



Zoning Resolution

THE CITY OF NEW YORK

Eric Adams, Mayor

CITY PLANNING COMMISSION

Daniel R. Garodnick, Chair

64-30 - SPECIAL BULK REGULATIONS

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64-30 - SPECIAL BULK REGULATIONS

LAST AMENDED
5/12/2021

The provisions of this Section, inclusive, are optional, and are only applicable to #zoning lots# located wholly or partially within #flood zones#.

The provisions of Section [64-31](#) (Special Bulk Regulations for All Buildings), inclusive, may be applied to #zoning lots# regardless of whether #buildings or other structures# on such #zoning lots# comply with #flood-resistant construction standards#.

The provisions of Section [64-32](#) (Special Bulk Regulations for Flood-resistant Buildings), inclusive, may be applied to #zoning lots# containing #flood-resistant buildings#, including #cottage envelope buildings#.

The provisions of Section [64-33](#) (Special Bulk Regulations for Cottage Envelope Buildings), inclusive, may be applied to #zoning lots# with #cottage envelope buildings#.

64-31 - Special Bulk Regulations for All Buildings

LAST AMENDED
5/12/2021

The provisions of this Section, inclusive, are optional, and are only applicable to #zoning lots# located wholly or partially within #flood zones#. The provisions of this Section, inclusive, may be applied to #zoning lots# regardless of whether #buildings or other structures# on such #zoning lots# comply with #flood-resistant construction standards#. For such #zoning lots#, the underlying #bulk# regulations shall apply, except where permitted to be modified by this Section, inclusive.

64-311 - Special floor area modifications for all buildings

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LAST AMENDED
12/6/2023

For all #buildings#, the definition of #floor area# in Section [12-10](#) (DEFINITIONS) shall be modified in accordance with the provisions of this Section.

(a) Flood control devices

In all districts, for every linear foot of protection by temporary flood control devices and associated fixtures, including emergency egress systems that are assembled prior to a storm and removed thereafter, up to 15 square feet of floor space used for the storage of such devices may be excluded from the definition of #floor area#, provided that in no event shall such exempted floor space exceed 1,000 square feet.

(b) Buildings containing non-#residential uses#

In #Commercial# and #Manufacturing Districts#, where the permitted #commercial# or #manufacturing# #floor area ratio# does not exceed 1.0, up to 500 square feet of floor space may be excluded from the definition of #floor area#, provided that:

- (1) the #building# is used exclusively for #non-residential uses#; and
- (2) such floor space is located at or above the #flood-resistant construction elevation#.

64-312 - Permitted obstructions in required yards, courts, and open spaces for all zoning lots

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LAST AMENDED
12/6/2023

The regulations for permitted obstructions in #yards#, #courts# and #open space# shall be modified in accordance with the provisions of this Section.

(a) Mechanical equipment

In all districts, where such #energy infrastructure equipment# or #accessory# mechanical equipment is elevated above the #flood-resistant construction elevation#, the underlying permitted obstruction regulations for such equipment may be modified as follows:

- (1) where any equipment is required to be located at least five feet from any #lot line#, such distance may be reduced to three feet for #zoning lots# that have less than the prescribed minimum #lot area# or #lot width# required by the applicable district regulations;
- (2) the maximum height of such permitted obstructions for the applicable district:
 - (i) may be measured from the #reference plane# instead of the level of the adjoining grade or #curb level#, as applicable; or
 - (ii) for #zoning lots# containing #residences# and a #lot area# greater than or equal to one and one-half acres, may exceed the applicable height limitations, provided that:
 - (a) such equipment is contained within a #building or other structure# that is located at least 30 feet from any #legally required window#;
 - (b) any stack associated with heating, ventilation, and air conditioning (HVAC) systems exhausts at a height at least as tall as the tallest #building# containing #residences# on the #zoning lot#; and
 - (c) such #building or other structure# complies with one point of the streetscape mitigations set forth in Section [64-52](#) (Ground floor level mitigation options); and
- (3) the maximum area that such equipment may occupy within a required #side yard#, #rear yard# or #rear yard equivalent#, or any #court# containing #legally required windows# need not apply where the height of such obstructions do not exceed the applicable underlying height allowances, as modified by the provisions of paragraph (a)(2)(ii)(a) of this Section.

