



## Zoning Resolution

THE CITY OF NEW YORK

Eric Adams, Mayor

CITY PLANNING COMMISSION

Daniel R. Garodnick, Chair

# **73-40 - MODIFICATIONS OF USE OR PARKING REGULATIONS**

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## 73-40 - MODIFICATIONS OF USE OR PARKING REGULATIONS

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LAST AMENDED  
7/22/1971

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### 73-41 - General Provisions

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LAST AMENDED  
12/17/1987

Subject to the general findings required by Section [73-03](#) and in accordance with the provisions contained in Sections [73-42](#) to [73-53](#), the Board of Standards and Appeals shall have the power to permit modification of #use# or parking regulations of this Resolution, and shall have the power to impose appropriate conditions and safeguards thereon.

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### 73-42 - Enlargement of Uses Across District Boundaries

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LAST AMENDED  
1/28/1965

In all districts, the Board of Standards and Appeals may permit the expansion of a conforming #use# located within a #building or other structure# into a district where such #use# is not permitted, provided that the #enlarged use# is contained within a single #block# and the expansion of either the depth or the width of the conforming #use# is no greater than 50 percent of either the depth or width, respectively, of that portion of the #zoning lot# located in the district where such #use# is a conforming #use#, but in no case shall the area of the expansion exceed 50 percent of the area of the #zoning lot# located in the district where such #use# is a conforming #use#, and provided further that the following findings are made:

- (a) there is no reasonable possibility of expanding such #use# within the existing district where it is a conforming #use#;
- (b) such conforming #use# was in existence prior to January 6, 1965, or the date of any applicable subsequent amendment to the #zoning maps#; and
- (c) such expanded #use# is not so situated or of such character or size as to impair the essential character or the future use or development of the surrounding area.

In the case of a #use# which, at the time of application to the Board under the provisions of this Section, is already partially located in the more restricted district, where it is a #non-conforming use#, or which has extended into such district in accordance with the provisions of Section [77-11](#) (Conditions for Application of Use Regulations to Entire Zoning Lot), the maximum expansion to be permitted under the provisions of this Section shall be computed as 50 percent of the width or depth of that portion of the #zoning lot# located within the mapped boundary of the district where such #use# is a conforming #use#, and shall be measured from such mapped district boundary.

In every case where the Board permits such expansion, the #building or other structure#, or portion thereof, situated on the expanded portion of the #zoning lot# shall comply on such expanded portion with the applicable #bulk# regulations of the district in which such #use# is a conforming #use# and, subject to such compliance on the expanded portion of the #zoning lot#, the Board may permit such conforming #use#, even when located in an existing #building or other structure# which is #non-complying#, to expand across the district boundary in accordance with the provisions of this Section.

All the applicable regulations of the district in which such #use# is a conforming #use# shall apply on the entire #zoning lot#, or any portion thereof, to be occupied by such #use# and any special regulation applying along district boundaries shall apply along #rear# and #side lot lines# of the expanded #zoning lot#.

Where #yard# regulations are applicable, the Board may permit the expanded area to include, in addition to area permitted under other provisions of this Section, such area as is necessary for the required #yards#. However, such additional area shall not be counted as #lot area# for purposes of #bulk# computations.

The Board may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the district including requirements for adequate screening.

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### **73-43 - Reduction of Parking Spaces**

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LAST AMENDED

9/9/2004

The Board of Standards and Appeals may permit a reduction in the number of #accessory# off-street parking spaces required under the provisions of Sections [25-31](#), [36-21](#) or [44-21](#) (General Provisions), in accordance with the applicable provisions of Sections [73-431](#) through [73-435](#) for the reduction of parking spaces.

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### **73-431 - Reduction of parking spaces for houses of worship**

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LAST AMENDED

9/9/2004

In all districts, the Board of Standards and Appeals may permit a waiver of, or a reduction in, the number of required #accessory# off-street parking spaces for houses of worship, provided:

- (a) the house of worship will be operated or utilized in such a manner as to reduce demand for on-site parking; and
- (b) such reduction is commensurate with the reduced demand for on-site parking.

