



Legislation Text

File #: Res 0514-2010, **Version:** *

THE COUNCIL OF THE CITY OF NEW YORK RESOLUTION NO. 514

Resolution approving the decision of the City Planning Commission on Application No. N 100424 ZRM, for an amendment of the Zoning Resolution of the City of New York, concerning Article IX, Chapter 3 (Special Hudson Yards District), Article IX, Chapter 6 (Special Clinton District), Article IX, Chapter 8 (Special West Chelsea District), and Article XII, Chapter 1 (Special Garment Center District), Borough of Manhattan (L.U. No. 234).

By Council Members Comrie and Weprin

WHEREAS, the City Planning Commission filed with the Council on October 4, 2010 its decision dated September 29, 2010 (the "Decision"), pursuant to Section 200 of the New York City Charter, regarding an application submitted by the Department of City Planning, for an amendment 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), Article IX, Chapter 8 (Special West Chelsea District), and Article XII, Chapter 1 (Special Garment Center District). The proposed text amendment would facilitate the construction of the above-grade infrastructure necessary for access and operation of the No. 7 Subway extension, and to address community concerns that the significant growth forecasted for Hudson Yards and the adjacent areas, should it occur, could result in development pressure that may affect housing that has historically provided an affordable housing resource for area residents (Application No. N 100424 ZRM), Community District 4, Borough of Manhattan (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 October 25, 2010;

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 (CEQR No. 10DCP045M);

A Notice of Minor Modification was issued on June 7, 2010, which determined that the text changes set forth in the application would not result in any new or additional significant adverse impact not already set forth in the Final Generic Environmental Impact Statement for Hudson Yards and the Final Environmental Impact Statement for West Chelsea.

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, and based on the environmental determination and consideration described in this report, N 100424 ZRM, 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 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

* * *

93-03

District Plan and Maps

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Map 5 - Transit Facilities ~~Easements and Subway Entrances~~

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93-14

Ground Floor Level Requirements

The following provisions shall apply to all Subdistricts in the #Special Hudson Yards District#, except that the provisions of this Section shall not apply along the northern #street# frontage of West 35th through West 39th Streets within 100 feet of Eleventh Avenue, as shown on Map 2 (Mandatory Ground Floor Retail) in Appendix A of this Chapter. However, any #zoning lot# fronting on such #streets# and partially within 100 feet of Eleventh Avenue may, as an alternative, apply the provisions of this Section to the entire West 35th, West 36th, West 37th, West 38th or West 39th Street frontage of the #zoning lot#.

- (a) Retail continuity along designated streets in Subdistricts A, B, C, D and E

Map 2 in Appendix A of this Chapter specifies locations where the special ground floor #use# and transparency requirements of this Section apply. Such regulations shall apply along either 100 percent or 50 percent of the building's #street# frontage, as indicated on Map 2.

#Uses# located on the ground floor level or within five feet of #curb level#, and within 50 feet of the #street line# shall be limited to #commercial uses# permitted by the underlying district, but not including #uses# listed in Use Groups 6B, 6E, 7C, 7D, 8C, 8D, 9B, 10B, 11 or 12D.

A building's #street# frontage shall be allocated exclusively to such #uses#, except for lobby space, entryways or entrances to subway stations, or other subway-related #uses# as described in Section 93-65 (Transit Facilities). In no event shall the length of #street# frontage (exclusive of any portion of such #street# frontage allocated to entrances to subway stations and other subway-related #uses#) occupied by lobby space or entryways exceed, in total, 40 feet or 25 percent of the building's total #street# frontage, whichever is less, except that the width of a lobby need not be less than 20 feet.

For any new #development# or #enlargement# on such designated #streets#, glazing shall be provided in accordance with the provisions set forth in paragraph (c) of this Section.

* * *

93-65

Transit Facilities

(a) Any #development# or #enlargement# on a #zoning lot# that includes the locations listed below southwest corner of West 40th Street and Eighth Avenue shall provide an easement for subway-related #use# and public access to the subway mezzanine or station as illustrated on Map 5 (Transit Facilities) in Appendix A of this Chapter. The easement shall accommodate a relocated subway entrance from the adjoining sidewalk to a location within the #development# or #enlargement#.

(a) The area bounded by Tenth Avenue, West 41st Street, a line 190 feet east of and parallel to Tenth Avenue, and a line 55 feet south of and parallel to West 41st Street. The entrance shall be accessed from Tenth Avenue.

