



## Legislation Text

**File #:** Res 1409-2008, **Version:** \*

### THE COUNCIL OF THE CITY OF NEW YORK RESOLUTION NO. 1409

Resolution approving with modifications the decision of the City Planning Commission on Application No. N 080100 (A) ZRM, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, concerning Article IX, Chapter 7 (Special 125th Street District), establishing a special district in the Borough of Manhattan, Community Districts 9, 10 and 11, and modifying related regulations (L.U. No. 719).

By Council Members Katz and Avella

WHEREAS, the City Planning Commission filed with the Council on March 10, 2008 its decision dated March 10, 2008 (the "Decision"), on the 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, concerning Article IX, Chapter 7 (Special 125th Street District), establishing a special district in the Borough of Manhattan, Community Districts 9, 10 and 11, and modifying related regulations (Application No. N 080100 (A) ZRM), (the "Application");

WHEREAS, the Application is related to ULURP Application Number C 080099 (A) ZMM (L.U. No. 697), amendment to the Zoning Map, Section Nos. 5c, 6a and 6b;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on April 1, 2008;

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues and the Final Environmental Impact Statement ("FEIS") for which a Notice of Completion was issued on February 29, 2008 (CEQR No. 07DCP030M), together with the Technical Memorandum, dated March 10, 2008.

**RESOLVED:**

Having considered the FEIS, with respect to the Application, the Council finds that:

- (1) the FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;

- (2) Consistent with social, economic and other essential considerations, from among the reasonable alternatives thereto, the action under the Expanded Arts Bonus Alternative, 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 by incorporating as conditions to the approval, those mitigative measures that were identified as practicable.

The Decision, FEIS and the Technical Memorandum dated March 10, 2008, constitute the written statement of facts, and of social, economic and other factors and standards that form the basis of this determination, pursuant to 6 N.Y.C.R.R. §617.11(d).

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application the Council approves the Decision with the following modifications:

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:

- Matter in underline is new, to be added
- Matter in ~~strikeout~~ is old, to be deleted;
- Matter within # # is defined in 12-10 or
- \* \* \* indicates where unchanged text appears in the Zoning Resolution
- Matter in greytone is new, to be added by the City Council

**ARTICLE I**  
**GENERAL PROVISIONS**

\* \* \*

**11-12**  
**Establishment of Districts**

\* \* \*

**Establishment of the Special 125<sup>th</sup> Street District**

In order to carry out the special purposes of this Resolution as set forth in Article IX, Chapter 7, the Special 125<sup>th</sup> Street District is hereby established.

**Establishment of the Special Battery Park City District**

\* \* \*

**12-10**  
**DEFINITIONS**

\* \* \*

### **Special 125<sup>th</sup> Street District**

The "Special 125<sup>th</sup> Street District" is a Special Purpose District designated by the number "125" in which special regulations set forth in Article IX, Chapter 7, apply. The #Special 125<sup>th</sup> Street District# appears on the #zoning maps# superimposed on other districts and its regulations supersede, supplement and modify those of the districts upon which it is superimposed.

### **Special Battery Park City District**

\* \* \*

### **Chapter 3 Sidewalk Cafe Regulations**

\* \* \*

### **14-44 Special Zoning Districts Where Certain Sidewalk Cafes Are Permitted**

\* \* \*

<u>Manhattan</u>	<u>#Enclosed Sidewalk Café#</u>	<u>#Unenclosed Sidewalk Café#</u>
<u>125<sup>th</sup> Street District</u>	<u>Yes</u>	<u>Yes</u>
Battery Park City District	Yes	Yes

\* \* \*

### **Article II Residence District Regulations**

\* \* \*

### **Chapter 3 Bulk Regulations for Residential Buildings in Residence Districts**

\* \* \*

### **23-00**

**APPLICABILITY AND GENERAL PURPOSES**

\* \* \*

**23-011  
Quality Housing Program**

\* \* \*

- (c) The Quality Housing Program shall not apply to:
- (1) Article VII, Chapter 8 (Large Scale Residential Developments);
  - (2) Special Purpose Districts, except the following:

\* \* \*

- (viii) ~~the #Special Downtown Brooklyn District#; or~~
- (ix) the #Special 125<sup>th</sup> Street District#; or

\* \* \*

**24-161  
Maximum floor area ratio for zoning lots containing community facility and residential uses**

\* \* \*

R1 R2 R3-1 R3A R3X R4-1 R4A R4B R5D R6A R6B R7-2 R7A R7B R7X R8 R9 R10

In the districts indicated, for #zoning lots# containing #community facility# and #residential uses#, the maximum #floor area ratio# permitted for a #community facility use# shall be as set forth in Section 24-11, inclusive, and the maximum #floor area ratio# permitted for a #residential use# shall be as set forth in Article II, Chapter 3, provided the total of all such #floor area ratios# does not exceed the greatest #floor area ratio# permitted for any such #use# on the #zoning lot#.

In the designated areas set forth in Section 23-922 (Inclusionary Housing designated areas), except within Waterfront Access Plan Bk-1, and in Community District 1, Brooklyn, in R6 Districts without a letter suffix, the #floor area ratios# of Section 23-942 shall apply where the #residential# portion of a #building# is #developed# or #enlarged# pursuant to the Quality Housing Program the maximum #floor area ratio# permitted for #zoning lots# containing #community facility# and #residential uses# shall be the base #floor area ratio# set forth in Section 23-942 for the applicable district. Such base #floor area ratio# may be increased to the maximum #floor area ratio# set forth in such Section only through the provision of #lower income housing# pursuant to Section 23-90 (INCLUSIONARY HOUSING).

\* \* \*

**35-31  
Maximum Floor Area Ratio for Mixed Buildings**

\* \* \*

In all districts, except as set forth in Section 35-311, the provisions of this Section shall apply to any #zoning lot# containing a #mixed building#.

\* \* \*

In the designated areas set forth in Section 23-922 (Inclusionary Housing designated areas), except within Waterfront Access Plan BK-1, and in Community District 1, Brooklyn, in R6 Districts without a letter suffix, the #floor area ratios# of Section 23-942 shall apply where the #residential# portion of a #building# is #developed# or #enlarged# pursuant to the Quality Housing Program. the maximum #floor area ratio# permitted for #zoning lots# containing #residential# and #commercial# or #community facility uses# shall be the base #floor area ratio# set forth in Section 23-942 for the applicable district. Such base #floor area ratio# may be increased to the maximum #floor area ratio# set forth in such Section only through the provision of #lower income housing# pursuant to Section 23-90.

