



Zoning Resolution

THE CITY OF NEW YORK

Bill de Blasio, Mayor

CITY PLANNING COMMISSION

Marisa Lago, Chair

32-40 - SUPPLEMENTARY USE REGULATIONS

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32-40 - SUPPLEMENTARY USE REGULATIONS

LAST AMENDED
12/15/1961

32-41 - Enclosure Within Buildings

LAST AMENDED
2/2/2011

C1 C2 C3 C4 C5 C6 C8

In the districts indicated, except as otherwise specifically provided in the Use Groups permitted in such districts and in Sections 36-11 (General Provisions), 36-61 (Permitted Accessory Off-street Loading Berths) and 73-36 (Physical Culture or Health Establishments), all permitted #uses# which are created by #development#, or which are #enlarged# or #extended#, or which result from a change of #use# shall be subject to the provisions of this Section with respect to enclosure within #buildings#. With respect to the #enlargement# or #extension# of an existing #use#, such provisions shall apply to the #enlarged# or #extended# portion of such #use#.

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

LAST AMENDED
12/15/1961

C1 C5 C6-5 C6-7

In the districts indicated, all such #uses# shall be located within #completely enclosed buildings#.

32-412 - In other Commercial Districts

LAST AMENDED
1/20/1965

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

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

32-42 - Location Within Buildings

LAST AMENDED
12/15/1961

32-421 - Limitation on floors occupied by commercial uses

LAST AMENDED
2/26/2014

C1 C2 C3

In the districts indicated, in any #building#, or portion of a #building# occupied on one or more of its upper #stories# by

#residential uses# or by #community facility uses#, no #commercial uses# listed in Use Group 6, 7, 8, 9 or 14 shall be located above the level of the first #story# ceiling, provided, however, that permitted #signs#, other than #advertising signs#, #accessory# to such #commercial uses# may extend to a maximum height of two feet above the level of the finished floor of the second #story#, but in no event higher than six inches below the lowest window sill of the second #story#. In any other #building#, or portion thereof, not more than two #stories# may be occupied by #commercial uses# listed in Use Group 6A, 6B, 6C, 6F, 7, 8, 9 or 14.

However, in C1 or C2 Districts mapped within R9 or R10 Districts or in C1-8, C1-9, C2-7 or C2-8 Districts, non-#residential uses# listed in Use Group 6, 7, 8, 9 or 14, where permitted by the applicable district regulations, may occupy the lowest two #stories# in any #building# constructed after September 17, 1970. For #buildings# constructed in such districts prior to September 17, 1970, located in Community District 6 in the Borough of Manhattan, such non-#residential uses# may occupy the lowest two #stories# in such #building#, provided that:

- (a) the Chairperson of the City Planning Commission certifies to the Commissioner of Buildings that the second #story# has not been occupied by a #community facility use#, a #dwelling unit# or a #rooming unit#, notwithstanding the certificate of occupancy, if any, for a continuous period from May 1, 2013, until a certification has been issued pursuant to this Section; and
- (b) the second #story# of at least one other #building# on the same #block# frontage is occupied by a #use# listed in Use Groups 6, 7, 8, 9 or 14.

32-422 - Location of floors occupied by commercial uses

LAST AMENDED
2/2/2011

C4 C5 C6

In the districts indicated, in any #building#, or portion of a #building# occupied by #residential uses#, #commercial uses# listed in Use Group 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 or 16 may be located only on a #story# below the lowest #story# occupied in whole or in part by such #dwelling units# or #rooming units#, except that this limitation shall not preclude the location of any such #commercial use# below the level of the first #story# ceiling, or the extension of a permitted #sign#, other than an #advertising sign#, #accessory# to such #commercial use#, to a maximum height of two feet above the level of the finished floor of the second #story#, but in no event higher than six inches below the lowest window sill on the second #story#.

