



Legislation Text

File #: Res 1284-2012, **Version:** *

THE COUNCIL OF THE CITY OF NEW YORK
RESOLUTION NO. 1284

Resolution approving the decision of the City Planning Commission on Application No. N 120090 ZRY, for an amendment of the Zoning Resolution of the City of New York, relating to Articles I, VIII, IX, X, XI, XII, and XIII and other related Sections concerning environmental requirements associated with potential hazardous material contamination or noise or air quality (L.U. No. 581).

By Council Members Comrie and Weprin

WHEREAS, the City Planning Commission filed with the Council on March 2, 2012 its decision dated February 29, 2012 (the "Decision"), pursuant to Section 201 of the New York City Charter, regarding an application submitted by the Department of City Planning for an amendment of the text of the Zoning Resolution of the City of New York, relating to Articles I, VIII, IX, X, XI, XII and XIII and other related Sections concerning environmental requirements associated with potential hazardous material contamination or noise or air quality which would update, streamline and clarify regulations related to the administration of the citywide (E) Designations Program (Application No. N 120090 ZRY), Citywide (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 March 20, 2012;

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 Type II action which requires no further environmental review (CEQR No. 12DCP057Y);

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in this report, N 120090 ZRY, incorporated by reference herein, the Council approves the Decision.

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 to be deleted;
Matter with # # is defined in Section 12-10;
* * * indicates where unchanged text appears in the Zoning Resolution

Article 1 General Provisions

Chapter 1 Title, Establishments of Controls and Interpretations of Regulations

* * *

11-15 Environmental Requirements

The designation (E), or an environmental restrictive declaration, where listed in Appendix C (CEQR Environmental Requirements), of this Resolution, indicates that environmental requirements pertaining to potential hazardous materials ~~contamination~~, or noise or air quality impacts have been established ~~which are incorporated into~~ in connection with the provisions of a #zoning map# an amendment of or an action pursuant to this Resolution for one or more tax lots. The said Such environmental requirements are set forth in the City Environmental Quality Review (CEQR) Declaration determination related to such amendment or action. a specific #zoning map# amendment. In the case of a merger or subdivision of tax lots or #zoning lots# with an (E) designation, involving improved or unimproved properties, the (E) designation will apply to all portions of the property.

The CEQR ~~Declarations~~ determinations are on file with the ~~designated~~ lead agency and the Mayor's Office of Environmental Coordination (MOEC). A listing of such CEQR ~~Declarations~~ determinations and their related environmental requirements, entitled City Environmental Quality Review Declarations, is found within Appendix C of this Resolution. appended to the #zoning maps#. (E) designations and environmental restrictive declarations may only be removed from Appendix C or modified in accordance with the provisions of paragraph (d) of this Section.

In the case of a merger or subdivision of lots, any of which is subject to an (E) designation or Environmental Restrictive Declaration, such (E) designation or Environmental Restrictive Declaration shall be considered assigned to all portions of the merged or subdivided lots. The environmental requirements of such (E) designation or environmental restrictive declaration shall apply to the merged or subdivided lots, or portions thereof, as determined by OER.

Tax lots with environmental requirements shall be subject to the following:

(a) Building permit conditions

Prior to issuing a building permit, or temporary or final Certificate of Occupancy, for any #development#, or for an #enlargement#, #extension# or a change of #use#, any of which involves a #residential# or a #community facility use#, or for an #enlargement# of a #building# for any #use# that involves a disturbance of the soil any action listed in paragraphs (a)(1), (a)(2) or (a)(3) of this Section,

on a tax lot that has an (E) designation or an environmental restrictive declaration related to for potential hazardous materials, noise, or air quality contamination, the Department of Buildings (DOB) shall be furnished with a report from the Department of Environmental Protection notice issued by (DEP OER) of the city of New York stating that the environmental requirements related to the (E) designation have been met for that lot OER does not object to the issuance of such building permit, or temporary or final Certificate of Occupancy, in accordance with the applicable rules of the City of New York (“OER Notice”).

An (E) designation for potential hazardous material contamination may be satisfied and administratively removed from a #zoning map# through the following procedure:

(a) — Satisfaction of requirements

The owner of any tax lot with an (E) designation for potential hazardous material contamination may file, with the Department of City Planning, a report from DEP, or its successor agency, specifying that the environmental requirements relating to such designation have been satisfied regarding that lot. Upon receipt of such report, the Department of City Planning shall indicate such satisfaction as to that lot on the listing of (E) designations appended to the #zoning maps# of the Zoning Resolution.

