

FLOOD ZONE RESTRICTIVE DECLARATION

DECLARATION, made this _____ day of _____, 200__, by _____, hereinafter referred to as the “Declarant,” having an office/residing at _____.

WHEREAS, the Declarant is the fee owner of certain land located in the City and State of New York, Borough of _____, designated as Block _____ Lot _____ on the Tax Map of the City of New York, hereinafter referred to as Parcel A, more particularly described by a metes and bounds description on Schedule A annexed hereto and by this reference made a part hereof;

WHEREAS, Parcel A is located within Zone A as delineated in New York City Administrative Code Reference Standard RS 4-4 as a Special Flood Hazard Area, and as delineated on the Federal Emergency Management Agency’s Flood Insurance Rate Map for the City of New York, Panel _____ of _____ with an effective date of November 16, 1983;

WHEREAS, the Declarant has requested the New York City Department of Buildings (the “Department of Buildings”) to act upon Application No. _____ to construct [alter] a mixed use building, as defined in New York City Administrative Code Section 27-317.1, on Parcel A (the “Building”) with non-habitable rooms located below the base flood elevation; and

WHEREAS, Section 27-317.2 of the Administrative Code of the City of New York allows mixed use buildings to be constructed or altered within Zone A with non-habitable portions located below the base flood elevation provided certain conditions are met and noted in a recorded declaration.

NOW, THEREFORE, in consideration of the issuance by the Department of Buildings of a building permit for the Building, the Declarant does hereby declare the following:

1. The Building is constructed and shall be maintained so as to provide entrance access at or above the base flood elevation;
2. The portion of the Building and all service equipment below the base flood elevation are flood-proofed, in accordance with reference standard RS 4-5;
3. No habitable rooms shall be located in such cellar or basement;
4. No more than one water closet and/or wash basin shall be provided in an enclosed space not to exceed four feet by four feet six inches located in such cellar or basement, and no roughing therein shall be allowed to accommodate any additional fixtures;

5. No accessory kitchen shall be located in such cellar or basement; however, one two-compartment laundry tray or similar appliance may be installed outside the water closet compartment;
6. The building permit application shall state that:
 - a. The premises is located within the special flood hazard area;
 - b. The cellar or basement is located below the level of the base flood elevation; and
 - c. No portion of the cellar or basement shall be used for living purposes;
7. Failure to comply with the terms of this declaration may result in the revocation of a building permit or certificate of occupancy;
8. This declaration may not be modified, amended or terminated without prior written consent of the Department of Buildings;
9. The covenants set forth herein shall run with the land and be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns; and
10. This declaration shall be recorded at the city register's (county clerk's) office against all affected parcels of land and the cross-reference number and title of the declaration shall be recorded on each temporary and permanent certificate of occupancy hereafter issued to buildings located on the affected parcels and in any deed for the conveyance thereof.

IN WITNESS WHEREOF, Declarant has made and executed the foregoing restrictive declaration as of the date hereinabove written.

Declarant

By:

STATE OF NEW YORK)
) ss.:
COUNTY OF _____)

On the _____ day of _____, in the year _____, before me, the undersigned, personally appeared [Declarant] _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public