Zoning Resolution

THE CITY OF NEW YORK
Zohran K. Mamdani, Mayor

CITY PLANNING COMMISSION
Sideya Sherman, Chair

32-153 - Use Group V – uses subject to additional conditions

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LAST AMENDED
6/6/2024

For #uses# denoted with a "P" in Section 32-151 (Use Group V – general use allowances), the provisions of this Section shall apply. For the purposes of this Section, #transient hotels# shall also include #motels#, and #tourist cabins#.

In all #Commercial Districts#, #transient hotels# shall be permitted only as set forth in this Section.

(a) Applicability

A special permit for #transient hotels#, by the City Planning Commission, pursuant to Section 74-152 (In Commercial Districts) shall be applicable to:

(1) the #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 9, 2021, did not contain such #use#; or

(3) an #enlargement# or #extension# of a #transient hotel# that existed prior to December 9, 2021, that increases the #floor area# of such #use# by 20 percent or more.

(b) Exclusions

Notwithstanding the above, 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) where an application for a project containing a #transient hotel#, including an application for an extension of time to complete construction, has been filed at the Board of Standards and Appeals before December 9, 2021 and such application has been approved after January 1, 2018, provided that:

(i) such #transient hotel# was considered in such application, as evidenced by its description or assessment at a specified location in an application or in environmental review documents; and

(ii) in the event that a temporary or final certificate of occupancy has not been issued by December 9, 2027, 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); or

(3) where an application for a project containing a #transient hotel# has been certified by the City Planning Commission before December 9, 2021, and has been approved by the Commission after January 1, 2018, provided that:

(i) such #transient hotel# was considered in such application, as evidenced by its description or assessment at a specified location in a land use application or in

environmental review documents; and

(ii) in the event that a temporary or final certificate of occupancy has not been issued by December 9, 2027, 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. For such applications where a special permit for a #transient hotel# has been certified by the Commission pursuant to a #Special Purpose District#, such application may continue pursuant to the regulations and term of years proposed or in effect at the time such special permit was certified by the Commission.

(c) Existing hotels

(1) Any #transient hotel# existing on December 9, 2021, 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, the space allocated to such #transient hotel# shall thereafter be used only for a conforming #use# other than a #transient hotel#, 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 74-152 or other applicable section of this Resolution.

(2) The provisions of paragraph (c)(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# that was in such #use# as of December 9, 2021, 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).

(d) Vesting regulations

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, the following provisions shall apply.

(1) If, on or before May 12, 2021, an application for a #development#, #enlargement# or #conversion# to a #transient hotel# has been filed with the Department of Buildings, and if, on or before December 9, 2022, the Department of Buildings has approved an application for a foundation, a new #building# or an alteration based on a complete zoning analysis showing zoning compliance for such #transient hotel#, such application may be continued, and construction may be started or continued.

(2) However, in the case of an application for a #development#, #enlargement# or #conversion# to a #transient hotel# that has been filed with the Department of Buildings prior to January 1, 2018, and has not received a permit contingent on zoning approval on or before December 9, 2022, the provisions of paragraph (d)(1) of this Section shall not apply. In lieu thereof, the provisions of this paragraph shall apply. For such applications, if, on or before December 9, 2022 a permit contingent on zoning approval was lawfully issued by the Department of Buildings, such construction may be

started or continued.

(3) In the case of an application filed after December 9, 2021, for a #development# containing a #transient hotel# on a #zoning lot# located in the Theater Subdistrict of the #Special Midtown District# that as of December 9, 2021, has a #lot area# of 20,000 square feet or more; and for which at least 10,000 square feet of such #lot area# is clear of #buildings# or is occupied by #buildings# which are substantially vacant, or any combination thereof, the provisions of paragraph (d)(1) of this Section shall not apply. In lieu thereof, if on or before December 9, 2023, the Department of Buildings has approved an application for a foundation or a new #building#, based on a complete zoning analysis showing zoning compliance for such #transient hotel#, such application may be continued, and construction may be started or continued. For the purposes of this paragraph, "substantially vacant" shall mean that at least 90 percent of the #floor area# of a #building# is unoccupied.

All such applications may be revised and retain vested status, provided that the #floor area# for the #transient hotel# is not increased by more than 20 percent of the final approved application, or for a proposed #enlargement#, by more than 20 percent of the proposed new #floor area# of the final approved application.

In the event that a temporary or final certificate of occupancy has not been issued by December 9, 2027, the building permit shall automatically lapse and the right to continue construction shall terminate, provided that in the case of a #development# containing a #transient hotel# on a #zoning lot# that has a #lot area# of 20,000 square feet or more and is located in the Theater Subdistrict of the #Special Midtown District#, having vested status under the provisions of paragraph (d)(1) or (d)(3) of this Section, such period for issuance of a temporary or final certificate of occupancy shall be until December 9, 2031. 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.