



Zoning Resolution

THE CITY OF NEW YORK

Eric Adams, Mayor

CITY PLANNING COMMISSION

Daniel R. Garodnick, Chair

42-40 - SUPPLEMENTARY USE REGULATIONS AND SPECIAL PROVISIONS APPLYING ALONG DISTRICT BOUNDARIES

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42-40 - SUPPLEMENTARY USE REGULATIONS AND SPECIAL PROVISIONS APPLYING ALONG DISTRICT BOUNDARIES

LAST AMENDED
12/15/1961

42-41 - Enclosure of Commercial or Manufacturing Activities

LAST AMENDED
2/2/2011

M1 M2 M3

In all districts, as indicated, all commercial or manufacturing activities established by #development#, #enlargement#, #extension# or change of #use#, except storage of materials or products, shall be subject to the provisions of this Section with respect to enclosure, except as otherwise specifically provided in the Use Groups permitted in the district, and in Sections [44-11](#) (General Provisions) and [44-51](#) (Permitted Accessory Off-street Loading Berths). With respect to the #enlargement# or #extension# of an existing #use#, such provisions shall apply to the #enlarged# or #extended# portion of such #use#.

42-411 - In M1 Districts

LAST AMENDED
12/15/1961

M1

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

42-412 - In M2 or M3 Districts

LAST AMENDED
12/15/1961

M2 M3

In the districts indicated, all such activities within 300 feet of a #Residence District# boundary shall be located within #completely enclosed buildings#, provided, however, that #commercial# #uses# may be located within #buildings# which are #completely enclosed# except for store fronts or store windows which may be opened to serve customers outside the #building#.

42-42 - Enclosure or Screening of Storage

LAST AMENDED
2/2/2011

M1 M2 M3

In all districts, as indicated, all storage of materials or products established by #development#, #enlargement#, #extension#, change of #use#, or any new open storage or any increase in the portion of a #zoning lot# used for open storage, shall conform to

the provisions of this Section. In addition, new #accessory# open storage or any increase in the portion of a #zoning lot# used for #accessory# open storage shall conform to the provisions of this Section.

With respect to the #enlargement# or #extension# of existing storage of materials or products, such provisions shall apply to the #enlarged# or #extended# portion of such storage.

42-421 - In M1 Districts

LAST AMENDED

12/15/1961

M1

In the district indicated, storage of materials or products within 200 feet of a #Residence District# boundary shall be located within #completely enclosed buildings#.

42-422 - In M2 or M3 Districts

LAST AMENDED

12/15/1961

M2 M3

In the districts indicated, and within 200 feet of a #Residence District# boundary, open storage of materials or products shall be permitted only if effectively screened by a solid wall or fence (including solid entrance and exit gates) at least eight feet in height.

42-44 - Limitations on Business Entrances, Show Windows or Signs

LAST AMENDED

12/15/1961

M1 M2 M3

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.

42-441 - For zoning lots with single frontage

LAST AMENDED

12/15/1961

M1 M2 M3

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 20 feet of frontage on the same side of the #street# in a #Residence District#.

However, where the #street# frontage of such #zoning lot# or portion thereof located within the #Manufacturing District# is less than 30 feet in length, such 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).

42-442 - For corner lots

LAST AMENDED

12/15/1961

M1 M2 M3

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; or
- (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.

42-45 - Exceptions for Integrated Developments Divided by District Boundaries

LAST AMENDED

12/15/1961

M1 M2 M3

In all districts, as indicated, primary business entrances, #show windows# or #signs# may be located on any frontage within a #Manufacturing 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 #Manufacturing District# and a #Residence District#; or
- (b) is presently 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 #Manufacturing

District#, as evidenced by deed restrictions filed in an office of record binding the owner and his heirs and assigns.

42-46 - Air Space Over a Railroad or Transit Right-of-way or Yard

LAST AMENDED

2/22/1990

42-461 - Definitions

LAST AMENDED

11/19/1987

Words in italics are defined in Section [12-10](#) or, if applicable exclusively to this Chapter, in this Section.