Factors to be considered by the Board may include, without limitation, the size of the congregation, the frequency and time of worship services and other events, and the proximity of public transportation. The Board may impose appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

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### **73-432 - Reduction of parking spaces for places of assembly**

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LAST AMENDED

6/6/2024

In all #Commercial# and #Manufacturing Districts#, the Board of Standards and Appeals may permit a reduction in the number of #accessory# off-street parking spaces required under the provisions of Sections [25-31](#), [36-21](#) or [44-21](#) (General Provisions) for #uses# in parking requirement category B1 whenever such #uses# are located on the same #zoning lot# as other #uses#, proportionate to the extent that the Board finds:

- (a) that the spaces #accessory# to such other #uses# will remain available for #use# by persons visiting the place of assembly during the entire period that such place of assembly remains in #use#; and
  - (b) that, in accordance with submitted schedules of the times of operation for all #uses# on the #zoning lot#, there will be no conflict in the #use# of such #accessory# off-street parking spaces, and that the provision of the full quota of required off-street parking spaces for places of assembly is therefore not needed. The permit to reduce such spaces shall be automatically revoked whenever there is a change in the nature of the conditions upon which such reduced requirements were based, including changes in #use#, availability of spaces or hours of operation.
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### **73-433 - Reduction of existing parking spaces for income-restricted housing units**

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LAST AMENDED3/22/2016

For #zoning lots# within the #Transit Zone# with #buildings# containing #income-restricted housing units# in receipt of a certificate of occupancy prior to March 22, 2016, the Board of Standards and Appeals may permit a waiver of, or a reduction in, the number of #accessory# off-street parking spaces required for such #income-restricted housing units# prior to March 22, 2016, provided that the Board finds that such waiver or reduction will:

- (a) facilitate an improved site plan;
- (b) facilitate the creation or preservation of affordable housing, where a #development# includes new #residential floor area# on the #zoning lot#;
- (c) not cause traffic congestion; and
- (d) not have undue adverse effects on residents, businesses or #community facilities# in the surrounding area, as applicable, including the availability of parking spaces for such #uses#.

Factors to be considered by the Board may include, without limitation, the use of the existing parking spaces by residents of the #zoning lot#, the availability of parking in the surrounding area and the proximity of public transportation. The Board may impose appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

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### **73-434 - Reduction of existing parking spaces for affordable independent residences for seniors**

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LAST AMENDED3/22/2016

For #zoning lots# outside the #Transit Zone# with #buildings# containing #affordable independent residences for seniors# in receipt of a certificate of occupancy prior to March 22, 2016, the Board of Standards and Appeals may permit a reduction in the number of #accessory# off-street parking spaces required for such #affordable independent residences for seniors# prior to March 22, 2016, provided that the Board finds that:

- (a) such reduction will facilitate an improved site plan;
- (b) any new #dwelling units# created on the portion of the #zoning lot# previously occupied by such parking spaces will be #income-restricted housing units#;
- (c) such reduction will not cause traffic congestion; and
- (d) such reduction will not have undue adverse effects on residents, businesses or #community facilities# in the surrounding area, as applicable, including the availability of parking spaces for such #uses#.

Any permitted reduction shall be in compliance with the parking requirement for #affordable independent residences for seniors# developed after March 22, 2016, as set forth in Section 25-252.

Factors to be considered by the Board may include, without limitation, the use of the existing parking spaces by residents of the #zoning lot#, the availability of parking in the surrounding area and the proximity to public transportation. The Board may impose appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

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### **73-435 - Reduction of parking spaces for other government-assisted dwelling units**

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In all districts in the #Transit Zone#, the Board of Standards and Appeals may permit a waiver of, or reduction in, the number of required #accessory# off-street parking spaces required for government-assisted #dwelling units# subject to restrictions on rents in #developments# or #enlargements#, provided that the conditions and findings set forth in this Section are met.

