Zoning Resolution

THE CITY OF NEW YORK
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CITY PLANNING COMMISSION
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64-32 - Special Bulk Regulations for Flood-resistant Buildings

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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) any minimum base height requirements shall continue to be measured from the #base plane#; and

(b) the provisions of this Section shall not apply:

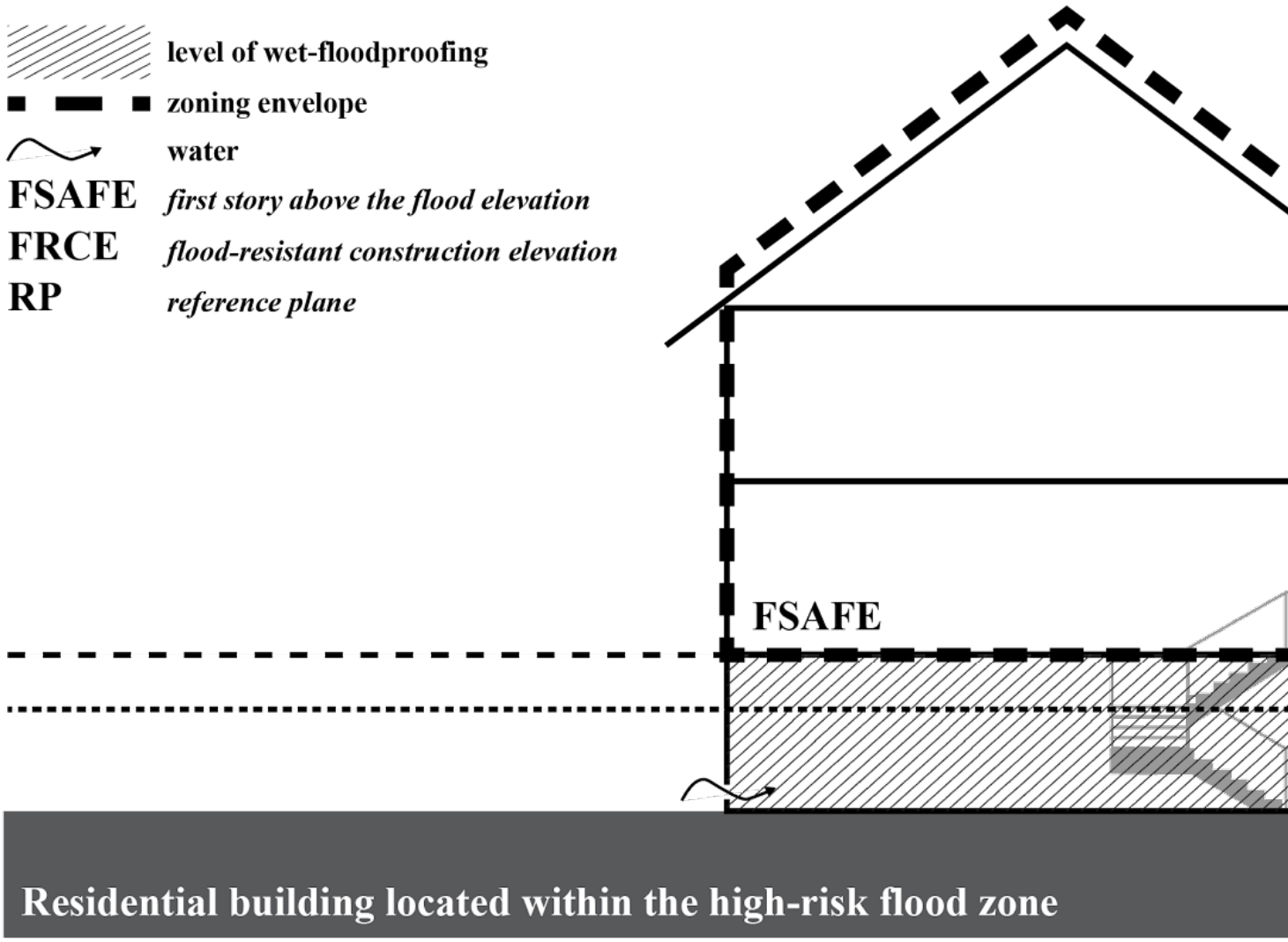
(1) to fences or other structures that are not #buildings#; and