32-423 - Limitation on ground floor location

LAST AMENDED
3/22/2016

C4 C5

In the districts indicated, #uses# in the Use Groups listed in the following table and marked with asterisks in the Use Group listing shall be located only as follows and as set forth in the following table:

- (a) on a floor above or below the ground floor; or
- (b) on the ground floor, but not within 50 feet of any #street wall# of the #building# and with no #show window# facing on the #street#.

| District | Use Group in Which Limitation Applies |
|----------|---------------------------------------|
| C4 | 8, 9 or 12 |
| C5 | 6, 9 or 11 |

32-43 - Ground Floor Use in Certain Locations

LAST AMENDED

12/21/2005

32-431 - Ground floor use in C1-8A, C1-9A, C2-7A, C2-8A, C4-6A and C4-7A Districts

LAST AMENDED

3/22/2016

C1-8A C1-9A C2-7A C2-8A C4-6A C4-7A

In the districts indicated, and in C1 and C2 Districts mapped within R9A and R10A Districts, #uses# within #stories# that have a floor level within five feet of #curb level# fronting on a #wide street# shall be limited to non-#residential uses# except for Type 1 lobbies, and entryways to subway stations provided in accordance with the applicable provisions of Section 37-33 (Maximum Width of Certain Uses).

Non-#residential use# shall have a depth of at least 15 feet from the #street wall#. Such minimum depth requirement may be reduced, however, to the minimum extent necessary, to accommodate a vertical circulation core, or structural columns associated with upper #stories# of the #building#. No more than 8,000 square feet shall be devoted to Use Group 6B within #stories# that have a floor level within five feet of #curb level#.

The provisions of Section 32-512 (For corner lots) shall not apply.

The provisions of this Section shall not apply within Community Board 7, Borough of Manhattan.

32-432 - Ground floor use in Community Board 7, Borough of Manhattan

LAST AMENDED

3/22/2016

Within the boundaries of Community Board 7 in the Borough of Manhattan, when a #development#, #enlargement# or change of #use# is located in an R10 equivalent #Commercial District#, #uses# within #stories# that have a floor level within five feet of #curb level# fronting on a #wide street# shall be limited to non-#residential uses#, except for Type 1 lobbies, and entryways to subway stations provided in accordance with the applicable provisions of Section 37-33 (Maximum Width of Certain Uses).

32-433 - Ground floor use in C1, C2 and C4 Districts in the Borough of Staten Island

LAST AMENDED

3/22/2016

C1 C2 C4

In all C1, C2 and C4 Districts in the Borough of Staten Island, ground floor #uses# shall conform with the provisions of this Section.

(a) Ground floor level #use# requirements

(1) Along #primary street frontages#

For #buildings#, or portions thereof, with #primary street frontage#, as defined in Section 37-311, #uses# on the ground floor level, to the minimum depth set forth in Section 37-32 (Ground Floor Depth Requirements for Certain Uses), shall be limited to non-#residential uses# except for Type 1 lobbies, and entrances and exits to #accessory# parking spaces provided in accordance with the applicable provisions of Section 37-33 (Maximum Width of Certain Uses). Any #accessory# off-street parking spaces located on the ground floor level shall be wrapped by #floor area# in accordance with the provisions of paragraph (a) of Section 37-35 (Parking Wrap and Screening Requirements).

(2) Along #secondary street frontages#

For #buildings#, or portions thereof, with #secondary street frontage#, as defined in Section 37-311, all #uses# permitted by the underlying district shall be permitted on the ground floor level, provided that any #accessory# off-street parking spaces located on the ground floor level shall be wrapped or screened in accordance with the provisions of Section 37-35.

The level of the finished floor of such ground floor shall be located not higher than two feet above nor lower than two feet below the as-built level of the adjoining #street#.

(b) #Non-conforming buildings#

#Buildings# containing #non-conforming residential uses# on the ground floor shall be permitted to #enlarge# without regard to the #use# regulations of this Section, provided that such #enlargement# complies with the provisions of the #residential yard# regulations set forth in Section 23-40.

