**Zoning Resolution**

THE CITY OF NEW YORK
**Zohran K. Mamdani, Mayor**

CITY PLANNING COMMISSION
**Sideya Sherman, Chair**

# 32-40 - SUPPLEMENTARY USE REGULATIONS

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## 32-40 - SUPPLEMENTARY USE REGULATIONS

LAST AMENDED
12/15/1961

## 32-41 - Enclosure Within Buildings

LAST AMENDED
6/6/2024

C1 C2 C3 C4 C5 C6 C7 C8

In the districts indicated, except as otherwise specifically provided in the Use Groups permitted in such districts and in Sections 36-11 (General Provisions) and 36-61 (Permitted Accessory Off-street Loading Berths), all permitted #uses# which are created by #development#, or which are #enlarged# or #extended#, or which result from a change of #use# shall be subject to the provisions of this Section with respect to enclosure within #buildings#. With respect to the #enlargement# or #extension# of an existing #use#, such provisions shall apply to the #enlarged# or #extended# portion of such #use#.

#Accessory# #uses# may be open or enclosed, notwithstanding any limitations on the principal #use#, provided that any open #accessory# #uses# are customarily found in connection with such principal #use#.

## 32-411 - In C1, C5, C6-5 or C6-7 Districts

LAST AMENDED
2/24/2022

C1 C5 C6-5 C6-7

In the districts indicated, all such #uses# shall be located within #completely enclosed# #buildings# except for store fronts or store windows, associated with eating and drinking establishments, which may be opened to serve customers outside the #building# upon the adoption of initial rules governing the Permanent Open Restaurants program by an authorized agency following authorizing legislation by the City Council.

## 32-412 - In other Commercial Districts

LAST AMENDED
12/5/2024

C2 C3 C4 C6-1 C6-2 C6-3 C6-4 C6-6 C6-8 C6-9 C6-11 C6-12 C7 C8

In the districts indicated, all such #uses# shall be located within #completely enclosed# #buildings# or within #buildings# which are #completely enclosed# except for store fronts or store windows which may be opened to serve customers outside the #building#.

## 32-413 - Drive-through facilities

LAST AMENDED
6/6/2024

In C1 through C7 Districts, #accessory# drive-through facilities for any #use# listed in Use Group VI, as set forth in Section 32-16 (Use Group VI – Retail and Services), may be permitted by special permit of the Board of Standards and Appeals, in accordance with Section 73-311 (Drive-through facilities).

## 32-42 - Location Within Buildings

LAST AMENDED
12/15/1961

## 32-421 - Limitation on floors occupied by commercial uses

LAST AMENDED
6/6/2024

C1 C2 C3

In the districts indicated, in any #building#, or portion of a #building#, not more than two #stories# may be occupied by #commercial# #uses# listed in Use Groups VI through X.

However, for #buildings# containing #residences#:

(a) no #conversion# shall be permitted from #dwelling units# to such #commercial uses# on a second #story#:

(1) in a #building# constructed before September 17, 1970 and located in C1 or C2 Districts mapped within, or with an equivalent of, an R9 or R10 District; or

(2) in a #building# constructed before June 6, 2024, in all other districts;

(b) the environmental requirements set forth in Section 32-423 shall be met, where applicable;

(c) such #commercial uses# may be permitted on the same #story# as #residences#, provided that no access exists between such #uses# at any level containing #dwelling units#;

(d) no #commercial uses# shall be located above any #story# containing #dwelling units#; and

(e) in C1 or C2 Districts that are #select commercial overlays# the following #commercial uses# shall not be permitted on the second #story# where such #story# also contains #dwelling units#:

From Use Group VIII

All #uses# listed under Amusement and Recreation Facilities

#Accessory# mechanical equipment serving #commercial# #uses# listed in such use groups shall not be subject to the location restrictions of this Section.

## 32-422 - Location of floors occupied by commercial uses

LAST AMENDED
6/6/2024

C4 C5 C6

In the districts indicated, in any #building# containing #residences#, #commercial# #uses# may be permitted on the same #story# as a #residential use#, or on a #story# higher than that occupied by #residential uses#, provided that:

(a) no #conversion# shall be permitted from #dwelling units# to such #commercial# #uses# in a #building# constructed before June 6, 2024;

(b) the environmental requirements set forth in Section 32-423 shall be met, where applicable;

(c) no access exists between such #uses# at any level containing #dwelling units#; and

(d) the following #commercial# #uses# shall not be permitted on a #story# above #dwelling units#:

From Use Group VI:

Eating or drinking establishments, in locations outside of the Borough of Manhattan;

From Use Group VIII

All #uses# listed under Amusement and Recreation Facilities.

#Accessory# mechanical equipment serving #commercial uses# listed in such Use Groups shall not be subject to the location restrictions of this Section.

