



Legislation Details (With Text)

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**Title:** Resolution approving the decision of the City Planning Commission on Application No. N 060046 (A) ZRM, a revised application for an amendment to the text of the Zoning Resolution of the City of New York, relating to Article IX, Chapter 3 (Special Hudson Yards District), Article IX, Chapter 6 (Special Clinton District), and Article XIII, Chapter I (Special Garment Center District), Manhattan (L.U. No. 667).

**Sponsors:**

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**Attachments:** 1. Committee Report, 2. Hearing Transcript - Stated Meeting 12/21/05

Date	Ver.	Action By	Action	Result
12/19/2005	*	Committee on Land Use	P-C Item Approved by Comm	
12/21/2005	*	City Council	Approved, by Council	Pass

THE COUNCIL OF THE CITY OF NEW YORK  
RESOLUTION NO. 1328

Resolution approving the decision of the City Planning Commission on Application No. N 060046 (A) ZRM, a revised application for an amendment to the text of the Zoning Resolution of the City of New York, relating to Article IX, Chapter 3 (Special Hudson Yards District), Article IX, Chapter 6 (Special Clinton District), and Article XIII, Chapter I (Special Garment Center District), Manhattan (L.U. No. 667).

By Council Members Katz and Avella

WHEREAS, the City Planning Commission filed with the Council on December 7, 2005 its decision dated December 7, 2005 (the "Decision"), on the revised application submitted by the Department of City Planning, Council Member Christine Quinn, and Manhattan Community Board 4, pursuant to Section 201 of the New York City Charter, for an amendment to the text of the Zoning Resolution (Application No. N 060046 ZRM) (the "Application");

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 December 15, 2005;

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 Notice of Minor Modification issued on August 5, 2005 and states that a Notice of Minor Modification was issued on August 5, 2005, which determined that the text changes set forth in Application N 060046 ZRM would not result in any new or additional significant adverse impact not already set forth in the Final Generic Environmental Impact Statement for the Hudson Yards. A modified Notice of Minor Modifications was issued on December 5, 2005 to reflect Application N 060046(A) ZRM, which does not include a proposed amendment to Section 96-25 and adds two additional technical clarifications in Section 93-42 and Sections 93-80 and 93-81. The modified Notice of Minor Modifications determined that the text changes set forth in Application N 060046(A) ZRM would not result in any new or additional

significant adverse impact not already set forth in the Final Generic Environmental Impact Statement for the Hudson Yards (CEQR No. 03DCP031M);

RESOLVED:

The Council finds that the action described herein will have no significant effect on the environment;

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; and

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

Underlined matter is new, to be added;  
Matter in ~~strikeout~~ is old, to be deleted;  
Matter within # # is defined in Section 12-10;  
\* \* \* indicates where unchanged text appears in the Zoning Resolution

\* \* \*

ARTICLE IX: SPECIAL PURPOSE DISTRICTS  
CHAPTER 3: SPECIAL HUDSON YARDS DISTRICT

\* \* \*

**93-12**  
**Special Residential Use Regulations**

\* \* \*

**93-124**  
**Restrictions on conversions of residential use**

In #commercial districts# mapped within R8A Districts, a #residential use# existing on (effective date of amendment) and located on the ground floor or within five feet of #curb level# may not be converted to a #commercial use#.

\* \* \*

**93-22**  
**Floor Area Regulations in Subdistricts B, C, D and E**

\* \* \*

Maximum Permitted Floor Area Ratio  
within Subdistricts B through E

	Farley Corridor Subdistrict B				34th St Corridor Sub district C	Hell's Kitchen Subdistrict D			South of Port Auth. Sub district E
Subarea	Western Blocks	Central Blocks	Farley Post Office	Penn. Str		Subarea D1	Subarea D2	Subarea D3	

ROW A Basic maximum #floor area ratio# for non- #residenti al buildings #	10.0 total 10.0 C 2.0 CF	12.0 total 12.0 C 2.0 CF	10.0 total 10.0 C 6.0 R 2.0 CF	10.0 total 10.0 C 2.0 CF	10.0 total 10.0 C 10.0 CF	7.5 total 2.0 C 7.5 CF	7.5 total 2.0 C 7.5 CF	7.5 total 6.0 C 7.5 CF	10.0 total 10.0 C 2.0 CF
ROW B Basic maximum FAR for #building s# containin g #residenc es#	NA	NA	NA	NA	6.5 total 6.5 C 6.5 R 6.5 CF	6.5 total 2.0 C 6.5 6.5 CF	6.5 total 2.0 C 6.5 6.5 CF	7.5 total 6.0 C 7.5 7.5 CF	NA
ROW C Maximum FAR through special #floor area# increases pursuant to Section 93-30, inclusive, Inclusiona ry Housing Section 93-23, inclusive, or Section 74-79, inclusive as applicable .	21.6 total 21.6 C 6.0 2.0 CF	19.0 total 19.0 C 4.0 2.0 CF	10.0 total 10.0 C 6.0 R 2.0 CF	19.5 total 19.5 C 2.0 CF	13.0 total 13.0 C 12.0 R 12.0 CF	15.0 total 3.0 C 12.0 R 12.0CF	13.0 total 3.0 C 12.0 R 12.0CF	12.0 total 7.2 C 7.5 12.0CF	18.0 total 18.0 C 3.0 R 2.0 CF

C = Commercial FAR  
 CF = Community Facility FAR  
 R = Residential FAR

\* \* \*

**93-221  
 Maximum #floor area ratio# in Subdistrict B**

\* \* \*

(b) Subarea B2

In the Central Blocks Subarea (Subarea B2) of Subdistrict B and the South of Port Authority Subdistrict (Subdistrict E), #residential use# shall only be permitted as part of a #development# or #enlargement# with a #commercial floor area ratio# of 15.0 or more, or as provided for phased developments in Section 93-122.

\* \* \*

93-222

Maximum #floor area ratio# in Subdistrict C

\* \* \*

The #floor area ratio# of any #building# containing #residences# may be increased from 6.5 pursuant to Sections 93-31 or 93-32, and pursuant to Section 23-90 (INCLUSIONARY HOUSING), as modified by Section 93-23, as follows:

(a) The #residential floor area ratio# may be increased from 6.5 to a maximum of 12.0 only if for every five square feet of #floor area# increase pursuant to Sections 93-31 or 93-32 there is a #floor area# increase of six square feet pursuant to Section 23-90 as modified by Section 93-23.

(b) Any #floor area# increase above a #floor area ratio# of 12.0 shall be only pursuant to Sections 93-31 or 93-32.

However, notwithstanding the table in Section 93-22, for any #zoning lot# or portion thereof located within the area bounded by West 35<sup>th</sup> Street, Eighth Avenue, West 33<sup>rd</sup> Street, and a line 100 feet east of and parallel to Ninth Avenue, the basic maximum #residential floor area ratio# shall be 7.5 and may be increased from 7.5 to 10.0 only pursuant to Section 93-31, and may be further increased from 10.0 to 12.0 only pursuant to Section 23-90.

93-223

Maximum #floor area ratio# in Subdistrict D

(a) Subareas D1 and D2

\* \* \*

(2) Any #floor area# increase above a #floor area ratio# of 12.0 shall be only pursuant to Sections 93-31 or 93-32.

However, notwithstanding the table in Section 93-22, for any #zoning lot# or portion thereof located in that portion of Subarea D1 between West 41<sup>st</sup> Street and the centerline of the #blocks# between West 41<sup>st</sup> and West 40<sup>th</sup> Streets, the basic maximum #residential floor area ratio# shall be 7.5 and may be increased from 7.5 pursuant to Section 93-31 or 93-32, and pursuant to Section 23-90 (INCLUSIONARY HOUSING), as modified by Section 93-23, as follows:

(1) The #residential floor area ratio# may be increased from 7.5 to a maximum of 12.0 only if for every five square feet of #floor area# increase pursuant to Section 93-31 or 93-32 there is a #floor area# increase of six square feet pursuant to Section 23-90 as modified by Section 93-23.

(2) Any #floor area# increase above a #floor area ratio# of 12.0 shall be only pursuant to Sections 93-31 or 93-32.

Furthermore, in Subarea D1, the #floor area ratio# on a #zoning lot# may exceed 13.0 only where the #community facility floor area ratio# is not less than the excess of such #floor area ratio# above 13.0.

(b) Subarea D3

In Subarea D3, the basic maximum #floor area ratio# may be increased only pursuant to Section 93-31 (District Improvement Fund).

(b)(c) Subareas D4 and D5

In Subareas D4 and D5, the underlying #floor area ratio# regulations shall apply.

\* \* \*

(e)(d) Authorization for transfer of #floor area# for public utilities

\* \* \*

(d)(e) Authorization for transfer of #floor area# for public open areas

\* \* \*

**93-23  
Modifications of Inclusionary Housing Program**

\* \* \*

**93-231  
Definitions**

For the purposes of this Chapter, the following definitions in Section ~~23-92~~ 23-93 shall be modified:

Administering agent

The "administering agent" is the entity or entities identified in the #lower income housing plan# as responsible for ensuring compliance with such plan.