32-434 - Ground floor use in C4-5D and C6-3D Districts and in certain C2 Districts

LAST AMENDED

3/22/2016

C4-5D C6-3D

In the districts indicated and in C2 Districts mapped within R7D or R9D Districts, #uses# within #stories# that have a floor level within five feet of #curb level# shall be limited to non-#residential uses# which shall extend along the entire width of the #building#, except for Type 1 lobbies, entrances and exits to #accessory# off-street parking facilities, and entryways to subway stations provided in accordance with the provisions of Section 37-33 (Maximum Width of Certain Uses). Such non-#residential uses# comply with the minimum depth provisions of Section 37-32 (Ground Floor Depth Requirements for Certain Uses).

Enclosed parking spaces, or parking spaces within a #building#, including such spaces #accessory# to #residences#, shall be permitted to occupy #stories# that have a floor level within five feet of #curb level# provided they comply with the provisions of Section 37-35 (Parking Wrap and Screening Requirements). Loading berths serving any permitted #use# in the #building# may occupy up to 40 feet of such #street# frontage and, if such #building# fronts on both a #wide street# and a #narrow street#, such loading berth shall be located only on a #narrow street#.

In C4-5D and C6-3D Districts, and in C2 Districts mapped within R7D or R9D Districts, each ground floor level #street wall# in a #building developed# or #enlarged# on the ground floor level shall comply with the glazing provisions set forth in Section 37-34 (Minimum Transparency Requirements).

32-435 - Ground floor use in high density Commercial Districts

LAST AMENDED

3/22/2016

The regulations of this Section shall apply to any #development# occupied by #predominantly residential use#, constructed after April 21, 1977, located on any #zoning lot# within C1-8, C1-9, C2-7, C2-8, C4-6, C4-7, C5-1, C5-2, C5-4, C6-3, C6-4, C6-5 or C6-8 Districts, or C1 or C2 Districts mapped within R9 or R10 Districts. However, this Section shall not apply within any Special Purpose District nor shall it apply to any #Quality Housing building#, except as otherwise set forth herein.

An application to the Department of Buildings for a permit respecting any #development# shall include a plan and an elevation drawn to a scale of at least one-sixteenth inch to a foot of the new #building# and #buildings# on #contiguous lots# or #contiguous blocks# showing #signs#, other than #advertising signs#, #arcades#, #street wall# articulation, curb cuts, #street# trees, sidewalk paving, central refuse storage area and such other necessary information as may be required by the Commissioner of Buildings.

(a) Definitions

For the purposes of this Section, the following definitions shall be applicable.

Contiguous block

For the purposes of this Section, inclusive, a “contiguous block” is a #block# containing one or more #zoning lots# separated by a #narrow street# from the #block# containing the #development#.

Contiguous lot

For the purposes of this Section, inclusive, a “contiguous lot” is a #zoning lot# which shares a common #side lot line# with the #zoning lot# of the #development#.

Development

For the purposes of this Section, inclusive, in addition to the definition of #development# in Section 12-10 (DEFINITIONS), “development” shall also include an #enlargement# involving an increase in #lot coverage#.

Predominantly residential use

For the purposes of this Section, inclusive, a “predominantly residential use” means a #building# having a #residential floor area# in excess of 50 percent of the total #building floor area#.

(b) Applicability of Article II, Chapter 6

In C1-8, C1-9, C2-7, C2-8, C4-6, C4-7, C5-1, C5-2, C5-4, C6-3, C6-4, C6-5 or C6-8 Districts, or C1 or C2 Districts mapped within R9 or R10 Districts, the regulations of Article II, Chapter 6 (Special Urban Design Guidelines), shall apply to any #development# occupied by #predominantly residential use#, except as modified by the provisions of this Section. The purpose of these modifications is to make the regulations of Article II, Chapter 6, applicable to

#Commercial Districts#.

(c) Retail Continuity

For #buildings# with front #building# walls that are at least 50 feet in width and front upon a #wide street#, a minimum of 50 percent of the width of such front #building# wall shall be occupied at the ground floor level by #commercial uses#, as permitted by district regulations.

