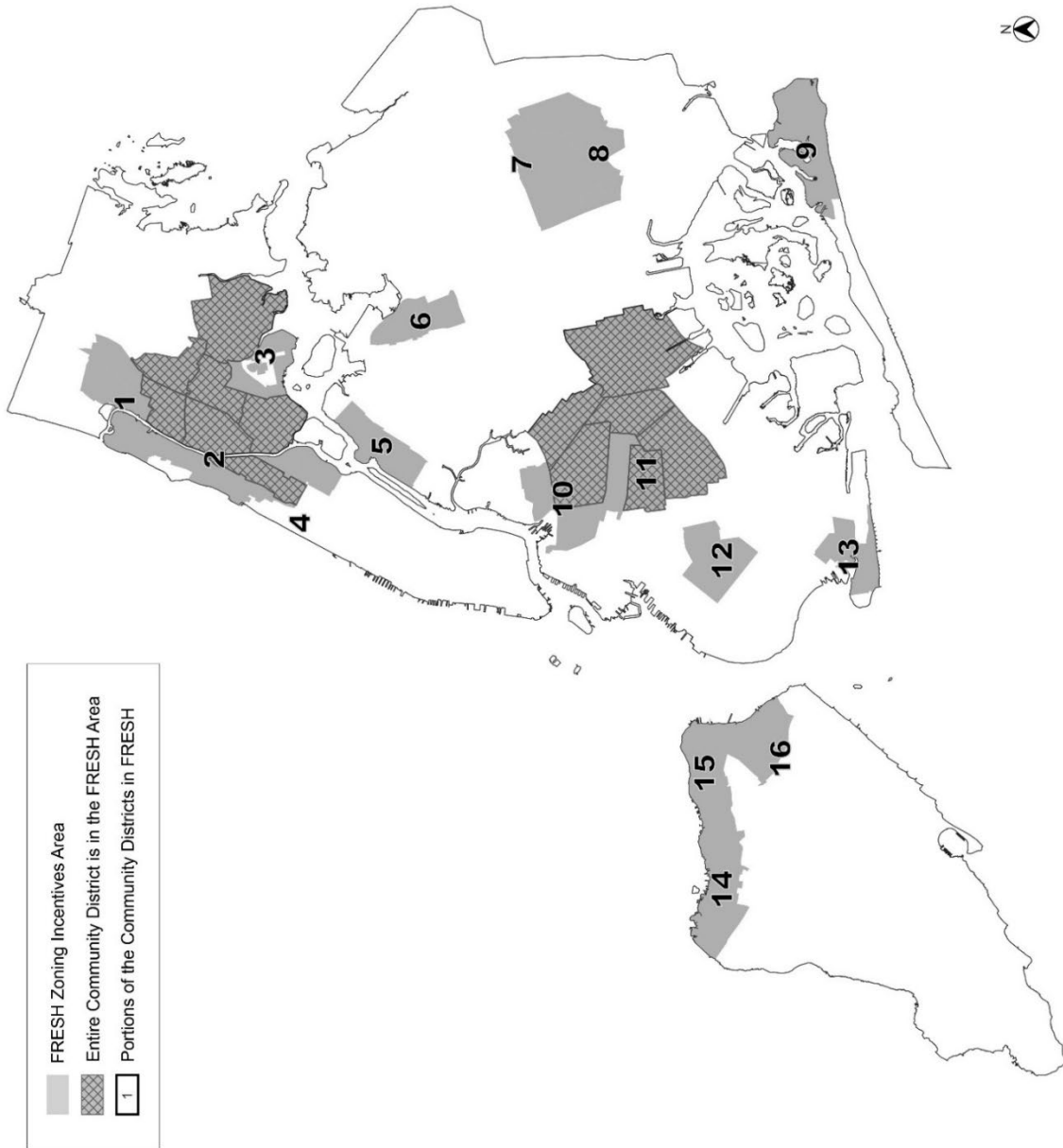


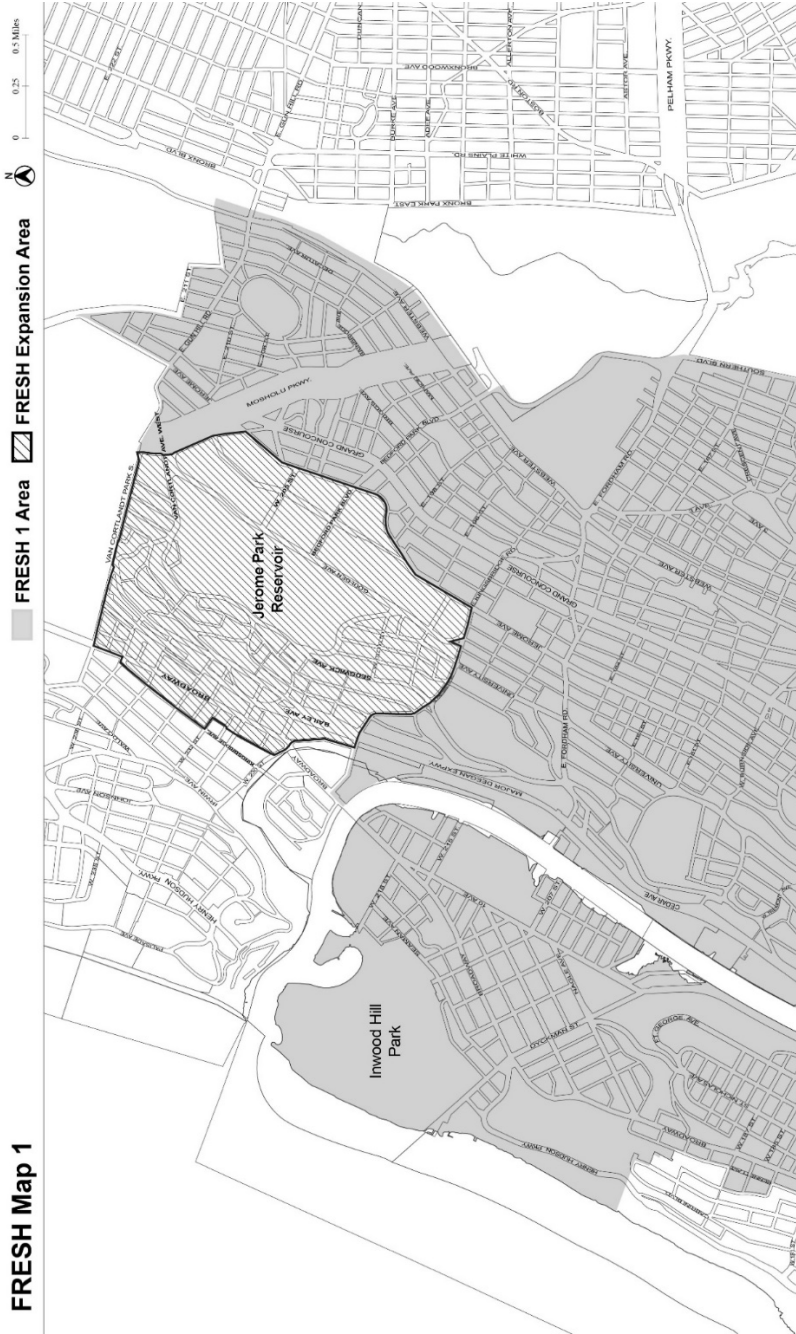
**Honorable Anita Laremont, Chair**  
**Application No.: N 210380 ZRY**  
**December 9, 2021**  
**Page 26 of 55**

Map 6. Excluded portions of Community District 12, Queens



[PROPOSED MAPS]

























