

CITY OF NEW YORK

**MANHATTAN COMMUNITY BOARD FOUR**

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**Burt Lazarin**  
Chair

**Jesse R. Bodine**  
District Manager

March 7, 2019

Marisa Lago, Chair  
New York City Planning Commission  
120 Broadway  
31st Floor  
New York, NY 10271

**Re: Proposed Residential Tower Mechanical Voids Text Amendment**

Dear Chair Lago,

On January 28, 2019, the Department of City Planning (DCP) referred out the Residential Tower Mechanical Voids Text Amendment (N 190230 ZRY), beginning the public review process. At Manhattan Community Board 4's (MCB4) Clinton/Hell's Kitchen Land Use Committee meeting on February 13, 2019 and the Chelsea Land Use Committee meeting on February 21, 2019, members reviewed and discussed this proposed text amendment.

By a vote of 37 in favor, 0 opposed, 1 abstaining, and 1 present but not eligible to vote, the Board voted to deny this zoning text amendment unless the following conditions are met:

- Inclusion of the west side of Eighth Avenue from West 42<sup>nd</sup> and West 45<sup>th</sup> Streets in the proposed text amendment
- Inclusion of the Special Hudson Yards Subdistricts D1, D2, and D3 in the proposed text amendment
- Inclusion of certain R8 Districts within Manhattan Community District 4 that are outside of a Special Zoning District in the proposed text amendment
- Exclusion of Special Garment Center District Subarea-A2 with a C6-4M zoning from the proposed text amendment
- DCP to immediately undertake the Phase II text amendment proposal to restrict excessive mechanical voids within commercial districts

- DCP to further study and refine the definition of excessive height within mechanical spaces

## **Background**

The New York City Zoning Resolution allows floor space containing mechanical equipment to be excluded from zoning floor area calculations. The Resolution does not specifically identify a limit to the height of such spaces. In recent years, developments have been built or proposed that use tall, inflated mechanical floors to elevate upper-story residential units above the surrounding context and improve their views. These spaces have been commonly described as “mechanical voids.”

Renderings of a proposed residential tower on the Upper East Side released in 2018 showed four mechanical floors creating an additional height of approximately 150 feet in the middle of the building and raising its overall height to over 500 feet, far above other buildings in the surrounding area built under the same regulations. In response to this type of building form, Mayor De Blasio requested that DCP examine the issue of excessive mechanical voids that are used in ways not anticipated or intended by the zoning.

## **Proposed Text Amendment**

DCP proposes a city-wide Zoning Text Amendment for residential buildings in high-density districts to discourage the use of excessively tall mechanical floors that elevate upper-story residential units above the surrounding context. Mechanical floors are normally excluded from the FAR calculations. However, if the mechanical floor heights are taller than the new specified height limit or clustered in a portion of the building, these mechanical floors would now be counted as floor area. The proposed text amendments are as follows:

- **Floor Height of Mechanical Space**  
Floors occupied predominantly by mechanical spaces that are taller than 25 feet in height (whether singly or in combination) will be counted as floor area. Taller floors, or stacked floors taller than 25 feet, would be counted as floor area based on the new 25-foot height threshold as well.
- **Clustering of Mechanical Space**  
Floors occupied predominantly by mechanical space located within 75 feet of one another that, in the aggregate, add up to more than 25 feet in height would similarly count as floor area. This amendment would address situations where non-mechanical floors are interspersed among mechanical floors in response to the new 25-foot height threshold, while still allowing buildings to provide needed mechanical space for different portions of a building.

- **Height of Mechanical Space in Predominantly Residential Mixed-Use Buildings**  
If the non-residential uses occupy less than 25 percent of a mixed-use building, the non-residential portions of the building that are taller than 25 feet in height will be counted as floor area.
- **Floor Height of Unused or Inaccessible Space**  
Floors occupied predominantly by spaces that are unused or inaccessible within a building that are taller than 25 feet in height will be counted as floor area.

The proposed floor area requirements would apply to residential towers in non-contextual R9 and R10 Residence Districts and their equivalent Commercial Districts, as well as Special Purpose Districts that rely on underlying floor area and height and setback regulations or that are primarily residential in character. The provision would also apply to non-residential portions of a mixed-use building if the building contains a limited amount of non-residential floor area.

