Zoning Resolution

THE CITY OF NEW YORK
Zohran K. Mamdani, Mayor

CITY PLANNING COMMISSION
Daniel R. Garodnick, Chair

62-80 - SPECIAL REVIEW PROVISIONS

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62-80 - SPECIAL REVIEW PROVISIONS

LAST AMENDED
4/22/2009

An application to the Department of Buildings, Department of City Planning or Department of Business Services, involving a #zoning lot# subject to the provisions of this Chapter, shall include a survey of the #zoning lot# showing the following elements, as applicable, and documentation showing compliance with all requirements for #waterfront public access areas#:

(a) pierhead line;

(b) bulkhead line;

(c) #shoreline#, including its length;

(d) #upland lot#, including its area;

(e) #seaward lot#, including its area;

(f) area of the portion of the #zoning lot# seaward of the #shoreline#;

(g) #existing piers#, #platforms# or #floating structures#, including #water coverage# and surface elevation or height, as applicable;

(h) previously established and recorded #visual corridors# and #waterfront public access areas# or any other public access area on the #zoning lot# or on adjoining #zoning lots#;

(i) #visual corridors# or #waterfront public access areas# required on the #zoning lot# by a Waterfront Access Plan set forth in Section 62-90; and

(j) existing bulkheads and stabilized portions of natural shore showing seaward and landward edges, as well as their top elevations.

62-81 - Certifications by the Chairperson of the City Planning Commission

LAST AMENDED
6/6/2024

The provisions of Sections 62-811 and 62-812, relating to certifications for #waterfront public access areas#, #visual corridors# and #zoning lot# subdivisions, shall apply to all #zoning lots# within #waterfront blocks# and any other #blocks# included within a Waterfront Access Plan, except that the following shall not be subject to the provisions of Section 62-811:

airports, heliports and seaplane bases;

in any district, existing #zoning lots# of less than 10,000 square feet #developed# #predominantly# with #single-# or #two-family residences# within #detached#, #semi-detached# or #zero lot line buildings#, provided such #zoning lots# are not included within an area subject to a Waterfront Access Plan pursuant to Section 62-90;

#zoning lots# in R1 and R2 Districts; and

#zoning lots# in C8 and #Manufacturing Districts#, containing #predominantly# #uses# listed under Use Groups IV(B), IX or X, except for docking facilities serving passenger ocean vessels or sightseeing, excursion or sport fishing vessels.

62-811 - Waterfront public access and visual corridors

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LAST AMENDED
5/12/2021

No excavation or building permit shall be issued for any #development# on a #waterfront block#, or any other #block# included within a Waterfront Access Plan, until the Chairperson of the City Planning Commission certifies to the Department of Buildings or Department of Business Services, as applicable, that:

(a) there is no #waterfront public access area# or #visual corridor# requirement for the #zoning lot# containing such #development# due to the following:

(1) the #development# is exempt pursuant to Sections 62-52 (Applicability of Waterfront Public Access Area Requirements) or 62-51 (Applicability of Visual Corridor Requirements); or

(2) the #waterfront public access area# or #visual corridor# requirement has been waived pursuant to Section 62-90 (WATERFRONT ACCESS PLANS);

(b) a site plan and all other applicable documents have been submitted showing compliance with the provisions of Sections 62-332 (Rear yards and waterfront yards), 62-50 (GENERAL REQUIREMENTS FOR VISUAL CORRIDORS AND WATERFRONT PUBLIC ACCESS AREAS), and 62-60 (DESIGN REQUIREMENTS FOR WATERFRONT PUBLIC ACCESS AREAS);

(c) a site plan has been submitted showing compliance with the provisions of Section 62-90;

(d) for #developments# listed in Section 62-52, paragraph (b), on a #zoning lot# containing a public access area established prior to October 25, 1993, meeting the terms of Section 62-58 (Requirements for Water-Dependent Uses and Other Developments), by restrictive declaration, lease agreement, maintenance and operation agreement or other agreement with a public entity, which public access area is required to be provided for the life of the #development# subject to such agreement, a copy of such restrictive declaration or agreement and a site plan indicating the location, area and design of the required public access area and showing substantial compliance with the provisions of Section 62-58 have been submitted; or

(e) for the #development# of a park, a site plan and all other applicable data have been submitted showing compliance with the provisions of Section 62-59 (Special Regulations for Zoning Lots That Include Parks).

For any parcel identified in Waterfront Access Plan BK-1, the Chairperson shall allow for the phased implementation of all required #waterfront public access areas# upon certification to the Commissioner of Buildings that a plan has been submitted that provides for an amount of #waterfront public access area# proportionate to the amount of #floor area# being #developed#

in each phase. Additionally, for any #development# located within 240 feet of a #shoreline#, the initial phase and each subsequent phase shall provide a minimum of 200 linear feet of #shore public walkway# and any adjacent #supplemental public access area# located between such #development# and such #shore public walkway#, one #upland connection# through or adjacent to the entire parcel leading to the #shore public walkway#, and at least one other connection from the #shore public walkway# to an adjacent #shore public walkway#, #street# or other #upland connection#. For any #development# located entirely beyond 240 feet of a #shoreline#, the initial phase and each subsequent phase shall also provide a minimum of 100 linear feet of #shore public walkway# and one #upland connection# through or adjacent to the entire parcel leading to the #shore public walkway#. However, no #waterfront public access area# need be provided for a phase consisting of a #development# in which all #residences# in such phase are #affordable housing units# as set forth in Section 27-111 (General definitions), provided that such exemption shall only apply where 25 percent or less of the total #residential# #floor area#, including any applicable #floor area# bonuses, on the parcel has been #developed#.