## 32-423 - Additional environmental standards for certain uses

LAST AMENDED
6/6/2024

Where #commercial uses# are located either on the same #story# as #dwelling units#, or on a higher #story#, pursuant to the applicable provisions of Section 32-421 and 32-422, the provisions of this Section shall apply to #uses# listed in Use Group VI, as set forth in Section 32-16 (Use Group VI – Retail and Services), inclusive, #uses# listed in Use Group VIII, as set forth in Section 32-18 (Use Group VIII – Recreation, Entertainment and Assembly Spaces), inclusive, #uses# listed in Use Group IX, as set forth in Section 32-19 (Use Group IX - Storage) and #uses# listed in Use Group X, as set forth in Section 32-20 (Use Group X – Production Uses).

(a) Air quality

Where a #use# listed in Use Group X is required to install an emission stack by Federal, State or Local law, such stack shall exhaust above the height of #building# containing such #use#, or above the height of the immediately adjacent #buildings#, whichever is higher.

(b) Noise

Above the level of the first #story#, where the applicable #commercial# #uses# are located on the same #story# as a #dwelling unit# or a #story# higher than a #dwelling unit#, such #uses# shall either:

(1) be separated from #dwelling units# by a horizontal or vertical distance of at least 15 feet and includes at least two wall or ceiling partitions, as applicable; or

(2) provide attenuation that will result in a sound level below 42 dBA for daytime and 35 dBA for nighttime, as measured from the interior of the closest #dwelling units#. Such measurement shall be verified by an acoustical engineer prior to the issuance of a certificate of occupancy by the Department of Buildings.

(c) Vibration

Above the level of the first #story#, where the applicable #commercial# #uses# are located on the same #story# as a #dwelling unit# or a #story# higher than a #dwelling unit#, such #uses# shall be subject to the provisions of Section 42-22 (Performance Standards Regulating Vibration) for an M1 District, except that the measurements for maximum vibration displacements shall be measured within the #building# instead of at the #lot line#. Such measurement shall be verified by a vibration or acoustical engineer prior to the issuance of a certificate of occupancy by the Department of Buildings.

## 32-43 - Limitations on Business Entrances, Show Windows or Signs

LAST AMENDED
6/6/2024

C1 C2 C3 C4 C5 C6 C7 C8

In all districts, as indicated, the location of primary business entrances, #show windows# or #signs# shall be subject to the provisions of this Section.

For the purposes of this Section, a lot of record or a group of contiguous lots of record held in single ownership or control at December 15, 1961, or any applicable amendment thereto shall be considered a single #zoning lot#, regardless of any subsequent subdivision.

For the purposes of this Section, a #corner lot# shall include the entire #zoning lot# notwithstanding the 100-foot limitation in the definition of #corner lots# in Section 12-10 (DEFINITIONS). All other #zoning lots# shall be considered #zoning lots# with single frontage.

The provisions of this Section shall not apply to:

(a) vehicular entrances or exits for permitted drive-in #uses# or automotive service establishments or for permitted or required #accessory# off-street parking spaces or loading berths;

(b) service entrances, or other entrances less than 3 feet, 6 inches in width;

(c) windows other than #show windows#; or

(d) ventilators, fire escapes or other appurtenances required by law.

## 32-431 - For zoning lots with single frontage

LAST AMENDED
6/6/2024

C1 C2 C3 C4 C5 C6 C7 C8

In all districts, as indicated, for #zoning lots# with single frontage, no primary business entrance, #show window# or #sign# shall be located on that portion of the #street# frontage within a distance of 20 feet from frontage on the same side of the #street# in a #Residence District#.

However, where the #street# frontage of such #zoning lot# or portion thereof within the #Commercial District# is less than 30 feet in length, the minimum distance shall be reduced to 10 feet. For #zoning lots# with a frontage of more than 30 feet, an application may be made to the Board of Standards and Appeals to reduce such minimum distance to 10 feet, as provided in Section 73-50 (Special Provisions Applying Along District Boundaries).

## 32-432 - For corner lots

LAST AMENDED
6/6/2024

C1 C2 C3 C4 C5 C6 C7 C8

In all districts, as indicated, no primary business entrance, #show window#, or #sign# shall be located on that portion of the #street# frontage of a #corner lot# within 75 feet of frontage on the same side of the #street# in a #Residence District#.

However, primary business entrances, #show windows# or #signs# may be located on frontage less than 75 feet, but not less than 20 feet, from a #Residence District# boundary:

(a) if the total length of the #block# face containing such frontage is less than 220 feet;

(b) if such frontage adjoins frontage on a #corner lot# in a #Residence District#; or

(c) if such frontage is separated from frontage in the #Residence District# by one or more #zoning lots# with single frontage.

## 32-433 - Exceptions for integrated developments divided by district boundaries

LAST AMENDED
6/6/2024

C1 C2 C3 C4 C5 C6 C7 C8

In all districts, as indicated, primary business entrances, #show windows# or #signs# may be located on any frontage within a #Commercial District#, if the Commissioner of Buildings finds that the #zoning lot# on which the business entrance, #show window# or #sign# is to be located:

(a) is divided by a boundary between the #Commercial District# and a #Residence District#; or

(b) is currently in the same ownership as adjoining property located in a #Residence District# and no #building# in the #Residence District# exists, or will in the future be erected, within a distance of 75 feet from the #Commercial District#, as evidenced by deed restrictions filed in an office of record binding the owner and the owner's heirs and assigns.