The #administering agent# shall be a not-for-profit organization, unless the Commissioner of Housing Preservation and Development finds that a good faith effort by the developer of the #compensated development# to secure a qualified not-for-profit organization as the #administering agent# was unsuccessful. However, the Commissioner may approve an entity that is responsible for compliance monitoring pursuant to city, state, or federal funding sources, to serve as the #administering agent# during such compliance period.

If an entity other than a not-for-profit organization is proposed to serve as the #administering agent#, and the affected Community Board objects during its review period to the approval of the proposed entity, the Commissioner shall respond in writing to the Community Board's objections prior to approving the proposed entity to serve as #administering agent#.

Fair rent

"Fair rent" shall be as defined in Section ~~23-92~~ 23-93 with respect to #standard units# occupied by #lower income households#, except that the Commissioner of Housing Preservation and Development may determine that rents satisfying the requirements of city, state or federal programs assisting #lower income housing# will be considered "fair rent", provided that such rents do not exceed 30 percent of a #lower income household#'s income, and provided further that upon expiration or termination of the requirements of the city, state or federal program, rent increases and re-rentals shall be subject to the higher of the then-currently applicable Section 8 Standard or the Rent Stabilization Standard.

The following definition of "fair rent" shall apply to #moderate income households# and #middle income households#:

At initial occupancy of #lower income housing# that is occupied by a #moderate income household# or a #middle income household# as defined in this Section 93-231, "fair rent" shall include an annual rent for each such housing unit equal to not more than 30 percent of the annual income of the tenant of such housing (the "30 Percent Standard").

Upon renewal of a lease for such an existing tenant in #lower income housing#, #fair rent# (the "Rent Stabilization Standard") shall be is not more than the then-current #fair rent# for such housing plus a percentage increase equal to the percentage increase for a renewal lease of the same term permitted by the Rent Guidelines Board for units subject to the rent stabilization law.

After initial occupancy, upon rental of #lower income housing# to a new tenant, #fair rent# shall be is not more than the higher of

- (a) the then-currently applicable "30 Percent Standard"; or

(b) the Rent Stabilization Standard.

In order for rent to be #fair rent#, the following must also apply:

There shall be no additional charge to the tenant for the provision of heat and electric service, except that the Commissioner of Housing Preservation and Development may approve a #lower income housing plan# making a #lower income#, #moderate income# or #middle income household# responsible for the payment of utilities as long as the sum of the following do not exceed 30 percent of said #lower income#, #moderate income# or #middle income household's# income:

(1) the initial #fair rent#; and

(2) the monthly costs of a reasonable compensation for these utilities, by an energy conservative household of modest circumstances consistent with the requirements of a safe, sanitary and healthful living environment.

The Commissioner of Housing Preservation and Development may determine that rents satisfying the requirements of city, state or federal programs assisting #lower income housing# will be considered 'fair rent', provided that such rents do not exceed 30 percent of a #moderate income# or #middle income household#'s income, as applicable, and provided further that upon expiration or termination of the requirements of the city, state or federal program, rent increases and re-rentals shall be subject to the higher of the then-currently applicable 30 Percent Standard or the Rent Stabilization Standard.

At initial occupancy of any #lower income housing# occupied by a #lower income#, #moderate income# or #middle income household#, a portion of the fair rents may be for the payment of the principal or interest on debt, and such housing may secure debt, provided that, as of the date of the approval of the #lower income housing plan#, the Commissioner of Housing Preservation and Development finds that the total annual rent, when such interest and principal payments are deducted, is in compliance with the requirements of paragraph (c) of Section 23-94 23-95 (Lower Income Housing Requirements), and provided that the lender agrees to enter into a written agreement which subordinates such debt to the provisions of the #lower income housing plan#.

\* \* \*

### 93-233

#### Lower Income Housing Requirements

#Developments# that increase #floor area# in accordance with the provisions of this Section shall comply with the lower income housing requirements of Section 23-94 23-95 (Lower Income Housing Requirements), except as modified in this Section.

\* \* \*

(b) The provisions of paragraph (d) (Income verification) of Section 23-94 23-95 shall apply, except that prior to renting #lower income housing#, the #administering agent# shall verify the income of each household to occupy such housing to assure that the households are #lower#, #moderate# or #middle income households# as provided by this Section and in the approved #lower income housing plan#. The #administering agent# shall submit an affidavit to the Commissioner of Housing Preservation and Development upon initial occupancy and annually thereafter attesting that all incoming occupants of #lower income housing# are #lower#, #moderate# or #middle income households# as required by the provisions of this Section and in the approved #lower income housing plan#.

(c) The provisions of paragraph (g) (Insurance) of Section 23-95 may be modified by the Commissioner of Housing Preservation and Development to provide priority for lenders participating in the financing of #lower income housing# that is assisted under city, state or federal programs.

(d) Permits and certificate of occupancy

The requirements of paragraph (f) of Section 23-95 shall not apply. In lieu thereof, the provisions of this paragraph (d) shall apply.

No building permit for any portion of the #compensated development# that utilizes #floor area# bonused pursuant to Section 93-232 (Floor area increase) shall be issued until the Commissioner of Housing Preservation and Development certifies that an acceptable #lower income housing plan# has been filed and approved.

No temporary certificate of occupancy shall be issued for any portion of the #compensated development# that utilizes #floor area# bonused pursuant to Section 93-232 until a temporary certificate of occupancy for each unit of #lower income housing# that is the subject of the #lower income housing plan# accepted by the Commissioner of Housing Preservation and Development has been issued, or, if the building has a valid certificate of occupancy and no new certificate of occupancy is required under the preservation option, until the Commissioner has certified to the Department of Buildings that the applicant has fulfilled its obligations with respect to the lower income housing. No permanent certificate of occupancy shall be issued for any portion of the #compensated development# that utilizes #floor area# bonused pursuant to Section 93-232 until a permanent certificate of occupancy for each unit of #lower income housing# that is the subject of the #lower income housing plan# accepted by the Commissioner of Housing Preservation and Development has been issued or, if the building has a valid certificate of occupancy and no new certificate of occupancy is required under the preservation option, until the Commissioner has certified to the Department of Buildings that the applicant has fulfilled its obligations with respect to the lower income housing.

Prior to the issuance of any temporary or permanent certificate of occupancy for any portion of the #compensated development# that utilizes #floor area# bonused pursuant to Section 93-232 the Commissioner of Housing Preservation and Development shall certify that the #lower income housing# is in compliance with the #lower income housing plan#.

(e) (e) The provisions of Sections 23-941, 23-942 and 23-943 23-951, 23-952 and 23-953 shall apply, except as follows:

(i) that with respect to Sections 23-941(a), 23-942(b), and 23-943(a), 23-951(a), 23-952(b), and 23-953(a), #lower income housing# shall be maintained and leased to #lower#, #moderate# or #middle income households#, as provided in this Section, for the life of the increased #floor area#, and in accordance with the approved #lower income housing plan#.

(ii) if the lower income housing is subject to the requirements of city, state or federal programs assisting the lower income housing that have size and distribution requirements conflicting with the size and distribution requirements of Section 23-941(b), then the size and distribution requirements of Section 23-941(b) may be waived by the Commissioner of Housing Preservation and Development to facilitate the #development# of #lower income housing#, and

(iii) Furthermore, Section 23-943(a) 23-953(a) shall be modified to provide that the #administering agent# shall not be required to verify the income of households in tenancy as of the date upon which the Commissioner of Housing Preservation and Development approves the #lower income housing plan#.

\* \* \*

### 93-42 Height and Setback in Subdistricts A through E

In Subdistricts A through E, the underlying height and setback regulations shall not apply, except as set forth in Section 93-542 (Height and setback in Subareas D4 and D5). In lieu thereof, the provisions of this Section shall apply. These regulations are further modified in certain locations as set forth in Section 93-50 (SPECIAL HEIGHT AND SETBACK REGULATIONS IN SUBDISTRICTS A THROUGH E). The rooftop regulations set forth in Section 93-41 shall apply. The height of all #buildings or other structures# shall be measured from #curb level#.

\* \* \*

### 93-52 Special Height and Setback Regulations in the Farley Corridor (Subdistrict B)

The tower #lot coverage# requirements of paragraph (c) of Section 93-42 shall not apply to any #development# or #enlargement# within the Farley Corridor (Subdistrict B).

\* \* \*

### 93-63 Pedestrian Circulation Space

In C2-8 and C6-4 Districts, all new #developments# or #enlargements# on #zoning lots# of 5,000 square feet or larger with more than

70,000 square feet of new #floor area# shall provide pedestrian circulation space in accordance with the provisions of Section 37-07 (Requirements for Pedestrian Circulation Space). In addition, for #developments# or #enlargements# that provide subway entranceways constructed after (effective date of amendment), one and one-half times the area of such entranceway accessible to the public at #street# level may qualify as pedestrian circulation space, up to a maximum amount of 3,000 square feet.

Pedestrian circulation space shall not be required if any of the following conditions exist:

- (a) The #zoning lot# is entirely occupied by a #building# of no more than one #story# in height.
- (b) The #zoning lot# is an #interior lot# fronting on a #wide street# with less than 80 feet of #street# frontage.
- (c) The #zoning lot# is a #through lot# and both #street# frontages are less than 25 feet in length.
- (d) The #zoning lot# is required to provide public access pursuant to Section 93-70 (PUBLIC ACCESS REQUIREMENTS FOR SPECIAL SITES).