A certification pursuant to paragraphs (b) or (c) of this Section shall be granted on condition that an acceptable restrictive declaration is executed and filed pursuant to Section 62-74 (Requirements for Recordation).

Within 45 days of receipt of a complete application, the Chairperson shall either certify that the proposed #development# complies with the requirements of this Section or disapprove such application, citing the nature of any failure to comply. Failure to certify or disapprove such application within the 45 day period will release the Department of Buildings or the Department of Business Services from any obligation to withhold the excavation or building permit and authorize such agency to determine compliance with the provisions of this Section.

62-812 - Zoning lot subdivision

LAST AMENDED
4/22/2009

An existing #zoning lot# within a #waterfront block#, or within any other #block# included in a Waterfront Access Plan, may be subdivided into two or more #zoning lots#, or reconfigured in a manner that would reduce its area or any dimension, only in accordance with the provisions of this Section or as modified pursuant to Section 62-822 (Modification of waterfront public access area and visual corridor requirements).

Such #zoning lot# may be subdivided or reconfigured provided that the Chairperson of the City Planning Commission certifies that:

(a) there are no requirements in this Chapter for a #waterfront public access area# or #visual corridors# on such #zoning lot# for any #use# permitted on such #zoning lot#; or

(b) a restrictive declaration shall be recorded against each subdivided or reconfigured #zoning lot#, binding all such #zoning lots# to provide #waterfront public access areas# or #visual corridors# at the time of a #development#, other than an exempt #development#, as set forth in Section 62-52. Such restrictive declaration shall include a site plan that sets forth the amount and location of the required #waterfront public access areas# and #visual corridors# on all resulting #zoning lots#. Such #waterfront public access area# or #visual corridor# shall be provided as required for the original #zoning lot# at the time of #development# of a non-exempt #use#; or

(c) there are existing publicly accessible waterfront open areas on the #zoning lot# constructed as part of a previously approved site plan providing physical and visual access to and along the waterfront, and such open areas are no smaller in square footage than that required under the provisions of this Chapter for #waterfront public access areas# and #visual corridors#, and restrictions have been recorded against the property requiring such existing open area to remain accessible to the public for the life of the #development#.

62-813 - Docking facilities for ferries or water taxis in certain waterfront areas

LAST AMENDED
12/5/2024

In Community District 1 in the Borough of Brooklyn, docking facilities for ferries or water taxis set forth in paragraph (a) of this Section shall be permitted, provided that the Chairperson of the City Planning Commission certifies to the Commissioner of the Department of Buildings that such docking facilities comply with the standards for required amenities set forth in paragraph (b) of this Section and, where provided, the standards for permitted amenities set forth in paragraph (c) of this Section. In conjunction with such certification, parking and drop-off and pick-up area requirements for docking facilities with a vessel capacity of up to 399 passengers shall be waived, as applicable. Where such docking facilities are proposed within a #waterfront public access area#, such docking facilities shall also comply with the provisions of paragraph (d) of this Section. Where modifications to a docking facility certified pursuant this Section are made, including the amount or configuration of docking facility amenities, establishment of, or modification to, #waterfront public access areas# on the same #waterfront zoning lot#, or the cessation of ferry or water taxi service to such docking facility, the provisions of paragraph (e) of this Section shall apply.

The amount of amenities permitted or required pursuant to paragraphs (b) and (c) of this Section shall be calculated for each docking facility on the #waterfront zoning lot# and not according to the number of vessels a single docking facility can accommodate.

(a) Docking facilities

The following docking facilities, listed under Use Group IV(B), are subject to the certification provisions of this Section:

(1) in R6 through R12 Districts, #Commercial Districts# and #Manufacturing Districts#, docks for water taxis, with a vessel capacity of up to 99 passengers;

(2) in R6 through R12 Districts, #Commercial Districts# and #Manufacturing Districts#, docks for ferries, other than #gambling vessels#, with a vessel capacity of up to 399 passengers; and

(3) in C4, C5, C6, C7 and C8 Districts, and #Manufacturing Districts#, docks for ferries with an unlimited capacity.

(b) Required amenities

Passenger queuing space, bicycle parking and a trash receptacle shall be provided in accordance with the applicable provisions of this paragraph (b), inclusive. All applications shall include a site plan denoting the location of each required amenity, dimensioned plans and elevations of individual amenities, as applicable, as well as any other material required to demonstrate compliance with such provisions.

(1) Passenger queuing space

Passenger queuing space shall be provided in accordance with the provisions of this paragraph (b)(1), inclusive.

(i) Amount

A minimum of four square feet of queuing space per passenger shall be provided on the #waterfront zoning lot# for 40 percent of the U. S. Coast Guard certified passenger capacity of the largest vessel proposed to dock at such facility. Queuing space may be either standing space or seating space, and may be either open to the sky or provided within a sheltered space for passengers in accordance with the provisions of

paragraph (c)(1), inclusive, of this Section.