\* \* \*

## **ARTICLE IX, CHAPTER 7 (97-00) IS NEW TEXT; IT IS NOT UNDERLINED;**

\* \* \*

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

\* \* \*

#### **Chapter 7 Special 125<sup>th</sup> Street District**

##### **97-00 GENERAL PURPOSES**

The “Special 125<sup>th</sup> Street District” established in this Resolution is designed to promote and protect the public health, safety, general welfare and amenity. The general goals include, among others, the following specific purposes:

- (a) to preserve, protect and promote the special character of 125<sup>th</sup> Street as Harlem’s “Main Street” and the role of 125<sup>th</sup> Street as Upper Manhattan’s premier mixed use corridor;
- (b) to guide development on the 125<sup>th</sup> Street corridor;
- (c) to expand the retail and commercial character of 125<sup>th</sup> Street;

- (d) to provide incentives for the creation of visual and performing arts space and enhance the area's role as a major arts, entertainment and cultural destination in the City;
- (e) to support mixed use development through out the 125<sup>th</sup> Street corridor, including residential uses, and to provide incentives for the production of affordable housing;
- (f) to ensure that the form of new buildings is compatible and relates to the built character of the 125<sup>th</sup> Street corridor;
- (g) to enhance the pedestrian environment through appropriate ground floor uses and regulations;
- (h) to promote the most desirable use of land and thus conserve and enhance the value of land and buildings, and thereby protect the City's revenue.

## **97-01**

### **Definitions**

#### **Special 125<sup>th</sup> Street District**

The "Special 125<sup>th</sup> Street District" is a Special Purpose District designated by the number "125" in which special regulations set forth in Article IX, Chapter 7, apply. The #Special 125<sup>th</sup> Street District# appears on the #zoning maps# superimposed on other districts and its regulations supersede, supplement and modify those of the districts upon which it is superimposed.

## **97-02**

### **General Provisions**

In harmony with the general purposes of the #Special 125<sup>th</sup> Street District# and in accordance with the provisions of this Chapter, the express requirements of the #Special District# shall apply to all #developments#, #enlargements#, alterations and changes of #use# within the Special District. The regulations of the Special District shall supersede, supplement or modify the requirements of the underlying zoning districts on which the Special District is superimposed, except as described in Section 97-05 (Applicability of Special Transit Land Use District Regulations).

Except as modified by the particular provisions of the Special District, the regulations of the underlying zoning districts shall remain in effect. 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.

## **97-03**

### **District Plan and Maps**

The regulations of this Chapter are designed to implement the #Special 125<sup>th</sup> Street District# Plan. The District Plan, including the map of the #Special 125<sup>th</sup> Street District#, is set forth in Appendix A of this Chapter and is hereby incorporated as part of this Resolution for the purpose of specifying locations where the special regulations and requirements set forth in this Chapter apply.

## **97-04**

## Establishment of Core Subdistrict

In order to carry out the purposes and provisions of this Chapter, the Core Subdistrict is established within the #Special 125<sup>th</sup> Street District# and includes specific regulations designed to support an arts and entertainment environment along 125<sup>th</sup> Street. The boundaries of the Core Subdistrict are shown on the map of the #Special 125<sup>th</sup> Street District# in Appendix A of this Chapter.

### 97-05

#### Establishment of Bonused Space Local Arts Advisory Council

A Bonused Space Local Arts Advisory Council shall be created for the purpose of reviewing and making recommendations concerning the Community Engagement Plans of proposed operators of visual or performing arts #uses# pursuant to paragraph (c)(7) of Section 97-423 (Certification for floor area bonus for visual or performing arts uses). The Bonused Space Local Arts Advisory Council shall consist of 11 members: two (2) members appointed by the Commissioner of the Department of Cultural Affairs, one of whom shall be designated by such Commissioner to serve as Chair, and three (3) members appointed by each of the Council Members for the Councilmanic Districts in which the Special District is located, who will rotate depending upon where the proposed visual or performing arts #use# is located, pursuant to Sections 97-422 and 97-423. Members of the Bonused Space Local Arts Advisory Council shall be members of the Harlem performing or visual arts, non-profit, or business communities and shall serve at the pleasure of the appointing official. The Department of Cultural Affairs shall provide staff assistance to the Bonused Space Local Arts Advisory Council and shall establish guidelines and procedures for the performance of its functions.

In making a recommendation concerning a Community Engagement Plan pursuant to paragraph (c)(7) of Section 97-423, the Bonused Space Local Arts Advisory Council shall consider the prior history and/or proposed scope of outreach and educational activities in Community Boards 9, 10 or 11 by the proposed operator; and the organizational capacity and commitment of the proposed operator to implement local partnerships under the Community Engagement Plan. The Department of Cultural Affairs shall not submit a letter to the Chairperson of the City Planning Commission pursuant to paragraph (c)(7) of Section 97-423 without having first received and considered the written recommendation of the Bonused Space Local Arts Advisory Council, provided that the Bonused Space Local Arts Advisory Council shall have provided the Department of Cultural Affairs with such written recommendation no later than 45 days following receipt of a request for review from the Department of Cultural Affairs.

### 97-06

#### Applicability of Special Transit Land Use District Regulations

Wherever the #Special 125<sup>th</sup> Street District# includes an area which also lies within the #Special Transit Land Use District#, the requirements of the #Special Transit Land Use District#, as set forth in Article IX, Chapter 5, shall apply, subject to the modifications described in paragraphs (e) and (f) of Section 97-433 (Street wall location).

The #Special Transit Land Use District# includes the area within the #Special 125<sup>th</sup> Street District# bounded by a line 50 feet west of Second Avenue from 124<sup>th</sup> Street midway to 125<sup>th</sup> Street where such area widens to a line 100 feet west of Second Avenue.