As a condition for such waiver or reduction, at least 20 percent of all #dwelling units# in such #development# or #enlarged building# shall be #income-restricted housing units#, and an additional 30 percent of all #dwelling units# in such #development# or #enlarged building# shall be subject to a legally binding restriction limiting rents as prescribed by a City, State, or Federal agency, law, regulation, or regulatory agreement, for a period of not less than 30 years.

In order to grant such permit, the Board shall find that such waiver or reduction will:

- (a) facilitate such #development# or #enlargement#;
- (b) not cause traffic congestion; and
- (c) not have undue adverse effects on residents, businesses or #community facilities# in the surrounding area, as applicable, including the availability of parking spaces for such #uses#.

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

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### **73-44 - Reduction of Parking Spaces for Uses in Parking Requirement Category A3**

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LAST AMENDED  
6/6/2024

In the districts indicated, the Board of Standards and Appeals may permit a reduction in the number of #accessory# off-street parking spaces required by the provisions of Section [36-21](#) or [44-21](#) (General Provisions) for #uses# in parking requirement category A3 to the applicable number of spaces specified in the table set forth at the end of this Section, provided that the Board finds that occupancy by #uses# in parking category A3 is contemplated in good faith on the basis of evidence submitted by the applicant. In such a case the Board shall require that the certificate of occupancy issued for the #building# within which such #use# is located shall state that no certificate shall thereafter be issued if the #use# is changed to a #use# listed in parking category A2 unless additional #accessory# off-street parking spaces sufficient to meet such requirements are provided on the site or within the permitted off-site radius.

#### **REDUCED ACCESSORY OFF-STREET PARKING SPACES REQUIRED FOR USES IN PARKING REQUIREMENT CATEGORY A3**

Parking Spaces Required per Number of Square Feet of #Floor Area# *	Districts
1 per 400	C1-1 C2-1 C3 C4-1

1 per 600	C1-2 C2-2 C4-2 C8-1  M1-1 M1-2 M1-3  M2-1 M2-2 M3-1
1 per 800	C1-3 C2-3 C4-3 C7 C8-2

\* For ambulatory diagnostic or treatment facilities listed in Use Group III(B), parking spaces required per number of square feet of #floor area# or #cellar# space, except #cellar# space used for storage

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## 73-45 - Modification of Off-site Parking Provisions

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LAST AMENDED  
5/8/2013

In all districts, the Board of Standards and Appeals may modify the provisions regulating the location of #accessory# off-street parking spaces provided off the site, in accordance with the provisions of this Section which are applicable in the specified district. However, in no event shall #accessory# off-street parking spaces be permitted off-site in a #public parking garage#.

This Section shall not apply to the #Manhattan Core# where the regulations set forth in Article I, Chapter 3, shall apply.

In all cases, the Board may impose appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

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## 73-451 - For residences

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LAST AMENDED  
2/2/2011

The Board of Standards and Appeals may permit off-site spaces #accessory# to #residences# or to #non-profit hospital staff dwellings# to be located in any district except an R1 or R2 District, or at a greater distance from the #zoning lot# than the maximum distance specified in the applicable district regulations, provided that the following special findings are made:

- (a) that the required #accessory# on-street parking spaces cannot reasonably be provided on the #zoning lot# because of physical conditions including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions;
- (b) that within the maximum permitted radius for off-site parking or within a district other than a #Residence District#, there is substantial difficulty in obtaining a site of sufficient size to accommodate the required #accessory# off-street parking spaces because such sites are occupied by substantial improvements;
- (c) that where such spaces are located at a greater distance from the #zoning lot# than the maximum distance permitted by the district regulations, such distance is not greater than as shown in the following table for the specified districts; and

Maximum Distance (in feet)	Districts

1,200	R3 R4 R5 R6 R7-1 R7B C1-1 C1-2 C1-3 C2-1 C2-2 C2-3 C3 C4-1 C4-2 C4-3
1,500	R7-2 R7A R7X R8 R9 R10 C1-4 C1-5 C1-6 C1-7 C1-8 C1-9 C2-4 C2-5 C2-6 C2-7 C2-8 C4-4 C4-5 C4-6 C4-7 C5 C6

- (d) that where such off-site spaces are located in a #Residence District#, they are so located as not to impair the essential character or the future use or development of the nearby residential neighborhood.