(b) For any #development# or #enlargement# on a #zoning lot# that includes the southwest corner of West 40th Street and Eighth Avenue, the transit easement shall accommodate a relocated subway entrance from the adjoining sidewalk to a location within the #development# or #enlargement#.

These locations are illustrated on Map 5 (Transit Easements and Subway Entrances) in Appendix A of this Chapter.

The Chairperson of the City Planning Commission shall certify that a plan has been submitted indicating the volume of the easement necessary for future construction of a subway entrance. Such plan shall be developed in consultation with and the approval of the Transit Authority. The Chairperson may alternately certify that a plan has been submitted whereby the applicant agrees to provide the required easement, at the applicant's expense, within two years of request by the Transit Authority or by its designee.

An instrument establishing such transit easement, or agreement to provide one within two years of request by the Transit Authority, once certified, shall be filed and duly recorded in the Borough Office of the City Register of the City of New York, indexed against the property in the form of a legal instrument providing notice of such certification. Such filing and recording of the instrument shall be a precondition for the filing for or issuance of any building permit for any #development# or #enlargement# on the #zoning lot#. The recording information shall be included on the certificate of occupancy for any #building#, or portion thereof, on the #zoning lot# issued after the recording date.

Floor space within such any required transit easement shall be excluded from the definition of #floor area#, and may be temporarily used by the owner of the #zoning lot# for any permitted #uses# until such time as required by the Transit Authority or by its designee for subway purposes. Improvements or construction of a temporary nature within the easement volume for such temporary #uses# shall be removed by the owner of the #zoning lot# prior to the time at which public #use# of the easement area is required. A minimum notice of six months in writing shall be given by the Transit Authority to the owner of the #zoning lot# in order to vacate the tenants of such temporary #uses#.

(b) For the locations listed in this paragraph (b), floor space devoted to subway-related #uses# consisting of ventilation facilities and other facilities or services used or required in connection with the operation of a subway line or station, which are established pursuant to easement or other agreement, shall be excluded from the definition of #floor area#:

(1) The volume bounded by Eleventh Avenue, a line 52 feet north of and parallel to West 33rd Street, the western boundary of the #public park#, and West 33rd Street, up to a height of 82 feet, as illustrated on Map 5.

(2) The volume bounded by Eleventh Avenue, West 36th Street, a line 95 feet east of and parallel to Eleventh Avenue, and a line 95 feet south of and parallel to West 36th Street, up to a height of 129 feet, as illustrated on Map 5.

(3) The tax lot located at Block 1051, Lot 2, existing on DATE OF ENACTMENT, up to a height of 73 feet, as illustrated on the District Map in Appendix A of the #Special Clinton District#.

(4) The volume bounded by a line 37 feet east of and parallel to Eleventh Avenue, West 26th Street, a line 100 feet east of and parallel to Eleventh Avenue, and a line 95 feet south of and parallel to West 26th Street, up to a height of 60 feet, as illustrated on the District Map in Appendix A of the #Special West Chelsea District#

Any transit easement or other agreement for such subway-related #use# shall be filed and duly recorded in the Borough Office of the City Register of the City of New York, and indexed against the property.

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93-91

Demolition

The Department of Buildings shall not issue a permit for the demolition of a #multiple dwelling#, as defined in Section 93-90 (HARASSMENT), paragraph (a)(14), located within Subareas D4 or D5 in the Hell's Kitchen Subdistrict D or within Preservation Area P-2 of the #Special Garment Center District#, or an alteration permit for the partial demolition of a #multiple dwelling# located within Subareas D4 and D5 or within Preservation Area P-2 of the #Special Garment Center District#, where such partial demolition would decrease the amount of residential #floor area# in such #multiple dwelling# by 20 percent or more, unless:

(a) such #multiple dwelling# is an unsafe #building# and demolition is required pursuant to the provisions of Title 28, Chapter 2, Article 216, of the New York City Administrative Code; or

(b) the Commissioner of the Department of Housing Preservation and Development, after providing sixty

days notice and opportunity to comment to the local Community Board, has certified:

- (1) if such #multiple dwelling# is to be substantially preserved, that an alteration permit is required to allow the removal and replacement of 20 percent or more of the #floor area#;
- (2) if such #multiple dwelling# is not to be substantially preserved, that the Department of Housing Preservation and Development has determined that the rehabilitation of such #multiple dwelling# is not feasible under any active governmentally-funded program; and
- (3) that the Department of Housing Preservation and Development has issued a #certification of no harassment# pursuant to Section 93-90, paragraph (c), or has certified compliance with the cure provisions of Section 93-90, paragraph (d).