42-462 - Use of railroad or transit air space

LAST AMENDED

2/2/2011

M1 M2 M3

- (a) In all districts, as indicated, #railroad or transit air space# may be #developed# or used only for a permitted #use# #accessory# to the railroad or transit right-of-way or yard, a #use# permitted by the City Planning Commission as set forth in Section [74-681](#) (Development within or over a railroad or transit right-of-way or yard), a railroad passenger station permitted by the City Planning Commission as set forth in Section [74-62](#) (Railroad Passenger Stations) or an open vehicle storage establishment authorized pursuant to this Section unless the right-of-way or yard or portion thereof is no longer required for railroad or transit #use# as set forth in paragraph (b) of this Section.

If any #building or other structure# constructed in such #railroad or transit air space# in accordance with the provisions of Section [74-681](#) is #enlarged# or replaced by a new #building or other structure#, the provisions of this Section shall apply to such #enlargement# or replacement.

However, any #use# legally established in such #railroad or transit air space# in accordance with the provisions of Section [74-681](#) may be changed to another #use# listed in a permitted Use Group, and no special permit from the Commission shall be required for such change of #use#.

Any #building or other structure# within or over a railroad or transit right-of-way or yard, which #building or other structure# was completed prior to September 27, 1962, or constructed in accordance with the applicable provisions of Sections [11-31](#) to [11-34](#), inclusive, prior to December 5, 1991, may be #enlarged# or replaced in accordance with the applicable district regulations without any requirement for a special permit from the Commission. Ownership of rights permitting the #enlargement# or replacement of such a #building or other structure# shall be deemed to be equivalent to ownership of a #zoning lot# or portion thereof, provided that such #enlargement# or replacement will be on one #block# and the rights are in single ownership and recorded prior to February 22, 1990. Such ownership of rights shall be deemed to include alternative ownership arrangements specified in the #zoning lot# definition of Section [12-10](#) (DEFINITIONS).

#Enlargement# or replacement utilizing these ownership rights shall be deemed to be constructed upon the equivalent of a #zoning lot#.

(b) When the #use# of a railroad or transit right-of-way or yard, or portion thereof, has been permanently discontinued or terminated and a #large-scale development# requiring one or more special permits is proposed, no #use# or #development# of the property shall be allowed until the Commission has authorized the size and configuration of all #zoning lots# created on such property. As a condition for such authorization, the Commission shall find that:

- (1) the proposed #zoning lots#, indicated by a map describing the boundaries of, and the total area of, each lot, are not excessively large, elongated or irregular in shape and that no #development# on any #zoning lot# would result in the potential for an excessive concentration of #bulk# that would be incompatible with allowable #developments# on adjoining property; and
- (2) each resulting #zoning lot# has direct access to one or more #streets#.

No subsequent alteration in size or configuration of any #zoning lot# approved by the Commission shall be permitted unless authorized by the Commission. The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects of such #zoning lot# designation on the character of the surrounding area. Such conditions shall be set forth in a written Declaration of Restrictions covering all tracts of land or in separate written Declarations of Restrictions covering parts of such tracts of land and which in the aggregate cover the entire tract of land comprising the #zoning lot# and which is executed and recorded as specified in the definition of #zoning lot# in Section [12-10](#).

Prior to granting any #zoning lot# authorization relating to such right-of-way or yard, the Commission shall request the Metropolitan Transportation Authority and the Departments of Transportation of the State of New York and the City of New York to indicate within 30 days whether said agencies have any plan to use such property or portion thereof for a railroad or transit #use#.