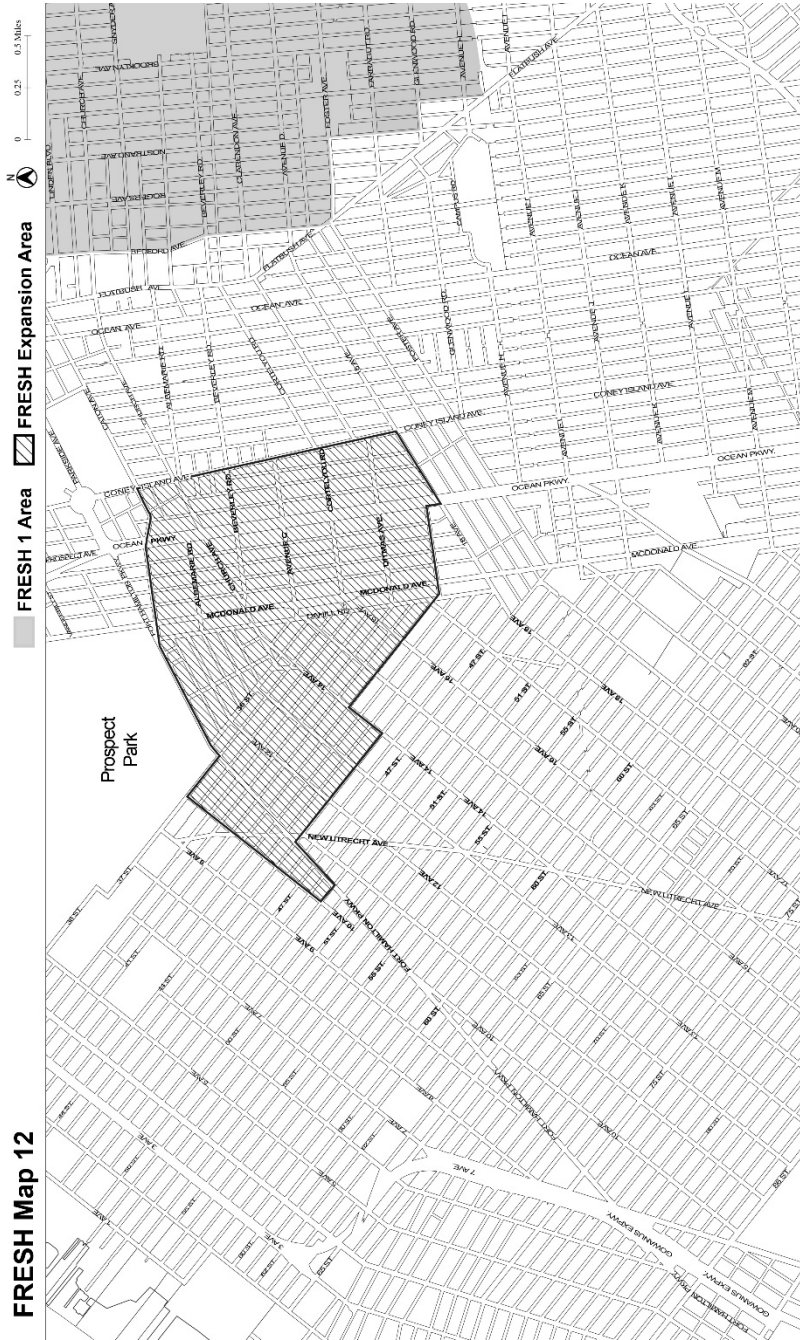


[ORIGINAL PROPOSED MAP]

