

**THE NEW YORK CITY DEPARTMENT OF CITY PLANNING**

**NOTICE OF ADOPTION OF RULES**

NOTICE IS HEREBY GIVEN that in accordance with section 1043 of the New York City Charter, that the Department of City Planning hereby adds a new Chapter 8 within Title 62 of the Rules of the City of New York. The rule was published for comment in the City Record on December 20, 2010. The required public hearing on this rule was held on January 20, 2011.

Material to be added is underlined.

Section 1. Title 62 of the Rules of the City of New York is amended by adding a new Chapter 8, to read as follows:

Chapter 8: Rules for the Processing of Applications for Permitted Parking Pursuant to Section 93-82 of the Zoning Resolution

**§8-01 Purpose**

These rules of procedure are established for the review of applications for certification to allow permitted parking pursuant to section 93-82 of the Zoning Resolution (ZR).

**§8-02 Pre-Filing Process**

(a) Pre-Filing Review.

- (i) The applicant shall submit for review a draft application, which draft application may be submitted electronically or in hard copy. Such draft application shall include zoning calculations for the site from which the number of permitted spaces for the site may be ascertained. Draft applications shall be submitted to the Department of City Planning, c/o Director of the Department's Manhattan Office (hereinafter, "Director") by mail to: New York City Department of City Planning, 22 Reade Street, New York, New York 10007 or by email to: HYParking@planning.nyc.gov. Upon receipt, the Director shall record the date and time of receipt. All applications shall be reviewed for completeness in order of receipt.
- (ii) The Department, acting by and through the Director, shall review each application for accuracy and completeness in order of receipt. The Director shall notify the applicant whether or not the application is complete and may be filed in accordance with the provisions of §8-03, or whether the application is inaccurate or incomplete and requires revision. Such notification may be mailed, faxed or emailed to the applicant's

representative, together with a specification of the portions of the application which are inaccurate or incomplete and require revision, if applicable.

- (iii) The Director shall record the date and time of receipt of any revised draft application submitted in response to a notification provided under subparagraph (ii). A revised draft application shall be reviewed for completeness in order of receipt and the applicant's representative shall be notified of the Director's determination, pursuant to the procedure set forth subparagraph (ii) of this Section.

### **§8-03 Filing of Applications**

- (a) Filing. Following notification pursuant to §8-02(a) (ii) that a draft application is complete, the applicant shall file nine (9) copies of the application at the Department of City Planning, Intake Office, 22 Reade Street, New York, New York 10007. Applications which have not been reviewed and determined to be complete pursuant to §8-02 shall not be accepted for filing. Applications shall not be permitted to be filed unless accompanied by the payment of all applicable fees in accordance with §3-07(e)(4). Applications accepted for filing in accordance herewith shall be stamped by the Department with the date and time of filing.

### **§8-04 Certification for Permitted Parking Spaces**

(a) Filing Date. Review of applications for certification for permitted parking spaces shall be made, in accordance with the provisions of ZR Section 93-82, in the order of application filing date and time, except as provided in paragraph (b) hereof. If, pursuant to ZR Section 93-82, fewer permitted parking spaces are available than the number of spaces requested in an application, the Chairperson shall only grant a certification for the number of spaces as are available at the time, and shall issue subsequent certifications for such application at such time as additional spaces become available in accordance with ZR Section 93-82. Except as provided in paragraph (b) below, certification of parking spaces shall not be made with respect to an application with a later filing date and time until the entire number of parking spaces requested in an application with an earlier filing date and time has been certified.

(b) Applicant Reduces Existing Spaces On Site. Notwithstanding the provisions of paragraph (a), if an applicant intends to eliminate existing parking spaces at the site that is the subject of the application, a certification for permitted parking spaces may be granted to the extent that elimination of existing parking spaces allows such determination to be made pursuant to ZR Section 93-821 (e)(1) and (2), provided: (i) that such existing parking spaces shall be eliminated prior to issuance of the certification. The elimination of such existing parking spaces shall be evidenced by: (aa) an acknowledgement from the New York City Department of Consumer Affairs that license(s) issued by such agency for the operation of public parking at the site have been

surrendered or, if such license(s) are pending renewal at the time, that the licensee has stated to the New York City Department of Consumer Affairs in writing that the license(s) will not be renewed; or (bb) if the licensee is no longer in control of the premises, in the form of an affidavit from the owner or applicant attesting to the fact that the licensee is not in control of the premises and is not authorized to operate at the premises; and (ii) a restrictive declaration executed by all parties-in-interest, as such term is defined in ZR Section 12-10, providing that any resumption of use of the eliminated spaces prior to or during construction shall be prohibited, has been recorded in the office of the City Register. If the number of parking spaces requested in the application exceeds the number of permitted spaces available by reason of the elimination of existing spaces, any subsequent certifications with respect to additional spaces shall be made in accordance with the provisions of paragraph (a) above.

## STATEMENT OF BASIS AND PURPOSE

The Department of City Planning is proposing to amend its rules pursuant to its authority under Section 1043 of the New York City Charter.

This amendment of Title 62 of the Rules of the City of New York would add a new Chapter 8 to establish a procedure for the processing of applications for zoning approvals for permitted accessory parking within the Special Hudson Yards District, as set forth in Article IX, Chapter 3 of the New York City Zoning Resolution (Zoning Resolution). The zoning text pertaining to permitted parking was adopted in April of 2010.

Within the “Hudson Yards parking regulations applicability area”, as such term is defined in Section 93-81 of the Zoning Resolution, no permitted accessory off street parking spaces may be provided without certification by the Chairperson of the City Planning Commission. Under the zoning text, it is possible that no parking spaces or only a limited number of parking spaces will be available for approval by the Chairperson at the time of application.

The proposed amendment establishes a procedure for the preliminary review, filing and processing of applications in order of application filing date and time, in order to ensure that parking spaces are approved in a fair and orderly fashion under circumstances where no parking spaces or only a limited number of parking spaces are available for approval at a given time, and applicants must await the availability of some or all of the requested additional spaces at a later date. The procedure provides that the application with the earliest filing date and time be considered in advance of subsequently filed applications. In addition, if the number of spaces sought is not available in its entirety at the time of application, approvals would be granted serially for such application as additional spaces become available, over time, until the number sought has been provided. Once the number of spaces requested in an application has been provided, subsequently filed applications may then be processed in order of filing date and time.

An application may be processed without regard to its position in the ‘queue’ where the applicant proposes to eliminate existing parking spaces at the site that is the subject of the application in order to achieve the number of spaces sought in accordance with the requirements of the zoning text. The proposed rule would ensure that such existing parking spaces have actually been eliminated by requiring proof thereof prior to approval. This proof could be in the form of an acknowledgement from the New York City Department of Consumer Affairs that the license(s) issued by such agency for the operation of public parking at the site have been surrendered or, if such license(s) are pending renewal at the time, that the licensee has stated to the New York City Department of Consumer Affairs in writing that the license(s) will not be renewed. If the licensee is no longer in control of the premises or authorized to operate there, this proof could take the form of an affidavit from the owner or applicant attesting to that fact. Finally, the rules would require the recordation at the City Register of a restrictive

declaration prohibiting any resumption of use of the eliminated spaces prior to or during construction.