### 97-10

#### SPECIAL USE AND LOCATION REGULATIONS

## 97-11

### Special Arts and Entertainment Uses

In order to sustain the arts and entertainment character of the 125<sup>th</sup> Street corridor, the provisions of this Section shall apply.

(a) The following #uses# shall be designated as entertainment #uses#:

- Auditoriums
- Bookstores
- Clubs, including music, dance or comedy clubs
- Eating or drinking establishments, with table service only
- Music stores
- Studios, art, music, dancing or theatrical
- Studios, radio, television or motion picture

(b) The following #uses# shall be designated as visual or performing arts #uses#:

- Art galleries
- Historical exhibits
- Literary arts spaces
- Museums
- Performance spaces
- Primary rehearsal spaces
- Theaters
- Visual/Media arts spaces

## 97-12

### Arts and Entertainment Use Requirement

Within the Core Subdistrict, as shown on the map in Appendix A of this Chapter, or for that portion of a #zoning lot# located within the Core Subdistrict, for new #developments# or #enlargements# that contain at least 60,000 square feet of #floor area# and are located on #zoning lots# with frontage on 125<sup>th</sup> Street, an amount of space equivalent to a minimum of five percent of the #floor area# of the #development# or #enlargement# shall be occupied by one or more of the #uses# designated in Section 97-11 (Special Arts and Entertainment Uses).

## 97-20

### LOCATION AND ACCESS REGULATIONS

Within the #Special 125<sup>th</sup> Street District#, for any #zoning lot# that fronts upon 125<sup>th</sup> Street, the #use# regulations of the underlying districts shall be modified by the locational and access requirements of this Section, inclusive. On #through lots# or #corner lots# with frontage along 125<sup>th</sup> Street, such requirements shall apply within the first 100 feet of the 125<sup>th</sup> Street #street line#.

## 97-21

### Location and Access of Arts and Entertainment Uses

Any arts and entertainment #uses# listed in Section 97-11 that are provided in order to comply with the requirements of Section 97-12 (Arts and Entertainment Use Requirement) or Section 97-422 (Floor area bonus for visual or performing



arts uses) shall be subject to the following location and access requirements:

The designated #uses# listed in Section 97-11 may be located anywhere throughout a #building# that fronts on 125<sup>th</sup> Street, subject to the following conditions:

- (a) any such designated #uses# within the Core Subdistrict required pursuant to Section 97-12 shall be accessed from 125<sup>th</sup> Street; and
- (b) any #residential use# shall be located on a floor wholly above any non-#residential use#; or
- (c) any non-#residential use# shall may be permitted on the same #story# as a #residential use#, provided that:
  - (1) no access exists between non-#residential uses# and #residential uses# at any level; and
  - (2) non-#residential uses# are not located directly over any #residential uses#.

Such non-#residential use#, however, may be located over a #residential use# by authorization of the City Planning Commission upon a finding that sufficient separation of #residential uses# from non-#residential uses# exists within the #building#.

## **97-22**

### **Uses Not Permitted on the Ground Floor of Buildings**

Within the #Special 125<sup>th</sup> Street District#, the following #uses# are not permitted at the ground floor level of #developments# and #enlargements# that front upon 125<sup>th</sup> Street, within 100 feet from 125<sup>th</sup> Street, or within five feet of the as-built level of the adjoining sidewalk. Entranceways and lobby space for access to such #uses# shall be permitted at the ground floor level, pursuant to the provisions of Section 97-221 (Access to non-ground floor uses).

From Use Group 2:  
All #uses#.

From Use Groups 3A and 3B:  
All #uses#, except for libraries, museums or non-commercial art galleries.

From Use Groups 4A and 4B:  
All #uses#, except for houses of worship or playgrounds.

From Use Group 5A:  
All #uses#.

From Use Groups 6A, 6B, 6C and 6E:  
Banks (except for automated teller machines, provided the length of #street# frontage allocated for automated teller machines shall be no more than 25 feet or 40 percent of the frontage of the #zoning lot#, whichever is less, measured to a depth of 30 feet from 125<sup>th</sup> Street, except that such frontage need not be less than 20 feet), electrolysis studios, frozen food lockers, laundry establishments, loan offices, offices or veterinary medicine offices.

From Use Group 6D:  
All #uses#.

From Use Group 7:

All #uses#, except for bicycle rental or repair shops.

From Use Groups 8A and 8B:

Automobile driving schools, ice vending machines, lumber stores or pawn shops.

From Use Groups 8C, 8D and 8E:

All #uses#.

From Use Groups 9A, 9B and 9C:

All #uses#, except for gymnasiums, public auction rooms, photographic developing or printing establishments for the consumer, or art, music, dancing or theatrical studios.

From Use Groups 10A, 10B and 10C:

Depositories for storage, and wholesale offices or showrooms.

Use Group 11:

All #uses#.

Use Groups 12A and 12B:

Trade expositions.

Use Groups 12C and 12D:

All #uses#.

Use Group 14A and 14B:

All #uses#, except for bicycle sales, rental or repair shops.

Within the Special District, for #developments# and #enlargements# that are no more than one #story#, a #use# permitted by the regulations of the underlying district shall be allowed.

## **97-221**

### **Access to non-ground floor uses**

Within the Special District, for non-ground floor #uses# listed in Section 97-22 with access from 125<sup>th</sup> Street, the following requirements shall apply:

- (a) Within the Core Subdistrict the #residential# portion of a #building# may be accessed from an entrance on 125<sup>th</sup> Street only if such #building# does not front upon a #street# other than 125<sup>th</sup> Street.
- (b) The length of the ground floor #street# frontage on 125<sup>th</sup> Street allocated to an entranceway or lobby space shall be no more than 25 linear feet or 40 percent of such #street# frontage, whichever is less, except that an entranceway or lobby space need not be less than 20 feet.
- (c) For a #development# or #enlargement# with more than one entranceway or lobby on 125<sup>th</sup> Street for non-ground floor #uses#, each entranceway or lobby for #uses# listed in Section 97-22 shall be no more than 25 linear feet and, in the aggregate, shall not exceed 40 percent of such ground floor frontage.
- (d) For #developments# or #enlargements# with at least 200 linear feet fronting on 125<sup>th</sup> Street, the length of #street# frontage on 125<sup>th</sup> Street allocated to entranceways or lobby space for such #uses# shall be no more than 40 linear feet.