\* \* \*

### 93-80 OFF-STREET PARKING REGULATIONS

The regulations governing permitted and required #accessory# off-street parking spaces of Article I, Chapter 3 (Comprehensive Off-Street Parking Regulations in Community Districts 1, 2, 3, 4, 5, 6, 7 and 8 in the Borough of Manhattan and a Portion of Community Districts 1 and 2 in the Borough of Queens), and Article II, Chapter 5; Article III, Chapter 6 (Accessory Off-Street Parking and Loading Regulations) and Article IV, Chapter 4 (Accessory Off-Street Parking and Loading Regulations) shall not apply except as set forth in this Section. In lieu thereof, the provisions of this Section, inclusive, shall apply.

### 93-81 Required and Permitted Parking

All #developments# or #enlargements# on #zoning lots# greater than 15,000 square feet shall provide #accessory# parking spaces in accordance with the provisions of this Section. For #zoning lots# of 15,000 square feet or less, #accessory# parking spaces are permitted up to the maximum number allowed for required spaces as set forth in this Section.

- (a) For #residences#, #accessory# off-street parking spaces shall be provided for at least 33 percent of the total number of #dwelling units#, except that where such #dwelling units# are government-assisted, pursuant to paragraph (e) of Section 25-25, #accessory# off-street parking spaces shall be provided for at least 25 percent of the total number of such #dwelling units#. The total number of off-street parking spaces #accessory# to #residences# shall not exceed 40 percent of the total number of #dwelling units#. However, if the total number of #accessory# off-street parking spaces required for such #use# on the #zoning lot# is less than 15, no such spaces shall be required.
- (b) For #commercial# and #community facility uses#, a minimum of 0.30 #accessory# off-street parking spaces shall be provided for each 1,000 square feet of #floor area#, and not more than 0.325 off-street parking spaces shall be provided for every 1,000 square feet of #floor area#. However, if the total number of #accessory# off-street parking spaces required for such #uses# on the #zoning lot# is less than 40, no such spaces shall be required. No parking shall be required for houses of worship or #schools#.
- (c) The required and permitted amounts of #accessory# off-street parking spaces shall be determined separately for #residential#, #commercial# and #community facility uses#.
- (d) The provisions of Sections 36-52 (Size and Location of Spaces) and 36-53 (Location of Access to the Street) shall apply to all permitted or required #accessory# off-street parking spaces.

### 93-82 Use and Location of Parking Facilities

The provisions of this Section shall apply to all off-street parking spaces within the #Special Hudson Yards District#.

- (a) ~~In Subdistricts A through E, a~~ All #accessory# off-street parking spaces may be made available for public use. However, any



such space shall be made available to the occupant of a #residence# to which it is #accessory# within 30 days after written request therefore is made to the landlord. Furthermore, if #accessory# and public parking spaces are provided on the same #zoning lot#, all such spaces shall be located within the same parking facility. However, in C1-7A Districts and in C2-5 Districts mapped within R8A Districts, all #accessory# off-street parking spaces shall be used exclusively by the occupants of the #residential development#, #enlargement# or conversion. Where a parking facility is located partially within a C2-5 District mapped within an R8A District and partially within another district, all such #accessory# off-street parking spaces may be made available for public use provided more than half of the floor space of the parking facility is located outside the C2-5 District mapped within an R8A District.

\* \* \*

**93-90**  
**Harassment**

(a) Definitions

1. Anti-harassment area

“Anti-harassment area” shall mean the #Special Hudson Yards District# and Preservation Area P-2 of the #Special Garment Center District#.

2. Application date

“Application date” shall mean the date that the Department of Housing Preservation and Development accepts a completed application for a #certification of no harassment# for processing.

3. Certification of no harassment

“Certification of no harassment” shall mean a certification by the Department of Housing Preservation and Development pursuant to this Section that there has not been #harassment# of the lawful occupants of a #multiple dwelling# during the #inquiry period#.

4. Cure compliance lot

“Cure compliance lot” shall mean a #zoning lot# on which #low income housing# is provided pursuant to a #restrictive declaration# in accordance with the cure provisions of paragraph (d) of this Section. A #cure compliance lot# may be a #cure requirement lot#.

5. Cure requirement

Except as otherwise provided in paragraph (e) of this Section with respect to Subareas 4 and 5 of the #Hell's Kitchen Subdistrict# of the #Special Hudson Yards District#, “cure requirement” shall mean #floor area# in an amount not less than the greater of:

(i) 28 percent of the total #residential# and #hotel floor area# of any #multiple dwelling# to be altered or demolished in which #harassment# has occurred, or

(ii) 20 percent of the total #floor area# of any new or altered #building# on the #cure requirement lot#.

6. Cure requirement lot

“Cure requirement lot” shall mean (i) a #zoning lot# containing a #multiple dwelling# with respect to which the Department of Housing Preservation and Development has denied a #certification of no harassment#, or (ii) a #zoning lot# with respect to which an applicant, in lieu of seeking a #certification of no harassment# which would otherwise be required for the full or partial demolition or #material alteration# of a #multiple dwelling# located in the #anti-harassment area#, elects to seek a certification of compliance with the cure provisions of paragraph (d) of this Section and enters into a #restrictive declaration#.

7. Dwelling unit

“Dwelling unit” shall have the meaning set forth in the Multiple Dwelling Law.

8. Exempt hotel

“Exempt hotel” shall mean any #multiple dwelling#:

- (i) which is a #transient hotel# and was a #transient hotel# on the #referral date#, and
- (ii) in which no #residential# occupant is, or was on the #referral date#, entitled to a renewal lease or otherwise entitled to continued occupancy pursuant to the Local Housing Emergency Rent Control Act, as amended, the City Rent and Rehabilitation Law, as amended, the Rent Stabilization Law of 1969, as amended, or the Emergency Tenant Protection Act of 1974, as amended, and
- (iii) which has been exempted from the provisions of this Section by written determination of the Department of Housing Preservation and Development.

9. Exempt institutional residence

“Exempt institutional residence” shall mean any #multiple dwelling#:

- (i) the occupancy of which is restricted to non-profit institutional use and was restricted to non-profit institutional use on the #referral date#, and
- (ii) which has been exempted from the provisions of this Section by written determination of the Department of Housing Preservation and Development.

10. Harassment

“Harassment” shall mean any conduct by or on behalf of an owner of a #multiple dwelling# that includes:

- (i) the use or threatened use of force which causes or is intended to cause any person lawfully entitled to occupancy of a #dwelling unit# or #rooming unit# in such #multiple dwelling# to vacate such unit or to surrender or waive any rights in relation to such occupancy;
- (ii) the interruption or discontinuance of essential services which
  - (a) interferes with or disturbs or is intended to interfere with or disturb the comfort, repose, peace or quiet of any person lawfully entitled to occupancy of a #dwelling unit# or #rooming unit# in the use or occupancy of such #dwelling unit# or #rooming unit# and
  - (b) causes or is intended to cause such person lawfully entitled to occupancy of such #dwelling unit# or #rooming unit# to vacate such #dwelling unit# or #rooming unit# or to surrender or waive any rights in relation to such occupancy;
- (iii) a failure to comply with the provisions of subdivision (c) of section 27-2140 of article seven of subchapter five of the Housing Maintenance Code which causes or is intended to cause such person lawfully entitled to occupancy of such #dwelling unit# or #rooming unit# to vacate such unit or to waive any rights in relation to such occupancy; or
- (iv) any other conduct which prevents or is intended to prevent any person from the lawful occupancy of such #dwelling unit# or #rooming unit# or causes or is intended to cause such person lawfully entitled to occupancy of such #dwelling unit# or #rooming unit# to vacate such #dwelling unit# or #rooming unit# or to surrender or waive any rights in relation to such occupancy, including but not limited to removing the possessions of any occupant from the #dwelling unit# or #rooming unit#; removing the door at the entrance to the #dwelling unit# or #rooming unit#; removing, plugging or otherwise rendering the lock on such entrance door inoperable; or changing the lock on such entrance door without supplying the occupant with a key.

11. Inquiry period

“Inquiry period” shall mean a period which:

- (i) commences upon the later of the #referral date# or a date which is fifteen years prior to the #application date#, and
- (ii) terminates upon the #application date#;

provided, however, that the Department of Housing Preservation and Development may:

- (a) set such commencement date upon any date which is on or after the #referral date# and is more than fifteen years prior to the #application date# where it determines that such extension of the duration of the inquiry period would further the purposes of this Section, and
- (b) extend such termination date up to and including the date upon which the Department of Housing Preservation and Development determines to grant or deny a #certification of no harassment#.

12. Low income housing

“Low income housing” shall mean #dwelling units# or #rooming units# occupied or to be occupied by persons or families having an annual household income at the time of initial occupancy equal to or less than eighty percent of the median income for the primary metropolitan statistical area, as determined by the United States Department of Housing and Urban Development or its successors from time to time for a family of four, as adjusted for family size.