(1) For hazardous materials:

- (i) any #development#;
- (ii) an #enlargement#, #extension# or change of #use#, any of which involves a #residential# or a #community facility use#; or
- (iii) an #enlargement# or alteration of a #building# for any #use# that involves a disturbance of the soil;

(2) For air quality:

- (i) any #development#;
- (ii) an #enlargement#, #extension# or change of #use#; or
- (iii) an alteration that involves ventilation or exhaust systems, including but not limited to stack relocation or vent replacement; or

(3) For noise:

- (i) any #development#;
- (ii) an #enlargement#, #extension# or change of #use#; or
- (iii) an alteration that involves window or exterior wall relocation or replacement.

(b) Ongoing site management Removal of (E) designation

The Department of City Planning shall administratively remove the (E) designation for potential hazardous material contamination from a #zoning map# when all environmental requirements for potential hazardous material contamination have been met on all tax lots specified in the CEQR declaration.

In the event that a duly issued OER Notice indicates that a tax lot that has an (E) designation or an environmental restrictive declaration requires ongoing site management, OER may require that a declaration of covenants and restrictions governing the ongoing site management requirements be recorded against the subject tax lot in the Office of the City Register or, where applicable, in the County Clerk's Office in the County where the lot is located.

As a condition to the issuance of a temporary or final Certificate of Occupancy or granting of permit sign-off, if no Certificate of Occupancy is required, DOB shall be provided with proof that the declaration of covenants and restrictions for ongoing site management has been duly recorded. The recording information for the ongoing site management declaration shall be referenced on the first Certificate of Occupancy to be issued after such declaration is recorded, as well as all subsequent Certificates of Occupancy, for as long as the declaration remains in effect.

The Director of the Department of City Planning shall transmit notice of such satisfaction or removal of an (E) designation to the Department of Buildings, ~~the OEC and the DEP.~~

(c) Modifications

Upon application to the Mayor's Office of Environmental Remediation (OER) by the owner of the affected lot(s), OER may, with the consent of the lead agency, modify the environmental requirements set forth in a CEQR Determination based upon new information, additional facts or updated standards, as applicable, provided that such modifications are equally protective.

(d) Completion of environmental requirements ~~Sunset provision~~

The DEP shall adopt rules pursuant to Chapter 45 of the Charter of the City of New York which shall establish:

- (1) standards for determining potential hazardous material contamination which, upon adoption, shall be utilized in determining whether or not an (E) designation shall be imposed on any tax lot; and
- (2) testing and remediation standards and protocols for potential hazardous material contamination which, upon adoption, shall be utilized in determining whether or not the environmental requirements relating to such (E) designation(s) have been satisfied so as to warrant the removal of such designation.

The requirements for the adoption of rules set forth in paragraph (c) of this Section, inclusive, shall not be construed to prohibit either the imposition or the removal of an (E) designation, in accordance with law, prior to the adoption of such rules.

In the event that such rules are not adopted by DEP by July 1, 2001, the provisions of this Section as they relate to potential hazardous material contamination, except for underground gasoline storage tanks, shall lapse.

(1) Removal of tax lots subject to an (E) designation or an environmental restrictive declaration from Appendix C

The Department of City Planning (DCP) shall administratively modify Appendix C after receiving a duly issued OER Notice, stating that the environmental requirements related to an (E) designation or contained in an environmental restrictive declaration related to potential hazardous materials, noise or air quality have been completed for or otherwise no longer apply to a tax lot or lots, because:

- (i) no further testing, remediation or ongoing site management is required for hazardous materials contamination;
- (ii) the noise generating source has been permanently eliminated; or
- (iii) the emissions source related to air quality has been permanently eliminated.

(2) Removal of (E) designation from Appendix C

DCP shall administratively remove an (E) designation from Appendix C when, in accordance with the provisions of paragraph (d)(1) of this Section, the environmental requirements for all tax lots subject to the (E) designation have been completed.

(3) Cancellation of environmental restrictive declaration and modification of Appendix C

DCP shall administratively remove an environmental restrictive declaration from Appendix C when, in accordance with the provisions of paragraph (d)(1) of this Section, the environmental requirements contained in such environmental restrictive declaration have been completed for all tax lots and a Notice of Cancellation of the environmental restrictive declaration has been duly recorded against the subject tax lots in the Office of the City Register or, where applicable, in the County Clerk's Office in the County where the lots are located.

(4) Notification

DCP shall notify DOB, MOEC and OER when modifications to Appendix C are made.

