Zoning Resolution

THE CITY OF NEW YORK
Eric Adams, Mayor

CITY PLANNING COMMISSION
Daniel R. Garodnick, Chair

42-111 - Special provisions for hotels in M1 Districts

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LAST AMENDED12/15/2021

In M1 Districts, #transient hotels# shall be permitted only as set forth in this Section. The City Planning Commission may permit #transient hotels# in an M1 District pursuant to a special permit set forth in another Section of this Resolution, or pursuant to Section 74-803 (Transient hotels within M1 Districts), as applicable.

(a) Applicability

Such special permit for #transient hotels# pursuant to Section 74-803 shall be applicable to:

(1) #development# of a #transient hotel#;

(2) a change of #use# or #conversion# to a #transient hotel#, or an #enlargement#, containing a #transient hotel#, of a #building# that, as of December 20, 2018, did not contain such #use#; or

(3) #enlargement# or #extension# of a #transient hotel# that existed prior to December 20, 2018, that increases the #floor area# of such #use# by 20 percent or more.

(b) Exclusions

The provisions of this Section shall not apply to the following:

(1) a #transient hotel# operated exclusively for the public purpose of temporary housing assistance by the City or State of New York, or operated by a non-governmental entity pursuant to an active contract or other written agreement with an agency of the City or State specifying such public purpose.

(2) a #transient hotel# located within John F. Kennedy International Airport and LaGuardia Airport, which shall include property under the jurisdiction of the Port Authority of New York and New Jersey for airport use;

(3) a #transient hotel# in an M1-6D District, a #Special Mixed Use District# or any other #Special Purpose District# where any M1 District is paired with a #Residence District#, all of which shall instead be subject to the provisions of Section 32-02 (Special Provisions for Hotels); or

(4) in an M1-2 District for a change of #use# to a #transient hotel# that occupies no more than 30 percent of the #floor area# on the #zoning lot# and where such #zoning lot# contains a minimum #lot area# of 100,000 square feet, comprises an entire #block#, and contains #buildings# with a minimum total of 500,000 square feet of #floor area# on December 20, 2018.

(c) Within M1-5B Districts

Within an M1-5B District, a special permit pursuant to Section 74-803 shall be required in conjunction with a special permit pursuant to Section 74-781 (Modifications by special permit of the City Planning Commission of uses in M1-5B Districts) except that a permit pursuant to Section 74-781 shall not be required for a #transient hotel# located above the ground floor level, where the #floor area# used for such #use# on the ground floor does not exceed an amount minimally necessary to access and service such #transient hotel#.

(d) Existing hotels

(1) Any #transient hotel# existing prior to December 20, 2018, within an M1 District shall be considered a conforming #use# and may be continued, structurally altered, #extended# or #enlarged# subject to the

limitations set forth in this Section and subject to the applicable #bulk# regulations. However, if for a continuous period of two years such #transient hotel# is discontinued, or the active operation of substantially all the #uses# in the #building or other structure# is discontinued, the space allocated to such #transient hotel# shall thereafter be used only for a conforming #use#, or may be utilized for a #transient hotel# only if the Commission grants a special permit for such #use# in accordance with the provisions of Section 74-803 or other applicable section of this Resolution.

(2) The provisions of paragraph (d)(1) of this Section shall be modified up to December 9, 2027, to allow a #transient hotel# existing on December 9, 2021 to be restored to such #use# regardless of more than two years of discontinuance of the #use#, and regardless of any change of #use# between December 9, 2021 and December 9, 2027.

(3) In the event a casualty damages or destroys a #transient hotel# within an M1 District that was in such #use# as of December 20, 2018, such #building# may be reconstructed and used as a #transient hotel# without obtaining a special permit. A #non-complying# #building# may be reconstructed pursuant to Section 54-40 (DAMAGE OR DESTRUCTION IN NON-COMPLYING BUILDINGS).

(e) Vesting

The provisions of Section 11-30 (BUILDING PERMITS ISSUED BEFORE EFFECTIVE DATE OF AMENDMENT) regarding the right to continue construction shall apply. As an alternative, if on or before April 23, 2018, a building permit for a #development#, #enlargement# or #conversion# to a #transient hotel#, or a partial permit for a #development# of a #transient hotel# was lawfully issued by the Department of Buildings, such construction may be started or continued. In the event that construction has not been completed and a certificate of occupancy including a temporary certificate of occupancy, has not been issued by December 20, 2021, the building permit shall automatically lapse and the right to continue construction shall terminate. An application to renew the building permit may be made to the Board of Standards and Appeals not more than 30 days after the lapse of such building permit pursuant to the applicable provisions of Section 11-332 (Extension of period to complete construction).

Any special permit approved by the City Council for a #transient hotel# prior to December 20, 2018, shall be permitted and this Section shall not apply to such #transient hotel#, subject to the provisions of Section 11-42 (Lapse of Authorization or Special Permit Granted by the City Planning Commission Pursuant to the 1961 Zoning Resolution).