Zoning Resolution

THE CITY OF NEW YORK
Zohran K. Mamdani, Mayor

CITY PLANNING COMMISSION
Sideya Sherman, Chair

81-722 - Requirements for entertainment-related uses

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With the exception of a #development# or #enlargement# in which more than 50 percent of the new #floor area# is allocated to #transient hotel# #use#, or all of the #floor area# of the #development# or #enlargement# is allocated to #public parking garage# #use#, a #development# or #enlargement# on a #zoning lot# with more than 50 percent of its #zoning lot# area located within the Theater Subdistrict Core shall meet the following requirements:

(a) If the new #floor area# of the #development# or #enlargement# generated by that portion of the #zoning lot# located within the Theater Subdistrict Core exceeds 60,000 square feet, then an amount of floor space on the #zoning lot# equal to five percent of the amount by which such new #floor area# exceeds 50,000 square feet shall be allocated to #uses# listed in Section 81-723 (Entertainment-related uses).

Except as provided in paragraphs (b), (f) and (g) of this Section, the amount of floor space specified shall be located on the same #zoning lot# as the #development# or #enlargement# for which that floor space is provided to meet the requirements of this Section.

(b) A maximum of 75 percent of the amount of floor space specified in paragraph (a) of this Section may be located on a separate #zoning lot#, with the remainder located on the same #zoning lot# as the #development# or #enlargement#, by authorization of the City Planning Commission provided, upon examination of proposed plans, the Commission finds that:

(1) one of the following conditions exists:

(i) more than 50 percent of the area of the separate #zoning lot# is located within the Theater Subdistrict Core;

(ii) the separate #zoning lot# is located within the Theater Subdistrict and the floor space located on such separate #zoning lot# is allocated in its entirety to studios (music, dancing or theatrical), a theater designed and arranged for live performances of drama, music or dance, and #uses# accessory thereto, or a combination thereof, as listed in Section 81-723, and that the separate #zoning lot# is located within the Theater Subdistrict; or

(iii) the separate #zoning lot# is located within an area bounded by West 42nd Street, Sixth Avenue, West 57th Street, a line 175 feet west of Ninth Avenue, West 52nd Street and a line 150 feet west of Eighth Avenue, and the floor space located on such separate #zoning lot# is allocated in its entirety to studios (music, dancing or theatrical), a theater designed and arranged for live performances of drama, music or dance, or a combination thereof, and any support spaces related thereto, not including administrative office space, where such floor space occupies no less than 25,000 square feet;

(2) the floor space located on the separate #zoning lot# is in addition to any floor space provided to meet the requirements of this Section for any other #development# or #enlargement#;

(3) the floor space located on the separate #zoning lot# is constructed or renovated specifically for the purpose of meeting the requirements of this Section and has not been utilized for any of the #uses# listed in Section 81-723 at any time during the two-year period immediately prior to the date on which this authorization, as described in paragraph (b) of this Section, is granted; and

(4) the #use# located on the separate #zoning lot# achieves a reasonable distribution of entertainment-related #uses# and locations of such #uses#.

(c) Except as provided in this paragraph (c), floor space allocated to entertainment-related #uses# listed in Section 81-723, accommodating any number of occupants, shall be classified under Sections 27-254 to 27-258 (Title 27, Chapter 1, Subchapter 3, Article 8 - Occupancy Group F-Assembly) of the 1968 Building Code or Section BC 303 of the 2008 Building Code, as applicable, and shall meet all relevant requirements of Sections 27-522 to 27-549 (Title 27, Chapter 1, Subchapter 8-Places of Assembly) of the 1968 Building Code or Section BC 1024 of the 2008 Building Code, as applicable.

Alternatively, where floor space in an existing #building# is allocated to #uses# listed in Section 81-723 in order to meet the requirements of this Section, the Commission may, by authorization, modify or waive the Code requirements of this paragraph (c) if, upon examination of proposed plans, it finds that:

(1) the existing #building# does not otherwise require structural alteration to accommodate the entertainment-related #uses#; and

(2) two plaques will be provided prior to the issuance of any certificate of occupancy for the floor space so allocated to be affixed, as follows:

(i) the first in a prominently visible location either to the exterior wall of the #building# at ground level adjacent to the main entry or in the main lobby stating that floor space in the #building# is provided to meet the requirements of this Section; and

(ii) the second either on or immediately adjacent to the corridor or lobby side of the main door to the space itself stating that such floor space is located within that part of the #building#.

Each plaque shall indicate in letters, not less than one inch high, the amount of entertainment-related floor space in square feet, the floor or floors on which it is located, the category of #use# under Section 81-723 to which it is dedicated, and the name and street address of the

#development# or #enlargement# for which it partially fulfills the requirements of this Section.

(d) The certificate of occupancy for the #development# or #enlargement# shall record and specifically describe all floor space allocated to meet the requirements of this Section and shall require the permanent reservation of this space for such purposes as a condition of the certificate of occupancy.

If a portion of the amount of the specified floor space is located on a separate #zoning lot#, no certificate of occupancy for the #development# or #enlargement# shall be issued until a certificate of occupancy has been issued for that floor space provided on the separate #zoning lot# and all other floor space allocated to fulfill the requirements of this Section.