(ii) Standing space

All standing queuing space shall be contiguous and clear of obstructions, except for any interruption by circulation paths required for access to docking facilities through a gangway, or pier access thereto. However, such standing queuing space may be non-contiguous and temporary dividers may be permitted as obstructions within such queuing space where the applicant signs an affidavit, or provides materials demonstrating in a manner that is satisfactory to the Chairperson, that an attendant will manage queues whenever such measures are implemented.

(iii) Seating space

A minimum of 10 percent of required queuing space shall be provided as seating, and up to 50 percent of required queuing space may be provided as seating. However, no seating shall be required within a previously approved #waterfront public access area#. For the purpose of applying seating towards the queuing requirement, one linear foot of seating shall equal one square foot of queuing space.

Any seating space provided pursuant to this Section within an existing or proposed #waterfront public access area# shall not count towards the maximum amount of seating permitted to be located seaward of the #shore public walkway# pursuant to paragraph (b) of Section 62-62 (Design Requirements for Shore Public Walkways and Supplemental Public Access Areas).

All seating provided for queuing space shall comply with the applicable dimensional criteria of Section 62-652 (Seating), but need not comply with the percentage requirements for different types of seating required pursuant to such Section. However, moveable chairs shall not constitute seating for queuing.

(iv) Location

Queuing space shall be provided on the #waterfront zoning lot# within 150 feet of the landward terminus of the gangway leading to the docking facility.

(2) Bicycle parking

Bicycle racks sufficient to provide at least four bicycle parking spaces shall be provided on the #waterfront zoning lot#. Such bicycle racks shall comply with the standards of Section 62-657.

(3) Trash receptacle

One trash receptacle shall be provided on the #waterfront zoning lot# within 25 feet of the landward terminus of the gangway leading to the docking facility. Such trash receptacle shall comply with the standards of Section 62-658.

(c) Permitted amenities

Passenger queuing shelters and ticketing machines may be provided only in accordance with the applicable standards of this paragraph (c), or, where applicable, the authorization provisions set forth in Section 62-824 (Modifications to passenger queuing shelters for ferry or water taxi docking facilities).

All applications shall include a site plan denoting the location of such amenities, dimensioned plans and elevations of

individual amenities, as well as any other material required to demonstrate compliance with the following standards:

(1) Passenger queueing shelter

Where provided, passenger queueing shelters shall comply with the provisions of this paragraph (c)(1), inclusive. All heights are measured from adjoining grade.

(i) Maximum dimensions and permitted enclosing walls

The maximum height of a shelter shall be 10 feet. Below a height of seven feet, the maximum width shall be four feet, and above a height of seven feet, the maximum width shall be eight feet. The maximum length of a shelter shall not exceed 16 feet, except that where a ticketing machine provided pursuant to paragraph (c)(2) of this Section is located within such shelter, such maximum length may be increased to 20 feet.

Shelters shall be permitted a total of three enclosing walls, one along the long dimension of the shelter, and one along each narrow end.

(ii) Support structures below the roof

A maximum of two vertical columns may support the enclosing walls and the roof of a shelter, except that where a ticketing machine provided pursuant to paragraph (c)(2) of this Section is located within such shelter, an additional column shall be permitted. The maximum width and depth of such columns shall not exceed 12 inches. All such columns shall be aligned so that when viewed in elevation view along the narrow end of the shelter, only one column shall be visible.

Below a height of 30 inches, one horizontal structural element shall be permitted along the long dimension of the shelter. The maximum depth and height of such structural element shall not exceed 12 inches. Between a height of 30 inches and seven feet no horizontal structural elements shall be permitted, and above a height of seven feet, horizontal structural elements shall be considered part of the roof structure.

Additional support structures needed to support glazing in the enclosing walls are permitted, provided that such structures are to the minimum amount necessary.

(iii) Roof structure

The roof of the shelter, including all associated structural elements and materials, shall be located above a height of seven feet.

The maximum depth of the roof, including all associated structural elements and materials, shall not exceed 12 inches, as measured perpendicular to the roof surface. In addition, within six inches of the edge of any portion of the roof that cantilevers over passenger queuing space, as viewed in elevation along the narrow end of the shelter, the depth of the roof shall be limited to three inches.

No slopes or curves shall be permitted in the roof along the long dimension of the shelter. Along the narrow end of the shelter, slopes not to exceed 15 degrees and curves with a radius of at least 10 feet shall be permitted. Where two slopes are provided, in no event shall both portions of the roof angle downward from the same point.

(iv) Materials, lighting and permitted signage

On each narrow end of the shelter, the enclosing wall or associated vertical support column may accommodate up to six square feet of way-finding ferry #signs#, with a width not to exceed 12 inches. In addition, the enclosing wall on the long end of the shelter or a face of a ticketing machine provided in accordance with paragraph (c)(2) of this Section may accommodate up to six square feet of materials related to ferry operations, including maps and schedules of ferry service. No #advertising signs# shall be permitted.

All structural elements shall be composed of unpainted, metallic materials. The entire surface area of all enclosing walls shall be composed of untinted, transparent materials, except for transparency distraction markers and any support structures or signage permitted pursuant to this paragraph (c)(1). A minimum of 50 percent of the surface area of the roof shall be composed of translucent materials, except that any portion occupied by solar panels shall be excluded from such calculation. Benches provided within a shelter shall either match or complement such shelter materials.

Where lighting is provided within a shelter, the luminaire shall be shielded so the light source is not visible.