## 97-23

### Transparency Requirements

For all #uses#, other than houses of worship, libraries and primary rehearsal spaces, located on the ground floor of #developments# and #enlargements# that front upon that portion of 125<sup>th</sup> Street located within the #Special 125<sup>th</sup> Street District#, the ground floor #street wall# shall be glazed with materials which may include show windows, glazed transoms or glazed portions of doors. Such glazed area shall occupy at least 70 percent of the area of each such ground floor #street wall#, measured to a height of 12 feet above the level of the adjoining sidewalk or public access area. Not less than 50 percent of such area shall be glazed with transparent materials and up to 20 percent of such area may be glazed with translucent materials.

## 97-24

### Security Gates

Within the #Special 125<sup>th</sup> Street District#, all security gates installed after (date of enactment), that are swung, drawn or lowered to secure commercial or community facility premises shall, when closed, permit visibility of at least 75 percent of the area covered by such gate when viewed from the #street#, except that this provision shall not apply to entrances or exits to parking garages.

## 97-30

### SPECIAL SIGN REGULATIONS

#Signs# for all #uses# within the #Special 125<sup>th</sup> Street District# shall be subject to the applicable #sign# requirements in Section 32-60, inclusive, subject to the modifications of Sections 97-31 through 97-34, inclusive.

#Marquee signs# for an arts #use# may be combined, subject to the requirements of Section 32-641 (Total surface area of signs).

In the event of a conflict between the provisions of this Section, 97-30, inclusive, and other regulations of the Administrative Code, the provisions of this Chapter shall apply.

## 97-31

### Definitions

#### Marquee

A “marquee” is a permanent structure or canopy located above the primary entrance to an arts #use# fronting on 125<sup>th</sup> Street, that projects over the sidewalk and is attached to, and entirely supported from, the #street wall# of the #building#. The location and dimensions of the #marquee# shall be determined by the requirements of Sections 97-32.

All marquees shall comply with the construction and maintenance requirements of Title 27, Subchapter 4, Article 9, of the New York City Building Code pertaining to projecting signs, or its successor.

#### Marquee sign

A “marquee sign” is a #sign#, other than an #advertising sign#, mounted on a #marquee# that identifies the arts #use# and provides informational displays about such #use#.

## 97-32

### Location, Height and Width of Marquees and Marquee Signs

For the purposes of this Chapter, #marquees# shall be permitted only above the primary entrance to one of the following #uses# fronting upon 125<sup>th</sup> Street:

Museums  
Performance spaces  
Theaters.

Marquees shall project over the sidewalk no more than 15 feet from the #lot line# and shall be no nearer to the curb than two feet.

(a) Height of #marquees#

The minimum height of a #marquee# or a #marquee sign# shall be three feet; the maximum height for such structure and #sign# shall be five feet. No part of a #marquee# or a #marquee sign# shall be located at a height higher than three feet below any floor containing a #residential use#.

(b) Width of #marquees#

The width of a #marquee# or a #marquee sign# shall be no greater than 50 percent of the width of the #building# frontage to which it is attached or 40 feet, whichever is less.

### 97-33

#### Vertical Distance above Sidewalk of Marquees and Marquee Signs

The minimum vertical distance from the sidewalk for a #marquee# shall be 12 feet; the maximum vertical distance above the sidewalk for such #marquee# shall be 20 feet.

Notwithstanding the provisions of paragraph (b) of Section 32-653 (Additional regulations for projecting signs), additional #signs# may be displayed on a #marquee#, provided such #sign# is no more than two feet above the #marquee#.

No #marquee# or #marquee sign# shall be located at a height higher than three feet below any floor containing a #residential use#.

### 97-34

#### Accessory Signs for Visual or Performing Arts Uses

Notwithstanding the regulations of paragraph (b) of Section 32-653 (Additional regulations for projecting signs) and the relevant provisions of the Administrative Code, only the following visual or performing arts #uses# fronting on 125<sup>th</sup> Street within the #Special 125<sup>th</sup> Street District# shall be permitted to erect a #marquee sign# on or above a #marquee#:

Museums  
Performance spaces  
Theaters.

Flashing #signs# shall not be permitted as #accessory signs# for arts #uses#.

### 97-40

#### SPECIAL BULK REGULATIONS

Within the #Special 125<sup>th</sup> Street District#, all #residential developments# or #enlargements# shall comply with the requirements of Article II, Chapter 8 (Quality Housing) and the applicable #bulk# regulations of the underlying districts, except as modified in this Section, inclusive.

**97-41  
Floor Area Regulations**

The maximum #floor area ratio#, #open space ratio# and #lot coverage# requirements of the applicable underlying district shall apply within the #Special 125<sup>th</sup> Street District#, unless modified by the following regulations.

**97-411  
Maximum floor area ratio in C4-4D, C4-7 and C6-3 Districts**

In C4-4D, C4-7 or C6-3 Districts, the maximum permitted #floor area ratios# for new #developments# or #enlargements# shall be as listed in the following table for #residential#, #commercial# and #community facility uses#, and may only be increased pursuant to Section 97-42 (Floor Area Bonuses).

MAXIMUM PERMITTED FLOOR AREA RATIO (FAR) FOR RESIDENTIAL, COMMERCIAL AND COMMUNITY FACILITY USES						
	OUTSIDE THE CORE SUBDISTRICT			WITHIN THE CORE SUBDISTRICT		
District	#Residential floor area ratio#	Commercial #floor area ratio#	Community Facility #floor area ratio#	#Residential floor area ratio#	Commercial #floor area ratio#	Community Facility #floor area ratio#
C4-4D	5.4	4.0	6.0	5.4	4.0	6.0
C4-7	9.0	10.0	10.0	9.0	10.0	10.0
C6-3	6.0	6.0	6.0	5.4	6.0	6.0

**97-42  
Floor Area Bonuses**

The maximum #floor area ratio# for a #development# or #enlargement# within the #Special 125<sup>th</sup> Street District# may be increased by a floor area bonus, pursuant to Sections 97-42 and 23-90 (Inclusionary Housing) or 97-422 (Floor area bonus for visual or performing arts uses), which may be used concurrently.

