



## Zoning Resolution

THE CITY OF NEW YORK

Eric Adams, Mayor

CITY PLANNING COMMISSION

Daniel R. Garodnick, Chair

# **74-90 - USE AND BULK MODIFICATIONS FOR CERTAIN COMMUNITY FACILITY USES**

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## 74-90 - USE AND BULK MODIFICATIONS FOR CERTAIN COMMUNITY FACILITY USES

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LAST AMENDED  
2/2/2011

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### 74-901 - Long-term care facilities

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LAST AMENDED  
5/12/2021

The City Planning Commission may permit #long-term care facilities# in locations where they are not permitted as-of-right, in accordance with paragraph (a) or (b) of this Section.

(a) In R1 and R2 Districts

The Commission may permit #long-term care facilities# in R1 and R2 Districts, and in C1 and C2 Districts mapped within such #Residence Districts#, provided that the following findings are made:

- (1) such #use# is compatible with the character of the surrounding area;
- (2) the proposed #building# access, orientation and landscaping create an adequate buffer between the proposed facility and nearby #residences#; and
- (3) the #streets# providing access to such #use# are adequate to handle the traffic generated thereby or provision has been made to handle such traffic.

(b) In certain Community Districts

The Commission may permit the #development# of nursing homes, as defined in the New York State Public Health Law, or #enlargements# of existing nursing homes that increase the existing #floor area# by 15,000 square feet or more, in Community District 11 in the Borough of the Bronx, Community District 8 in the Borough of Manhattan, and Community District 1 in the Borough of Staten Island, provided that the Commission finds that the #development# of additional nursing home beds will not unduly burden such community district. However, such special permit shall not apply to #developments# or #enlargements# that are subject to the restrictions set forth in Section [22-16](#) (Special Regulations for Nursing Homes).

Where such #use# is permitted by the Commission, it may be eligible for #bulk# modification, pursuant to the provisions of Section [74-902](#) (Certain community facility uses in R1 and R2 Districts and certain Commercial Districts), or Section [74-903](#) (Certain community facility uses in R3 to R9 Districts and certain Commercial Districts), as applicable.

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

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### 74-902 - Certain community facility uses in R1 and R2 Districts and certain Commercial Districts

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LAST AMENDED  
2/2/2011

In R1 and R2 Districts, and in C1 and C2 Districts mapped within such #Residence Districts# for any #development#, #extension# or #enlargement# or change of #use# involving any #community facility uses# permitted as-of-right pursuant to the

provisions of Sections [22-13](#) (Use Group 3) or [22-14](#) (Use Group 4), or #long-term care facilities# for which a special permit has been granted pursuant to Section [74-901](#), the City Planning Commission may permit the allowable #community facility# #floor area ratio# and #lot coverage# of Section [24-11](#) (Maximum Floor Area Ratio and Percentage of Lot Coverage) to apply to all such #uses#, provided that the following findings are made:

- (a) that the distribution of #bulk# on the #zoning lot# will not unduly obstruct the access of light and air in and to adjoining properties or public #streets#, and will result in satisfactory site planning and satisfactory urban design relationships of #buildings# to adjacent #streets# and the surrounding area;
- (b) that the architectural and landscaping treatment and the height of the proposed #building# containing such #uses# blends harmoniously with the topography and the surrounding area;
- (c) that the proposed facility will not require any significant additions to the supporting services of the neighborhood or that provision for adequate supporting services has been made; and
- (d) that the #streets# providing access to such #use# are adequate to handle the traffic generated thereby or provision has been made to handle such traffic.

The Commission may request a report from appropriate governmental agencies with respect to #community facility uses# requesting a special permit under this Section.

To minimize traffic congestion in the area, the Commission may require where necessary off-street parking facilities and #accessory# off-street loading berths beyond the amount required by the district regulations.

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

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## **74-903 - Certain community facility uses in R3 to R9 Districts and certain Commercial Districts**

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LAST AMENDED  
2/2/2011

The City Planning Commission may permit the #community facility# #floor area ratio# and the #community facility# #bulk# provisions to apply to a #development#, #extension# or #enlargement#, or change of #use# containing #long-term care facilities# or philanthropic or non-profit institutions with sleeping accommodations, as set forth in paragraph (a), provided that the findings in paragraph (b) of this Section are met.

- (a) The Commission may permit:
  - (1) in R3 through R9 Districts, or in C1 or C2 Districts mapped within an R3 through R9 District or #Commercial Districts# with an R3 through R9 District residential equivalent, the #community facility# #floor area ratio# of Section [24-11](#) (Maximum Floor Area Ratio and Percentage of Lot Coverage) to apply to #buildings# containing philanthropic or non-profit institutions with sleeping accommodations, as listed in Use Group 3;
  - (2) in R3-1, R3A, R3X, R4-1, R4A, R4B, R5A or R5B Districts, or in C1 or C2 Districts mapped within R3-1, R3A, R3X, R4-1, R4A, R4B, R5A or R5B Districts, or in C3A Districts, the #community facility# #floor area ratio# of Section [24-11](#) to apply to #buildings# containing #long-term care facilities#, as listed in Use Group 3;
  - (3) in R3-2 Districts, or R4 or R5 Districts without a letter or number suffix, or in C1 or C2 Districts mapped within an R3-2 District or within an R4 or R5 District without a letter suffix, or in C3 Districts without a letter suffix, or in C4-1 Districts, the #bulk# regulations of Article II, Chapter 4, Article III, Chapter 3, or Article III,

Chapter 5, as applicable, and the #community facility# #floor area ratio# of Section [24-11](#), to apply to #buildings# containing #long-term care facilities#; or