(v) Location and orientation

Shelters shall be provided on the #waterfront zoning lot# within 100 feet of the landward terminus of the gangway leading to the docking facility.

The long dimension of the shelter shall be oriented so as to be within 15 degrees of being perpendicular to the shoreline or, where located on a pier, within 15 degrees of being parallel to such pier.

Where a shelter is provided within a previously approved #waterfront public access area#, the Chairperson may modify the location and orientation provisions of this Section, to the minimum extent necessary, where site limitations would make compliance with such provisions infeasible.

(2) Ticketing machines

Ticketing machines provided in conjunction with a docking facility shall comply with the provisions of this paragraph (c)(2).

(i) Maximum square footage

The maximum area of all ticket machines, as measured in plan around the furthest extent of such machines, shall not exceed 12 square feet.

(ii) Location

Ticketing machines shall be provided on the #waterfront zoning lot# within 100 feet of the landward terminus of the gangway leading to the docking facility.

Where a passenger queuing shelter is provided in conjunction with the ferry or water taxi docking facility pursuant to paragraph (c)(1) of this Section, ticketing machines shall be located either within, or immediately adjacent to the upland portion of such shelter.

Any ticketing machine not placed within a passenger queuing shelter shall be placed in a location open to the sky.

Ticketing machines shall either front directly upon a required circulation path or shall be connected thereto by a walkway with an unobstructed minimum clear width of at least five feet.

Where a ticketing machine is provided within a previously approved #waterfront public access area#, the Chairperson may modify the location provisions of this Section, to the minimum extent necessary, where site limitations would make compliance with such provisions infeasible.

(d) Provisions for adding amenities for docking facilities to a #waterfront public access area#

Docking facilities proposed within a previously approved #waterfront public access area# or in conjunction with a certification for such approval, pursuant to Section 62-811 (Waterfront public access areas and visual corridors), shall comply with the applicable provisions of this paragraph (d).

(1) Permitted obstructions

In no event shall amenities provided pursuant to paragraphs (b) or (c) of this Section be permitted to encroach upon the minimum circulation paths required pursuant to the applicable provisions of Sections 62-62 (Design Requirements for Shore Public Walkways and Supplemental Public Access Areas), 62-63 (Design Requirements for Public Access on Piers and Floating Structures) and 62-64 (Design Requirements for Upland Connections).

(2) Providing amenities in previously approved #waterfront public access areas#

All seating, bicycle parking and trash receptacles provided for docking facilities in accordance with the provisions of paragraph (b) of this Section, within a previously approved #waterfront public access area#, shall be provided in addition to the amount of seating, bicycle parking, or trash receptacles required for such #waterfront public access area# pursuant to the applicable provisions of Section 62-60 (DESIGN REQUIREMENTS FOR WATERFRONT PUBLIC ACCESS AREAS). Where excess seating, bicycle parking or trash receptacles have been provided within such previously approved #waterfront public access areas#, such additional amenities may be applied towards compliance with the provisions for docking facilities of this Section, provided that such amenities comply with the applicable provisions of paragraph (b) of this Section. Where previously approved #waterfront public access areas# are #non-complying# as to the provision of required amenities, in no event shall the minimum amount of amenity provided for docking facilities pursuant to paragraph (b) reduce the degree of #non-compliance# of such #waterfront public access area#.

All seating, bicycle parking and trash receptacles provided in accordance with the provisions of paragraph (b) of this Section in an existing #waterfront public access area# shall either match or shall be comparable with such existing amenities, with regard to quality, materials, finishes and form.

Modifications to a previously approved #waterfront public access area# in order to accommodate amenities to be provided for a docking facility in accordance with paragraphs (b) or (c) of this Section shall not constitute a design change to such #waterfront public access area#, and shall not necessitate a new certification pursuant to Section 62-811, provided that the applicant demonstrates to the Chairperson of the City Planning Commission that such modifications are to the minimum extent necessary in order to accommodate the amenities being provided for such docking facility.

(3) Providing amenities in conjunction with a new #waterfront public access area#

All amenities provided for docking facilities in accordance with the provisions of paragraph (b) of this Section

shall be provided in addition to all required seating, bicycle parking, or trash receptacles for a #waterfront public access area# being #developed# in conjunction with the provision of a docking facility. All such proposed amenities for the docking facility shall complement the proposed amenities for such #waterfront public access area#.

(e) Modifications of certified docking facilities

Any modification to a docking facility certified pursuant to this Section, shall comply with the applicable provisions of this paragraph (e).

(1) Modification of amenities

Any modification of the required or permitted amenities for a docking facility certified pursuant to this Section, including the configuration of such amenities, shall be subject to a new certification pursuant to this Section.

Any ferry or water taxi service modification resulting in a reduction of passenger capacity of the largest vessel docking at such facility shall not be subject to a new certification provided that the amount of queuing space required at the time of approval, pursuant to paragraph (b) of this Section, is not diminished.

(2) Establishment of or modifications to #waterfront public access areas#

Any establishment of a #waterfront public access area# or modification to a previously approved #waterfront public access area# where a docking facility certified pursuant to this Section is located, shall require a new certification, pursuant to this Section, in conjunction with the certification set forth in Section 62-811.