(de) Notice provision

The City Planning Commission shall adopt rules pursuant to Chapter 45 of the Charter of the City of New York which shall require the lead agency, as defined in 6 N.Y.C.R.R., Part 617, and Executive Order 91 of 1977, as amended, to provide notification of a proposed (E) designation to the owner(s) of

~~the property to be so designated not less than 60 days prior to such designation.~~

The provisions of this Section 11-15 shall apply to all (E) designations and environmental restrictive declarations, notwithstanding the date such environmental requirements were established.

11-151

Special requirements for properties in the Borough of Queens

- (a) Block 9898, Lots 1 and 117, in the Borough of Queens, shall be subject to the provisions of Section 11-15 (Environmental Requirements) governing (E) designations. The City Environmental Quality Review (CEQR) Declarations for these sites shall be listed in APPENDIX C (City Environmental Quality Review (CEQR) Environmental ~~Designations~~ Requirements) of the Zoning Resolution.
- (b) The following special requirements shall apply to a #development#, #enlargement# or change of #use# for properties in the Borough of Queens located within the areas described in paragraphs (1) through (5) of this paragraph, (b):

* * *

However, in the event that the Chairperson of the City Planning Commission, based on consultation with the Department of Environmental Protection of the City of New York, provides a certificate of no effect to the Department of Buildings with regard to industrial air emissions for an area described in this ~~Section paragraph~~ (b), the regulations of the zoning districts designated on the #zoning map# shall apply to any #development#, #enlargement# or change of #use# within such area, to the extent permitted under the terms of the certificate of no effect.

* * *

86-04

~~Applicability of Article I~~

~~Within the #Special Forest Hills District#, Section 11-15 (Environmental Requirements) shall apply, except that prior to issuing a building permit for any #development#, or for an #enlargement#, #extension# or a change of #use#, on a lot that has an (E) designation for hazardous material contamination, noise or air quality, the Department of Buildings shall be furnished with a report from the Department of Environmental Protection (DEP) of the City of New York stating:~~

- ~~(a) in the case of an (E) designation for hazardous material contamination, that environmental requirements related to the (E) designation have been met for that lot; or~~
- ~~(b) in the case of an (E) designation for noise or air quality, that the plans and drawings for such #development# or #enlargement# will result in compliance with the environmental requirements related to the (E) designation.~~

* * *

87-04

~~Applicability of Article I, Chapter 1~~

Within the #Special Harlem River Waterfront District#, Section 11-15 (Environmental Requirements) shall apply, except that prior to issuing a building permit for any #development#, or for an #enlargement#, #extension# or a change of #use#, on a lot that has an (E) designation for hazardous material contamination, noise or air quality, the Department of Buildings shall be furnished with a report from the Department of Environmental Protection of the City of New York stating:

- (a) in the case of an (E) designation for hazardous material contamination, that environmental requirements related to the (E) designation have been met for that lot; or
- (b) in the case of an (E) designation for noise or air quality, that the plans and drawings for such #development# or #enlargement# will result in compliance with the environmental requirements related to the (E) designation.

87-05 04

Applicability of Article VI, Chapter 2

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87-06 05

Modification of Use and Bulk Regulations for Parcels Containing Newly Mapped Streets

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93-051

Applicability of Chapter 1 of Article I

(a) Within the #Hudson Yards Redevelopment Area#, Section 11-15 (Environmental Requirements) shall apply, except that prior to issuing a building permit for any #development#, or for an #enlargement#, #extension# or a change of #use#, on a lot that has an (E) designation for hazardous material contamination, noise or air quality, the Department of Buildings shall be furnished with a report from the Department of Environmental Protection (DEP) of the City of New York stating:

- (1) in the case of an (E) designation for hazardous material contamination, that environmental requirements related to the (E) designation have been met for that lot; or
- (2) in the case of an (E) designation for noise or air quality, that the plans and drawings for such #development# or #enlargement# will result in compliance with the environmental requirements related to the (E) designation.

(b) Section 11-332 (Extension of period to complete construction) shall apply, except that notwithstanding the provisions of paragraph (a) of such Section, in the event that other construction for which a building permit has been lawfully issued and for which construction has been commenced but not completed on January 19, 2005, such other construction may be continued provided that the construction is completed and a temporary or permanent certificate of occupancy is obtained not later than January 19, 2006.