13. Material alteration

“Material alteration” shall mean any alteration to a #multiple dwelling# or other #building#, including, but not limited to, an alteration which reduces or increases the #floor area# of the #multiple dwelling# or other #building#, converts #floor area# from residential to non-residential use, changes the number or layout of #dwelling units# or #rooming units#, or adds or removes kitchens or bathrooms; provided, however, that #material alteration# shall not include:

- (i) an #incidental alteration# which does not change the layout of #dwelling units# or #rooming units#, or
- (ii) a repair or replacement of existing elements of such #multiple dwelling# or other #building# without materially modifying such elements.

14. Multiple dwelling

“Multiple dwelling” shall have the meaning set forth in the Multiple Dwelling Law.

15. Referral date

“Referral date” shall mean June 21, 2004.

16. Restrictive declaration

“Restrictive declaration” shall mean a legal instrument which:

- (i) provides that #low income housing# in an amount not less than the #cure requirement# shall be provided in a new or altered #multiple dwelling# located in the #anti-harassment area#,
- (ii) provides that the #low income housing# must comply with the requirements of Section 23-90, as amended by this Chapter, unless any such requirement is waived by the Department of Housing Preservation and Development,
- (iii) contains such other terms as the Department of Housing Preservation and Development shall determine,

- (iv) has been approved by the Department of Housing Preservation and Development,
- (v) runs with the land and binds all parties in interest to the #cure requirement lot# and their successors,
- (vi) runs with the land and binds all parties in interest to the #cure compliance lot# and their successors, and
- (vii) is perpetual in duration.

17. Rooming unit

“Rooming unit” shall have the meaning set forth in the Housing Maintenance Code.

(b) Permit Process

1. Unless the Department of Housing Preservation and Development has issued a #certification of no harassment# pursuant to paragraph (c) of this Section or has certified compliance with the cure provisions of paragraph (d) of this Section, the Department of Buildings shall not issue a permit for:

- (i) the full or partial demolition of a #multiple dwelling# located in the #anti-harassment area#; or
- (ii) the #material alteration# of a #multiple dwelling# located in the #anti-harassment area#.

2. Any permit for alterations may be exempted from the provisions of this Section by written determination of the Department of Housing Preservation and Development that such alterations are to be performed solely for the purpose of either:

- (i) making the public areas of a #multiple dwelling# accessible to persons with disabilities without altering the configuration of any #dwelling unit# or #rooming unit#, or
- (ii) making a #dwelling unit# or a #rooming unit# accessible to persons with disabilities .

1. The following structures shall be exempt from the provisions of this Section: (i) any city-owned #multiple dwelling#; (ii) any #multiple dwelling# which is the subject of a program approved by Department of Housing Preservation and Development for the provision of housing for persons of low or moderate income and has been exempted from the provisions of this Section by written determination of the Department of Housing Preservation and Development; (iii) any #multiple dwelling# initially occupied for residential purposes after January 1, 1974, except for #buildings# which are or have been interim #multiple dwellings# pursuant to Article 7C of the Multiple Dwelling Law; (iv) any #exempt hotel#; (v) any #multiple dwelling# in which occupancy is restricted to clubhouse or school dormitory use and occupancy was restricted to clubhouse or school dormitory use on the #referral date#; and (vi) any #exempt institutional residence#.

4. Where the Department of Housing Preservation and Development has denied a #certification of no harassment# with respect to a #multiple dwelling#, the Department of Buildings shall not issue any permit with respect to any #multiple dwelling# or other #building# located on, or to be located on, the #cure requirement lot# except in accordance with paragraph (d) of this Section.

(c) Certification of No Harassment

1. The Department of Housing Preservation and Development shall determine and certify whether there has been #harassment# of the lawful occupants of a #multiple dwelling# during the #inquiry period#.

2. There shall be a rebuttable presumption that any of the acts or omissions described in paragraph (a)(10) of this Section occurring within the #inquiry period# were committed by or on behalf of the owner of such #multiple dwelling# and that such acts or omissions:

- (i) were committed with the intent to cause a person lawfully entitled to occupancy of a #dwelling unit# or #rooming unit# in such #multiple dwelling# to vacate such unit or to surrender or waive a right in relation to such occupancy, and
- (ii) materially advanced the demolition or alteration in furtherance of which the permit and #certification of no harassment# are sought.

3. The Department of Housing Preservation and Development may promulgate rules regarding the implementation of this Section. Such rules may include, but shall not be limited to, provisions which:

- (i) establish the information to be required in an application for #certification of no harassment#, the form of such application, and the manner of filing of such application,
- (ii) establish reasonable fees and charges to be collected from applicants for the administrative expenses incurred by the Department of Housing Preservation and Development, including, but not limited to, costs for publication of any notices, and
- (iii) establish the duration for which a #certification of no harassment# will remain effective, and
- (iv) authorize the rescission of a #certification of no harassment# if the Department of Housing Preservation and Development finds either that #harassment# has occurred after the #inquiry period# or that the application for such #certification of no harassment# contained a material misstatement of fact. Following such rescission, the Department of Buildings may revoke any permit for which such #certification of no harassment# was required.

4. The Department of Housing Preservation and Development may refuse to accept, or to act upon, an application for a #certification of no harassment# where the Department of Housing Preservation and Development finds that:

- (i) taxes, water and sewer charges, emergency repair program charges, or other municipal charges remain unpaid with respect to such #multiple dwelling#,
- (ii) such #multiple dwelling# has been altered either without proper permits from the Department of Buildings or in a way that conflicts with the certificate of occupancy for such #multiple dwelling# (or, where there is no certificate of occupancy, any record of the Department of Housing Preservation and Development indicating the lawful configuration of such #multiple dwelling#) and such unlawful alteration remains uncorrected, or
- (iii) the Department of Housing Preservation and Development has previously denied an application for a #certification of no harassment# pursuant to this Section.

5. If the Department of Housing Preservation and Development determines that an application for a #certification of no harassment# contains a material misstatement of fact, the Department of Housing Preservation and Development may reject such application and bar the submission of a new application with respect to such #multiple dwelling# for a period not to exceed three years.

6. Before determining whether there is reasonable cause to believe that #harassment# has occurred with respect to any #multiple dwelling#, the Department of Housing Preservation and Development shall publish a notice in such form and manner as shall be specified in the rules promulgated pursuant to paragraph (c)(3) of this Section. Such notice shall seek public comment regarding whether there has been #harassment# of the lawful occupants of such #multiple dwelling# from the #referral date# to the date of submission of comments. If the Department of Housing Preservation and Development receives comments containing material evidence that #harassment# occurred on or after the #referral date# and more than fifteen years prior to the #application date#, the Department of Housing Preservation and Development shall, in accordance with paragraph (a)(11) of this Section, set the commencement of the #inquiry period# on a date prior to the date of such alleged harassment.

7. The Department of Housing Preservation and Development shall determine whether there is reasonable cause to believe that #harassment# has occurred during the #inquiry period#.

- (i) If there is no reasonable cause to believe that #harassment# has occurred during the #inquiry period#, the Department of Housing Preservation and Development shall issue a #certification of no harassment#.
- (ii) If there is reasonable cause to believe that #harassment# has occurred during the #inquiry period#, the Department of Housing Preservation and Development shall cause a hearing to be held in such manner and upon such notice as shall be determined by the Department of Housing Preservation and Development, unless the applicant waives the right to a hearing. Following receipt of the report and recommendation of

the hearing officer, or receipt of a waiver of the right to such a hearing from the applicant, the Department of Housing Preservation and Development shall either grant or deny a #certification of no harassment#.

8. The Department of Housing Preservation and Development may deny a #certification of no harassment# without a prior hearing if there has been a finding by the Division of Housing and Community Renewal or any court having jurisdiction that there has been harassment, unlawful eviction or arson at the #multiple dwelling# during the #inquiry period#.

(d) Certification of Cure For Harassment

1. The Department of Housing Preservation and Development shall not certify compliance with the cure provisions of this paragraph to the Department of Buildings unless all parties in interest to the #cure requirement lot# and all parties in interest to the #cure compliance lot# have entered into a #restrictive declaration#.

2. Any permit or certificate of occupancy issued by the Department of Buildings with respect to any structure located on a #cure requirement lot# or a #cure compliance lot# shall be subject to the following conditions:

(i) The Department of Buildings shall not issue any permit, except a permit for an alteration which is not a #material alteration#, with respect to any structure located on the #cure requirement lot# unless the #restrictive declaration# has been recorded in the Office of the City Register and indexed against each tax lot within the #cure requirement lot# and each tax lot within the #cure compliance lot#.

(ii) The Department of Buildings shall not issue any temporary or permanent certificate of occupancy for any new or existing structure or portion thereof on the #cure requirement lot#, other than any #low income housing# located on the #cure requirement lot#, until:

(a) the Department of Housing Preservation and Development certifies that the #low income housing# required by the #restrictive declaration# has been completed in compliance with the #restrictive declaration#, and

(b) the Department of Buildings has issued a temporary or permanent certificate of occupancy for each unit of such #low income housing#.

(iii) The Department of Buildings shall include the occupancy restrictions of the #restrictive declaration# in any temporary or permanent certificate of occupancy for any new or existing structure or portion thereof on the #cure compliance lot#. Failure to comply with the terms and conditions set forth in the #restrictive declaration# shall constitute a violation, and a basis for revocation, of any certificate of occupancy containing such restriction.