**97-421  
Inclusionary Housing**

Within the #Special 125<sup>th</sup> Street District#, C4-4D, C4-7 and C6-3 Districts shall be #Inclusionary Housing designated areas#, pursuant to Section 12-10 (Definitions), for the purpose of making the Inclusionary Housing Program regulations of Section 23-90, inclusive, and this Section, applicable within the Special District. Within such #Inclusionary Housing designated areas#, the #residential floor area ratio# may be increased by an Inclusionary Housing bonus, pursuant to the provisions of Sections 23-90, inclusive.

**97-422**

**Floor area bonus for visual or performing arts uses**

In C4-4D, C4-7 or C6-3 Districts within the #Special 125<sup>th</sup> Street District#, for a new #development# or #enlargement# with frontage on 125<sup>th</sup> Street , the maximum #floor area ratio# otherwise permitted for #residential# or #commercial uses# listed in Section 97-411 may be increased up to the maximum #floor area ratio# specified in the following table, provided that for every four square feet of bonused #floor area#, an amount of space equivalent to one square foot of such bonused #floor area# shall be used for those visual or performing arts #uses# designated in paragraph (b) of Section 97-11 (Special Arts and Entertainment Uses). Such bonused #floor area# shall be permitted only upon certification by the Chairperson of the City Planning Commission to the Commissioner of Buildings that the conditions set forth in Section 97-423 have been met.

MAXIMUM PERMITTED FLOOR AREA RATIO (FAR) FOR RESIDENTIAL AND COMMERCIAL USES WITH FLOOR AREA BONUS FOR VISUAL OR PERFORMING ARTS USES								
	OUTSIDE THE CORE SUBDISTRICT				WITHIN THE CORE SUBDISTRICT			
District	#Residential floor area ratio		Commercial #floor area ratio#		#Residential floor area ratio#		Commercial #floor area ratio#	
	Base	Maximum	Base	Maximum	Base	Maximum	Base	Maximum
C4-4D	5.4	7.2	4.0	5.4	5.4	7.2	4.0	5.4
C4-7	9.0	12.0	10.0	12.0	9.0	12.0	10.0	12.0
C6-3	6.0	8.0	6.0	8.0	5.4	7.2	6.0	8.0

**97-423**

**Certification for floor area bonus for visual or performing arts uses**

The #floor area# bonus provisions of Section 97-422 shall apply only upon certification by the Chairperson of the City Planning Commission to the Commissioner of Buildings that the following conditions have been met:

- (a) Drawings have been provided that clearly designate all #floor area# that will result from the permitted increase in #floor area ratio# pursuant to Section 97-422, including the location of such #floor area#.
- (b) Drawings also have been provided that clearly designate all #floor area# and/or below grade floor space for any new visual or performing arts #uses# for which a bonus is to be received pursuant to Section 97-422.

Such drawings shall be of sufficient detail to show that such designated space shall be designed, arranged and used for the new visual arts or performing arts #uses#, and shall also show that:

- (1) all such visual or performing arts #uses# are located at or above the ground floor level of the #building#, except that performance space meeting the requirements of paragraph (b)(4) may be located below grade, and #accessory uses# may be located below grade, subject to the requirements of paragraph (b)(5);

- (2) all bonused #floor area# or below grade space occupied by visual or performing arts #uses# is primarily accessed from 125<sup>th</sup> Street;
- (3) in the case of primary rehearsal space, where such space does not consist of #accessory uses# subject to the requirements of paragraph (b)(4) of this Section, such space:
  - (i) can be adapted for rehearsals or performances open to the public;
  - (ii) is located on the first #story# of the #development# or on any higher #story# with a ceiling height not greater than 60 feet above grade;
  - (iii) has a #streetwall# with at least 50 feet of frontage along 125<sup>th</sup> Street, and has a minimum area of 2,000 square feet, with a floor-to-ceiling height of not less than nine feet six inches; and
  - (iv) complies with the following glazing requirements: At least 70 percent of the total surface area of the #streetwall# abutting the primary rehearsal space, measured from finished floor to ceiling shall be glazed. Furthermore, at least 90 percent of such area shall be transparent from within one foot of the finished floor level to at least eight feet above such level. For primary rehearsal spaces located at the corner of 125<sup>th</sup> Street and an intersecting #street#, the glazing requirements of this Section shall be applied separately for each #streetwall#, and up to 100 feet along such intersecting #street#;
- (4) for performance space which is exclusively designed and arranged for the presentation of live drama, music, dance and interactive or multidisciplinary performances open to the public, such space may be below grade provided it has a minimum area of 2,000 square feet of column-free space with a floor-to-ceiling height of not less than 16 feet;
- (5) #Accessory# space
  - (i) For primary rehearsal spaces, no more than 25 percent of the bonused #floor area# or below grade floor space shall be occupied by #uses accessory# to such primary rehearsal spaces. #Accessory uses# shall include but are not limited to educational and classroom space, administrative offices, circulation space, restrooms and equipment space;
  - (ii) For visual or performing arts #uses# other than a primary rehearsal space, no more than 40 percent of such bonused #floor area# or below grade floor space is occupied by #uses accessory# to such visual or performing arts #uses#, provided no single #accessory use# occupies more than 25 percent of the total bonused #floor area# or below grade floor space. #Accessory uses# shall include but are not limited to educational and classroom space, non-primary rehearsal space, administrative offices, lobbies, circulation space, ticket offices, restrooms, dressing rooms, other backstage areas and equipment space; and
- (6) Signage
  - (i) signage that identifies the visual or performing arts facility is to be provided at the 125<sup>th</sup> Street entrance of the visual or performing arts facility, subject to the requirements of Section 97-30, inclusive; and
  - (ii) for below grade performance space subject to the requirements of paragraph (b)(4) of this Section, such sign, not including any frame or surrounding element, shall be utilized for the

additional purpose of informing the public regarding the program of scheduled performances in such facility, and shall be no less than two feet in width and four feet in height, and shall be installed a minimum of two feet, six inches above grade;

(c) A letter from the Department of Cultural Affairs has been submitted to the Chairperson of the City Planning Commission, certifying that:

(1) a signed lease has been provided from the prospective operator of the visual or performing arts space, or a written commitment from the owner of such space in a form acceptable to the City, if such owner is also the operator, for occupancy of such space, and its operation as a visual or performing arts space for a period of not less than fifteen years, with two five-year renewal options, pursuant to an operating plan and program therefor;

(2) the proposed operator of the visual or performing arts space is a non-profit organization;

(3) the proposed operator of the visual or performing arts space has the fiscal and managerial capacity to successfully operate such space;

(4) the proposed operator of the visual or performing arts space will have a program of regularly scheduled presentations or performances that are open to the public, provided that, in the case of a visual or performing arts space that is a primary rehearsal space, a program of regularly scheduled rehearsals or performances open to the public shall be required only where the proposed operator is the principal user of the primary rehearsal space. In the event that the proposed operator is not the principal user of the primary rehearsal space and such space is made available to multiple organizations or individuals on an hourly, weekly, monthly or similar basis, the proposed operator shall allow open rehearsals or performances open to the public to be sponsored by such organizations or individuals, upon request;

(5) preliminary design plans have been provided to the Department of Cultural Affairs for the visual or performing arts space, which shall include sufficient detail regarding core, shell, structural, mechanical, electrical, plumbing and HVAC systems necessary to ensure that such visual or performing arts space will operate efficiently for its intended use;

(6) a written commitment has been provided ensuring that there are financial resources available for the timely completion of the identified scope of work; and

(7) the proposed operator of the visual or performing arts space has a Community Engagement Plan that will effectively encourage public access and use of the visual or performing arts space, provide educational opportunities to the local community, and address new, undeveloped and/or underserved audience or participant groups. The Department of Cultural Affairs shall make its determination concerning the sufficiency of the Community Engagement Plan based upon consideration of the written recommendation of the Bonused Space Local Arts Advisory Council with respect thereto.

(d) A legal commitment by the owner has been provided:

(1) for the operator of the visual or performing arts space to submit an annual program report, describing the use of the space during the previous year, to the Chairperson of the City Planning Commission, the Commissioner of the Department of Cultural Affairs, the Manhattan Borough President, the applicable Community Board and the local Council Member; and

(2) for inspection and ongoing maintenance of the visual or performing arts space to ensure its continued availability for use as a visual or performing arts space. Such inspection shall be conducted every five years by a licensed engineer or architect, and a report identifying the operator utilizing the



space, describing the condition of the space and identifying any maintenance or repair work necessary to ensure the physical and operational soundness of such space, and establishing a plan and program for such work, including providing that adequate resources be made available to ensure timely completion of such maintenance or repair work, shall be submitted to the Chairperson of the City Planning Commission and the Commissioner of the Department of Cultural Affairs;

(e) A legal commitment by the owner has been provided for continued occupancy of all #floor area# for which a bonus has been received, pursuant to this Section, as a visual or performing arts space only in accordance with the drawings and design plans provided pursuant to paragraphs (b) and (c) (5) of this Section, and providing further that in the event of a change of operator, the owner or operator shall obtain a new certification pursuant to this Section. An #adult establishment# #use# shall be prohibited for the life of the #development#.

(1) notwithstanding the provisions of this paragraph, (e), an owner shall not be in violation of such legal commitment during a grace period consisting of:

- (i) six (6) months from the date the visual or performing arts space is vacated by the operator, provided owner timely notifies the Departments of City Planning and Cultural Affairs of such vacancy in accordance with the requirements of the legal commitment;
- (ii) the period of review by the Chairperson of the City Planning Commission and the Commissioner of the Department of Cultural Affairs with respect to a new operator and any associated change of design or #use# requirements pursuant to this Section, provided that application for certification pursuant to this Section is made no later than the expiration of the six month period set forth in paragraph (e)(1)(i) of this Section;
- (iii) any period set forth in such certification as necessary to allow for the modification of design to accommodate a new operator; and
- (iv) any event of force majeure;

(2) in the event that the Chairperson of the City Planning Commission determines that the requirements for certification pursuant to this Section with respect to a change of operator and associated change of design or #use# requirements are not satisfied, the grace period set forth in paragraph (e)(1) of this Section shall thereupon apply from the date of such determination;

(f) A legal commitment by the owner has been provided that all visual arts exhibitions or presentations of live drama, music, dance, interactive or multidisciplinary performances shall be open to the public in accordance with the terms of the letter issued by the Commissioner of Cultural Affairs, pursuant to paragraph (c) of this Section;

(g) A legal commitment by the owner has been provided that, in the event of an adjudicated violation of the provisions of paragraph (e) of this Section, requiring the continued occupancy of all #floor area# for which a bonus has been received, pursuant to Section 97-422, as a visual and performing arts space only, the owner shall not permit the occupancy of any #floor area# in the #development# or #enlargement# which is vacant as of the date of such adjudication or thereafter, up to the amount of the increased #floor area# permitted under Section 97-422, until such time as the Chairperson of the City Planning Commission has determined that the visual or performing arts space is occupied in accordance with the provisions of this Section.

Such legal commitments shall be in the form of a declaration of restrictions, filed and duly recorded in the Borough Office of the Register of the City of New York, binding upon the owner of the visual or performing arts space and their successors and assigns, a certified copy of which shall be submitted to the Chairperson of the City Planning Commission. The filing of such declaration and the posting of any bond or other security required by the Chairperson of the City Planning Commission under the terms of such declaration, and receipt of a certified

copy of such declaration shall be preconditions to issuance of any building permit, including any foundation or alteration permit, for any #development# or #enlargement#.

The owner shall not apply for or accept a temporary certificate of occupancy for such portion of the #development# or #enlargement# identified under the terms of the declaration of restrictions as utilizing the increased #floor area# permitted pursuant to Section 97-422, and the Department of Buildings shall not issue a temporary certificate of occupancy for such portion of the #development# or #enlargement#, until the Commissioner of the Department of Cultural Affairs has certified that the visual or performing arts space is substantially complete. The owner shall not apply for or accept a permanent certificate of occupancy for such portion of the #development# or #enlargement#, nor shall the Department of Buildings issue a permanent certificate of occupancy for such portion of the #development# or #enlargement#, until the visual or performing arts space has been finally completed in accordance with the approved plans and such final completion has been certified by the Commissioner of the Department of Cultural Affairs. The declaration of restrictions shall be noted on any temporary or final certificate of occupancy for the #building#. The temporary or final certificate of occupancy for any portion of the #development# or #enlargement# identified under the terms of the declaration of restrictions as utilizing the increased #floor area# permitted pursuant to Section 97-422 shall include the provisions of paragraph (e) of this Section, requiring the continued occupancy of all #floor area# for which a bonus has been received as a visual or performing arts space only, as a condition of occupancy of such portion of the #development# or #enlargement#.