* * *

98-051

Applicability of Chapter 1 of Article I

- (a) Within the ~~#Special West Chelsea District#~~, Section 11-15 (Environmental Requirements) shall apply, except that prior to issuing a building permit for any ~~#development#~~, or for an ~~#enlargement#~~, ~~#extension#~~ or a change of ~~#use#~~, on a ~~#zoning lot#~~ that has an (E) designation for hazardous material contamination, noise or air quality, the Department of Buildings shall be furnished with a report from the Department of Environmental Protection (DEP) of the City of New York, stating:
- (1) in the case of an (E) designation for hazardous material contamination, that environmental requirements related to the (E) designation have been met for that ~~#zoning lot#~~; or
 - (2) in the case of an (E) designation for noise or air quality, that the plans and drawings for such ~~#development#~~ or ~~#enlargement#~~ will result in compliance with the environmental requirements related to the (E) designation.
- (b) Section 11-332 (Extension of period to complete construction) shall apply, except that notwithstanding the provisions of paragraph (a) of such Section, in the event that other construction for which a building permit has been lawfully issued and for which construction has been commenced but not completed on June 23, 2005, such other construction may be continued provided that the construction is completed and a temporary or permanent certificate of occupancy is obtained not later than June 23, 2006.

* * *

104-05

Applicability of Article I, Chapter 1

Within the ~~#Special Manhattanville Mixed Use District#~~, Section 11-15 (Environmental Requirements) shall apply, except that prior to issuing a demolition permit, where compliance at time of demolition is required by the (E) designation, or a building permit for any ~~#development#~~, or for an ~~#enlargement#~~, ~~#extension#~~ or a change of ~~#use#~~, on a lot that has an (E) designation for hazardous material contamination, noise or air quality, the Department of Buildings shall be furnished with a report from the Department of Environmental Protection of the City of New York, stating:

- (a) in the case of an (E) designation for hazardous material contamination, that environmental requirements related to the (E) designation have been met for that lot; or
- (b) in the case of an (E) designation for noise or air quality, that the plans and drawings for such ~~#development#~~ or ~~#enlargement#~~ will result in compliance with the environmental requirements related to the (E) designation.

* * *

115-03

Applicability of Article I, Chapter 1

Within the #Special Downtown Jamaica District#, Section 11-15 (Environmental Requirements) shall apply, except that prior to issuing a building permit for any #development#, or for an #enlargement#, #extension# or a change of #use#, on a lot that has an (E) designation for hazardous material contamination, noise or air quality, the Department of Buildings shall be furnished with a report from the Department of Environmental Protection (DEP) of the City of New York, stating:

- (a) in the case of an (E) designation for hazardous material contamination, that environmental requirements related to the (E) designation have been met for that lot; or
- (b) in the case of an (E) designation for noise or air quality, that the plans and drawings for such #development# or #enlargement# will result in compliance with the environmental requirements related to the (E) designation.

* * *

117-05

Applicability of Article I, Chapter 1

Within the #Special Long Island City Mixed Use District#, Section 11-15 (Environmental Requirements) shall apply, except that prior to issuing a building permit for any #development#, or for an #enlargement#, #extension# or a change of #use#, on a lot that has an (E) designation for potential hazardous material contamination, or noise or air quality impacts, the Department of Buildings shall be furnished with a report from the Department of Environmental Protection of the City of New York stating:

- (a) in the case of an (E) designation for potential hazardous material contamination, that environmental requirements related to the (E) designation have been met for that lot; or
- (b) in the case of an (E) designation for noise or air quality impacts, that the plans and drawings for such #development# or #enlargement# will result in compliance with the environmental requirements related to the (E) designation.

* * *

119-06

Special requirements for certain properties within Special Hillside Preservation District

The following sites: Block 24, Lot 1; Block 23, Lots 17, 42; Block 23, Lots 1, 4, 13; Block 115, Lots 61, 62, 63; and Block 47, Lots 7, 10, 107 shall be subject to the procedures of Section 11-15 (Environmental Requirements) governing (E) designations. The CEQR Declarations for these sites shall be listed in APPENDIX C (City Environmental Quality Review (CEQR) Requirements Declarations) of the Zoning Resolution. Section 11-15, paragraph (b), shall not apply to such CEQR Declarations.

* * *

124-041

Applicability of Article I, Chapter 1

Within the #Special Willets Point District#, Section 11-15 (Environmental Requirements) shall apply, except that prior to issuing a building permit for any #development#, or for an #enlargement#, #extension# or a change

of #use#, on a tax lot or #zoning lot# that has an (E) designation(s) for hazardous material contamination, noise or air quality, the Department of Buildings shall be furnished with a report from the Department of Environmental Protection of the City of New York stating:

- (a) in the case of an (E) designation for hazardous material contamination, that environmental requirements related to the (E) designation have been met for that lot; or
- (b) in the case of an (E) designation for noise or air quality, that the plans and drawings for such #development# or #enlargement# shall result in compliance with the environmental requirements related to the (E) designation.