(iv) The Department of Buildings shall include the occupancy restrictions of the #restrictive declaration# in any temporary or permanent certificate of occupancy for any new or existing structure or portion thereof on the #cure requirement lot#, except where (a) the #cure requirement lot# is not the #cure compliance lot#, and (b) the management and operation of the #cure compliance lot# is wholly controlled by, and the #restrictive declaration# requires that management and operation of the #cure compliance lot# remain wholly controlled by, an independent not-for-profit administering agent that is not affiliated with the owner of the #cure requirement lot#. Failure to comply with the terms and conditions set forth in the #restrictive declaration# shall constitute a violation, and a basis for revocation, of any certificate of occupancy containing such restriction.

3. No portion of the #low income housing# required under this Section shall qualify to:

(i) increase the #floor area ratio# pursuant to the provisions of Section 23-90, as modified by the provisions of the #Special Hudson Yards District# and the #Special Garment Center District#, or

(ii) satisfy an eligibility requirement of any real property tax abatement or exemption program with respect to any #multiple dwelling# that does not contain such #low income housing#.

(e) Demolition In Subareas 4 and 5 of the #Hell's Kitchen Subdistrict#

Notwithstanding any provision of paragraph (a)(5) of this Section or paragraph (d) of this Section to the contrary, with regard to any #multiple dwelling# to be demolished in Subareas 4 and 5 of the #Hell's Kitchen Subdistrict# of the #Special Hudson Yards District#, #cure requirement# shall mean #floor area# in an amount not less than the greater of:

- (i) 40 percent of the total #residential# or #hotel floor area# of any #multiple dwelling# to be demolished in which #harassment# has occurred, or
- (ii) 30 percent of the total #floor area# of any new #building# on the same #zoning lot# as the #multiple dwelling# to be demolished.

\* \* \*

## Chapter 6 Special Clinton District

\* \* \*

### 96-01 Definitions

Definitions specially applicable to this Chapter are set forth in this Section. The definitions of other defined terms are as set forth in Section 12-10 (DEFINITIONS).

#### Certification of no harassment

“Certification of no harassment” shall mean a certification by the Department of Housing Preservation and Development pursuant to Section 96-110 that there has not been #harassment# of the lawful occupants of a #multiple dwelling# during the #inquiry period#, as defined in Section 96-110.

#### Harassment

“Harassment” shall mean any conduct by or on behalf of an owner of a #multiple dwelling# that includes:

- (i) the use or threatened use of force which causes or is intended to cause any person lawfully entitled to occupancy of a #dwelling unit# or #rooming unit# in such #multiple dwelling# to vacate such unit or to surrender or waive any rights in relation to such occupancy;
- (ii) the interruption or discontinuance of essential services which
  - (a) interferes with or disturbs or is intended to interfere with or disturb the comfort, repose, peace or quiet of any person lawfully entitled to occupancy of a #dwelling unit# or #rooming unit# in the use or occupancy of such #dwelling unit# or #rooming unit# and
  - (b) causes or is intended to cause such person lawfully entitled to occupancy of such #dwelling unit# or #rooming unit# to vacate such #dwelling unit# or #rooming unit# or to surrender or waive any rights in relation to such occupancy;
- (iii) a failure to comply with the provisions of subdivision (c) of section 27-2140 of article seven of subchapter five of the Housing Maintenance Code which causes or is intended to cause such person lawfully entitled to occupancy of such #dwelling unit# or #rooming unit# to vacate such unit or to waive any rights in relation to such occupancy; or
- (iv) any other conduct which prevents or is intended to prevent any person from the lawful occupancy of such #dwelling unit# or #rooming unit# or causes or is intended to cause such person lawfully entitled to occupancy of such #dwelling unit# or #rooming unit# to vacate such #dwelling unit# or #rooming unit# or to surrender or waive any rights in relation to such occupancy, including but not limited to removing the possessions of any occupant from the #dwelling unit# or #rooming unit#; removing the door at the entrance to the #dwelling unit# or #rooming unit#; removing, plugging or otherwise rendering the lock on such entrance door inoperable; or changing the lock on such entrance door without supplying the occupant with a key.

For purposes of this definition, #dwelling unit#, #referral date# and #rooming unit# shall be defined as in Section 96-110.

### Material alteration

“Material alteration” shall mean any alteration to a #multiple dwelling# including, but not limited to, an alteration which reduces or increases the #floor area# of the #multiple dwelling#, converts #floor area# from residential to non-residential use, changes the number or layout of #dwelling units# or #rooming units#, or adds or removes kitchens or bathrooms; provided, however, that #material alteration# shall not include:

- (i) an #incidental alteration# which does not change the layout of #dwelling units# or #rooming units#, or
- (ii) a repair or replacement of existing elements of such #multiple dwelling# without materially modifying such elements.

For purposes of this definition, #dwelling unit# and #rooming unit# shall be defined as in Section 96-110.

### Mixed building

For the purposes of this Chapter, a "mixed building" is a #building# in a #Commercial District# used partly for #residential use# and partly for #community facility# or #commercial use#, or a #building# in a #Residential District# used partly for #residential use# and partly for #community facility use#.

### Multiple dwelling

“Multiple dwelling” shall have the meaning set forth in the Multiple Dwelling Law.

\* \* \*

## **96-107**

### **Special regulations for community facility uses**

#Developments#, #enlargements# or #extensions# of #community facility uses# or conversions of an existing #building# to a #community facility use#, are permitted on #zoning lots# containing existing #buildings# with #residential uses# only, pursuant to the provisions of this Section. The City Planning Commission, by special permit, may permit #developments#, #enlargements# or #extensions# of #community facility uses#, provided that the Commission makes the following findings:

- (a) that the existing #building# is not eligible for rehabilitation under any active publicly-aided program under which funds are available;
- (b) that, prior to evicting or otherwise terminating the occupancy of any tenant preparatory to demolition, the developer shall have notified the ~~Commissioner~~ Department of Housing Preservation and Development of his or her intention to demolish the #building#; and
- (c) that the ~~eviction and relocation practices followed by the owner of the building satisfy all applicable legal requirements and that no harassment has occurred or, if it has been determined by the applicable governmental agency that legal relocation or eviction requirements have not been satisfied~~ Department of Housing Preservation and Development has issued a #certification of no harassment# or that harassment has occurred, that the owner has complied with Section 96-110 (~~Harassment and cure~~) (d) (Certification of Cure For Harassment).

This special permit shall be in addition to any special permits required for nursing homes, health related-facilities and domiciliary care facilities for adults, pursuant to the provisions of Section 74-90.

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

## **96-108**

### **Demolition of buildings**

No demolition permit or alteration permit for partial demolition involving a decrease of more than 20 percent in the amount of #residential floor area# in a #building# shall be issued by the Department of Buildings for any #building# containing #dwelling units# within the Preservation Area, unless it is an unsafe #building# and demolition is required pursuant to the provisions of Title 26, Sub-



chapter 3, Article 8 of the New York City Administrative Code.

However, the City Planning Commission, by a special permit, may allow demolition of #buildings# containing #dwelling units# or #rooming units# other than unsafe #buildings# within the Preservation Area, provided that the Commission makes the following findings:

- (a) that the existing #building#:
  - (1) is not eligible for rehabilitation under any active publicly-aided program under which funds are available; or
  - (2) was vacant on August 17, 1990 and is to be demolished for the purpose of implementing a publicly assisted program (exclusive of any tax abatement or tax exemption) for the construction of housing units for lower income households as defined in Section 23-923 (Definitions); and which units in the aggregate will occupy not less than one-half of the #floor area# permitted on the #zoning lot# as of the date of the special permit, are to be administered by a not-for-profit agent and which comply with the requirements of Section 23-945 (Lower Income Housing Requirements), paragraphs (a) through (k), inclusive, and either the funds may not lawfully be used to rehabilitate the existing #building# or the project sponsor demonstrates that rehabilitation of the existing #building# is not appropriate in view of the specific requirements of the funding program as to the nature of the units to be constructed, services to be provided or population to be served; or
  - (2) (3) is to be substantially preserved and requires an alteration permit to allow the removal and replacement of 20 percent or more of the #floor area#.
- (b) that prior to evicting or otherwise terminating the occupancy of any tenant preparatory to demolition, the owner shall have notified the applicable governmental agency of its intention to demolish the #building#;
- (c) that the eviction and relocation practices followed by the owner satisfy all applicable legal requirements and that no harassment has occurred or, if it has been determined by the applicable governmental agency that harassment has occurred Department of Housing Preservation and Development has issued a #certification of no harassment# or if the owner has waived in writing the need for such a determination, that the owner has complied with Section 96-110 (Harassment and cure) (d) (Certification of Cure For Harassment). However, the owner has the right to withdraw its harassment determination waiver at any time prior to the issuance of a special permit pursuant to this Section; and
- (d) that an acceptable program for new #development# of the #zoning lot# is submitted to the Commission which indicates that to the extent permitted by the provisions of Section 96-10 (PRESERVATION AREA), the number of new #dwelling units# to be constructed is at least equal to the number of #dwelling units# to be demolished and that the #floor area# of the new #residential development# is at least equal to the #floor area# of the #dwelling units# to be demolished and that site development will commence within a period of twelve months from completion of relocation.

The Commission may prescribe appropriate conditions and safeguards to insure that any interim #uses# proposed on the site prior to any construction is in conformance with the purposes of this Special District.