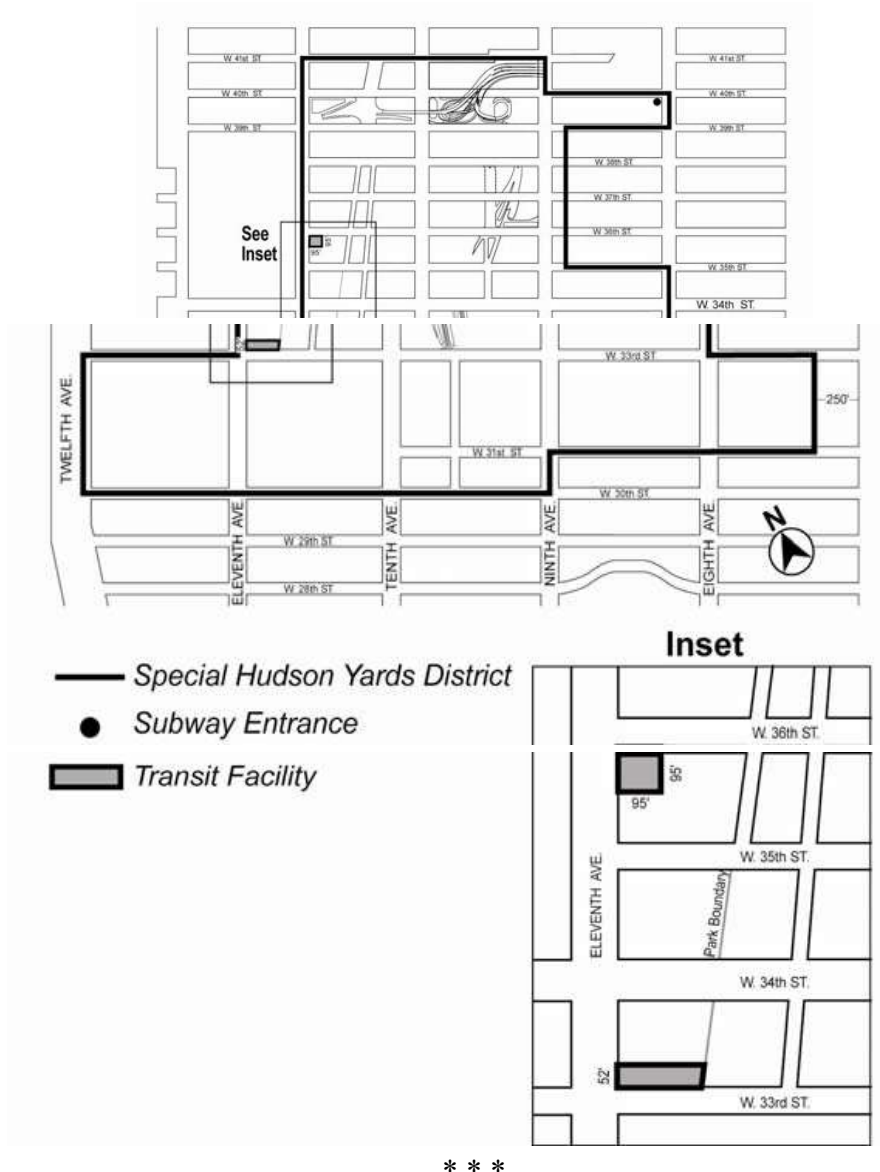
(c) the following structures shall be exempt from the provisions of this Section:

- (1) any city-owned #multiple dwellings#;
- (2) any #multiple dwelling# which is the subject of a program approved by the 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;
- (3) 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;
- (4) any #exempt hotel# as defined in Section 93-90;
- (5) 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 June 21, 2004; or
- (6) any #exempt institutional residence#, as defined in Section 93-90.

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Appendix A

Map 5. Transit Facilities



Article IX - Special Purpose Districts

Chapter 6 Special Clinton District

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 28, Chapter 2, Article 216, Title 26, Sub-chapter 3,

Article 8 of the New York City Administrative Code.

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96-21

Special Regulations for 42nd Street Perimeter Area

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(b) Floor area regulations

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(2) Floor area regulations in Subarea 2

In Subarea 2 of the 42nd Street Perimeter Area, as shown in Appendix A of this Chapter, the basic #floor area ratio# of any #development# or #enlargement# shall be 10.0. However, the #floor area ratio# of any #development# or #enlargement# containing #residential use# may exceed 10.0 to a maximum of 12.0 only in accordance with the provisions of Section 23-90, except that any units for which a #floor area# increase has been earned pursuant to Section 23-90 shall be within the #Special Clinton District#. For #developments# or #enlargements# that have fully utilized the Inclusionary Housing Program, the maximum permitted #floor area ratio# may be increased from 12.0 to 15.0 for new legitimate theater use in accordance with the provisions of Section 96-25 (Floor Area Bonus for New Theater Use).