(b) Berms

In all districts, structural landscaped berms and associated flood gates, including emergency egress systems that are assembled prior to a storm and removed thereafter, shall be permitted obstructions in any required #open space#, #yard# or #rear yard equivalent# on the #zoning lot#, provided that the height of such berm does not exceed the highest #flood-resistant construction elevation# required on the #zoning lot#, or five feet above the lowest adjoining grade, whichever is higher.

(c) Flood control devices

In all districts, temporary flood control devices and associated permanent fixtures, including emergency egress systems that are assembled prior to a storm and removed thereafter shall be permitted obstructions in #yards# and #rear yard equivalents#, #courts#, #open space#, #public plazas#, #arcades#, pedestrian circulation spaces and all other publicly accessible open spaces. However, permanent fixtures for self-standing flood control devices installed in #publicly accessible open areas#, #arcades#, and pedestrian circulation spaces shall be flush-to-grade.

(d) Steps

In all #Residence Districts#, the provisions of paragraph (a)(8) of Section [23-442](#) (Additional permitted obstructions) shall be modified to allow steps within a required #yard# or #rear yard equivalent#, provided that such steps access any #story# located at or below the #first story above the flood elevation#.

64-313 - Special height and setback regulations for all buildings

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LAST AMENDED
12/6/2023

The regulations for permitted obstructions to applicable height and setback regulations shall be modified in accordance with the provisions of this Section.

For #Quality Housing buildings#, or portions thereof, as an alternative to the provisions of paragraph (c) of Section [23-623](#), dormers may be a permitted obstruction within a required front setback distance above a maximum base height, provided that the aggregate width of all dormers at the maximum base height does not exceed 40 percent of the width of the #street wall# of the highest #story# entirely below the maximum base height. Such dormers need not decrease in width as the height above the maximum base height increases.

64-32 - Special Bulk Regulations for Flood-resistant Buildings

LAST AMENDED
5/12/2021

The provisions of this Section, inclusive, are optional, and are only applicable to #zoning lots# located wholly or partially within #flood zones#. The provisions of this Section, inclusive, may apply to #zoning lots# containing #flood-resistant buildings#, including #cottage envelope buildings#. For such #zoning lots#, the underlying #bulk# regulations shall apply, except where permitted to be modified by this Section, inclusive.

64-321 - Measurement of height for flood-resistant buildings

LAST AMENDED
5/12/2021

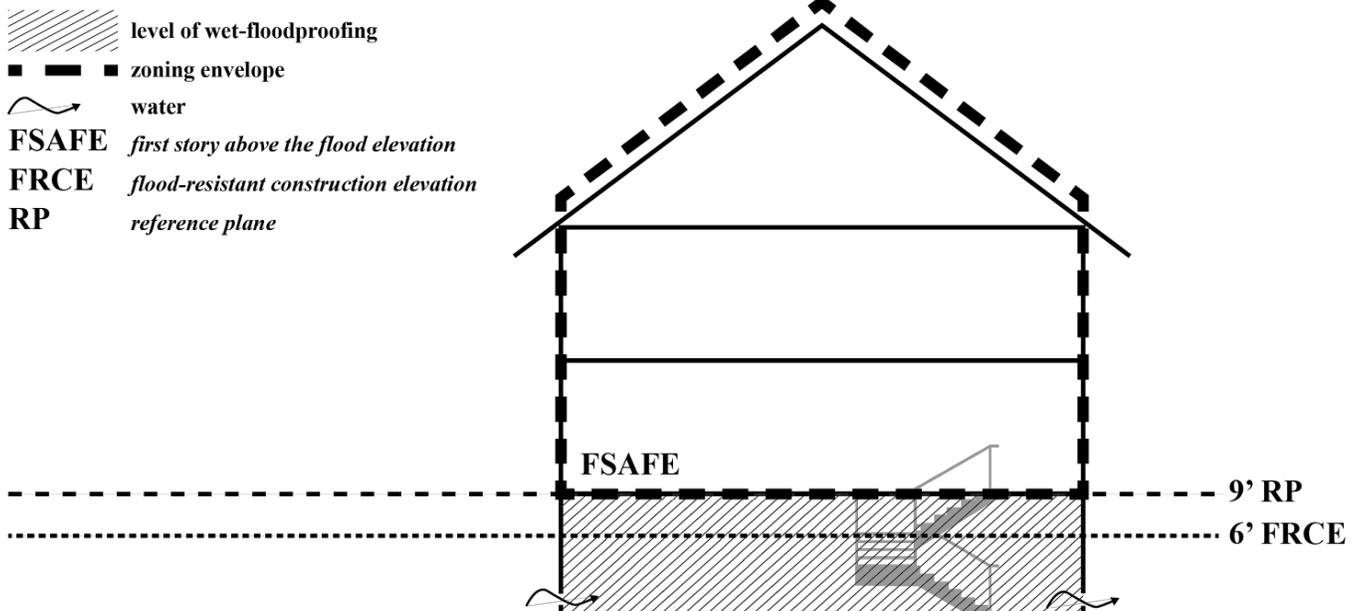
In all districts, as an alternative to measuring heights from #base plane#, #curb level#, or other applicable datum, all height measurements in #flood zones#, including the number of #stories# permitted, as applicable, may be measured from the #reference plane#, except as follows:

- (a) for #Quality Housing Buildings#, any minimum base height requirements shall continue to be measured from the #base plane#; and
- (b) the provisions of this Section shall not apply:
 - (1) to fences or other structures that are not #buildings#; and
 - (2) to #buildings# that are #accessory# to #single-# or #two-family residences#, except when mechanical equipment is located within such #building#.

Illustrative Examples

The following examples, although not part of the Zoning Resolution, are included to demonstrate the application of the optional height regulations available to #zoning lots# in #flood zones#. Specially, the examples illustrate how the defined terms #reference plane#, from which height is measured, relates to the #flood-resistant construction elevation# and the #first story above the flood elevation#. All terms are defined in Section [64-11](#) (Definitions).

EXAMPLE 1



Residential building located within the high-risk flood zone

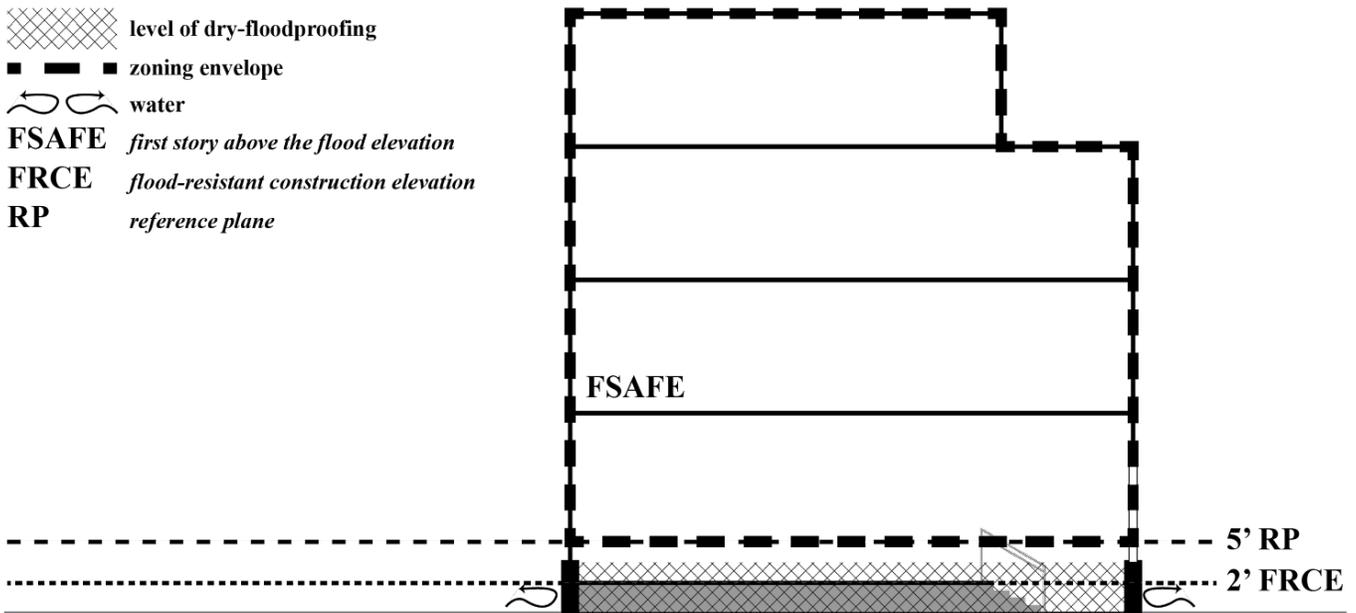
A #zoning lot# located within the #high-risk flood zone# has a #flood-resistant construction elevation# (as defined in Section [64-11](#)) that equates to being located six feet above grade (for illustrative purposes). The owner of a #single-family# #detached# #residence# would like to elevate the first habitable floor three feet above the #flood-resistant construction elevation# and wet-floodproof the ground floor up to that same level (nine feet above grade) to account for sea level rise projections.