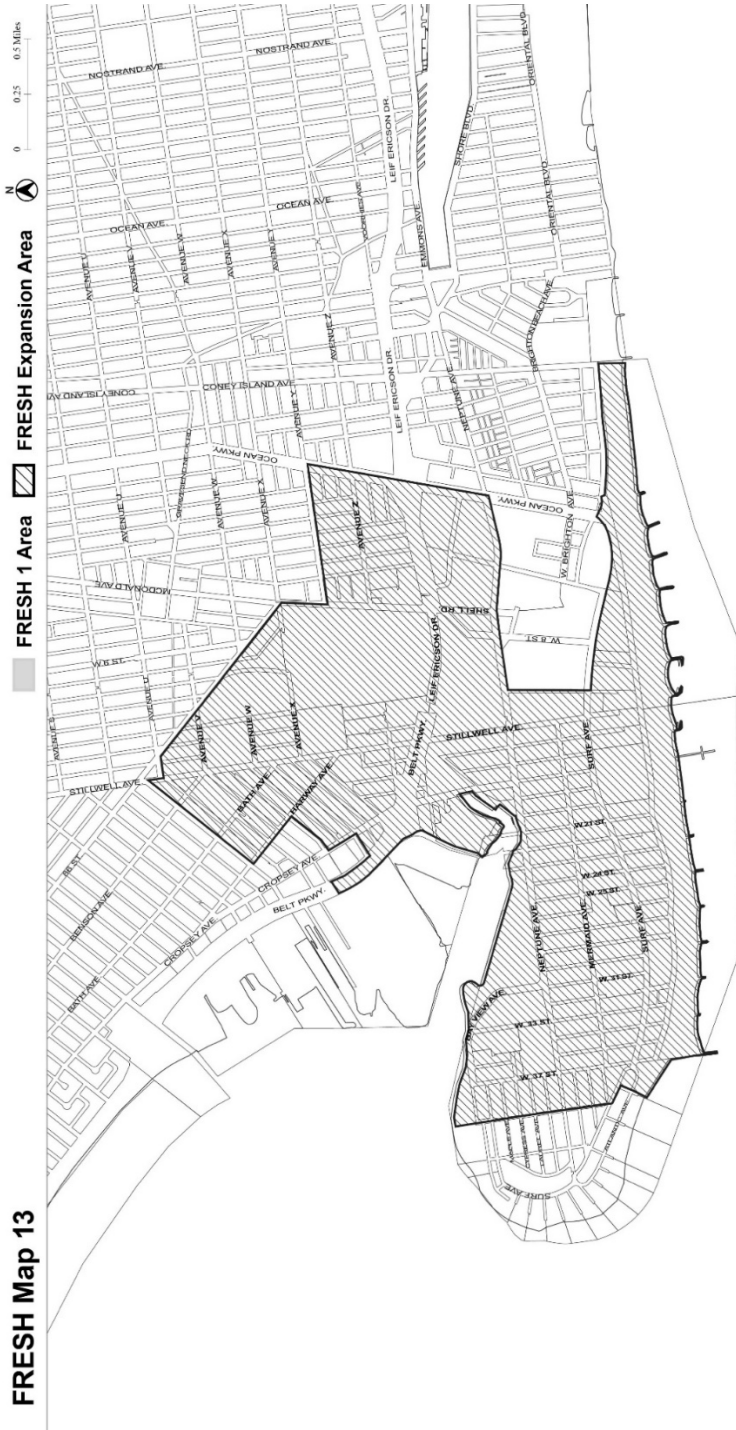


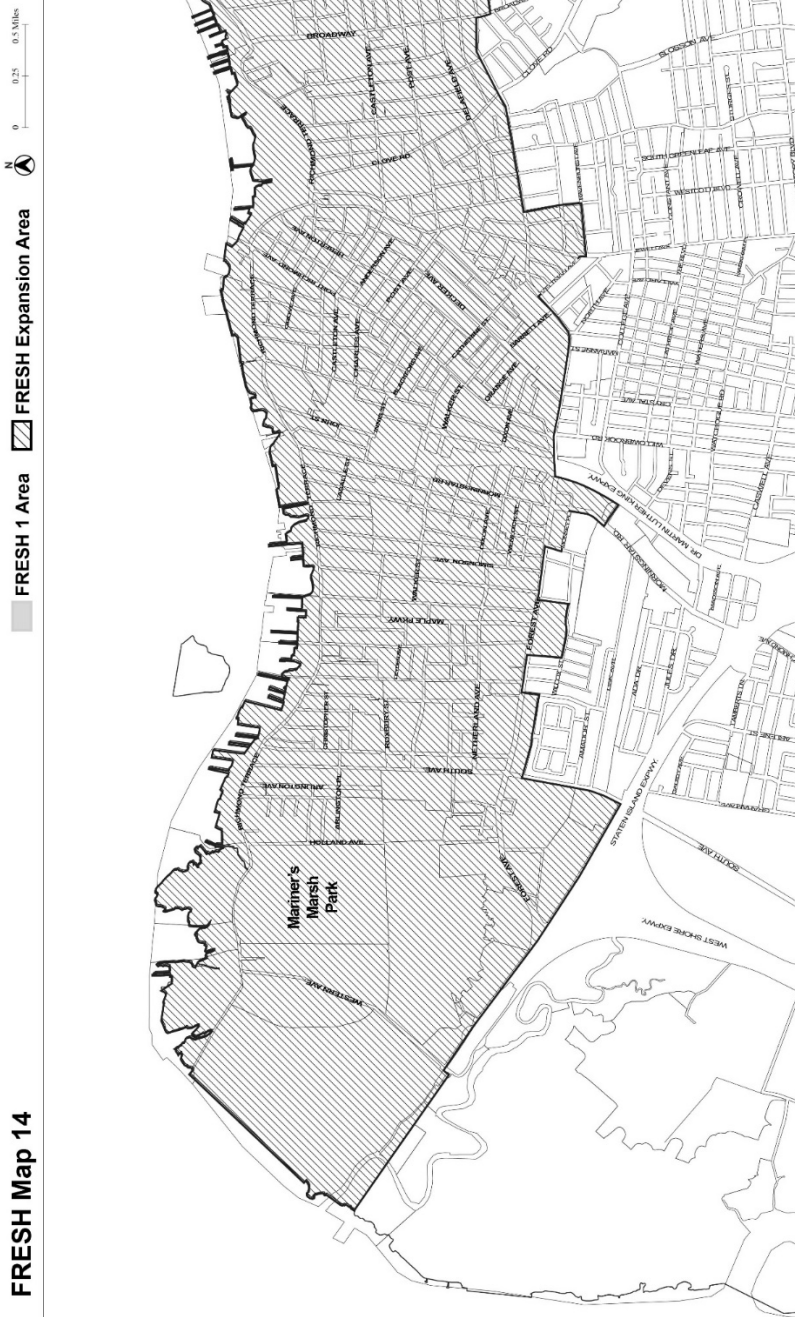


[COUNCIL MODIFIED MAP]



FRESH Map 12









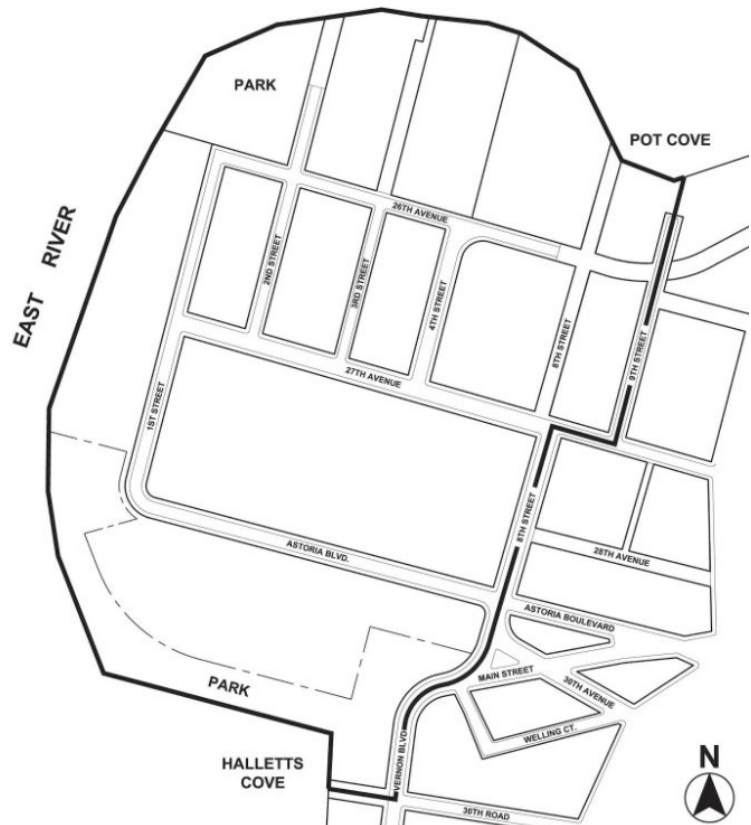
**Appendix B**

**FRESH Food Store Designated Areas: Included Portions**

The FRESH food store designated areas are listed by community district and borough in Section 63-02 (Applicability). When a FRESH food store designated area occupies only a portion of a community district, the included portions of such community districts are shown on the following maps:

Map 1. Included portions of Community District 1, Queens

[EXISTING MAP – TO BE DELETED]