Any #development# or #enlargement# on a #zoning lot# that includes the area bounded by a line 129 feet east of and parallel to Tenth Avenue, West 42nd Street, a line 184 feet east of and parallel to Tenth Avenue, and a line 50 feet south of and parallel to West 42nd Street shall provide an easement or other agreement for public access to the subway mezzanine or station, as illustrated on the District Map in Appendix A of this Chapter

An instrument establishing such transit easement or other agreement shall be filed and duly recorded in the Borough Office of the City Register of the City of New York, and indexed against the property.

Floor space within the volume governed by such transit easement or other agreement shall be excluded from the definition of #floor area#, and may be temporarily used by the owner of the #zoning lot# for any permitted #uses# until such time as required by the Transit Authority or by its designee for subway purposes. Improvements or construction of a temporary nature within the volume governed by such transit easement or other agreement for such temporary #uses# shall be removed by the owner of the #zoning lot# prior to the time at which public #use# of the volume area is required. A minimum notice of six months in writing shall be given by the Transit Authority to the owner of the #zoning lot# in order to vacate the tenants of such temporary #uses#.

The provisions of paragraph (b) of Section 93-65 (Transit Facilities) shall apply to any subway-related #uses# consisting of ventilation facilities and other facilities or services used or required in connection with the operation of a subway line or station on the tax lot located at Block 1051,

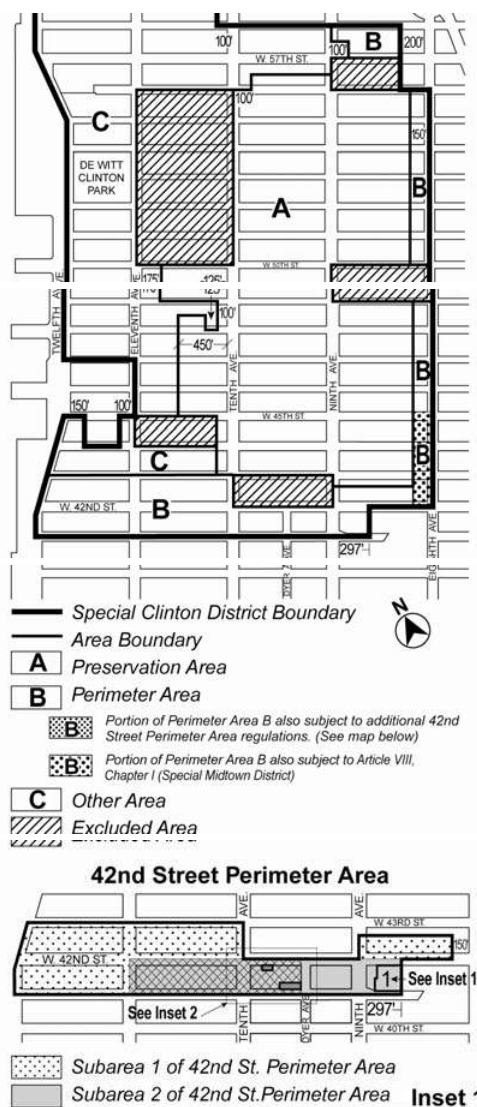
Lot 2, existing on DATE OF ENACTMENT, up to a height of 73 feet, as illustrated on the District Map in Appendix A of this Chapter.

Where a transit easement volume is required on a #zoning lot# in Subarea 2, such easement volume may be temporarily used by the owner of the #zoning lot# for any permitted #uses# until such time as required by the Transit Authority or by its designee for subway purposes. Any such floor spaces occupied by such transit easement volume shall not count as #floor area#. Improvements or construction of a temporary nature within the easement volume for such temporary #uses# shall be removed by the owner of the #zoning lot# prior to the time at which public #use# of the easement area is required. A minimum notice of six months in writing shall be given by the Transit Authority to the owner of the #zoning lot# to vacate the tenants of such temporary #uses#.