(c) In an M1-1 District, on the #block# bounded by Vanderbilt Avenue, Atlantic Avenue, Carlton Avenue and Pacific Street in the Borough of Brooklyn, the Commission may authorize the #use# of #railroad or transit air space# for an open vehicle storage establishment provided the Commission makes the following findings:

- (1) that adequate access to one or more #streets# is provided;
- (2) that access to such #use# is located on a #street# not less than 60 feet in width;
- (3) that the proposed open vehicle storage establishment will result in reducing the number of vehicles standing on nearby #streets#; and
- (4) that such establishment is located not less than 20 feet below #curb level# except for access ramps to the #street# or #streets#.

For the purpose of this authorization a secondary access ramp may be permitted provided that the intersection of such ramp and the #street# shall be no more than two #blocks# from the intersection of the primary access ramp and a #street#.

The Commission may prescribe appropriate conditions and safeguards to minimize any adverse effects on the character of the surrounding area, including requirements for the shielding of flood lights, screening, and surfacing of all access ramps or driveways.

(d) Notwithstanding the above, the #High Line#, as defined in Section [98-01](#), shall be governed by the provisions of Section [98-16](#) (Air Space Over a Railroad or Transit Right-of-way or Yard).

42-47 - Residential Uses in M1-1D Through M1-5D Districts

In M1-1D, M1-2D, M1-3D, M1-4D and M1-5D Districts, new #residences# or #enlargements# of existing #residences# may be permitted by authorization of the City Planning Commission provided the #zoning lot# existing on June 20, 1988, meets the criteria of paragraphs (a), (b) or (c) of this Section.

- (a) On #zoning lots# containing #residential# or #community facility# #uses#, new #residences# or #enlargements# of existing #residences# may be authorized, provided:
 - (1) the #zoning lot# contains a #building# that has one or more #stories# of lawful #residential# or #community facility# #uses# and no more than one #story# of #commercial# or #manufacturing# #uses# therein;
 - (2) the #zoning lot# contains no other #commercial# or #manufacturing# #uses#; and
 - (3) 25 percent or more of the aggregate length of the #block# fronts on both sides of the #street# facing each other is occupied by #zoning lots# containing #residential# or #community facility# #uses#.
- (b) On vacant #zoning lots#, new #residences# may be authorized, provided:
 - (1) the #zoning lot# has been vacant continuously since June 20, 1988, or has been vacant continuously for five years prior to the date of application for such authorization;
 - (2) a #zoning lot# #abutting# on one #side lot line# and fronting on the same #street# is occupied by a #community facility building# or a #building# containing #residences#; and
 - (3) either of the following conditions exist:
 - (i) such vacant #zoning lot# and any contiguous vacant #zoning lots# and #land with minor improvements# fronting on the same #street# aggregate no more than 10,000 square feet of #lot area#, and 50 percent or more of the aggregate length of the #block# fronts on both sides of the #street# facing each other is occupied by #zoning lots# containing #residential# or #community facility# #uses#; or
 - (ii) such vacant #zoning lot# and any contiguous vacant #zoning lots# and #land with minor improvements# fronting on the same #street# aggregate no more than 5,000 square feet of #lot area#, and 25 percent or more of the aggregate length of the #block# fronts on both sides of the #street# facing each other is occupied by #zoning lots# containing #residential# or #community facility# #uses#.
- (c) On #land with minor improvements#, new #residences# may be authorized provided such #land with minor improvements# otherwise meets all the criteria for vacant #zoning lots# listed in paragraph (b) of this Section, except that new #residential use# shall not be authorized on #land with minor improvements# that:
 - (1) is used for parking, storage or processing in connection with a conforming, enclosed #commercial# or #manufacturing# #use# within the district; or
 - (2) has been so used within five years prior to the date of application, unless such land has not been so used since June 20, 1988.
- (d) In determining eligibility for #residential use#, pursuant to paragraphs (a), (b) or (c) of this Section, the following regulations shall be applicable:
 - (1) In order to determine whether a #corner lot# meets the criteria of paragraph (a), (b) or (c) above, the aggregate length of the #block# fronts occupied by #zoning lots# that contain #residential# or #community facility# #uses# may be measured along any #block# front upon which such #corner lot# has frontage.