Pursuant to Section [64-321](#), height measurements in #flood zones#, including height and setback regulations, may start from the #reference plane#, allowing the owner the necessary flexibility to address long-term climate change. For #zoning lots# located within the #high-risk flood zone#, the #reference plane#, may be established at any level between the #flood-resistant construction elevation# and a height of 10 feet above the #base plane# or #curb level#, as applicable. (Where the #flood-resistant construction elevation# exceeds 10 feet, the #reference plane# may still be established at the #flood-resistant construction elevation#, but that is not the case here.) While there is a level of flexibility built into the #reference plane# definition, the #reference plane# itself must also be located at or below the #first story above flood elevation#.

Considering the owner of such #single-family# #detached# #residence# is proposing to wet-floodproof the ground floor up to nine feet above grade, the #first story above flood elevation# becomes the finished floor level of the first #story# located at or above nine feet, which is, in this case, the second #story#. Therefore, the #reference plane# was able to be situated at that same level (nine feet above grade), but not higher.

EXAMPLE 2

-  level of dry-floodproofing
-  zoning envelope
-  water
- FSAFE** *first story above the flood elevation*
- FRCE** *flood-resistant construction elevation*
- RP** *reference plane*



Mixed-use building located within the moderate-risk flood zone

A #zoning lot# located within the #moderate-risk flood zone# has a #flood-resistant construction elevation# (as defined in Section [64-11](#)) of two feet above the lowest grade adjacent to the #building or other structure#. The owner of a #mixed building# that was flooded during Hurricane Sandy, would like to proactively comply with #flood-resistant construction standards# to be better prepared in the event of a future storm. To realize that, the owner decided to elevate the ground floor with a #commercial# #use# to the #flood-resistant construction elevation#, and dry-floodproof one foot above that for extra safety.

Pursuant to Section [64-321](#), height measurements in #flood zones#, including height and setback regulations, may start from the #reference plane#, allowing the owner the necessary flexibility to address long-term climate change. For #zoning lots# located within the #moderate-risk flood zone#, the #reference plane# may be established at any level between the #flood-resistant construction elevation# and a height of five feet above the #base plane# or #curb level#, as applicable. While there is a level of flexibility built within the #reference plane# definition, the #reference plane# must also be located at or below the #first story above flood elevation#.

Considering that the owner of such #mixed building# is proposing to elevate and dry-floodproof the ground floor up to three feet above grade, the #first story above flood elevation# becomes the finished floor level of the first #story# located at or above three feet, which is, in this case, the second #story#. Therefore, the #reference plane# was able to be situated at five feet above the #base plane# or #curb level#, as applicable.

64-322 - Special floor area modifications for flood-resistant buildings

LAST AMENDED
5/12/2021

For all #flood-resistant buildings#, the definition of #floor area# may be modified in accordance with the provisions of this Section.