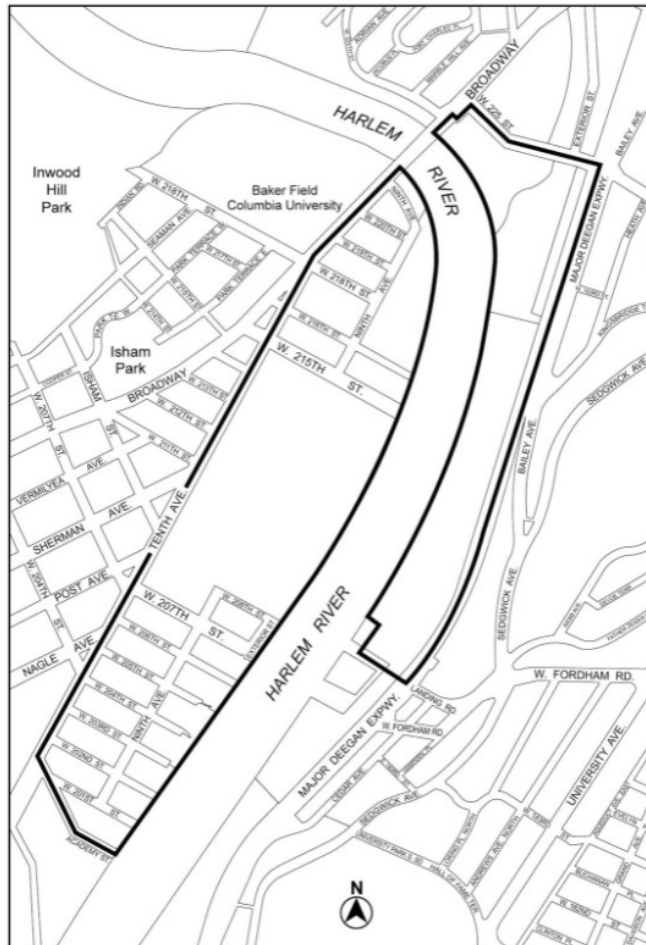


~~Appendix C~~ Appendix B

**Required Off-Street Accessory Parking Exceptions**

~~Map 1. Excluded portions of Community District 12, Manhattan and a portion of Community District 7, the Bronx~~

[EXISTING MAP 1 – TO BE DELETED]



Honorable Anita Laremont, Chair  
Application No.: N 210380 ZRY  
December 9, 2021  
Page 47 of 55