- (2) In determining the percent of the aggregate length of the #block# fronts occupied by #zoning lots# that contain #residential# or #community facility# #uses#, the length along the #block# front of every #zoning lot#, whether occupied or not, shall be measured and aggregated, and this total shall be divided by the aggregate length of the #block# fronts occupied by #zoning lots# containing lawful #residential# or #community facility# #uses#. Vacant #zoning lots# and #land with minor improvements# shall not be counted as #residential# or #community facility# frontage.

For the purpose of this Section, the length along the #block# front of any #zoning lot# occupied by a #building# that contains one or more #stories# of #residential# or #community facility# #use# and no more than one #story# of #commercial# or #manufacturing# #use# shall be considered as a frontage of #residential# or #community facility# #uses#, and the length along the #block# front of any #zoning lot# occupied by a #building# that contains one or more #stories# of #residential# or #community facility# #use# and more than one #story# of #commercial# or #manufacturing# #uses# shall be considered as a frontage of #commercial# or #manufacturing# #uses#.

- (3) New #residential use# shall not be authorized on any #floor area# that is vacant or that is occupied by a #commercial# or #manufacturing# #use#, except that in a #building designed for residential use# where at least 50 percent of the #floor area# is occupied by #residential use#, the #residential use# may be #extended#.
- (4) In any #building#, no #residential use# may be located on or below a #story# occupied by a #commercial# or #manufacturing# #use#.
- (5) For the purposes of this Section, a #through lot# fronting on no more than two #streets# shall be treated as if it consisted of two separate #zoning lots# with #abutting# #rear lot lines# at a line midway between the two #street lines# upon which such #through lot# fronts. In the case of a #through lot# that fronts on more than two #streets#, the #through lot# portion shall first be considered as if it were so divided, and then any remaining portion shall be considered as if it were a separate #zoning lot#. Notwithstanding, in no event shall contiguous portions of a #through lot# that front on the same #street# be treated as if they were separate #zoning lots#.

Each resulting portion of such #through lot# on each #street# frontage shall be considered separately to determine whether it meets the criteria for new #residences# set forth in paragraphs (a), (b) or (c) of this Section, and only on such portion may new #residences# or #enlargements# of existing #residences# be authorized. Only the #lot area# of such portion shall be calculated in determining the permitted amount of #floor area# to be authorized pursuant to this Section.

- (6) A #zoning lot# or contiguous #zoning lots# existing on June 20, 1988, that have been vacant continuously since June 20, 1988, or have been vacant continuously for five years prior to the date of application for such authorization, that are contiguous to and front on the same #street# as a vacant #zoning lot# or #land with minor improvements# that meets all the requirements of paragraph (b) or (c) of this Section, may be combined with such eligible #zoning lot# in its application to authorize #residential use#. The aggregate #lot area# of all such contiguous vacant #zoning lots# or #land with minor improvements# shall be limited by the requirements of paragraph (b)(3).
- (e) In authorizing such #residential uses#, the Commission shall find that:
- (1) the #residential uses# will not be exposed to excessive noise, smoke, dust, noxious odor, toxic materials, safety hazards or other adverse impacts from current or previous #commercial# or #manufacturing# #uses#;
 - (2) there are no open #uses# listed in Use Group 18 within 400 feet of the #zoning lot#;
 - (3) the #residential uses# will not adversely affect #commercial# or #manufacturing# #uses# in the district; and

- (4) the authorization will not alter the essential character of the neighborhood or district in which the use is located, nor impair the future use or development of commercial and manufacturing zoning lots.

In granting such authorization, the Commission may prescribe additional conditions and safeguards as the Commission deems necessary.

Residential uses authorized pursuant to this Section shall be subject to the regulations of Sections 43-61 (Bulk Regulations for Residential Uses in M1-1D Through M1-5D Districts) and 44-28 (Parking Regulations for Residential Uses in M1-1D through M1-5D Districts).