(a) Entryways

In all districts, for #buildings# other than #residential buildings# with enclosed entryways below the #first story above the flood elevation#, up to 100 square feet of such entryways may be excluded from the definition of #floor area# for each foot of difference between the #first story above the flood elevation# and the level of the adjoining sidewalk, provided such floor space complies with the #flood-resistant construction standards# for dry-flood-proofing up to the #flood-resistant construction elevation# or higher. However, no more than a maximum of 500 square feet may be excluded from the definition of #floor area# for each entryway.

Such exempted floor space shall be considered #floor area# for the purposes of satisfying other ground floor #use# regulations of this Resolution, including, but not limited to, limitations on #floor area# for certain #uses#, parking wrap and screening requirements, and requirements for #floor area# at the ground floor.

(b) Modifications to attic allowances for residential buildings

In R2X, R3, R4, R4A, and R4-1 Districts outside of lower density growth management areas, the provisions of paragraph (a) of Section 23-142 (Open space and floor area regulations in R1 and R2 Districts with a letter suffix and R3 through R5 Districts) shall be modified to allow the floor area ratio set forth in the table of such Section to be exceeded by 20 percent provided that any such increase in floor area is located in any portion of a building covered by a sloping roof that rises at least three and one-half inches in vertical distance for each foot of horizontal distance.

(c) Flood-proofed ground floors

(1) For buildings along primary street frontages, or portions thereof, as defined in Section 64-11, floor space located below the first story above the flood elevation and within 30 feet of the street wall along such primary street frontage may be excluded from the calculation of floor area, provided that:

- (i) such floor space complies with the flood-resistant construction standards for dry-flood-proofing up to the flood-resistant construction elevation or higher;
- (ii) the level of the finished floor of such floor space is located no more than two feet above nor two feet below curb level;
- (iii) such floor space shall be limited to non-residential uses other than accessory parking or public parking garages and subject to the minimum depth requirements set forth in Section 37-32 (Ground Floor Depth Requirements for Certain Uses);
- (iv) ground floor level street walls shall be glazed in accordance with the provisions set forth in Section 37-34 (Minimum Transparency Requirements); and
- (v) for developments, the level of the first story above the flood elevation is 13 feet or more above the level of the adjoining sidewalk.

However, such floor space shall be considered floor area for the purposes of satisfying other ground floor use regulations of this Resolution, including, but not limited to, limitations on floor area for certain uses, parking wrap and screening requirements, and requirements for non-residential floor area at the ground floor.

(2) In all districts, floor space located below the first story above the flood elevation may be excluded from the calculation of floor area provided such floor space complies with the flood-resistant construction standards for wet-flood-proofing up to the flood-resistant construction elevation or higher.

(d) Floor area for existing buildings

For zoning lots containing buildings existing prior to May 12, 2021, as an alternative to the floor area regulations of this Chapter, the amount of floor area allocated to a basement or cellar in such existing building may be determined in accordance with how those terms were defined prior to May 12, 2021.

64-323 - Special regulations for required yards and open spaces for zoning lots with flood-resistant buildings

LAST AMENDED
5/12/2021

For zoning lots with flood-resistant buildings, the regulations for yards and open space shall be modified in accordance with the provisions of this Section.

(a) Level of required yards

In all districts, the underlying yard regulations shall be modified to allow the level of a yard or a rear yard equivalent to be located higher than curb level, provided that it does not exceed the flood-resistant construction elevation, and the level set forth by the following regulations:

- (1) in Residence Districts, the final grade of front yards and side yards shall not penetrate a plane that begins three feet above curb level at each lot line and has a slope extending perpendicular to lot lines of one foot vertical for each 2 feet 6 inches of horizontal distance;
- (2) in Commercial and in Manufacturing Districts, for portions of zoning lots where Sections 33-29 and 43-30 (SPECIAL

PROVISIONS APPLYING ALONG DISTRICT BOUNDARIES) apply, the level of #front yards# and #side yards# may be permitted to exceed #curb level# only pursuant to paragraph (a)(1) of this Section.