(3) Cessation of ferry or water taxi service

Where ferry or water taxi service ceases operations to a docking facility certified pursuant to this Section, and ferry docking infrastructure is removed from the #waterfront zoning lot# which would preclude further service, the following shall apply:

(i) Passenger queuing shelters and ticketing machines provided pursuant to paragraph (c) of this Section shall be removed from the #waterfront public access area#;

(ii) Seating, bicycle racks, and litter receptacles provided pursuant to paragraph (b) of this Section need not be removed; and

(iii) any breach in a guardrail along a #pier# or along the #shore public walkway# to accommodate a gangway to a docking facility shall be repaired and shall match the adjacent guardrail.

62-82 - Authorizations by the City Planning Commission

LAST AMENDED
4/22/2009

62-821 - Modification of requirements for ferries and sightseeing, excursion or sport fishing vessels

LAST AMENDED
3/26/2014

(a) In C1, C2, C3 and C7 Districts, the City Planning Commission may authorize modification of the #use# regulations of Section 32-10 (USES PERMITTED AS-OF-RIGHT) in order to allow docks for ferries with an operational passenger load greater than 150 passengers per half hour, or in Community District 1 in the Borough of Brooklyn, a vessel capacity larger than 399 passengers, provided the Commission finds that:

(1) such facility will not create serious pedestrian or vehicular traffic congestion that would adversely affect the surrounding area;

(2) the #streets# providing access to such facility will be adequate to handle the traffic generated thereby; and

(3) such #use# is so located as to draw a minimum of vehicular traffic to and through local #streets# in adjoining residential areas.

(b) In all districts, the Commission may authorize a reduction or waiver of the parking requirements of Section 62-43 for docks serving ferries, or sightseeing, excursion or sport fishing vessels, provided the applicant submits a report that enables the Commission to make one or more of the following findings:

(1) that there is or would be adequate public or private transit in close proximity to the facility and that there is or would be a consistent pattern of usage by a significant percentage of passengers;

(2) that there is or would be a consistent pattern of passenger drop-off and pick-up by private cars, taxis or vans by a significant percentage of passengers;

(3) that there is or would be a consistent pattern of arrivals and departures on foot or by bicycle by a significant percentage of passengers;

(4) that there is a consistent pattern of underutilization of existing #accessory# parking spaces; or

(5) that the dock serves or would serve vessels operating at different times during the day or week and that there is or would be shared usage of common parking spaces at mutually exclusive time periods.

(c) In all districts, the Commission may authorize modification of the passenger drop-off and pick-up area requirements of Section 62-462, including a reduction in the number of required spaces, for docks serving ferries, or sightseeing, excursion or sport fishing vessels, provided the Commission finds that:

(1) due to the configuration of the #zoning lot#, strict adherence to the regulations would not be possible to achieve;

(2) there is no practical possibility of locating such area on another #zoning lot# that would be contiguous, except for its separation by a #street# or #street# intersection, because appropriate sites are occupied by substantial improvements;

(3) there is no practical possibility of providing a lay-by area on an adjoining #street# that would be acceptable to the New York City Department of Transportation; and

(4) such modifications would not create serious vehicular traffic congestion that would adversely affect the surrounding area.

The Commission may impose appropriate conditions and safeguards to assure that such modifications will not adversely affect the surrounding area.

62-822 - Modification of waterfront public access area and visual corridor requirements

(a) Authorization to modify requirements for location, area and minimum dimensions of #waterfront public access areas# and #visual corridors#

The City Planning Commission may modify the requirements of Section 62-50 (GENERAL REQUIREMENTS FOR VISUAL CORRIDORS AND WATERFRONT PUBLIC ACCESS AREAS) and, in conjunction therewith, Section 62-332 (Rear yards and waterfront yards). The Commission may also authorize a portion or all of the required #waterfront public access area# to be provided off-site on an adjoining public property.

The Commission shall file any such authorization, pursuant to this paragraph (a), with the City Council. The Council, within 20 days of such filing, may resolve by majority vote to review such authorization. If the Council so resolves, within 50 days of the filing of the Commission's authorization, the Council shall hold a public hearing and may approve such authorization in whole or in part, with additional or modified restrictions or conditions, or disapprove such authorization. If, within the time periods provided for in this Section, the Council fails to act on the Commission's authorization, the Council shall be deemed to have approved such authorization.

(1) In order to modify the location of #waterfront public access areas# and #visual corridors#, the Commission shall find that such areas, provided either on the #zoning lot# or off-site adjacent to the #zoning lot#, shall:

(i) comply with the required minimum dimensions and equal the required total area, in aggregate; and

(ii) due to their alternative location and design, provide equivalent public use and enjoyment of the waterfront and views to the water from upland #streets# and other public areas; or

(2) In the event the Commission determines that there is no feasible way to provide equal alternative #waterfront public access areas# either on the #zoning lot# or off-site on an adjoining public property or to provide equal alternative #visual corridors#, the Commission may authorize a reduction in minimum dimensions or area, or may waive such requirements, provided that:

(i) such #development# would be impracticable, physically or programmatically, due to site planning constraints such as the presence of existing #buildings or other structures# or elements having environmental, historic or aesthetic value to the public; and

(ii) that the reduction or waiver of requirements is the minimum necessary.

(b) Authorization to modify requirements within #waterfront public access areas#

The City Planning Commission may modify the requirements within the #waterfront public access area# provisions of Sections 62-513 (Permitted obstructions in visual corridors), 62-58 (Requirements for Water-Dependent Uses and Other Developments), 62-60 (DESIGN REQUIREMENTS FOR WATERFRONT PUBLIC ACCESS AREAS), inclusive, and 62-90 (WATERFRONT ACCESS PLANS), inclusive.