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Appendix A

Special Clinton District Map





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Article IX - Special Purpose Districts

Chapter 8

Special West Chelsea District

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98-23

Special Floor Area and Lot Coverage Rules for Zoning Lots Over Which the High Line Passes

That portion of the #zoning lot# that lies directly beneath the #High Line# shall be exempt from #lot coverage# requirements below the level of the #High Line bed#. The remaining portion of the #zoning lot# shall be considered a separate #zoning lot# for the purposes of calculating maximum #lot coverage#. Easement volumes provided in accordance with the provisions of Section 98-60 (SPECIAL ACCESS REGULATIONS FOR CERTAIN ZONING LOTS) and access structures constructed therein, as well as any structure required pursuant to Appendix D or E in relation to an increase in the basic maximum #floor area ratio# of a #zoning lot# pursuant to Section 98-25 (High Line Improvement Bonus), shall not be considered #floor area# or #lot coverage#.

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98-33

Transfer of Development Rights from the High Line Transfer Corridor

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(d) Stairway easement requirement

As a condition for the transfer of #floor area#, an easement volume to facilitate pedestrian access to the #High Line# via stairway shall be provided in accordance with the provisions of Sections 98-60 (SPECIAL ACCESS REGULATIONS FOR CERTAIN ZONING LOTS) and 98-63 (Recording of the High Line Access Easement Volume).

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98-60

SPECIAL ACCESS REGULATIONS FOR CERTAIN ZONING LOTS

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98-65

Transit Facilities

The provisions of paragraph (b) of Section 93-65 (Transit Facilities) shall apply to any subway related #use# on a #zoning lot# that includes the volume bounded by a line 37 feet east of and parallel to Eleventh Avenue, West 26th Street, a line 100 feet east of and parallel to Eleventh Avenue, and a line 95 feet south of and parallel to West 26th Street, up to a height of 60 feet, as illustrated on the District Map in Appendix A of this Chapter.

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98-70

Supplemental Regulations

(a) In the #Special West Chelsea District#, the provisions of paragraphs (a) through (d), inclusive, of Section 93-90 (HARASSMENT) shall apply as modified in this Section.

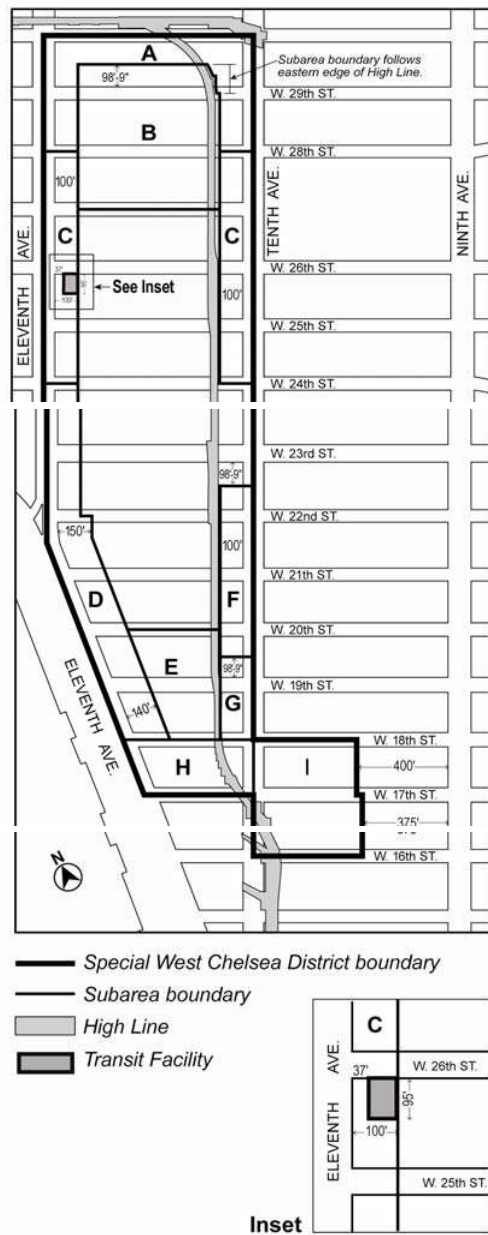
(b) In the #Special West Chelsea District#, the provisions of Section 93-91 (Demolition) shall apply.

For the purposes of this Section, the following definitions in Section 93-90 shall be modified:

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Appendix A

Special West Chelsea District and Subareas



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Article XII - Special Purpose Districts

Chapter 1

Special Garment Center District

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121-50

Supplemental Regulations in Preservation Area P-2

In Preservation Area P-2, the provisions of Section 93-90 (HARASSMENT) and Section 93-91 (Demolition), 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 October 27, 2010, on file in this office.

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