In C1-8, C1-9, C2-7, C2-8 and C4-6 Districts and C1 or C2 Districts mapped within R9 or R10 Districts, #uses# which occupy such 50 percent of the front #building# wall shall be limited to those listed in Use Groups 6A, 6C and 6F, excluding banks and loan offices, except that in C4-6 Districts only, such #uses# may additionally include those listed in Use Groups 8A, 8B and 10A. All #uses# permitted by the underlying district regulations are permitted in the remaining 50 percent of the front #building# wall.

Such requirement of #commercial uses# for a minimum of 50 percent of the front #building# wall may be waived, or additional #uses# permitted, upon certification by the City Planning Commission to the Commissioner of Buildings that an adequate supply of such #uses# already exists at the ground floor level in the surrounding area.

The Commission may require that an application for such certification of additional #uses# for a completed #building#, where #floor area# has been designated for occupancy for such #commercial uses#, establish that a good faith effort has been made to secure tenancy by such #uses#.

(d) Ground floor transparency and articulation

When any #building# wall which is five feet or more in height adjoins a sidewalk, a #public plaza# or an #arcade#, ground floor level transparency shall be provided in accordance with the provisions of Section 37-34 (Minimum Transparency Requirements).

In addition, any portion of such #building# wall, 50 feet or more in width, which contains no transparent element between #curb level# and 12 feet above #curb level# or the ceiling of the ground floor, whichever is higher, or to its full height if such wall is less than 12 feet in height, shall be covered with ivy or similar planting or contain artwork or be treated so as to provide visual relief. Plants shall be planted in soil having a depth of not less than 2 feet, 6 inches, and a minimum width of 24 inches. If artwork is being used, approval by the New York City Design Commission shall be obtained prior to the certificate of occupancy being issued for the #development#.

(e) Sign regulations

In addition to the applicable district regulations in C1-8, C1-9, C2-7, C2-8 and C4-6 Districts and C1 or C2 Districts mapped within R9 or R10 Districts, all #signs#, other than #advertising signs# and window #signs#, shall be located in a horizontal band not higher than three feet, the base of which is located not higher than 17 feet above #curb level#. Where there is a grade change of at least 1.5 feet in 100 along the portion of the #street# upon which the #development# fronts, such signage band may be staggered along such #street#.

When a #building# on a #contiguous lot# or #contiguous block# contains #accessory# business #signs# within a coordinated horizontal band along its #street# frontage, the signage strip along the #development# shall be located at the same elevation as the adjacent band, but in no event higher than 17 feet above #curb level#. Where coordinated horizontal bands exist on two #contiguous lots# or #contiguous blocks# on both sides of the #development#, the signage strip shall be located at the same elevation as one adjacent band, or between the elevations of the two. For the purpose of this Section, the elevation is measured from the #curb level# to the base of the signage strip.

The City Planning Commission may, by certification to the Commissioner of Buildings, allow modifications of the requirements of this Section. Such modifications will be permitted when the Commission finds that such modifications will enhance the design quality of the #street wall#.

32-44 - Air Space Over a Railroad or Transit Right-of-way or Yard

LAST AMENDED
2/22/1990

32-441 - Definitions

LAST AMENDED
6/23/2005

Words in *italics* are defined in Section 12-10 or, if applicable exclusively to this Section, in this Section or in Section 98-01.

32-442 - Use of railroad or transit air space

LAST AMENDED
3/22/2016

C1 C2 C3 C4 C5 C6 C7 C8

- (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), or a railroad passenger station permitted by the Commission as set forth in Section 74-62 (Railroad Passenger Stations) 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 additional 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 arrangements specified in the #zoning lot# definition in 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 residential# or #community facility development# or a #large-scale general 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# 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 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#, which is executed and recorded as specified in the definition of #zoning lot# in Section 12-10 (DEFINITIONS).

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) 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).