In order to grant such authorization, the Commission shall find that such modifications:

(1) are necessary to accommodate modifications pursuant to paragraph (a) of this Section; or

(2) would result in a design of #waterfront public access areas# that is functionally equivalent or superior to the design prescribed by strict adherence to the applicable provisions.

(c) Authorization for phased #development# of #waterfront public access areas#

The City Planning Commission may authorize a phasing plan to implement #waterfront public access area# improvements on #zoning lots# undergoing partial development or #zoning lots# subdivided or reconfigured, pursuant to Section 62-812.

In order to grant such authorization, the Commission shall find that:

(1) the amount of #waterfront public access area# #developed# in any phase is proportionate to the #lot area# being #developed# in such phase; or

(2) physical or programmatic constraints make it infeasible to provide the #waterfront public access area# on a proportional basis as the #zoning lot# is improved, and the maximum feasible amount of #waterfront public access area# is #developed# in each phase.

A phasing plan shall be submitted that sets forth the amount and location of #waterfront public access area# that will be provided at the time each phase is #developed#.

(d) Authorization to modify minimum hours of operation and to install gates

The City Planning Commission may authorize, for a period not to exceed 10 years, modifications of the requirements for hours of operation set forth in Section 62-71, paragraph (a), or the installation of gates in #predominantly# #residential# #developments# in accordance with the provisions of Section 62-651, paragraph (c)(2).

The Commission shall find that any modification of the hours of operation and the installation of gates in #predominantly# #residential# #developments# are warranted due to the remote location of the #waterfront public access areas#, and that such modified hours of operation or gates will not thereby unduly restrict public access to the waterfront.

As a condition of granting such authorization, the Commission shall find that all gates comply with the design requirements set forth in Section 62-651.

Public access to the #waterfront public access areas# shall be assured by appropriate legal instruments. Signage setting forth hours of operation shall be affixed to the gate which shall indicate the hours of public access authorized pursuant to this paragraph (d).

The Commission may impose appropriate conditions and safeguards to assure that such modifications will achieve comparable physical and visual access to the waterfront or to assure that an approved phasing plan will be properly implemented. Such conditions may include, but are not limited to, deed restrictions, easements or performance bonds.

62-823 - Modification of use regulations in C3 Districts

LAST AMENDED
6/6/2024

In C3 Districts, the City Planning Commission may authorize modification of #use# regulations to allow a WE #use# not otherwise allowed as-of-right or by special permit. In conjunction with such authorization, the Commission may also allow the #sign# regulations of a C1 District to apply to the #zoning lot#.

As a condition to the granting of such authorization the Commission shall find:

(a) that such WE #use# is a #use# listed under Use Groups V, VI, VII or VIII;

(b) that the #zoning lot# also includes a WD #use# that is either permitted in the district as-of-right or has been permitted by special permit;

(c) that such WE #use# will not create serious pedestrian or vehicular traffic congestion that would adversely affect surrounding residential #streets#;

(d) that the entrances and exits for #accessory# parking or loading facilities are so located as to not adversely affect #residential# properties fronting on the same #street#; and

(e) that such WE #use# will not impair the character or future use or development of the surrounding area.

The Commission may prescribe additional appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area. Such conditions and safeguards may include limitations on the size of the establishment, limitations on lighting and signage or screening requirements.

62-824 - Modifications to passenger queuing shelters for ferry or water taxi docking facilities

LAST AMENDED
3/26/2014

In Community District 1 in the Borough of Brooklyn, the City Planning Commission may authorize a ferry passenger queueing shelter exceeding the dimensions set forth in paragraph (c)(1) of Section 62-813 (Docking facilities for ferries or water taxis in certain waterfront areas), provided that the Commission finds that:

(a) the public benefit derived from the proposed shelter merits the larger dimensions authorized;

(b) the proposed shelter utilizes the design standards set forth in paragraph (c)(1) of Section 62-813 regarding permitted support structures, materials, signage and roof construction to the greatest extent feasible;

(c) any modification to such provisions of Section 62-813 will not unduly limit views from the #waterfront public access area#; and

(d) the design of the proposed shelter will result in a quality structure that complements the #waterfront public access area# or the publicly accessible area of a #waterfront zoning lot# accommodating the ferry or water taxi docking facility.

62-825 - Modifications for wind energy systems

LAST AMENDED
12/6/2023

In any district, the City Planning Commission may authorize modifications to the applicable #bulk# or #waterfront public access area# regulations in order to accommodate wind energy systems, whether #accessory# or as part of #energy infrastructure equipment#, provided the Commission finds that:

(a) there would be a practical difficulty in complying with regulations set forth for wind energy systems as set forth in the underlying district regulations, and as modified by this Chapter, without such modifications;

(b) such modifications are the minimum necessary to allow for an appropriate wind energy system; and

(c) the proposed modifications will not alter the essential character of the neighborhood in which the #building# is located.