In granting the original certification, the Chairperson of the City Planning Commission may specify such changes in design or #use# that would not warrant further certification pursuant to this Section.

#### **97-43**

##### **Special Lot Coverage Regulations**

The maximum #lot coverage# for #residential use# in C6-3 Districts within the #Special 125th Street District# shall be 70 percent for #interior# or #through lots# and 80 percent for #corner lots#.

Within the Special District, there shall be no maximum #lot coverage# applied to any #zoning lot# comprising a #corner lot# of 5,000 square feet or less.

#### **94-44**

##### **Special Height and Setback Regulations**

Within the #Special 125<sup>th</sup> Street District#, the underlying height and setback regulations shall be modified in accordance with the provisions of this Section, inclusive.

The provisions of paragraph (b) of Section 23-663 (Required rear setbacks for tall buildings in other districts) shall not be applicable within the Special District.

#### **97-441**

##### **Permitted obstructions**

The provisions of Section 33-42 (Permitted Obstructions) shall apply to all #buildings# within the Special District, except that the provisions of paragraph (c) shall not apply. In lieu thereof, the following regulations shall apply:

Elevator or stair bulkheads, roof water tanks, cooling towers or other mechanical equipment (including enclosures) may penetrate a maximum height limit or #sky exposure plane# provided that either:

- (a) the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, in feet, shall not exceed a figure equal to eight times the width, in feet, of the #street wall# of the #building# facing such frontage; or
- (b) for #buildings# at least 120 feet in height, the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#, and the height of all such obstructions does not exceed 40 feet.

In addition, dormers may penetrate a maximum base height in accordance with the provisions of paragraph (c) of Section 23-621 (Permitted obstructions in certain districts).

**97-442**

**Height and setback regulations for C4-7 and C6-3 districts**

The following modifications of the underlying district regulations shall apply for C4-7 and C6-3 Districts within the Special District:

- (a) The minimum and maximum base height of the #street wall# and the maximum height of a #development# or #enlargement# shall be modified, as set forth in the following table:

MINIMUM BASE HEIGHT, MAXIMUM BASE HEIGHT AND MAXIMUM BUILDING HEIGHT			
District	Street Wall Height (in feet)		Maximum Building Height (feet)
	Minimum Base Height	Maximum Base Height	
C4-7	60	85	290
C6-3	60	85	160

All portions of buildings that exceed a height of 85 feet in C4-7 and C6-3 Districts shall be set back at least 15 feet from the #street line#, except that such setback depth may include the depth of any permitted recess in the #street wall#, according to the provisions of 97-433 (Street wall location).

- (b) Special regulations for certain C4-7 Districts
  - (1) For the area located within 50 feet of the 126<sup>th</sup> Street frontage and between 200 feet east of Adam Clayton Powell Boulevard and 150 feet west of Lenox Avenue/Malcolm X Boulevard, the height of any portion of a #development# or #enlargement# shall be limited to 80 feet.
  - (2) For #zoning lots# bounded by 125<sup>th</sup> Street, Park Avenue and 124<sup>th</sup> Street, the maximum #building# height shall be 330 feet.
- (c) In C6-3 Districts, the maximum length of any #story# located above a height of 85 feet shall not exceed 150 feet. Such length shall be measured by inscribing within a rectangle the outermost walls at the level of each #story# entirely above a height of 85 feet. No side of such rectangle shall exceed a width of 150 feet.

**97-443**

## Street wall location

In all #Commercial Districts# within the #Special 125<sup>th</sup> Street District#, the #street wall# of any #development# or #enlargement# shall be located on the #street line# of 125<sup>th</sup> Street and extend along the entire #street# frontage of the #zoning lot# up to at least the applicable minimum base height of the underlying district, or the height of the #building#, whichever is less.

The #street wall# location provisions shall be modified, as follows:

- (a) On Park Avenue, within 10 feet of its intersection with any #street#, the #street wall# may be located anywhere within 10 feet of the Park Avenue #street line#. However, to allow articulation of the #street walls# pursuant to the provisions of paragraph (b) of this Section, the #street walls# may be located anywhere within an area bounded by a #street line#, the #street wall# on Park Avenue and a line connecting these two lines 15 feet from their intersection;
- (b) To allow articulation of #street walls# at the intersection of any two #streets# within the Special District#, the #street wall# may be located anywhere within an area bounded by the two #street lines# and a line connecting such #street lines# at points 15 feet from their intersection;
- (c) Recesses, not to exceed three feet in depth from the #street line#, shall be permitted on the ground floor where required to provide access to the #building#. Above a height of the second #story# and up to the applicable maximum base height, recesses are permitted for #outer courts# or balconies, provided that the aggregate length of such recesses does not exceed 30 percent of the length of the #street wall# at any level, and the depth of such recesses does not exceed five feet. No recesses shall be permitted within 20 feet of an adjacent #building# or within 30 feet of the intersection of two #street lines#, except in compliance with corner articulation rules.
- (d) All #developments# or #enlargements# shall comply with the #street wall# location and minimum #street wall# height provisions of this Section, except that such requirements shall not apply to any existing #buildings# that are to remain on the #zoning lot#.
- (e) For any #development# or #enlargement# within the #Special 125<sup>th</sup> Street District# that is partially within the #Special Transit Land Use District# and located directly over the planned Second Avenue subway line tunnel, the residential portion of such #development# or #enlargement# may be subject to the R8A #streetwall# requirements and the commercial portion of such #development# or #enlargement# may be subject to the C4-4D #street wall# requirements in lieu of the requirements of this Section.
- (f) The requirements of this Section shall apply within the #Special Transit Land Use District# except that, for the area of the #Special Transit Land Use District# that is also within the #Special 125<sup>th</sup> Street District#, a #street wall# of a #development# or #enlargement# located on the #street line# of a #zoning lot# need not exceed 15 feet if that portion of the #development# or #enlargement# is located directly over the planned Second Avenue subway line tunnel.