## 96-109

### Alterations of buildings

Prior to the issuance of an alteration permit by the Department of Buildings for an #material alteration# of a #multiple dwelling# other than an incidental alteration of a #building# containing #residential uses# within the Preservation Area, the Commissioner Department of Housing Preservation and Development shall certify to the Department of Buildings that:

- (a) prior to evicting or otherwise terminating the occupancy of any tenant preparatory to alteration, the owner shall have notified the Commissioner of his or her intention to alter the #building#; and
- (b) the eviction and relocation practices followed by the owner of the #building# satisfy all applicable legal requirements and that no harassment has occurred or, if it has been determined by the applicable governmental agency that legal relocation or eviction requirements have not been satisfied Department of Housing Preservation and Development has issued a #certification of no harassment# or that harassment has occurred, that the owner has complied with Section 96-110 (Harassment and cure) (d) (Certification of Cure For Harassment).

However, a permit for alterations may be exempted from the provisions of this Section by written determination of the Department of

Housing Preservation and Development that such alterations are to be performed solely for the purpose of either:

- (a) making the public areas of a #multiple dwelling# accessible to persons with disabilities without altering the configuration of any #dwelling unit# or #rooming unit#, or
- (b) making a #dwelling unit# or a #rooming unit# accessible to persons with disabilities.

For purposes of this Section, #dwelling unit# and #rooming unit# shall be defined as in Section 96-110.

## 96-110

### Harassment and cure

#### (a) Definitions

##### 1. Application date

“Application date” shall mean the date that the Department of Housing Preservation and Development accepts a completed application for a #certification of no harassment# for processing.

##### 2. Cure compliance lot

“Cure compliance lot” shall mean a #zoning lot# on which #low income housing# is provided pursuant to a #restrictive declaration# in accordance with the cure provisions of paragraph (d) of this Section. Each #cure compliance lot# shall be located entirely within the corresponding #cure requirement lot#.

##### 3. Cure requirement

“Cure requirement” shall mean #floor area# in an amount not less than the greater of:

- (a) 28 percent of the total #residential# and #hotel floor area# of any #multiple dwelling# to be altered or demolished in which #harassment# has occurred, or
- (b) 20 percent of the total #floor area# of any new or altered #building# on the #cure requirement lot#.

#Cure requirement# shall also mean any cure for harassment that was approved by the City Planning Commission or the Department of Housing Preservation and Development and was permitted by the provisions of this Section prior to (date of enactment).

##### 4. Cure requirement lot

“Cure requirement lot” shall mean (i) a #zoning lot# containing a #multiple dwelling# with respect to which the Department of Housing Preservation and Development has denied a #certification of no harassment#, or (ii) a #zoning lot# with respect to which an applicant, in lieu of seeking a #certification of no harassment# which would otherwise be required, elects to seek a certification of compliance with the cure provisions of paragraph (d) of this Section and enters into a #restrictive declaration#.

##### 5. Dwelling unit

“Dwelling unit” shall have the meaning set forth in the Multiple Dwelling Law. 6. Exempt hotel

“Exempt hotel” shall mean any #multiple dwelling#:

- (i) which is a #transient hotel# and was a #transient hotel# on the #referral date#, and
- (ii) in which no #residential# occupant is, or was on the #referral date#, entitled to a renewal lease or otherwise entitled to continued occupancy pursuant to the Local Housing Emergency Rent Control Act, as amended, the City Rent and Rehabilitation Law, as amended, the Rent Stabilization Law of 1969, as amended, or the Emergency Tenant Protection Act of 1974, as amended, and

(iii) which has been exempted from the provisions of this Section by written determination of the Department of Housing Preservation and Development.

7. Exempt institutional residence

“Exempt institutional residence” shall mean any #multiple dwelling#:

(i) the occupancy of which is restricted to non-profit institutional use and was restricted to non-profit institutional use on the #referral date#, and

(ii) which has been exempted from the provisions of this Section by written determination of the Department of Housing Preservation and Development.

8. Inquiry period

“Inquiry period” shall mean a period which:

(i) commences fifteen years prior to the #application date#, and

(ii) terminates upon the #application date#;

provided, however, that the Department of Housing Preservation and Development may:

(a) set such commencement date upon any date which is on or after the #referral date#, and is more than fifteen years prior to the #application date# where it determines that such extension of the duration of the inquiry period would further the purposes of this Section, and

(b) extend such termination date up to and including the date upon which the Department of Housing Preservation and Development determines to grant or deny a #certification of no harassment#.

9. Low income housing

“Low income housing” shall mean #dwelling units# or #rooming units# occupied or to be occupied by persons or families having an annual household income at the time of initial occupancy equal to or less than eighty percent of the median income for the primary metropolitan statistical area, as determined by the United States Department of Housing and Urban Development or its successors from time to time for a family of four, as adjusted for family size.

10. Referral date

“Referral date” shall mean September 5, 1973.

11. Restrictive declaration

“Restrictive declaration” shall mean a legal instrument which:

(i) provides that #low income housing# in an amount not less than the #cure requirement# shall be provided in a new or altered #multiple dwelling# on the #cure compliance lot#;

(ii) provides that the #low income housing# must comply with the requirements of Section 23-90, as amended by this Chapter, unless any such requirement is waived by the Department of Housing Preservation and Development. However, in the Preservation Area, paragraph (b) of Section 23-951 (On-site new construction option) shall be inapplicable and in its place and stead, paragraph (a) of Section 96-105 (Dwelling unit regulations) shall be applicable;

(iii) contains such other terms as the Department of Housing Preservation and Development shall determine;

(iv) has been approved by the Department of Housing Preservation and Development;

(v) runs with the land and binds all parties in interest to the #cure requirement lot# and their successors;

(vi) runs with the land and binds all parties in interest to the #cure compliance lot# and their successors; and

(vii) is perpetual in duration.

11. Rooming unit

#Rooming unit# shall have the meaning set forth in the Housing Maintenance Code.

(b) Permit Process

1. Unless the Department of Housing Preservation and Development has issued a #certification of no harassment# pursuant to paragraph (c) of this Section or has certified compliance with the cure provisions of paragraph (d) of this Section, notwithstanding any provision to the contrary contained in this Chapter, a permit may be issued by the Department of Buildings pursuant to Sections 96-108, 96-109, 96-23 or 96-24, and no or a special permit may be granted by the City Planning Commission pursuant to Sections 96-107 or 96-108 with respect to any #building# on a #zoning lot# in which harassment or other failure to satisfy applicable legal requirements in eviction and relocation has occurred, provided that the Department of Housing Preservation and Development has determined and certified that all parties in interest to the #zoning lot#, as the term "party in interest" is defined in #zoning lot# in Section 12-10 (DEFINITIONS), have entered into a legal agreement approved by the Department of Housing Preservation and Development which shall run with the land and bind all parties in interest and their successors. Such agreement shall provide for either the #floor area# cure or land cure as set forth below:

2. The following structures shall be exempt from the provisions of this Section: (i) any city-owned #multiple dwelling#; (ii) any #multiple dwelling# which is the subject of a program approved by Department of Housing Preservation and Development for the provision of housing for persons of low or moderate income and has been exempted from the provisions of this Section by written determination of the Department of Housing Preservation and Development; (iii) any #multiple dwelling# initially occupied for residential purposes after January 1, 1974, except for #buildings# which are or have been interim #multiple dwellings# pursuant to Article 7C of the Multiple Dwelling Law; (iv) any #exempt hotel#; (v) any #multiple dwelling# in which occupancy is restricted to clubhouse or school dormitory use and occupancy was restricted to clubhouse or school dormitory use on the #referral date#; and (vi) any #exempt institutional residence#.

3. Where the Department of Housing Preservation and Development has denied a #certification of no harassment# with respect to a #multiple dwelling#, the Department of Buildings shall not issue any permit with respect to any #multiple dwelling# or other #building# located on, or to be located on, the #cure requirement lot# except in accordance with paragraph (d) of this Section.

(c) Certification of No Harassment

1. The Department of Housing Preservation and Development shall determine and certify whether there has been #harassment# of the lawful occupants of a #multiple dwelling# during the #inquiry period#.

2. There shall be a rebuttable presumption that #harassment# occurring within the #inquiry period# was committed by or on behalf of the owner of such #multiple dwelling# and that such #harassment#:

(i) was committed with the intent to cause a person lawfully entitled to occupancy of a #dwelling unit# or #rooming unit# in such #multiple dwelling# to vacate such unit or to surrender or waive a right in relation to such occupancy, and

(ii) materially advanced the demolition or alteration in furtherance of which the permit and #certification of no harassment# are sought.

3. The Department of Housing Preservation and Development may promulgate rules regarding the implementation of this Section. Such rules may include, but shall not be limited to, provisions which:

(i) establish the information to be required in an application for #certification of no harassment#, the form of such application, and the manner of filing of such application,

(ii) establish reasonable fees and charges to be collected from applicants for the administrative expenses incurred by the Department of Housing Preservation and Development, including, but not limited to, costs for publication of any notices.

- (iii) establish the duration for which a #certification of no harassment# will remain effective, and
- (iv) authorize the rescission of a #certification of no harassment# if the Department of Housing Preservation and Development finds either that #harassment# has occurred after the #inquiry period# or that the application for such #certification of no harassment# contained a material misstatement of fact. Following such rescission, the Department of Buildings may revoke any permit for which such #certification of no harassment# was required.