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

62-83 - Special Permits by the City Planning Commission

LAST AMENDED
4/22/2009

62-831 - General provisions

LAST AMENDED
3/22/2016

Where a special permit application would allow a significant increase in #residential# #floor area# and the special #floor area# requirements in #Mandatory Inclusionary Housing areas# of Section 27-131 (Mandatory Inclusionary Housing) are not otherwise applicable, the City Planning Commission, in establishing the appropriate terms and conditions for the granting of such special permit, shall apply such requirements where consistent with the objectives of the Mandatory Inclusionary Housing program as set forth in Section 27-12 (General Provisions). However, where the Commission finds that such special permit application would facilitate significant public infrastructure or public facilities addressing needs that are not created by the proposed #development#, #enlargement# or #conversion#, the Commission may modify the requirements of such paragraph (d).

62-832 - Docks for passenger ocean vessels in C6 Districts

LAST AMENDED
3/22/2016

In C6 Districts, the City Planning Commission may permit docks for passenger ocean vessels, other than #gambling vessels#.

As a condition for granting a special permit, the Commission shall find that:

(a) such facility will not create serious pedestrian or vehicular traffic congestion that would unduly inhibit surface traffic and pedestrian flow in the surrounding area;

(b) the #streets# providing access to such facility will be adequate to handle the traffic generated thereby;

(c) an area will be provided for the drop-off and pick-up of passengers by private car, taxi, van and bus that, at a minimum, meets the requirements of Section 62-462 (Passenger drop-off and pick-up areas for docking facilities), and which is so designed as to avoid traffic or pedestrian conflict on the #streets# providing access to the facility; and

(d) such #use# will not be incompatible with or adversely affect the essential character, use or future growth of the surrounding area.

The Commission may prescribe additional appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area, including the provision of #accessory# off-street parking spaces, #accessory# off-street loading berths or additional area for the temporary parking of vehicles or buses for drop-off and pick-up of passengers.

62-833 - Docks for ferries or water taxis in Residence Districts

LAST AMENDED
6/6/2024

In all #Residence Districts#, except R1 and R2 Districts, and except within Community District 1 in the Borough of Brooklyn, where the certification provisions of Section 62-813 (Docking facilities for ferries or water taxis in certain waterfront areas) shall apply, the City Planning Commission may permit docks for ferries or water taxis as listed in Use Group IV(B), provided that:

(a) such facility will not create serious pedestrian or vehicular traffic congestion that would adversely affect surrounding residential #streets#;

(b) such #use# is so located as to draw a minimum of vehicular traffic to and through local #streets# in the adjoining residential area;

(c) there is appropriate landscaping along #lot lines# to enable such #use# to blend harmoniously with the adjoining residential area;

(d) #accessory# off-street parking spaces are provided in accordance with Section 62-43 (Parking Requirements for Commercial Docking Facilities) and the entrances and exits for such #accessory# parking facilities are so located as to not adversely affect #residential# properties fronting on the same #street#; and

(e) such #use# will not impair the character or the future use or development of the surrounding residential area.

The Commission may prescribe additional appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area and to protect #residential# properties which are adjoining or across the #street# from the facility. Such additional conditions and safeguards may include provisions for temporary parking of vehicles for passenger drop-off and pick-up, additional #accessory# off-street parking spaces and limitations on lighting and signage.

62-834 - Uses on floating structures

LAST AMENDED
12/5/2024

In all districts, the City Planning Commission may permit a #use# not otherwise allowed as-of-right by Section 62-25 to be located on a #floating structure# provided the #use# is permitted by the applicable district regulations and the #floating structure# complies with the height and setback regulations of Section 62-345.

An application for a #use# on a #floating structure# pursuant to this Section shall be made jointly by the property owner and the owner of the #floating structure#, if they are separate entities. In addition, the application shall include copies of all Federal and State permit applications that are required to be filed in conjunction with the proposed #use#.

As a condition for granting a special permit, the Commission shall find that:

(a) the proposed #use# is a WE #use# or is either a power plant or government-owned and operated facility that requires such a location due to the absence of a reasonable way to site the facility without use of a #floating structure#;

(b) a plan for public access on the #floating structure#, elsewhere on the #zoning lot#, or off-site on public property adjacent to the #zoning lot#, is provided that is appropriate to the size and intensity of #use# on the #floating structure#;

(c) except for power plants or government-owned and operated facilities, the location of such #use# on a #floating structure#

will enhance public access to and use of the waterfront; and

(d) the location of such #use# on a #floating structure# will not adversely affect the essential character, use or future growth of the waterfront and the surrounding area.

However, the Commission may waive the public access requirement for a power plant or government-owned and operated facility either where such access would conflict with the operation of the facility or be detrimental to the public welfare.

The Commission may also permit modification of the #visual corridor# requirements of Section 62-51, inclusive, provided it makes the additional finding that the location and configuration of the #floating structure# minimizes any adverse effects on significant views to the water from upland public #streets# or other public places.

The Commission may prescribe additional appropriate conditions and safeguards to minimize adverse effects on the character of the waterfront and the surrounding area, including requirements for setbacks from #lot lines#, spacing from other #floating structures# on the same or adjoining #zoning lots# and limitations on lighting or signage.