Nothing in this Section shall be construed so as to permit the creation of spaces below grade on all sides in a manner inconsistent with #flood-resistant construction standards#.

(b) Permitted obstructions

(1) Covered porches, balconies, and covered access areas

In all districts, a porch or access area covered by a roof or other permanent structure shall be permitted obstructions in any required #open space# or #yard# on the #zoning lot#. Where permanent structures such as balconies are located directly above a porch or access area, such balconies may exceed the width and depth standards of Section [23-13](#) (Balconies).

(2) Retaining walls

In #Residence Districts#, retaining walls shall be permitted in #front yards# and #side yards# provided any retaining wall parallel to, or within 15 degrees of being parallel to, the #street# shall not exceed a maximum height of three feet, as measured from the level of the adjoining grade or planted area below such wall, so that no more than three feet of such retaining wall is visible from the #street#; and

(3) Fences

In #Residence Districts#, portions of fences located in #front yards# with height greater than four feet above #curb level# shall be required to be no more than 50 percent opaque.

(c) Front yard planting requirement

In R1 through R5 Districts, where the distance between the #street wall# and the #street line# is 10 feet or less, or for #zoning lots# with #front yards# that are shallower than the minimum required pursuant to the applicable district regulations, stairs, ramps or lifts that access the #first story# above the flood elevation# shall be exempted from the area of a #front yard# for the purpose of calculating the planting requirements of Section [23-451](#) (Planting requirement).

64-324 - Street wall location for flood-resistant buildings

LAST AMENDED
5/12/2021

For all #buildings#, where the #street wall# location regulations of this Resolution require the #street wall# to be located within eight feet of the #street line#, such regulations may be modified to accommodate exterior stairs and ramps for access to the #building#, to comply with the requirements of Section [64-50](#) (Streetscape Regulations), or to provide temporary flood control devices and associated fixtures, as follows:

(a) no #street wall# need be located closer to the #street line# than eight feet;

(b) for #buildings# on #zoning lots# with a #lot width# greater than or equal to 50 feet, up to 50 percent of the #aggregate width of street walls# may be recessed beyond eight feet of the #street line#, provided that any such recesses deeper than 10 feet along a #wide street# or 15 feet along a #narrow street# are located within an #outer court# and the height of such recess shall not be less than the height of the first #story# located completely above the level of the adjoining grade; and

(c) for #buildings# on #zoning lots# with a #lot width# of less than 50 feet:

(1) for the first #story# above the #flood-resistant construction elevation#, or #reference plane#, as applicable, and any #street wall# below such first #story#, the #aggregate width of street wall# may be located anywhere; and

(2) for the remaining #aggregate width of street walls# above such #stories#, up to 50 percent of the #aggregate width of street walls# may be recessed beyond eight feet of the #street line#, provided that any such recesses deeper than 10 feet along a #wide street# or 15 feet along a #narrow street# are located within an #outer court#.

For all #buildings# where the aggregate width of exterior stairs, ramps, or elevated platforms in front of a #street wall# exceeds 70 percent or more along the ground floor of the #street wall#, such stairs, ramps, or elevated platforms shall be screened by living plant material or by the provisions of paragraph (b)(1) of Section [64-521](#) (Options available for all buildings).

64-33 - Special Bulk Regulations for Cottage Envelope Buildings

LAST AMENDED
5/12/2021

The provisions of this Section, inclusive, are optional, and are only applicable to #zoning lots# located wholly or partially within #flood zones#. The provisions of this Section, inclusive, may be applied to #zoning lots# with #cottage envelope buildings#. For such #zoning lots#, the underlying #bulk# regulations shall apply, except where permitted to be modified by this Section, inclusive.

No #building# that utilizes the provisions of this Section shall subsequently be #enlarged# pursuant to Section [73-622](#) (Enlargements of single- and two-family detached and semi-detached residences).

