

THE NEW YORK CITY PLANNING COMMISSION

NOTICE OF PROMULGATION OF RULES

Notice is hereby given that pursuant to Sections 192 and 1043 of the New York City Charter and pursuant to Section 81-744(a)(5) of the New York City Zoning Resolution (the “Zoning Resolution”), the New York City Planning Commission (“City Planning Commission”) promulgates this amendment to Subchapter C of Chapter 3 of Title 62 of the Rules of the City of New York. This amendment will adjust the contribution amount that is required in conjunction with transfers of development rights from listed theaters in the Theater Subdistrict.

This rule was published on September 15, 2011 for public comment in the City Record. The public hearing for this rule was held on October 19, 2011 at 22 Reade Street, New York, NY 10007. Pursuant to section 1043(e)(1)(c) of the Charter, this rule will go into effect 30 days following publication in the City Record.

Statement of Basis and Purpose of Rule

Statutory Authority

This rule is promulgated pursuant to the authority of the City Planning Commission under Sections 192 and 1043 of the New York City Charter and pursuant to Section 81-744(a)(5) of the Zoning Resolution. Section 81-744 of the Zoning Resolution requires that every three to five years the City Planning Commission must review and adjust the contribution amount that is required in conjunction with transfers of development rights from listed theaters in the Theater Subdistrict. Such adjustment must specifically reflect the change in assessed value of all properties on zoning lots wholly within the Theater Subdistrict. This rule is exempt from Local Law 46 of 2010 pursuant to section 1043(d)(4)(iii) of the New York City Charter.

Statement of Purpose

In accordance with Section 81-744 of the Zoning Resolution, the City Planning Commission shall allow the transfer of development rights from listed theaters in the Theater Subdistrict by certification or authorization. Certification or authorization shall be granted, provided that, among other requirements, the appropriate legal documents are executed ensuring that a contribution in an amount, which is presently established to be \$14.91 per square foot of transferred floor area, is deposited in the Theater Subdistrict Fund. The City Planning Commission is required to periodically review the contribution amount and to adjust such amount to reflect any change in the assessed value of all properties on zoning lots situated entirely within the Theater Subdistrict.

Based on data provided by the New York City Department of Finance (“DOF”), it was determined that from 1998 to 2006 the assessed value of all properties situated entirely within the Theater Subdistrict increased 49.06% per square foot. Accordingly, a 2006 rule increased the required Theater Subdistrict Fund contribution from \$10.00 to \$14.91 per square foot of development rights transferred from designated theaters.

Based on DOF data, it has been determined that from 2006 to 2011 the assessed value of all properties situated entirely within the Theater Subdistrict has increased 18% per square foot. DOF data shows that in 2006, the total built floor area of the Theater Subdistrict was 81,642,687 square feet, the total assessed value of such properties was \$8,621,852,552, and therefore the total assessed value per square foot was \$105.60. DOF data also shows that in 2011, the total built floor area in the Theater Subdistrict was 95,701,919 square feet, the total assessed value of such properties was \$11,926,866,079, and therefore the total assessed value per square foot was \$124.63. Given that the assessed value of all properties has increased \$19.02 per square foot or 18% from 2006 to 2011, the rule correspondingly increases the required Theater Subdistrict Fund contribution by 18%, from \$14.91 to \$17.60 per square foot of development rights transferred from the listed theaters.

Summary of Provisions

This rule amends Section 3-08 of Subchapter C of Chapter 3 of Title 62 of the Rules of the City of New York to provide that a contribution of \$17.60 per square foot must be made in conjunction with development rights transferred from the listed theaters.

Material to be deleted is enclosed in [brackets] and material to be added is underlined.

Section 1. Section 3-08 of Subchapter C of Chapter 3 of Title 62 of the Rules of the City of New York is amended to read as follows:

SUBCHAPTER C. CONTRIBUTIONS

§3-08. Contributions to Theater Subdistrict Fund Pursuant to Section 81-744 of the New York City Zoning Resolution.

Contributions to the Theater Subdistrict Fund pursuant to Section 81-744 of the New York City Zoning Resolution shall be made in an amount equal to \$[14.91]17.60 per square foot of floor area transferred.