62-835 - Developments on piers or platforms

LAST AMENDED
12/5/2024

In all districts, the City Planning Commission may permit:

(a) a change of #use# on a #new pier# or #new platform# from a WD #use# or playground or publicly accessible private park, to any other WE #use# permitted by the applicable district regulations and, in conjunction with such change of #use#, modification of the #bulk# regulations of Section 62-30 for an existing #building#, except for Section 62-31, paragraph (a), or the maximum #floor area ratio#, provided the Commission finds that:

(1) existing permitted WD #uses# and open WE #uses# on the #pier# or #platform# have been discontinued for a continuous period of at least two years immediately prior to the date of application;

(2) the proposed WE #use# will significantly enhance public use and enjoyment of the waterfront;

(3) there is no increase in #water coverage#; and

(4) in the case of modification of #bulk# regulations for an existing #building#, findings (b)(3) through (b)(6) of this Section are also met. Finding (b)(4) shall also include #platforms# within the #seaward lot#.

(b) for an #existing pier#, any #use# permitted by the applicable district regulations and modifications of the provisions of Sections 62-332 (Rear yards and waterfront yards) and 62-344 (Developments on piers), provided the Commission finds that:

(1) the facility is so designed as to significantly enhance public use and enjoyment of the waterfront;

(2) #accessory# parking or loading facilities provided in conjunction with such #uses# are arranged and designed so as to not adversely impact public access areas anywhere on the #zoning lot#;

(3) the proposed #development# does not violate the #bulk# provisions of Section 62-34 (Height and Setback Regulations on Waterfront Blocks);

(4) within the #seaward lot#, the ratio of #floor area# on the #pier# to #water coverage# of the #pier# does not exceed the maximum #floor area ratio# for the #use# as set forth in the district regulations;

(5) such #bulk# modifications would not unduly obstruct the light and air or waterfront views of neighboring properties; and

(6) such modifications will not adversely affect the essential character, use or future growth of the waterfront and the surrounding area.

(c) for #piers#, modification of the #waterfront public access area# and #visual corridor# requirements of Sections 62-50 and 62-60, provided the Commission finds that:

(1) the proposed #development# would result in better achievement of the goals set forth in Section 62-00 than would otherwise be possible by strict adherence to the regulations of Sections 62-50 and 62-60, inclusive; and

(2) an alternative #waterfront public access area# and #visual corridors# on the #zoning lot#, or off-site on a public property adjacent to the #zoning lot#, are provided that are substantially equal in area to that required and, by virtue of their location and design, provide equivalent public use and enjoyment of the waterfront and views to the water from upland #streets# and other public areas.

In the event that the Commission determines there is no feasible way to provide substantially equal alternative public access areas, either on the #zoning lot# or off-site on an adjoining public property or to provide substantially equal alternative #visual corridors#, the Commission may authorize a reduction or waiver of the requirements.

The Commission may prescribe additional appropriate conditions and safeguards to minimize adverse effects on the character of the waterfront and the surrounding area, including requirements for setbacks from #lot lines#, spacing from other #buildings# on the same or adjoining #zoning lots#, limitations on lighting and signage and limitations on size of individual establishments.

62-836 - Public parking facilities on waterfront blocks

LAST AMENDED
12/5/2024

In C1, C2, C4, C5, C6 and C7 Districts, the City Planning Commission may permit #public parking garages# or #public parking lots# on #waterfront blocks# in accordance with applicable district regulations, provided the parking facility is an interim #use# limited to a term of not more than five years, or the Commission finds that:

(a) the facility is needed to serve primarily waterfront #developments# containing WD or WE #uses#; and

(b) there is no practical possibility of locating such facility on a non-#waterfront block# because appropriate sites on such #blocks# are occupied by substantial improvements.

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

62-837 - Bulk modifications on waterfront blocks

LAST AMENDED
12/5/2024

In all districts, the City Planning Commission may permit modification of any applicable #yard#, #lot coverage#, height and setback, and distance between #buildings# regulations, for a #development# on a #zoning lot# within a #waterfront block#, excluding any portion on a #pier# or #new platform#, provided the Commission finds that such modifications will not adversely affect access to light and air on surrounding #waterfront public access areas#, #streets# and properties; and

(a) will result in a better site plan and a better relationship between the #zoning lot# and the adjacent #streets#, surrounding neighborhood, adjacent open areas and #shoreline# than would be possible through strict adherence to the regulations; or

(b) are necessary to protect unique natural features such as rock outcroppings, significant grade changes or wetlands, or to accommodate existing #buildings or other structures#.

62-838 - Docks for gambling vessels

LAST AMENDED
6/6/2024

In all #Commercial Districts# and in all #Manufacturing Districts#, the City Planning Commission may permit docks for #gambling vessels#, provided that, in #Commercial Districts#, the maximum aggregate dock capacity per #zoning lot# set forth in paragraph (b)(3) of Section 32-142 (Use Group IV – uses subject to size limitations) shall apply.

As a condition for permitting such #use#, the Commission shall find that:

(a) the #streets# providing access to such docking facility will be adequate to ensure that the traffic generated will not unduly impede surface traffic and pedestrian flow in the surrounding area;

(b) any noise and activity related to the docking facility, including vessel operations, will not have a detrimental impact on the waterfront and surrounding area; and

(c) such #use# will not be incompatible with the essential character, #use# or future growth of the waterfront and surrounding area.

Docks for #gambling vessels# shall comply with all provisions of the Resolution, including the provisions of Article VI, Chapter 2 (Special Regulations Applying in the Waterfront Area), applicable to the type of vessel on which the shipboard gambling business is operated.

The Commission may prescribe additional conditions and safeguards to minimize any adverse effects on the waterfront and surrounding area.