4. The Department of Housing Preservation and Development may refuse to accept, or to act upon, an application for a #certification of no harassment# where the Department of Housing Preservation and Development finds that:

- (i) taxes, water and sewer charges, emergency repair program charges, or other municipal charges remain unpaid with respect to such #multiple dwelling#,
- (ii) such #multiple dwelling# has been altered either without proper permits from the Department of Buildings or in a way that conflicts with the certificate of occupancy for such #multiple dwelling# (or, where there is no certificate of occupancy, any record of the Department of Housing Preservation and Development indicating the lawful configuration of such #multiple dwelling#) and such unlawful alteration remains uncorrected, or
- (iii) the Department of Housing Preservation and Development has previously denied an application for a #certification of no harassment# pursuant to this Section.

5. If the Department of Housing Preservation and Development determines that an application for a #certification of no harassment# contains a material misstatement of fact, the Department of Housing Preservation and Development may reject such application and bar the submission of a new application with respect to such #multiple dwelling# for a period not to exceed three years.

6. Before determining whether there is reasonable cause to believe that #harassment# has occurred with respect to any #multiple dwelling#, the Department of Housing Preservation and Development shall publish a notice in such form and manner as shall be specified in the rules promulgated pursuant to paragraph (c)(3) of this Section. Such notice shall seek public comment regarding whether there has been #harassment# of the lawful occupants of such #multiple dwelling# from the #referral date# to the date of submission of comments. If the Department of Housing Preservation and Development receives comments containing material evidence that #harassment# occurred on or after the #referral date# and more than fifteen years prior to the #application date#, the Department of Housing Preservation and Development shall, in accordance with paragraph (a)(8) of this Section, set the commencement of the #inquiry period# on a date prior to the date of such alleged harassment.

7. The Department of Housing Preservation and Development shall determine whether there is reasonable cause to believe that #harassment# has occurred during the #inquiry period#.

- (i) If there is no reasonable cause to believe that #harassment# has occurred during the #inquiry period#, the Department of Housing Preservation and Development shall issue a #certification of no harassment#.
- (ii) If there is reasonable cause to believe that #harassment# has occurred during the #inquiry period#, the Department of Housing Preservation and Development shall cause a hearing to be held in such manner and upon such notice as shall be determined by the Department of Housing Preservation and Development, unless the applicant waives the right to a hearing. Following receipt of the report and recommendation of the hearing officer, or receipt of a waiver of the right to such a hearing from the applicant, the Department of Housing Preservation and Development shall either grant or deny a #certification of no harassment#.

8. The Department of Housing Preservation and Development may deny a #certification of no harassment# without a prior hearing if there has been a finding by the Division of Housing and Community Renewal or any court having jurisdiction that there has been harassment, unlawful eviction or arson at the #multiple dwelling# during the #inquiry period#.

(d) Certification of Cure For Harassment

1. The Department of Housing Preservation and Development shall not certify compliance with the cure provisions of this paragraph to the Department of Buildings unless all parties in interest to the #cure requirement lot# and all

parties in interest to the #cure compliance lot# have entered into a #restrictive declaration#.

2. Any permit or certificate of occupancy issued by the Department of Buildings with respect to any structure located on a #cure requirement lot# or a #cure compliance lot# shall be subject to the following conditions:

(i) The Department of Buildings shall not issue any permit, except a permit for an alteration which is not a #material alteration#, with respect to any structure located on the #cure requirement lot# unless the #restrictive declaration# has been recorded in the Office of the City Register and indexed against each tax lot within the #cure requirement lot# and each tax lot within the #cure compliance lot#.

(ii) The Department of Buildings shall not issue any temporary or permanent certificate of occupancy for any new or existing structure or portion thereof on the #cure requirement lot#, other than any #low income housing# located on the #cure requirement lot#, until:

(a) the Department of Housing Preservation and Development certifies that the #low income housing# required by the #restrictive declaration# has been completed in compliance with the #restrictive declaration#, and

(b) the Department of Buildings has issued a temporary or permanent certificate of occupancy for each unit of such #low income housing#.

(iii) The Department of Buildings shall include the occupancy restrictions of the #restrictive declaration# in any temporary or permanent certificate of occupancy for any new or existing structure or portion thereof on the #cure compliance lot#. Failure to comply with the terms and conditions set forth in the #restrictive declaration# shall constitute a violation, and a basis for revocation, of any certificate of occupancy containing such restriction.

(iv) The Department of Buildings shall include the occupancy restrictions of the #restrictive declaration# in any temporary or permanent certificate of occupancy for any new or existing structure or portion thereof on the #cure requirement lot#, except where the management and operation of the #cure compliance lot# is wholly controlled by, and the #restrictive declaration# requires that management and operation of the #cure compliance lot# remain wholly controlled by, an independent not-for-profit administering agent that is not affiliated with the owner of the #cure requirement lot#. Failure to comply with the terms and conditions set forth in the #restrictive declaration# shall constitute a violation, and a basis for revocation, of any certificate of occupancy containing such restriction.

3. No portion of the #low income housing# required under this Section shall qualify to:

(i) increase the #floor area ratio# pursuant to Section 96-21 (Special Regulations for 42<sup>nd</sup> Street Perimeter Area); Section 96-22 (Special Regulations for Eighth Avenue Perimeter Area); any #floor area ratio# increase provision of the #Special Garment Center District, #Special Hudson Yards District#, #Special West Chelsea District#; or Section 23-90; or

(ii) satisfy an eligibility requirement of any real property tax abatement or exemption program with respect to any #multiple dwelling# that does not contain such #low income housing#.

(+) #Floor area# cure

(i) Lower income housing, in an amount equal to at least 28 percent (the "cure percentage") of the total #residential floor area# of any #building# to be altered or demolished in which harassment (as defined in paragraph (d) of this Section) has occurred, shall be provided in a new or altered #building# on the same #zoning lot# as the #building# to be altered or demolished.

(ii) If at the time of filing an application for a building permit or special permit, an existing #building# to be altered contains occupied units, the requirement set forth in this paragraph, (a)(1), regarding the provision of lower income housing shall be satisfied as follows:

(a) not less than 28 percent of the #floor area# of all vacant units shall be provided for lower income housing; and

(b) the balance of any required lower income housing shall be comprised of qualifying occupied units;

(iii) Such designated lower income housing units shall be in compliance with the applicable regulations of Section 23-90 (INCLUSIONARY HOUSING) except that in the Preservation Area, paragraph (b) of Section 23-941 (On-site new construction option) shall be inapplicable and in its place and stead, paragraph (a) of Section 96-105 (Dwelling unit regulations) shall be applicable.

(2) Land cure

For ~~#buildings#~~ that were vacant on August 17, 1990 only:

(i) that sufficient land on the same ~~#zoning lot#~~ has been donated or provided for nominal consideration by the owner of the land for the construction of lower income housing at a rate of 1.0 square foot of lower income housing ~~#floor area#~~ for every 1.1 square feet of existing ~~#residential floor area#~~ of a ~~#building#~~ subject to the cure provisions;

(ii) the legal instruments relating to the transfer of title to an administering agent have been approved pursuant to Section 23-90;

(iii) the administering agent has signed an agreement with a City, State or federal housing or development agency to fully fund the construction of lower income housing;

(iv) such lower income housing shall comply with the requirements of Section 23-90, except that the lower income housing may receive City, State or federal subsidies;

(v) the total amount of new ~~#residential floor area#~~ to be provided pursuant to this Section shall in no event be less than the amount required under Section 96-108 (Demolition of buildings), paragraph (d);

(vi) no demolition permit shall be issued by the Department of Buildings pursuant to Section 96-108 until there has been a funding closing with a City, State or federal housing or development agency to finance the construction of the lower income housing units to be constructed as required in paragraph (a)(2)(i) of this Section;

(vii) no temporary Certificate of Occupancy shall be issued for any purpose other than lower income housing on the same ~~#zoning lot#~~ until a temporary Certificate of Occupancy for all units of lower income housing has been issued. No permanent Certificate of Occupancy shall be issued for any purpose other than lower income housing on the same ~~#zoning lot#~~ until a permanent Certificate of Occupancy for all units of lower income housing has been issued.

(b) Any building permit or special permit issued pursuant to this Section shall be subject to the following additional conditions:

(1) No certificate of occupancy, temporary or permanent, shall be issued by the Department of Buildings for new ~~#buildings#~~ and/or existing ~~#buildings#~~ or portions thereof which are to remain on the ~~#zoning lot#~~, any one of which ~~#buildings#~~ requires compliance with this Section due to harassment, until the Commissioner of Housing Preservation and Development certifies that the lower income housing is in compliance with the Lower Income Housing Plan as set forth in Section 23-90 and the Department of Buildings has issued a Certificate of Occupancy, temporary or permanent, for each unit of the lower income housing.