The certificate of occupancy for the #development# or #enlargement# shall identify the amount and location of such specified floor space provided on the separate #zoning lot#. The certificate of occupancy of the separate #zoning lot# shall identify the #development# or #enlargement# for which the specified floor space is provided and the amount and location of that floor space on the separate #zoning lot#. Both certificates of occupancy shall require the permanent reservation of the floor space provided on the separate #zoning lot# for #uses# which meet the requirements of this Section.

An amount of floor space allocated in an existing #building# to meet the requirements of this Section may be reallocated to another location, except that no floor space allocated in an existing #building# located within the Theater Subdistrict may be reallocated to another location outside the Theater Subdistrict. Such reallocation shall be made provided that the Commission finds, by authorization, that all of the requirements of this Section are still met and that the Commission has received sufficient assurances that the certificates of occupancy of the #development# or #enlargement# and the #building# to which the floor space has been reallocated, will be amended within a period of time after the date of such authorization

specified therein to accord with the provisions of this Section.

(e) A written declaration shall be recorded against the #zoning lot# of the #development# or #enlargement# and against the separate #zoning lot#, which contains an agreement that the floor space provided on the separate #zoning lot# shall be used solely for entertainment-related #uses# for the life of the #development# or #enlargement#.

If floor space allocated to entertainment-related #uses# on the separate #zoning lot# is reallocated in accordance with the provisions of paragraph (d) of this Section, the agreement contained in the written declaration shall be amended so that the #zoning lot# on which the newly allocated floor space is located complies with paragraph (d).

(f) If a certificate of occupancy for floor space to be located on a separate #zoning lot#, pursuant to the provisions of paragraph (b) of this Section, is not reasonably anticipated to be issued prior to the date upon which the #development# or #enlargement# would otherwise be eligible for issuance of a certificate of occupancy, the Commission may also authorize the waiver of any or all of the provisions of paragraphs (b)(3), (d) and (e) of this Section, provided that:

(1) the owner or lessee of the #development# or #enlargement#, or an affiliate thereof, will make or cause to be made a financial contribution, through payment or repayment of the costs thereof, which will facilitate on such separate #zoning lot#, the #development# of a #building# that will consist predominantly of either entertainment-related #uses# and #uses# accessory thereto or #community facility# #uses# where at least 25,000 square feet of such floor space allocated to meet the requirements of this Section shall be allocated in its entirety to studios (music, dancing or theatrical), a theater designed and arranged for live performances of drama, music or dance, or a combination thereof, and any support spaces related thereto not including administrative office space;

(2) the Department of City Planning has received a fully executed copy of a written declaration against such separate #zoning lot#, requiring that the floor space allocated

to meet the requirements of this Section and located on the separate #zoning lot# shall be used solely for entertainmentrelated #uses# and #uses# #accessory# thereto for the life of the #development# or #enlargement#. Prior to the release of the financial contribution, pursuant to paragraph (f)(3) of this Section, such declaration 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 the authorization pursuant to this Section;

(3) such financial contribution will be deposited in a trust and agency account, to be released upon a determination made in writing by the Chairperson of the City Planning Commission, made in consultation with the Commissioner of Buildings, that all work on foundations has been completed for such #building#; and

(4) the prospective operator of the entertainmentrelated #uses# in the #building# on such separate #zoning lot#:

(i) has made substantial financial and constructionrelated commitments towards the development of the #building#, including, at a minimum, commitments for site acquisition, such as a purchase agreement, deed or ground lease, and architectural agreements for the design of the floor space; and

(ii) has secured, or has implemented a fundraising plan to secure, the funding necessary for the development of the #building#, other than the financial contribution by the owner or lessee of the #development# or #enlargement#.

Where the Commission makes the findings set forth in paragraphs (f)(1) through (f)(4) of this Section, inclusive, a certificate of occupancy may be issued for the #development# or #enlargement# requiring the provision of such floor space, notwithstanding that no certificate of occupancy has been issued with respect to the floor space located on the separate #zoning lot#.

(g) In the event that all work on foundations of the #building# on the separate #zoning lot# has not been completed within three years of the grant of an authorization provided under the provisions of paragraph (f) of this Section, the owner or lessee of the #development# or #enlargement# shall, in accordance with the terms of the written declaration recorded against the #development# or #enlargement# at the time of the grant of such authorization, apply to the Commission for:

(1) an extension of the authorization for up to one additional year for good cause shown; or

(2) a new authorization, under paragraph (b) of this Section, for alternative floor space consisting of entertainment-related #uses# to be located on a separate #zoning lot# as necessary to meet the requirements of this Section.

In granting such authorization for alternative floor space, the Commission may waive the provisions of paragraph (b)(3) of this Section, provided the floor space was not utilized for any of the #uses# listed in Section 81-723 at any time during the two-year period immediately prior to the date on which the authorization was originally granted under paragraph (b) of this Section.

(h) Floor space allocated in an existing #building# on a separate #zoning lot#, pursuant to an authorization granted under paragraph (f) of this Section, may be reallocated to another location, provided that the Commission finds, by authorization, that all applicable requirements of this Section are met, except that no floor space allocated in an existing #building# located within the Theater Subdistrict may be reallocated to another location outside the Theater Subdistrict.

(i) All #uses# satisfying the requirements of this Section shall be subject to the locational requirements of Section 81-72 (Use Regulations Modified).