Regulations governing other residential uses in M1-D Districts are set forth in Article V, Chapter 2 (Non-conforming Uses).

Residential uses in M1-D Districts may enlarge pursuant to the regulations of Section 52-46 (Conforming and Non-conforming Residential Uses in M1-1D through M1-5D Districts) or of this Section.

42-48 - Supplemental Use Regulations in M1-6D Districts

LAST AMENDED
9/21/2011

All permitted uses in M1-6D Districts, as set forth in Section 42-10 (USES PERMITTED AS-OF-RIGHT), shall comply with the provisions set forth in this Section, inclusive.

42-481 - Residential use

LAST AMENDED
9/21/2011

Residential use shall be permitted in M1-6D Districts only in accordance with the provisions of this Section. For the purposes of this Section, a “qualifying building” shall be any building that existed on April 25, 2011, and which contained at least 40,000 square feet of floor area on such date.

- (a) Residential use as-of-right

Residential use shall be permitted as-of-right on any zoning lot that, on April 25, 2011, was not occupied by a qualifying building. Such absence of a qualifying building on the zoning lot shall be demonstrated to the satisfaction of the Department of Buildings.

- (b) Residential use by certification

Residential use shall be permitted on a zoning lot that, on April 25, 2011, was occupied by one or more qualifying buildings, only upon certification by the Chairperson of the City Planning Commission that the zoning lot will contain at least the amount of non-residential floor area that existed within qualifying buildings on the zoning lot on April 25, 2011, provided that:

- (1) preservation of non-residential floor area within existing non-qualifying buildings on the zoning lot shall not be counted toward meeting the requirements of this certification; and
- (2) floor area from community facility uses with sleeping accommodations shall not be counted toward meeting the requirements of this certification.

However, non-#residential# #floor area converted# to #residential# vertical circulation and lobby space need not be replaced as non-#residential# #floor area#.

A restrictive declaration acceptable to the Department of City Planning shall be executed and recorded, binding the owners, successors and assigns to provide the amount of non-#residential# #floor area# that existed within qualifying #buildings# on April 25, 2011, on the #zoning lot#. Such restrictive declaration shall be recorded in the Office of the City Register. A copy of such declaration shall be provided to the Department of Buildings upon application for any building permit related to a change in #use# from non-#residential# to #residential#, or for a new #building# containing #residences#.

42-482 - Community facility use

LAST AMENDED
9/21/2011

The #community facility# #use# regulations applicable in M1 Districts shall not apply in M1-6D Districts. In lieu thereof, all #community facility# #uses# listed in Use Groups 3 and 4 shall be permitted, except that #community facilities# with sleeping accommodations shall only be permitted in accordance with paragraphs (a) or (b) of this Section, as applicable.

For the purposes of this Section, a “qualifying #building#” shall be any #building# that existed on April 25, 2011, and which contained at least 40,000 square feet of #floor area# on such date.

- (a) #Community facilities# with sleeping accommodations shall be permitted as-of-right on any #zoning lot# that, on April 25, 2011, was not occupied by a qualifying #building#. Such absence of a qualifying #building# on the #zoning lot# shall be demonstrated to the satisfaction of the Department of Buildings.
- (b) #Community facilities# with sleeping accommodations shall be permitted on a #zoning lot# that, on April 25, 2011, was occupied by one or more qualifying #buildings#, only upon certification by the Chairperson of the City Planning Commission that the #zoning lot# will contain at least the amount of non-#residential# #floor area# that existed within qualifying #buildings# on the zoning lot on April 25, 2011, provided that:
 - (1) preservation of non-#residential# #floor area# within existing non-qualifying #buildings# on the #zoning lot# shall not be counted toward meeting the requirements of this certification; and
 - (2) #floor area# from #community facility# #uses# with sleeping accommodations shall not be counted toward meeting the requirements of this certification.

However, non-#residential# #floor area# converted to vertical circulation and lobby space associated with a #community facility# with sleeping accommodations need not be replaced as non-#residential# #floor area#.