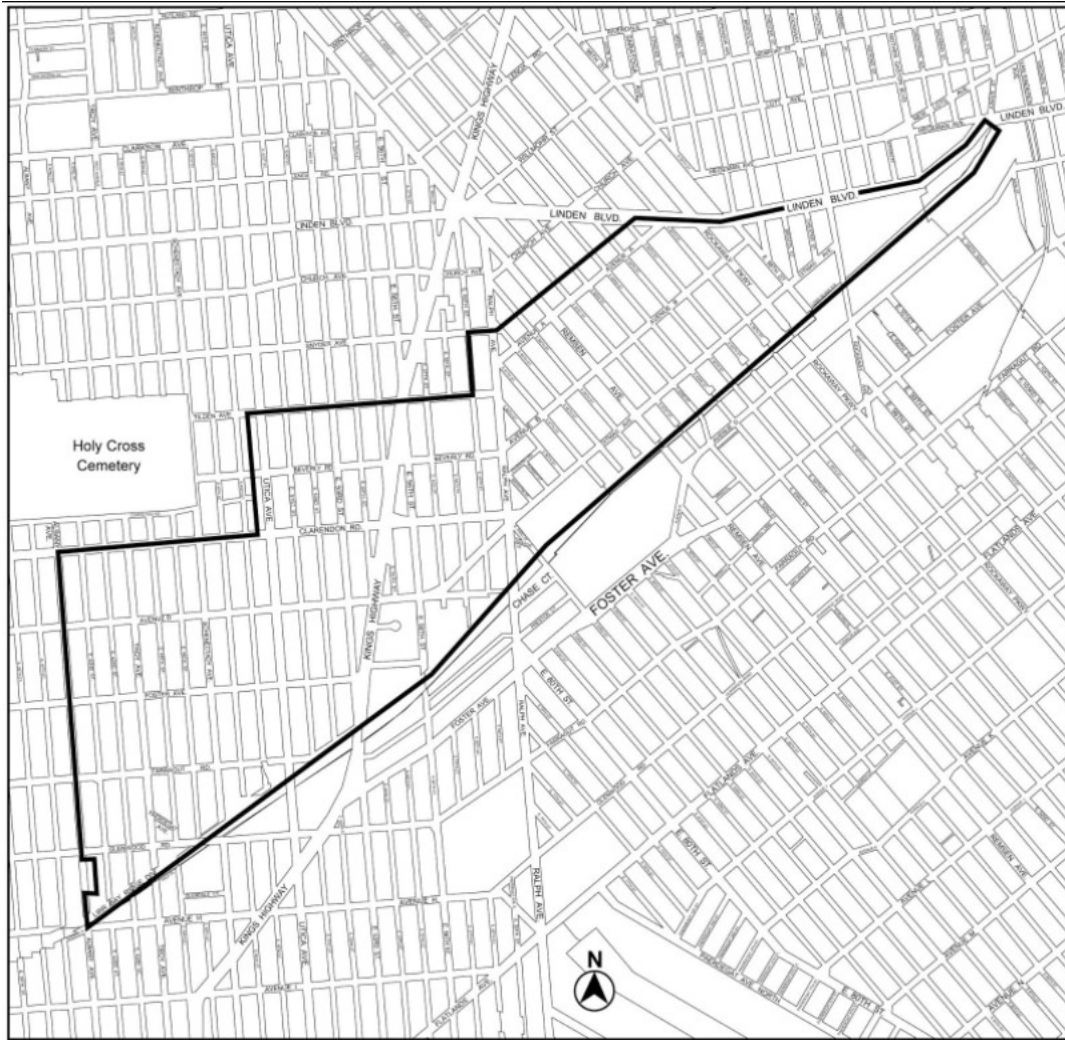
Map 2. ~~Map 1.~~ Excluded portions of Community District 5, Brooklyn





Honorable Anita Laremont, Chair  
Application No.: N 210380 ZRY  
December 9, 2021  
Page 48 of 55

Map 3. ~~Map 2.~~ Excluded portions of Community District 16 and 17, Brooklyn



\* \* \*

**ARTICLE IX**  
**SPECIAL PURPOSE DISTRICTS**

**Chapter 7**

**Special 125th Street District**

\* \* \*

**97-40**

**SPECIAL BULK REGULATIONS**

\* \* \*

**97-41**

**Special Floor Area Regulations**

\* \* \*

**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
- (2) a minimum #floor area ratio# of 0.5, or a minimum amount of floor space equivalent to such 0.5 #floor area ratio#, shall be provided on such #zoning lot#. Such #floor area# or equivalent floor space shall be exclusively used for those visual or performing arts #uses#, designated in paragraph (b) of Section 97-11 (Special Arts and Entertainment Uses), and shall be certified by the Chairperson of the City Planning Commission to the Commissioner of Buildings that the conditions set forth in Section 97-423 (Certification for floor area bonus for visual or performing arts uses) have been met.

Where the provisions of Article VI, Chapter 3 (Special Regulations Applying to FRESH Food Stores) apply, the total #floor area# permitted for such #zoning lot# may be increased by one square foot of #residential floor area# for each square foot of #floor area# of a #FRESH food store#, as defined by Article VI, Chapter 3, up to 20,000 square feet.

- (b) Modified maximum #floor area ratio# for certain #zoning lots#

For #zoning lots# existing on or before November 30, 2017, with a #lot area# of less than 5,000 square feet, or for #zoning lots# subject to the provisions of paragraph (d)(4) of Section 23-154 (Inclusionary Housing), the maximum #floor area ratios# set forth in paragraph (a) of this Section shall be modified, as follows:

- (1) the minimum non-#residential floor area# requirements set forth in paragraph (a) of this Section shall be optional for #zoning lots# existing on or before November

30, 2017, with a #lot area# of less than 5,000 square feet. For #zoning lots# utilizing the provisions of this paragraph, the minimum non-#residential floor area# or visual or performing arts space requirements set forth in paragraph (a) of this Section shall not apply;