### **MCB4 Response**

Over the past two decades, the City has undergone massive rezonings with attendant development and redevelopment of entire neighborhoods. Change is the nature of our City, wholesale change of entire districts and neighborhoods at such a pace, that is has been difficult for many New Yorkers to manage. New zoning regulations have caused a major change in various neighborhoods in Manhattan Community District 4 (MCD4).

MCD4 has the densest mapped zoning in the City of New York<sup>1</sup>. While the City becomes denser, MCB4 is dedicated to insuring a balance between technological advances in engineering and architecture, alongside building neighborhood context. MCB4 recognizes the need for density to achieve important public policy goals, such as increasing the supply of housing, both market rate and affordable. However, such policy goals cannot be at the expense of additional height, completely out of scale with the existing neighborhood and the existing zoning and built environment.

MCB4 acknowledges that the proposed text amendments will address a specific unintended type of development; however, the proposed text amendment does not address the overall issue of total building height. The broader development community continues to take advantage of various zoning loopholes, which have resulted in various types of unregulated development:

- building ‘stilts’ or building floors with less than four covering walls,
- oversized mechanical floors built on the lower floors which result in quality of life disturbances,
- the installation of oversized mezzanines,
- excessive building floor to ceiling heights.

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<sup>1</sup> The Special Hudson Yards District has mapped FAR ranging between 13 and 33 FAR

These matters must be addressed in future zoning text amendment regarding mechanical voids.

**MCB4 requests the following matters be addressed in the proposed Zoning Text Amendments:**

**West Side of Eighth Avenue from West 42<sup>nd</sup> and West 45<sup>th</sup> Streets**

This area has a C6-4 zoning, which is an R10 equivalent that allows for residential developments to a maximum of 12 FAR. This area is 150 feet west of Eighth Avenue between the above referenced blocks. DCP has excluded from their proposed text amendment a portion of the Special Clinton District that overlaps with the Special Midtown District. **MCB4 proposes that the proposed text amendment be applied in this district for developments where non-residential uses occupy less than 25 percent of the building.**

**Special Hudson Yards Subdistricts Mapped with Commercial Zoning but Producing Predominantly Residential Buildings**

Subdistricts D1 and D2 within the Special Hudson Yards District are currently redeveloped as predominantly residential buildings, with the zoning allowing a total FAR of up to 15 and 13 FAR respectively. These subdistricts have an underlying C2-8 zoning, which are R10 equivalents and allow for residential developments to a maximum of 12 FAR.

Subdistrict D3 within the Special Hudson Yards District is also currently redeveloped as predominantly residential buildings, with the zoning allowing a total FAR of up to 12 FAR. This subdistrict has an underlying C6-3 zoning, which is an R9 equivalent that allows for residential developments to a maximum of 7.5 FAR.

Given the zoning equivalencies, MCB4 requests that the proposed void restrictions also be applied to Special Hudson Yards Subdistricts D1, D2, and D3.

**Given the R9 & R10 zoning equivalency, MCB4 proposes that the proposed text amendment be applied in this district for developments where non-residential uses occupy less than 25 percent of the building.**

**R8 Districts**

DCP conducted a survey of new residential buildings across the City and concluded that the most egregious examples of excessive mechanical voids are in non-contextual R9 and R10 districts. It was recognized that no such excessive voids are being built in other residential zones with lesser density. Furthermore, certain Special Zoning Districts with height and setback restrictions would take precedence over bulk restrictions.

MCB4 notes that, although the use of unregulated mechanical voids in R8 districts has not yet occurred, it is not prevented. The proposed text amendment will not regulate mechanical voids in

R8 districts. MCB4 requests the inclusion of certain R8 Districts<sup>2</sup>, the majority are in Chelsea, and not in a Special Zoning District.

**MCB4 proposes that the proposed text amendment be applied to R8 zoning districts.**

**Unnecessary Application within the Special Garment Center District, Subdistrict A2**

DCP has included a portion of the Special Garment Center District within its proposed text amendment. This area is bounded 100 feet west of Eighth Avenue and 100 feet east of Ninth Avenue, between West 35<sup>th</sup> and West 39<sup>th</sup> Streets. This area has a C6-4M zoning.