## 97-45

### Special Provisions for Zoning Lots Divided by District Boundaries

The regulations of Article VII, Chapter 7 (Special Provisions for Zoning Lots Divided by District Boundaries) shall apply within the #Special 125<sup>th</sup> Street District#, except that for any #zoning lot# that is completely within the Core Subdistrict, #floor area# may be located anywhere on such #zoning lot# without regard to the requirements of Section 77-22 (Floor

Area Ratio), subject to the applicable height and setback regulations.

## 97-50

### **SPECIAL OFF-STREET PARKING AND OFF-STREET LOADING REGULATIONS**

The underlying provisions of Article II, Chapter 5, Article III, Chapter 6 and Article IV, Chapter 4 (Accessory Off-Street Parking and Off-Street Loading Regulations) shall apply within the #Special 125<sup>th</sup> Street District#, subject to modification by the regulations of this Section, inclusive.

Enclosed parking spaces, or parking spaces covered by a #building#, including such spaces #accessory# to #residences# shall be permitted to occupy the ground floor provided they are located beyond 30 feet of the #street wall# of the #building#.

The applicable district regulations for the location of #accessory# off-street parking spaces along 125<sup>th</sup> Street within the Special District may be modified, so that such facilities may be provided off-site, within a #Commercial District#, but at a distance no greater than 1,200 feet from the zoning lot#.

## 97-51

### **Required Accessory Off-Street Residential Parking**

#Accessory# off-street parking spaces, open or enclosed, shall be provided for all #developments# or #enlargements# within the #Special 125<sup>th</sup> Street District# that contain #residences#, according to the provisions of the underlying district, as modified by the provisions of Section 97-50 (SPECIAL OFF-STREET PARKING AND OFF-STREET LOADING REGULATIONS), inclusive.

## 97-52

### **Required Accessory Off-Street Commercial Parking**

In Commercial Districts within the #Special 125<sup>th</sup> Street District#, #accessory# off-street parking spaces shall be provided if required by Section 36-21, as modified by the provisions of Section 97-50 (SPECIAL OFF-STREET PARKING AND OFF-STREET LOADING REGULATIONS) , inclusive, except that no #accessory# parking spaces shall be required for #commercial uses# in C4-4D Districts.

## 97-53

### **Location of Access to the Street**

Curb cuts for entrances and exits to #accessory# off-street parking facilities or for loading berths shall not be located on 125<sup>th</sup> Street or any other #wide street# that intersects with 125<sup>th</sup> Street, other than under the specific conditions of Sections 97-55 (Certification for Access to Required Uses) and 97-56 (Authorization for Access to Permitted Uses)

Such certification or authorization shall not be required if parking and loading requirements can be met through the provisions of 97-54 (Parking Access Through Residential Zoning Lots).

## 97-54

### **Parking Access Through Residential Zoning Lots**

When a #residential zoning lot# fronts upon either 124<sup>th</sup> or 126<sup>th</sup> Street within the #Special 125<sup>th</sup> Street District# and the #rear lot line# abuts a #zoning lot# that fronts only on 125<sup>th</sup> Street, and such #zoning lot# has been vacant since (date of enactment), access for parking and loading purposes may be made through such #zoning lot#.

### 97-55

#### Certification for Access to Required Uses

If access to a required #accessory residential# parking facility or loading berth is not possible because of the requirements of Section 97-53, a curb cut may be allowed if the City Planning Commission certifies to the Commissioner of Buildings that such location is:

- (a) the only possible location for the facility or loading berth;
- (b) not hazardous to traffic safety;
- (c) located not less than 50 feet from the intersection of any two #street lines#; and
- (d) constructed and maintained so as to have a minimal effect on the streetscape.

Such curb cut, if granted, shall be no greater than 20 feet in width.

The Commissioner may refer such matter to the Department of Transportation, or its successor, for a report and may base the determination on such report.

### 97-56

#### Authorization for Access to Permitted Parking Facilities or Loading Berths

The City Planning Commission may authorize curb cuts for the following parking facility or loading berths:

- (a) If access to a permitted #accessory residential# or public parking facility is not possible due to the requirements of Section 97-53, the City Planning Commission may authorize curb cuts for such #uses#, provided such curb cuts:
  - (1) will not create or contribute to serious traffic congestion or unduly inhibit vehicular and pedestrian movement; and
  - (2) will not interfere with the efficient functioning of public transit facilities.
- (b) If access to a permitted loading berth is not possible due to the requirements of Section 97-53, the City Planning Commission may authorize curb cuts for such #use#, provided:
  - (1) such loading berths are adjacent to a fully enclosed maneuvering area on the #zoning lot#;
  - (2) such maneuvering area is at least equal in size to the area of the loading berth; and
  - (3) there is adequate space to permit head-in and head-out truck movements to and from the #zoning lot#.

Such curb cut, if granted, shall be no greater than 20 feet in width.

The Commissioner may refer such matter to the Department of Transportation, or its successor, for a report and may base the determination on such report.

Applications for authorizations shall be referred to the affected Community Board for a period of at least 30 days for comment. The City Planning Commission shall grant in whole or in part or deny the application within 60 days of the completion of the Community Board review period.

**97-57**

**Public Parking Facilities**

Notwithstanding the special permit regulations of Section 74-52 (Parking Garages or Public Parking Lots in High Density Central Areas), #public parking garages# with 150 spaces or less shall be permitted as-of-right in C4-7 and C6 Districts, subject to the requirements of Section 36-50, inclusive, pertaining to surfacing and screening, and Section 97-53 (Location of Access to the Street). #Public parking garages# with more than 150 spaces shall be subject to the requirements of Sections 74-512 and 74-52.

#Public parking lots# are not permitted on zoning lots with 125<sup>th</sup> Street frontage within the Special District.

\* \* \*





I hereby certify that the foregoing is a true copy of a Resolution passed by The Council of The City of New York on April 30, 2008, on file in this office.

.....  
City Clerk, Clerk of The Council