



## Zoning Resolution

THE CITY OF NEW YORK

Eric Adams, Mayor

CITY PLANNING COMMISSION

Daniel R. Garodnick, Chair

# **73-62 - Modification of Bulk Regulations for Buildings Containing Residences**

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## 73-62 - Modification of Bulk Regulations for Buildings Containing Residences

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LAST AMENDED

2/2/2011

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### 73-621 - Enlargement, change of use, or extension within buildings containing residential uses

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LAST AMENDED

2/2/2011

For a complying or #non-complying# #building# existing on December 15, 1961, or in R2X, R3, R4 or R5 Districts on June 30, 1989, and containing #residential uses#, the Board of Standards and Appeals may permit an #enlargement#, a change of #use# or (in the case of a #mixed building#) an #extension#, provided that such #enlargement#, change of #use# or #extension# shall not create any new #non-compliance# or increase the amount or degree of any existing #non-compliance# except as provided in this Section.

In the districts and for the #buildings# for which an #open space ratio# is required, the #open space ratio# permitted under this Section shall not be less than 90 percent of the #open space ratio# required under the applicable #bulk# regulations set forth in Article II or III of this Resolution. In the districts and for the #buildings# to which a maximum #lot coverage# applies, the maximum #lot coverage# permitted under this Section shall not exceed 110 percent of the maximum #lot coverage# permitted under the applicable #bulk# regulations set forth in Article II or III of this Resolution. In all districts, the #floor area ratio# permitted under this Section shall not exceed the #floor area ratio# permitted under such regulations by more than 10 percent. In R2X, R3 or R4 Districts, the additional #floor area# permitted pursuant to this Section may be computed using a base #floor area ratio# including the #floor area# permitted under a sloping roof with a structural headroom between five and eight feet when such space is provided in the #building#.

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### 73-622 - Enlargements of single- and two-family detached and semi-detached residences

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LAST AMENDED

5/12/2021

The Board of Standards and Appeals may permit an #enlargement# of an existing #single-# or #two-family# #detached# or #semi-detached# #residence#, except #cottage envelope buildings# as such term is defined in Section [64-11](#) (Definitions), utilizing the provisions of Section [64-33](#) (Special Bulk Regulations for Cottage Envelope Buildings), within the following areas:

- (a) Community Districts 11 and 15, in the Borough of Brooklyn;
- (b) R2 Districts within the area bounded by Avenue I, Nostrand Avenue, Kings Highway, Avenue O and Ocean Avenue, Community District 14, in the Borough of Brooklyn; and
- (c) within Community District 10 in the Borough of Brooklyn, after October 27, 2016, only the following applications, Board of Standards and Appeals Calendar numbers 2016-4218-BZ, [234-15-BZ](#) and 2016-4163-BZ, may be granted a special permit pursuant to this Section. In addition, the provisions of Section [73-70](#) (LAPSE OF PERMIT) and paragraph (f) of Section [73-03](#) (General Findings Required for All Special Permit Uses and Modifications), shall not apply to such applications and such special permit shall automatically lapse and shall not be renewed if substantial construction, in compliance with the approved plans for which the special permit was granted, has not been completed within two years from the effective date of issuance of such special permit.

Such #enlargement# may create a new #non-compliance#, or increase the amount or degree of any existing #non-compliance#,

with the applicable #bulk# regulations for #lot coverage#, #open space#, #floor area#, #side yard#, #rear yard# or perimeter wall height regulations, provided that:

- (1) any #enlargement# within a #side yard# shall be limited to an #enlargement# within an existing #non-complying# #side yard# and such #enlargement# shall not result in a decrease in the existing minimum width of open area between the #building# that is being #enlarged# and the #side lot line#;
- (2) any #enlargement# that is located in a #rear yard# is not located within 20 feet of the #rear lot line#; and
- (3) any #enlargement# resulting in a #non-complying# perimeter wall height shall only be permitted in R2X, R3, R4, R4A and R4-1 Districts, and only where the #enlarged building# is adjacent to a #single-# or #two-family# #detached# or #semi-detached# #residence# with an existing #non-complying# perimeter wall facing the #street#. The increased height of the perimeter wall of the #enlarged building# shall be equal to or less than the height of the adjacent #building's# #non-complying# perimeter wall facing the #street#, measured at the lowest point before a setback or pitched roof begins. Above such height, the setback regulations of Section [23-631](#), paragraph (b), shall continue to apply.

The Board shall find that the #enlarged# #building# will not alter the essential character of the neighborhood or district in which the #building# is located, nor impair the future use or development of the surrounding area. The Board may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

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### **73-623 - Bulk modifications for certain Quality Housing buildings on irregular sites**

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LAST AMENDED 3/22/2016

For #developments# or #enlargements# of #Quality Housing buildings# in which at least 50 percent of the #dwelling units# are #income-restricted housing units#, or at least 50 percent of its total #floor area# is a #long-term care facility# or philanthropic or non-profit institution with sleeping accommodation, the Board of Standards and Appeals may modify the underlying #bulk# regulations, other than #floor area ratio#, provided that in no event shall such #building# height or the number of #stories# therein exceed those set forth in paragraph (b) of Section [23-664](#) (Modified height and setback regulations for certain Inclusionary Housing buildings or affordable independent residences for seniors), and provided that the Board finds that:

- (a) there are physical conditions, including irregularity, narrowness or shallowness of lot size or shape, or topographical features that create practical difficulties in complying with the #bulk# regulations for #Quality Housing buildings# and would adversely affect the #building# configuration or site plan;
- (b) the practical difficulties of developing on the #zoning lot# have not been created by the owner or by a predecessor in title;
- (c) the proposed modifications will not unduly obstruct access of light and air to adjoining properties or #streets#;
- (d) the proposed scale and placement of the #development# or #enlargement# relates harmoniously with the surrounding area; and
- (e) the requested modification is the least amount necessary to relieve such practical difficulties.