(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



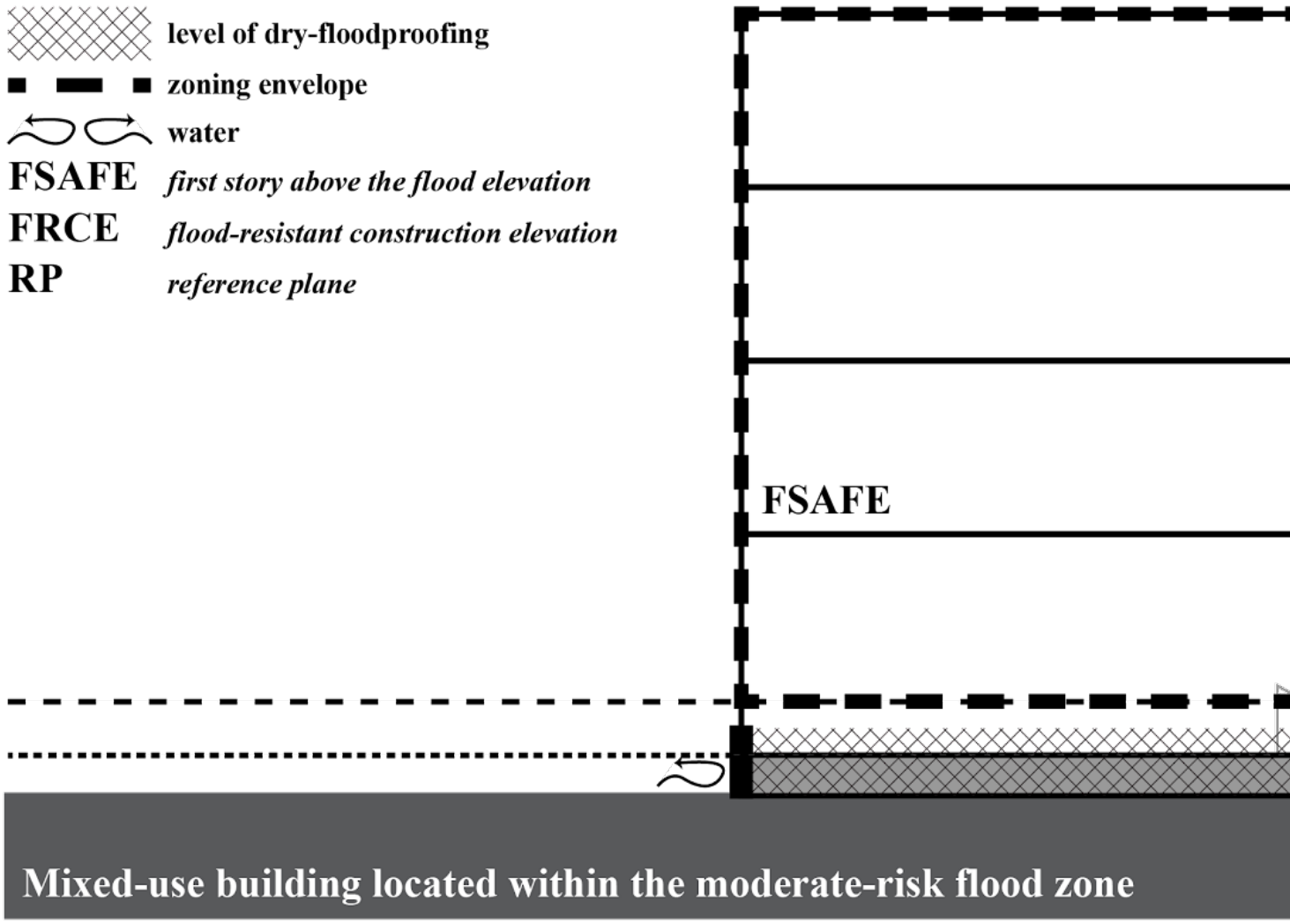
A #zoning lot# located within the #high-risk flood zone# has a #flood-resistant construction elevation# (as defined in Section 64-11) that equates to being located six feet above grade (for illustrative purposes). The owner of a #single-family# #detached# #residence# would like to elevate the first habitable 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



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
12/5/2024

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) Flood-proofed ground floors

(1) For #buildings# along #primary 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 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.

(c) #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
12/5/2024

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 23-62 (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 23-613 (Front Yard Planting

Requirements).

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

LAST AMENDED
12/5/2024

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).