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### **73-452 - For community facilities in Residence Districts**

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LAST AMENDED  
6/27/1963

The Board of Standards and Appeals may permit off-street parking spaces #accessory# to a #community facility# #use# other than a #non-profit hospital staff dwelling#, which #use# is located in an R1, R2, R3 or R4 District, to be provided off-site and located in any district, or may permit off-street parking spaces #accessory# to a #community facility# #use# other than a #non-profit hospital staff dwelling#, which #use# is located in any other #Residence District#, to be provided off-site and located in an R1, R2, R3 or R4 District or located in any other #Residence District# at a greater distance from the #zoning lot# than the maximum distance specified in Section [25-53](#) (Off-site Spaces for Permitted Non-residential Uses), provided that in such instances, all such spaces shall be not further than 600 feet from the nearest boundary of the #zoning lot# containing such #use#, and provided further that the following special findings are made:

- (a) that where such spaces are located in an R1 or R2 District, the #community facility# #use# to which they are #accessory# is a #use# permitted as-of-right in such district;
- (b) that there is no way to arrange such spaces on the same #zoning lot# as such #use#;
- (c) that such spaces are so located as to draw a minimum of vehicular traffic to and through #streets# having predominantly #residential# frontage; and
- (d) either that such spaces are located on an adjoining #zoning lot# or a #zoning lot# directly across the #street# from such #use# or, if such spaces are not so located, that there is substantial difficulty in obtaining a site of sufficient size to accommodate the required #accessory# off-street parking spaces on an adjoining #zoning lot# or a #zoning lot# directly across the #street# from such #use# or in a location where such off-site spaces would be permitted as-of-right, because such sites are occupied by substantial improvements.

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### **73-453 - For non-residential uses in Commercial or Manufacturing Districts**

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LAST AMENDED  
6/27/1963

For non-#residential uses#, other than #non-profit hospital staff dwellings#, the Board of Standards and Appeals may extend the

maximum permitted radius for off-site parking spaces located in #Commercial# or #Manufacturing Districts#, as specified in Sections [25-53](#) (Off-site Spaces for Permitted Non-residential Uses), [36-43](#) (Off-site Spaces for Commercial or Community Facility Uses) or [44-32](#) (Off-site Spaces for All Permitted Uses), from 600 to 1,200 feet, whenever the Board finds:

- (a) that the required #accessory# off-street parking spaces cannot reasonably be provided on the #zoning lot# because of physical conditions including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions; and
- (b) that, within 600 feet of a boundary of the #zoning lot#, there is substantial difficulty in obtaining a site of sufficient size to accommodate the required #accessory# off-street parking spaces because such sites are occupied by substantial improvements.

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### **73-454 - For houses of worship**

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LAST AMENDED

9/9/2004

The Board of Standards and Appeals may modify, as applicable, the provisions of Sections [25-53](#) (Off-site Spaces for Permitted Non-residential Uses), [25-542](#) (Shared parking facilities for houses of worship), [36-43](#) (Off-site Spaces for Commercial or Community Facility Uses), [36-442](#) (Shared parking facilities for houses of worship), [44-32](#) (Off-site Spaces for All Permitted Uses) or [44-332](#) (Shared facilities for houses of worship), relating to the maximum permitted distance of the location of #accessory# off-street parking spaces for houses of worship, provided that in such instances all such spaces shall be not further than 1,000 feet from the nearest boundary of the #zoning lot# containing such house of worship, upon finding that:

- (a) such spaces conform to all applicable regulations of the district in which they are located; and
- (b) the location of such spaces will not result in undue traffic congestion in the area.