124-042 041

Applicability of Article III, Chapter 6

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124-043 042

Applicability of Article VII, Chapter 3

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124-044 043

Applicability of Article VII, Chapter 4

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126-03

Applicability of Article I, Chapter 1

Within the #Special College Point District#, Section 11-15 (Environmental Requirements) shall apply, except that prior to issuing a building permit for any #development#, or for an #enlargement#, #extension# or a change of #use#, on a lot that has an (E) designation for hazardous material contamination, noise or air quality, the Department of Buildings shall be furnished with a report from the Department of Environmental Protection (DEP) of the City of New York, stating:

- (a) in the case of an (E) designation for hazardous material contamination, that environmental requirements related to the (E) designation have been met for that lot; or
- (b) in the case of an (E) designation for noise or air quality, that the plans and drawings for such #development# or #enlargement# will result in compliance with the environmental requirements related to the (E) designation.

* * *

128-051

Applicability of Article I, Chapter 1

Within the #Special St. George District#, Section 11-15 (Environmental Requirements) shall apply, except that prior to issuing a building permit for any #development#, or for an #enlargement#, #extension# or a change of #use#, on a lot that has an (E) designation for hazardous material contamination, noise or air quality, the Department of Buildings shall be furnished with a report from the Department of Environmental Protection of

~~the City of New York, stating:~~

- ~~(a) in the case of an (E) designation for hazardous material contamination, that environmental requirements related to the (E) designation have been met for that lot; or~~
- ~~(b) in the case of an (E) designation for noise or air quality, that the plans and drawings for such #development# or #enlargement# will result in compliance with the environmental requirements related to the (E) designation.~~

128-052 051

Applicability of Article I, Chapter 2

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128-053 052

Applicability of Article I, Chapter 5

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128-054 053

Applicability of Article III, Chapter 6

The provisions of Section 36-76 (Waiver or Reduction of Spaces for Subsidized Housing) shall not apply in the #Special St. George District#.

* * *

131-041

~~Applicability of Article I, Chapter 1~~

~~Within the #Special Coney Island District#, Section 11-15 (Environmental Requirements) shall apply, except that prior to issuing a demolition permit, where compliance at time of demolition is required by the (E) designation, or a building permit for any #development#, or for an #enlargement#, #extension# or a change of #use#, on a lot that has an (E) designation for potential hazardous material contamination, noise or air quality impacts, the Department of Buildings shall be furnished with a report from the Department of Environmental Protection of the City of New York stating:~~

- ~~(a) in the case of an (E) designation for hazardous material contamination, that environmental requirements related to the (E) designation have been met for that lot; or~~
- ~~(b) in the case of an (E) designation for noise or air quality impacts, that the plans and drawings for such #development# or #enlargement# will result in compliance with the environmental requirements related to the (E) designation.~~

131-042 041

Applicability of Article I, Chapter 5

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131-043 042

Applicability of Article VI, Chapter 2

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131-044 043

Applicability of Article VII, Chapter 4

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131-045 044

Physical culture or health establishments

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131-046 045

Modification of use and bulk regulations for zoning lots fronting upon Riegelmann Boardwalk, KeySpan Park and Highland View Park

* * *

nyc zoning resolution APPENDIX C:

CITY ENVIRONMENTAL QUALITY REVIEW (CEQR) ENVIRONMENTAL DESIGNATIONS REQUIREMENTS TABLE					
E-No.	CEQR No.	Description	Tax Block	Tax Lot(s)	Lot Remediation Date
Effective Date	ULURP No.				
Satisfaction Date	Zoning Map No.				

E-1 4/28/1983	NA 830178 ZMK 16a,16c	Double Glazed Windows	319	1,2,3,4,5,6,7,8,9, 16,17,18,19,20,2 28,29,30,31,32,3 42,49, 50,51,55,6	
E-2 4/28/1983	82-214X 830468 ZMX 3d	N2 Ambient Noise Zone Levels	2953	1,6,8,9,11,12,13, 33,35,37,39,41,4	
E-3 3/15/1984	83-080X 840300 ZMX 3d	N2 Ambient Noise Zone Levels	2977	126,128,129,131 136,137,138,139	
E-4 6/14/1984	82-070M 840260 ZMM 8b,12a	Double Glazed Windows & Alternate Ventilation	641	17,36,39,75	
			642	1,2,3,4,12,14,19,	
			643	1,2,3,4,5,6,7,8,9, 15, 16,17,18,19,2	
E-5 12/6/1984	82-270Q 830193 ZMQ 13d	Double Glazed Windows	3637	1,2	

* * *

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 March 28, 2012, on file in this office.

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