The Board may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

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### **73-624 - Reduction or modification of Mandatory Inclusionary Housing requirements**

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LAST AMENDED  
3/22/2016

For a #development#, #enlargement# or #conversion# subject to the provisions of paragraph (d)(3), inclusive, of Section [23-154](#) (Inclusionary Housing), the Board of Standards and Appeals may, upon determining that a hardship that is specifically created by the requirements of such Section exists, modify the income levels specified for #qualifying households#, reduce the amount of #affordable floor area# required or reduce the amount of a payment into the #affordable housing fund#, provided the Board finds that:

- (a) the applicant has applied for any appropriate relief for which such #development#, #enlargement# or #conversion# is eligible for any financial hardship or practical difficulty not specifically created by the requirements of Section [23-154](#), paragraphs (d)(3)(i) through (d)(3)(v) and (d)(5);
- (b) such requirements for #affordable housing# or a contribution to an #affordable housing fund# create an unnecessary hardship, with no reasonable possibility that a #development#, #enlargement# or #conversion# on the #zoning lot# in strict compliance with the provisions of Section [23-154](#), paragraphs (d)(3)(i) through (d)(3)(v) and (d)(5), and Section [23-90](#) (INCLUSIONARY HOUSING), inclusive, will bring a reasonable return, and that a modification or reduction of these requirements is therefore necessary to enable the owner to realize a reasonable return from such #zoning lot#; and
- (c) the unnecessary hardship claimed as a basis for such modification or reduction has not been created by the owner or by a predecessor in title.

In determining whether a hardship exists, the Board shall consider whether alternative permitted #uses#, or alternative forms of housing tenure would bring a reasonable return from the #zoning lot#.

The Board may modify #affordable housing# requirements set forth in Section [23-154](#), paragraphs (d)(3)(i) through (d)(3)(iv) and (d)(5), to permit appropriate relief as follows.

First, the Board shall determine whether compliance with the requirements of Option 1, Option 2 or the Deep Affordability Option, as set forth in Section [23-154](#), paragraphs (d)(3)(i), (d)(3)(ii) and (d)(3)(iii), respectively, where not otherwise permitted, provides sufficient relief.

If the Board does not so find, the Board shall next determine whether compliance with the requirements of the Workforce Option, as set forth in Section [23-154](#), paragraph (d)(3)(iv), where not otherwise permitted, provides sufficient relief.

If the Board does not so find, the Board, in consultation with the Department of Housing Preservation and Development, shall determine a modification or reduction of the requirements of Section [23-154](#), paragraph (d)(3)(i) through (d)(3)(iv) and (d)(5), that represents the minimum necessary modification or reduction to afford relief.

In addition, the Board, in consultation with the Department of Housing Preservation and Development, may permit a modification or reduction of the requirements of Section [23-154](#), paragraph (d)(3)(v) that represents the minimum necessary modification or reduction to afford relief.

A copy of each application to the Board for a special permit under the provisions of this Section shall be provided by the applicant to the Department of Housing Preservation and Development concurrently with its submission to the Board. Before the Board issues a final determination on any application made pursuant to this Section, #HPD# shall submit comment or appear before the Board regarding such application.

A special permit pursuant to this Section shall lapse after a term of four years, pursuant to Section [73-70](#) (LAPSE OF PERMIT). When considering an application for renewal of a special permit pursuant to paragraph (f) of Section [73-03](#) (General Findings Required for All Special Permit Uses and Modifications), the Board shall consult with #HPD# in determining whether the circumstances warranting the original grant of such permit still obtain, and may renew, modify, or deny the application for

renewal, as appropriate.

The Board may prescribe such conditions and safeguards as it deems necessary to minimize adverse effects upon the surrounding area and the community at large.

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## **73-625 - Modification of Affordable Housing Fund payment options in the SoHo NoHo Mixed Use District**

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LAST AMENDED 12/15/2021

Within the #Special SoHo-NoHo Mixed Use District#, for #conversions# from non-#residential# to #residential use# in #buildings# existing prior to December 15, 2021, that are not otherwise subject to paragraph (d)(3)(v) of Section [23-154](#) (Inclusionary Housing), the Board of Standards and Appeals may permit a contribution to the #affordable housing fund# pursuant to such paragraph to satisfy the requirements of paragraph (d)(3), inclusive, of such Section, provided that the Board finds that:

- (a) the configuration of the #building# imposes constraints, including, but not limited to, deep, narrow or otherwise irregular #building# floorplates, limited opportunities to locate #legally required windows#, or pre-existing locations of vertical circulation or structural column systems, that would create practical difficulties in reasonably configuring the required #affordable floor area# into a range of apartment sizes and bedroom mixes serving a number of lower-income residents comparable to what such quantity of #affordable floor area# would serve in a more typical configuration, pursuant to the #guidelines# of the Inclusionary Housing Program. Before the Board issues a final determination on any application made pursuant to this Section, the Department of Housing Preservation and Development shall submit comment or appear before the Board regarding this finding;
- (b) the practical difficulties existed on December 15, 2021.

For the purposes of this Section, defined terms include those set forth in Sections [12-10](#) and 23-911.

A copy of each application to the Board for a special permit under the provisions of this Section shall be provided by the applicant to the Department of Housing Preservation and Development concurrently with its submission to the Board.

The Board may prescribe such conditions and safeguards as it deems necessary to minimize adverse effects upon the surrounding area and the community at large.