- (2) for #zoning lots#, subject to the provisions of paragraphs (d)(4)(i) or (d)(4)(iii) of Section 23-154, the maximum #residential floor area# provision of the underlying district as specified in Section 23-153 (For Quality Housing buildings) shall apply; and
  
- (3) for #zoning lots# utilizing the provisions of paragraph (b)(1) or (b)(2) of this Section, the maximum overall #floor area ratio# shall be 10.0, except that such maximum #floor area ratio# may be increased pursuant to the provisions of paragraph (b) of Section 97-422 (Floor area bonus for visual or performing arts uses). For #zoning lots# utilizing the provisions of paragraph (b)(2) of this Section, such maximum #floor area ratio# may also be increased pursuant to the provisions of Article VI, Chapter 3.

\* \* \*

**ARTICLE X**  
**SPECIAL PURPOSE DISTRICTS**

**Chapter 8**  
**Special Hunts Point District**

\* \* \*

**Honorable Anita Laremont, Chair**  
**Application No.: N 210380 ZRY**  
**December 9, 2021**  
**Page 52 of 55**

**108-01**

**General Provisions**

In harmony with the general purposes and content of this Resolution and the general purposes of the #Special Hunts Point District#, the provisions of this Chapter shall apply to all #developments# and #enlargements# within the #Special Hunts Point District#. The regulations of all other Chapters of this Resolution are applicable except as modified, supplemented or superseded by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas), the provisions of Article VI, Chapter 4, shall control.

The provisions of Article VI, Chapter 3 (Special Regulations Applying to FRESH Food Stores) shall apply in the Residential Buffer Subdistrict, and shall not apply in the Food Industry Subdistrict. For any food store subject to the provisions of Article VI, Chapter 3, the parking regulations of Section 63-24 (Required Accessory Off-street Parking Spaces in Certain Districts) shall supersede the provisions of Section 108-20 (MODIFICATION OF PARKING REQUIREMENTS IN THE RESIDENTIAL BUFFER SUBDISTRICT).

\* \* \*

**ARTICLE XI**

**SPECIAL PURPOSE DISTRICTS**

**Chapter 6**

**Special Stapleton Waterfront District**

\* \* \*

**116-20**

**SPECIAL BULK REGULATIONS FOR SUBAREAS A, B, AND C, THE ESPLANADE,  
PIER PLACE AND THE COVE**

\* \* \*

**116-22**

**Maximum Floor Area Ratio**

\* \* \*

**116-221**

**Special floor area regulations for mixed buildings**

For #buildings# containing #residences#, the area in such #buildings# occupied by non-#residential uses# on the ground floor, or within two feet of the as-built level of the adjoining sidewalk, shall be excluded from the calculation of permitted #floor area# in the #building#. However, the area occupied by non-#residential uses# on the ground floor shall be included as #floor area# for other purposes including calculating:

- (a) requirements for #accessory# off-street parking spaces;
- (b) #accessory# off-street loading berths; ~~and~~
- (c) limitations on #floor area# occupied by certain #uses#; and

**Honorable Anita Laremont, Chair**  
**Application No.: N 210380 ZRY**  
**December 9, 2021**  
**Page 54 of 55**

(d) satisfying requirements for #FRESH food stores# as defined in Article VI, Chapter 3, and the special #floor area# regulations of that Chapter.

In #flood zones#, the #floor area# exclusion permitted by this Section shall also apply to the area occupied by non-#residential uses# on the #lowest occupiable floor#, as defined in Section 64-11.

\* \* \*

Please feel free to contact me at (917) 999-8054 if you or your staff have any questions in this regard.

Sincerely,



.....  
Julie Lubin,  
General Counsel

JL:kg

C: Members, City Planning Commission  
Raju Mann, Director, Land Use Division  
Amy Levitan, Deputy Director  
Jeff Campagna, Deputy General Counsel  
Angelina Martinez-Rubio, Deputy General Counsel  
Arthur Huh, Assistant General Counsel  
Susan Amron, Esq., DCP  
James Harris, DCP  
Danielle J. DeCerbo, DCP

**Honorable Anita Laremont, Chair**  
**Application No.: N 210380 ZRY**  
**December 9, 2021**  
**Page 55 of 55**

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