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

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### **73-46 - Waiver of Requirements for Conversions**

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LAST AMENDED

2/2/2011

In R6 or R7-1 Districts, in C1 or C2 Districts mapped within R6 or R7-1 Districts, or in C4-2 or C4-3 Districts, where the number of #accessory# off-street parking spaces required for additional #dwelling units# created by #conversions# of any kind exceeds the number of spaces which may be waived as of right under the provisions of Sections [25-262](#) (For conversions), [36-363](#) (For conversions in C1 or C2 Districts governed by surrounding Residence District bulk regulations) or [36-364](#) (For conversions in C4 Districts), the Board of Standards and Appeals may waive all or part of the required spaces, provided that the Board finds that there is neither a practical possibility of providing such spaces:

- (a) on the same #zoning lot# because of insufficient #open space# and the prohibitive cost of structural changes necessary to provide the required spaces within the #building#; nor
- (b) on a site located within 1,200 feet of the nearest boundary of the #zoning lot# because all sites within such radius are occupied by substantial improvements.

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### **73-47 - Exceptions to Maximum Size of Accessory Group Parking Facilities**

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LAST AMENDED  
6/6/2024

The Board of Standards and Appeals may permit #accessory# #group parking facilities# with more than 150 spaces in #Commercial# or #Manufacturing Districts# or for hospital and related facilities listed under Use Group III(B) in #Residence Districts# in accordance with the provisions of this Section provided that such provisions shall not apply to #accessory# off-street parking spaces provided in #public parking garages# in accordance with the provisions of Section [36-57](#) or [44-46](#) (Accessory Off-street Parking Spaces in Public Parking Garages).

This Section shall not apply to the #Manhattan Core# where the regulations set forth in Article I, Chapter 3, shall apply.

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### **73-471 - For hospitals and related facilities in Residence Districts**

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LAST AMENDED  
6/6/2024

The Board of Standards and Appeals may permit #accessory# #group parking facilities# with more than 150 spaces for hospitals and related facilities listed under Use Group III(B) in all #Residence Districts#, provided that the following findings are made:

- (a) that such facility is so located as to draw a minimum of vehicular traffic to and through local #streets# in residential areas;
- (b) that such facility has adequate reservoir space at the vehicular entrance to accommodate either 10 automobiles or five percent of the total parking spaces provided by the facility, whichever amount is greater, but in no event shall such reservoir space be required for more than 20 automobiles; and
- (c) that the #streets# providing access to such #use# will be adequate to handle the traffic generated thereby.

The Board may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area, including requirements for locations of entrances and exits or for shielding of floodlights.

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### **73-472 - In Commercial or Manufacturing Districts**

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LAST AMENDED  
6/6/2024

The Board of Standards and Appeals may permit #accessory# #group parking facilities# with more than 150 spaces in #Commercial# or #Manufacturing Districts#, provided either that such facilities have separate entrances and exits on two or more #streets# or that the following findings are made:

- (a) that such facility, if #accessory# to a non-#residential use#, other than a #non-profit hospital staff dwelling#, has adequate reservoir space at the vehicular entrance to accommodate either 10 automobiles or five percent of the total parking spaces provided by the facility, whichever amount is greater, but in no event shall such reservoir space be required for more than 50 automobiles; and
- (b) that the #streets# providing access to such #use# will be adequate to handle the traffic generated thereby.

The Board may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area, including limitations on #signs# or requirements for locations of entrances or for shielding of floodlights.

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### **73-48 - Roof Parking**

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LAST AMENDED

6/6/2024

In C1-1, C1-2, C1-3, C1-4, C2-1, C2-2, C2-3, C2-4, C4-1, C4-2, C4-3, C4-4, C7 outside the #expanded Transit Zone#, C8-1, C8-2, C8-3, M1-1, M1-2, M1-3, M2-1, M2-2 or M3-1 Districts, the Board of Standards and Appeals may permit the parking or storage of motor vehicles on the roof of a #public parking garage# with a total of 150 spaces or less and, in all districts, the Board may permit modifications of the applicable provisions of Sections [25-11](#), [36-11](#) or [44-11](#) (General Provisions) so as to permit #accessory# off-street parking spaces to be located on the roof of a #building#. As a condition of permitting such roof parking, the Board shall find that the roof parking is so located as not to impair the essential character or the future use or development of adjacent areas.

The Board may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area, including requirements for setback of roof parking areas from #lot lines#, or for shielding of floodlights.