**MCB4 proposes that this area not be included, as there is already an existing 250 feet height restriction within the zoning resolution.**

**Study of Commercial Districts**

DCP has excluded most Special Districts within its analysis, under the assumption that Special Districts, especially those considered Central Business Districts, consist of commercial buildings that encompass a larger and more complex need for mechanical voids, which are not studied within this analysis.

While MCB4 understands the reasoning for this exclusion, MCB4 urges DCP to immediately undertake the next text amendment proposal phase to restrict excessive mechanical voids within Hudson Yards, West Chelsea, Garment Center<sup>3</sup>, and Clinton Special Districts. Many of MCB4 residential neighborhoods are adjacent to such districts and the quality of life of our residents is directly impacted by developments in central business districts.

**Definition of Excessive Height**

DCP is proposing a formula using a 25-foot finished ceiling height, which comes from current experience of the average ceiling height of most buildings being 12-feet, and simply doubling that number.

MCB4 encourages DCP to provide a more technical reasoning and definition of necessary height for mechanical floors and provide empirical evidence to support its claims. There are standards about boiler clearance, water tank dimensions, and efficient space for exhaust, yet none of these formulas are used to justify an exact amount of space necessary for mechanical areas.

Discussions during the committee meetings also turned to the fact that new technologies have dramatically reduced the size of mechanical equipment and are providing efficiencies creating a lesser need for mechanical space in buildings.

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<sup>2</sup> See attachment

<sup>3</sup> The portion of the SGCD along Eighth Avenue from West 35<sup>th</sup> to West 39<sup>th</sup> Streets not covered the height limits in Subdistrict A2

**DOB Internal Guidance Memo**

MCB4 requests the Department of Buildings (DOB), subsequent to the final adoption of the proposed text amendment by the City Council to issue an Internal Guidance document for both DOB plan examiners and the professional and development community. This action will prevent misinterpretations and provide a clear path for development of mechanical spaces in the City.

MCB4 applauds the efforts of DCP to restrict excessive and unnecessary mechanical voids in buildings solely developed to provide additional height and revenue for developers at the expense of neighborhood context and public policy goals. However, MCB4 requests a more finely tuned approach to regulate such mechanical spaces and ensure no further unintended consequences.

Sincerely,



Burt Lazarin  
Chair  
Manhattan Community Board 4



Jean-Daniel Noland  
Chair  
Clinton/Hell's Kitchen Land Use Committee



Betty Mackintosh  
Co-Chair  
Chelsea Land Use Committee



Lee Compton  
Co-Chair  
Chelsea Land Use Committee

**Enclosure**

Cc: Hon. Jerry Nadler, U.S Congress  
Hon. Corey Johnson, Speaker, New York City Council  
Hon. Gale Brewer, Manhattan Borough President  
Hon. Helen Rosenthal, City Council  
Hon. Brad Hoylman, New York State Senator  
Hon. Linda Rosenthal, New York State Assembly  
Hon. Richard Gottfried, New York State Assembly  
Thomas Fariello, Acting Commissioner, DOB  
Martin Rebholz, Borough Commissioner, DOB  
Patrick Wehle, Assistant Commissioner, DOB


# ZONING MAP


THE NEW YORK CITY PLANNING COMMISSION

## Major Zoning Classifications:

The number(s) and/or letter(s) that follows an R, C or M District designation indicates use, bulk and other controls as described in the text of the Zoning Resolution.

- R – RESIDENTIAL DISTRICT
- C – COMMERCIAL DISTRICT
- M – MANUFACTURING DISTRICT

 SPECIAL PURPOSE DISTRICT  
The letter(s) within the shaded area designates the special purpose district as described in the text of the Zoning Resolution.

 AREA(S) REZONED

## Effective Date(s) of Rezoning:

\*06-28-2018 C 180150 ZMM  
06-28-2018 C 180127 ZMM

## Special Requirements:

For a list of lots subject to CEQR environmental requirements, see APPENDIX C.

For a list of lots subject to "D" restrictive declarations, see APPENDIX D.

For Inclusionary Housing designated areas and Mandatory Inclusionary Housing areas on this map, see APPENDIX F.