(2) Immediately upon issuance of a building permit or special permit, the legal agreement described in paragraph (a) of this Section shall be recorded by the applicant in the Conveyance Section of the Office of the City Register in the County of New York and indexed against the subject ~~#zoning lot#~~. If the applicant does not immediately so record the legal agreement, the City of New York may record the agreement at the sole cost and expense of the applicant. This occupancy restriction of paragraph (a) of this Section shall be included in both the temporary and permanent certificates of occupancy issued by the Department of Buildings for the new and/or existing ~~#buildings#~~. Failure to comply with the terms and conditions set forth in the legal agreement shall constitute a violation of the permit or certificate of occupancy and may constitute a basis for revocation of the permit or Certificate of Occupancy.

(3) No portion of the lower income housing required under this Section shall qualify to:

- (i) increase the #floor area ratio# pursuant to Section 96-21 (Special Regulations for 42<sup>nd</sup> Street Perimeter Area) or Section 23-90; or
  - (ii) satisfy the requirement of a program to receive tax abatement or exemptions which are not specifically limited to lower income housing.
- (e) The requirements of paragraphs (a) and (b) of this Section, the two-bedroom unit distribution requirement of Section 96-105 and the provisions of Section 96-108 shall not apply to any existing #buildings# located within the #Special Clinton District# which are acquired and rehabilitated to provide low-to-moderate income housing units pursuant to a special permit approved by the Board of Estimate prior to February 28, 1988. In lieu thereof, and notwithstanding any provision to the contrary contained in this Chapter, the following curative measures shall apply where there has been any harassment as defined in paragraph (d) of this Section:
- (1) a building permit may be issued by the Department of Buildings when the Chairperson of the City Planning Commission has certified to the Department of Buildings that a restrictive declaration which binds the owner of the #zoning lot# and all successors in interest, in a form satisfactory to the Chairperson, has been recorded against the #zoning lot# on which the low-to-moderate income housing units are located, which restricts the occupancy of such units to low-to-moderate income persons and #families# in accordance with the terms of the special permit, and to persons and #families# residing in such units at the time such declaration is recorded;
  - (2) a temporary or permanent Certificate of Occupancy may be issued by the Department of Buildings when the Chairperson of the City Planning Commission has certified that such low-to-moderate income housing units are in full compliance with the terms of the previously approved special permit; and
  - (3) no portion of the lower income housing provided pursuant to paragraph (c) of this Section may be used to increase the #floor area ratio# of a #zoning lot# pursuant to Section 96-21 or Section 23-90.
- (d) For the purposes of this Chapter, "harassment" (including other failure to satisfy applicable legal requirements in eviction and relocation practices) shall mean any conduct, as described below, by or on behalf of an owner of a #building# containing #dwelling units# or #rooming units# which materially advanced #development#, #enlargement#, demolition of a #building#, the conversion or alteration of a #building# or the #extension# of a #use# within a #building#, in the furtherance of which the permit is sought:
- (1) the use or threatened use of force which causes or is intended to cause any person lawfully entitled to occupancy of a #dwelling unit# or #rooming unit# in such multiple dwelling to vacate such unit or to surrender or waive any rights in relation to such occupancy;
  - (2) the interruption or discontinuance of essential services which:
    - (i) interferes with or disturbs or is intended to interfere with or disturb the comfort, repose, peace or quiet of any person lawfully entitled to occupancy of a #dwelling unit# or #rooming unit# in the use or occupancy of such #dwelling unit# or #rooming unit#; and
    - (ii) causes or is intended to cause such person lawfully entitled to occupancy of such #dwelling unit# or #rooming unit# to vacate such unit or to surrender or waive any rights in relation to such occupancy;
  - (3) the failure to comply with the provisions of subdivision (c) of Section 27-2140 of Article 7 of subchapter 5 of the Housing Maintenance Code which causes or is intended to cause such person lawfully entitled to occupancy of such #dwelling unit# or #rooming unit# to vacate such unit or to waive any rights in relation to such occupancy; or
  - (4) any other conduct which prevents or is intended to prevent any person from the lawful occupancy of such #dwelling unit# or #rooming unit# or causes or is intended to cause such person lawfully entitled to occupancy of such #dwelling unit# to vacate such unit or to surrender or waive any rights in relation to such occupancy, including but not limited to removing the possessions of any occupant from the #dwelling unit# or #rooming unit#; removing the door at the entrance to the #dwelling unit# or #rooming unit#; removing, plugging or otherwise rendering the lock on such entrance door inoperable; or changing the lock on such entrance door without supplying the occupant with a key.

For any alleged act of harassment which has taken place within 15 years of the date of filing an application for a building permit or special permit pursuant to Sections 96-107, 96-108, 96-109, 96-23 or 96-24, there shall be a presumption, rebuttable by the applicant,



that the harassment materially advanced the #development# on the #zoning lot# or the #enlargement#, #extension#, conversion or alteration of the existing #building# in furtherance of which the permit is sought.

Such determination of harassment for the purpose of this Chapter shall be made by the Department of Housing Preservation and Development after a hearing in accordance with applicable statutes and regulations, prior to certification of compliance with the aforementioned Sections 96-107, 96-108, 96-109, 96-23 or 96-24.

Notwithstanding anything set forth in this Section, no act of harassment which occurred prior to September 5, 1973, shall constitute harassment for the purposes of this Chapter.

\* \* \*

**96-20**  
PERIMETER AREA

\* \* \*

**96-21**  
Special Regulations for 42<sup>nd</sup> Street Perimeter Area

\* \* \*

(e) Pedestrian circulation space

Within Subarea 2 of the 42<sup>nd</sup> Street Perimeter Area, as shown in Appendix A, pedestrian circulation space shall be provided in accordance with the provisions of Section 37-07 (Requirements for Pedestrian Circulation Space). In addition, for #developments# or #enlargements# that provide subway entranceways constructed after (effective date of amendment), one and one-half times the area of such entranceway accessible to the public at #street# level may qualify as pedestrian circulation space, up to a maximum amount of 3,000 square feet.

(f) Special curb cut and parking requirements

No curb cuts shall be permitted on 42<sup>nd</sup> Street. The parking requirements of the #Special Hudson Yards District# shall apply within the 42<sup>nd</sup> Street Perimeter Area, as set forth in Section 93-80 (OFF-STREET PARKING), except that such parking requirements shall not apply to any #development# or #enlargement# for which a special permit was granted prior to January 19, 2005.

Any #development# or #enlargement# for which a building permit has been lawfully issued prior to December 31, 2004 shall comply with either the parking regulations in effect at the time the permit was issued, or the requirements of this paragraph (f).

The provisions of this Section 96-21 shall not apply to any #development# or #enlargement# for which a building permit has been lawfully issued prior to December 31, 2004. In lieu thereof, the regulations in effect at the time such permit was issued shall apply.

\* \* \*

**96-21**  
Special Regulations for 42<sup>nd</sup> Street Perimeter Area

\* \* \*

**96-24**  
Relocation and Demolition of Buildings in the Perimeter Area

Prior to the issuance by the Department of Buildings of a demolition permit or a permit for any #development#, #enlargement# or #extension# on any #zoning lot# containing #residential uses# within the Perimeter Area, the ~~Commissioner~~ Department of Housing Preservation and Development shall certify to the Department of Buildings:

- (a) that prior to evicting or otherwise terminating the occupancy of any tenant in connection with vacating any #building#, the developer shall have notified the Department of Housing Preservation and Development of plans for the relocation of tenants

which shall:

- (1) to the extent possible provide for the relocation of tenants within the Clinton District; and
- (2) provide for the satisfaction of all the requirements for the issuance of a certificate of eviction under applicable rent control and rent stabilization regulations of the State of New York; and

(b) that the developer has complied with the relocation plan submitted pursuant to paragraph (a) of this Section and that ~~no harassment has occurred~~ the Department of Housing Preservation and Development has issued a ~~#certification of no harassment#~~, or if it has been determined by the applicable governmental agency that legal relocation or eviction requirements have not been satisfied or that harassment has occurred, that the owner has complied with Section 96-110 (~~Harassment and cure~~) (d) (Certification of Cure For Harassment).

\* \* \*

**Article XII - Special Purpose Districts**

**Chapter 1**  
**Special Garment Center District**

\* \* \*

**121-31**  
**Maximum Permitted Floor Area**

The basic maximum #floor area ratio# of a non-#residential building# shall be 10.0 and may be increased to a maximum #floor area ratio# of 12.0 only pursuant to Section 93-31 (District Improvement Fund). For #buildings# containing #residences#, the basic maximum #floor area ratio# shall be 6.5. The #floor area ratio# of any #building# containing #residences# may be increased from 6.5 pursuant to Sections 93-31, and pursuant to Section 23-90 (INCLUSIONARY HOUSING), as modified by Section 93-23, provided that for every five square ~~feet~~ feet of #floor area# increase pursuant to Section 93-31 ~~or 93-32~~ there is a #floor area# increase of six square feet pursuant to Section 23-90 as modified by Section 93-23, inclusive. The maximum #residential floor area ratio# shall be 12.0.

\* \* \*

**121-50**  
**SUPPLEMENTAL REGULATIONS IN PRESERVATION AREA P-2**

In Preservation Area P-2, the provisions of Section 93-90 (HARASSMENT), inclusive, shall apply.

\* \* \*

Adopted.

Office of the City Clerk, }  
 The City of New York, } ss.:

I hereby certify that the foregoing is a true copy of a Resolution passed by The Council of The City of New York on December 21, 2005, on file in this office.

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