64-331 - Modifications to the attic allowance for cottage envelope buildings

LAST AMENDED
5/12/2021

R3 R4A R4-1

In #lower density growth management areas# in the districts indicated, the provisions of paragraph (b) of Section [23-142](#) (Open space and floor area regulations in R1 and R2 Districts with a letter suffix and R3 through R5 Districts) shall be modified to allow the #floor area ratio# set forth in the table of such Section to be exceeded by 20 percent, provided that any such increase in #floor area# is located in any portion of a #cottage envelope building# covered by a sloping roof that rises at least three and one-half inches in vertical distance for each foot of horizontal distance.

64-332 - Special regulations for required yards, courts and open spaces on zoning lots with cottage envelope buildings

LAST AMENDED
5/12/2021

R1 R2 R3 R4 R5

In the districts indicated, for #zoning lots# containing #cottage envelope buildings#, the following #yards#, #courts# and #open space# regulations may be modified in accordance with the provisions of this Section.

(a) Lot Coverage and Open Space

In R1-2A, R2A, R3-1, R3-2, R4, R4-1, and R4A Districts, the #lot coverage# and #open space# regulations need not apply. In lieu thereof, the #yard# requirements of this Section shall apply.

(b) Front Yards

For #buildings# that are utilizing the provisions of this paragraph, the provisions of paragraphs (b) and (c) of Section [23-45](#) (Minimum Required Front Yards) need not apply.

For the purpose of this Section, the area between the #street line# and the #street wall line# of adjacent #buildings# containing #residences# on the same or adjoining #zoning lots# fronting on the same #street# shall be considered adjacent #front yards#.

Where an adjacent #front yard# is shallower than the minimum required pursuant to the applicable district regulations, then the #front yard# of the #zoning lot# containing #cottage envelope buildings# may be as shallow as the shallowest adjacent #front yard#.

(c) Side Yards

The #side yard# provisions for the applicable district shall apply, except that the required total width of #side yards# for a #zoning lot# may be reduced by four inches for each foot by which the width of a #zoning lot# is less than the minimum widths set forth in the definition of #cottage envelope building# in Section [64-11](#) (Definitions). However, in no event shall the required width of a #side yard# be less than three feet.

In addition, for #buildings# utilizing the provisions of this paragraph, the provisions of paragraph (c) of Section [23-461](#) (Side yards for single- or two-family residences) need not apply, provided such open area does not serve as access or contain #accessory# off-street parking spaces serving existing #buildings# that remain on the #zoning lot#, or an adjoining #zoning lot#.

(d) Rear Yards

- (1) Where an #interior lot# is less than 95 feet deep at any point, the depth of a required #rear yard#, or portion thereof, for such #interior lot#, may be reduced by six inches for each foot by which the depth of a #zoning lot#, or portion thereof, is less than 95 feet. However, in no event shall the minimum depth of a required #rear yard#, or portion thereof, be reduced to less than 10 feet.
- (2) Where a #through lot# is less than 180 feet deep at any point, the depth of a required #rear yard equivalent#, or portion thereof, for such #through lot#, may be reduced by one foot for each foot by which the depth of a #zoning lot#, or portion thereof, is less than 180 feet. However, in no event shall the minimum depth of a required #rear yard equivalent#, or portion thereof, be reduced to less than 20 feet.

(e) Corner Lots

Where a #corner lot# has a #lot area# equal to or less than 3,000 square feet, only one #front yard# need be provided, and the remaining #front lot line# may be treated as a #side lot line#.

64-333 - Height and setback regulations for cottage envelope buildings

LAST AMENDED

5/12/2021

R1 R2 R3 R4 R5

In the districts indicated, all #cottage envelope buildings# shall be subject to the height and setback provisions set forth in paragraph (b) of Section [23-631](#) (General provisions), except that:

- (a) the maximum height of a perimeter wall of a #cottage envelope building# before setback shall be 21 feet;
- (b) the maximum height of a ridge line shall be 25 feet; and
- (c) all heights may be measured from the #reference plane#.

In addition, the maximum number of #stories# in any #cottage envelope building# shall not exceed two #stories# above the #reference plane#. For the purposes of this Section, attic space providing structural headroom of less than eight feet shall not be considered a #story#.