### MAP KEY

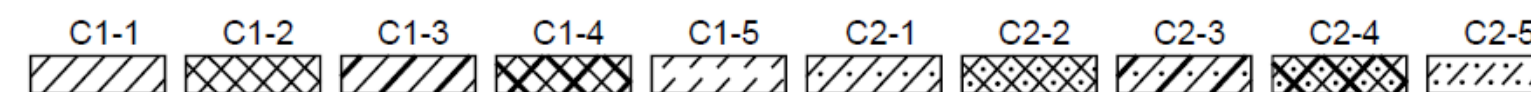
	8a	8c
	<b>8b</b>	8d
	12a	12c

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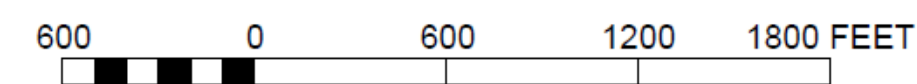
**NOTE:** Zoning information as shown on this map is subject to change. For the most up-to-date zoning information for this map, visit the Zoning section of the Department of City Planning website: [www.nyc.gov/planning](http://www.nyc.gov/planning) or contact the Zoning Information Desk at (212) 720-3291.



# NOTE: STREETS FOR THE STREET MAP CHANGE C 040508MMM ARE SHOWN ON THIS MAP PRIOR TO BECOMING EFFECTIVE IN ORDER TO LOCATE ZONING DISTRICT BOUNDARIES.



NOTE: Where no dimensions for zoning district boundaries appear on the zoning maps, such dimensions are determined in Article VII, Chapter 6 (Location of District Boundaries) of the Zoning Resolution.




# ZONING MAP


THE NEW YORK CITY PLANNING COMMISSION

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 SPECIAL PURPOSE DISTRICT  
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 AREA(S) REZONED

## Effective Date(s) of Rezoning:

06-26-2014 C 140181 ZMM

## Special Requirements:

For a list of lots subject to CEQR environmental requirements, see APPENDIX C.

For a list of lots subject to "D" restrictive declarations, see APPENDIX D.

For Inclusionary Housing designated areas on this map, see APPENDIX F.

### MAP KEY

	5d	6b
8a	<b>8c</b>	9a
8b	8d	9b

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600 0 600 1200 1800 FEET

C1-1 C1-2 C1-3 C1-4 C1-5 C2-1 C2-2 C2-3 C2-4 C2-5

NOTE: Where no dimensions for zoning district boundaries appear on the zoning maps, such dimensions are determined in Article VII, Chapter 6 (Location of District Boundaries) of the Zoning Resolution.

ZONING MAP 8C


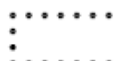


# ZONING MAP

THE NEW YORK CITY PLANNING COMMISSION

## Major Zoning Classifications:

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- R – RESIDENTIAL DISTRICT
- C – COMMERCIAL DISTRICT
- M – MANUFACTURING DISTRICT
-  SPECIAL PURPOSE DISTRICT  
The letter(s) within the shaded area designates the special purpose district as described in the text of the Zoning Resolution.
-  AREA(S) REZONED

## Effective Date(s) of Rezoning:

08-08-2018 C 170380 ZMM

## Special Requirements:

For a list of lots subject to CEQR environmental requirements, see APPENDIX C.

For a list of lots subject to "D" restrictive declarations, see APPENDIX D.

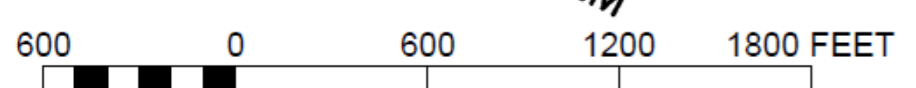
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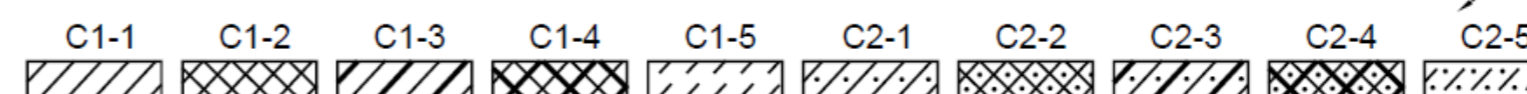
8a	8c	9a
8b	<b>8d</b>	9b
12a	12c	13a

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# NOTE: STREETS FOR THE STREET MAP CHANGE C 040508 MMM ARE SHOWN ON THIS MAP PRIOR TO BECOMING EFFECTIVE IN ORDER TO LOCATE ZONING DISTRICT BOUNDARIES.



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