A restrictive declaration acceptable to the Department of City Planning shall be executed and recorded, binding the owners, successors and assigns to provide the amount of non-#residential# #floor area# that existed within qualifying #buildings# on April 25, 2011, on the #zoning lot#. Such restrictive declaration shall be recorded in the Office of the City Register. A copy of such declaration shall be provided to the Department of Buildings upon application for any building permit related to a change in #use# from non-#residential# to #community facility# with sleeping accommodations, or for a new #building# containing a #community facility# with sleeping accommodations.

- (c) On #narrow streets#, ground floor #community facility# #uses# shall be subject to the streetscape provisions set forth in Section [42-485](#) (Streetscape provisions).

42-483 - Commercial uses

LAST AMENDED
9/21/2011

The #commercial use# regulations applicable in M1 Districts shall apply in M1-6D Districts, except that:

- (a) Food stores, including supermarkets, grocery stores and delicatessen stores, shall not be limited as to size of establishment.
- (b) On #narrow streets#, ground floor #commercial# #uses# shall be subject to special streetscape provisions, as set forth in Section 42-485.
- (c) All #uses# listed in Use Group 10 shall be permitted without limitation, except as provided for in paragraph (b) of this Section.

42-484 - Manufacturing uses

LAST AMENDED
9/21/2011

In M1-6D Districts, the #manufacturing# #use# regulations applicable in #Special Mixed Use Districts#, as set forth in Section [123-22](#) (Modification of Use Groups 16, 17 and 18), inclusive, shall apply.

42-485 - Streetscape provisions

LAST AMENDED
9/21/2011

For the purposes of applying the special “ground floor level” streetscape provisions set forth in Section [37-30](#) to this Section, #narrow streets# with a #street# frontage of 50 feet or more shall be considered “primary street frontages”, as defined in Section 37-311.

On #narrow streets#, for #zoning lots# with #street# frontage of 50 feet or more, ground floor #uses# limited to Use Groups 6A, 6C, 7B, 8A, 8B, 9A, 10A, 12A and 12B shall extend along a minimum of 50 percent of the width of the #street# frontage of the #zoning lot#. Such #uses# shall extend to a depth in accordance with the provisions of Section [37-32](#) (Ground Floor Depth Requirements for Certain Uses). The remainder of the #street# frontage of the #zoning lot# may be occupied by any permitted #uses#, lobbies or entrances to parking spaces, provided that lobbies shall comply with the provisions for Type 2 lobbies set forth in Section [37-33](#) (Maximum Width of Certain Uses).

Enclosed parking spaces, or parking spaces covered by a #building#, including such spaces #accessory# to #residences#, shall be permitted to occupy the ground floor, provided that such spaces are wrapped by #floor area# or screened in accordance with the provisions of Section [37-35](#) (Parking Wrap and Screening Requirements), as applicable.

For any #development# or #enlargement# that includes a ground floor #street wall#, each ground floor #street wall# occupied by #uses# listed in Use Groups 1 through 15, not including #dwelling units#, shall be glazed in accordance with the provisions of Section [37-34](#) (Minimum Transparency Requirements).

42-486 - Authorization for modification of streetscape provisions

LAST AMENDED
10/13/2016

For #zoning lots# that have a #street# frontage of less than 75 feet, where entrances to off-street parking or loading facilities are

located along such #street# frontage, the City Planning Commission may modify the dimensions of the frontage and depth requirements for ground floor #commercial# #uses# set forth in Section [42-485](#) (Streetscape provisions), provided that the Commission finds that such modifications:

- (a) are the minimum necessary to provide sufficient space for access to off-street parking or loading facilities;
- (b) will not adversely affect the streetscape experiences or impact the viability of such #uses#, and the resulting ground floor frontages will effectively contribute to a vibrant mixed-use district; and
- (c) to the greatest extent feasible will result in a ground floor that meets the height requirements for #qualifying ground floors#.