- (4) in R6 through R10 Districts without a letter suffix, and in C1 or C2 Districts mapped within an R6 through R10 District without a letter suffix or in #Commercial Districts# with an R6 through R10 District equivalent without a letter suffix, the #bulk# regulations of Article II Chapter 4, Article III, Chapter 3 or Article III, Chapter 5, as applicable, and the #community facility# #floor area ratio# of Section [24-11](#), as applicable, to apply to #buildings# containing #long-term care facilities#.
- (b) In order to grant such a special permit for #community facility# #floor area ratio# or #community facility# #bulk#, as applicable, the Commission shall find that:
- (1) the distribution of #bulk# on the #zoning lot# will not unduly obstruct the access of light and air to adjoining properties or public #streets#, and will result in satisfactory site planning and satisfactory urban design relationships of #buildings# to adjacent #streets# and the surrounding area;
  - (2) that the proposed facility will not require any significant additions to the supporting services of the neighborhood or that provision for adequate supporting services has been made; and
  - (3) the #streets# providing access to such #use# will be adequate to handle the traffic generated thereby or provision has been made to handle such traffic.

The Commission may request a report from appropriate governmental agencies with respect to #community facility uses# requesting a special permit under this Section.

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

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## **74-91 - Modification of Public Plazas**

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LAST AMENDED  
2/2/2011

In all districts, the City Planning Commission may permit modification of the provisions of Section [37-70](#) (PUBLIC PLAZAS) affecting the eligibility of #public plazas# for bonus #floor area#, provided that such modification shall not include any modification of Sections [23-15](#) (Open Space and Floor Area Regulations in R6 Through R10 Districts), [24-14](#) or [33-13](#) (Floor Area Bonus for a Public Plaza).

Any modification shall be conditioned upon the Commission finding that the usefulness and attractiveness of the #public plaza# will be assured by the proposed layout and design and that such modification will result in a superior urban design relationship with surrounding #buildings# and open areas.

The Commission may prescribe appropriate conditions and controls to enhance the relationship of such #public plazas# to surrounding #buildings# and open areas.

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## **74-92 - Use Groups 3A and 4A Community Facilities and Certain Large Retail Establishments in Manufacturing Districts**

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LAST AMENDED  
9/9/2004

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## 74-921 - Use Groups 3A and 4A community facilities

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LAST AMENDED

10/13/2010

(a) #Use# modifications for Use Groups 3A and 4A in M1 Districts

In M1 Districts, except for houses of worship and ambulatory diagnostic or treatment health care facilities, the City Planning Commission may permit #uses# listed in Use Group 4A - Community Facilities and, in M1-5 Districts, except in M1-5B and M1-5M Districts, the Commission may permit museums and non-commercial art galleries as listed in Use Group 3A, provided that such #community facility# is located not more than 400 feet from the boundary of a district where such facility is permitted as-of-right and the Commission finds that:

- (1) an adequate separation from noise, traffic and other adverse effects of the surrounding non-#residential districts# is achieved through the use of sound-attenuating exterior wall and window construction or by the provision of adequate open areas along #lot lines# of the #zoning lot#;
- (2) such facility is so located as to draw a minimum of vehicular traffic to and through local #streets# and that such #use# will not produce traffic congestion or other adverse effects that interfere with the appropriate #use# of land in the district or in any adjacent district;
- (3) where applicable, adequate reservoir space at the vehicular entrance and sufficient vehicular entrances and exits are provided to prevent congestion;
- (4) in selecting the site, due consideration has been given to the proximity and adequacy of bus and rapid transit facilities;
- (5) for a Use Group 4A #use#, within the neighborhood primarily to be served by the #community facility#, there is no practical possibility of obtaining a site of adequate size located in a district where it is permitted as-of-right because appropriate sites in such districts are occupied by substantial improvements; and
- (6) such facility will not impair the essential character of the surrounding area.

(b) #Bulk# modifications for museums in M1-5 Districts

For a #building# containing a museum #use# listed in Use Group 3A, in an M1-5 District, on a #zoning lot# over which the High Line (as defined in Section [98-01](#)) passes, the Commission may modify height and setback regulations, provided that such modifications:

- (1) provide a better distribution of #bulk# on the #zoning lot#;
- (2) result in a better relationship of the #building# to open areas including the High Line, adjacent #streets# and surrounding properties;
- (3) provide adequate light and air for #buildings# on the #zoning lot# and do not adversely affect adjacent #zoning lots# by unduly restricting access to light and air to surrounding #streets# and properties; and
- (4) result in a #building# containing a museum #use# that facilitates the public's use and enjoyment of the High Line.

The Commission may prescribe additional conditions and safeguards to minimize adverse effects on the character of the

surrounding area.

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## 74-922 - Certain large retail establishments

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LAST AMENDED

2/28/1985

In M1 Districts, the City Planning Commission may permit department stores, carpet, rug, linoleum or other floor covering stores, clothing or clothing accessory stores, dry goods or fabric stores, food stores, furniture stores, television, radio, phonograph or household appliance stores, or variety stores, with no limitation on #floor area# per establishment.

In M1-5 or M1-6 Districts, the Commission may modify the applicable regulations governing height and setback or #yards# for a change of #use#, #extension# or minor #enlargement# involving a large retail establishment.

In M1-5M Districts, the Commission may also modify the applicable regulations governing loading berths so as to allow the location of such berths off-site in conjunction with a change of #use#, #extension# or #enlargement# of a large retail establishment with a #floor area# of at least 25,000 square feet within a #building# designed for #residential use#.

As a condition of granting a special permit for such large retail establishments, the Commission shall find:

- (a) that the principal vehicular access for such #use# is not located on a local #narrow street#;
- (b) that such #use# is so located to draw a minimum of vehicular traffic to and through local #streets#;
- (c) that adequate reservoir space at the vehicular entrance, and sufficient vehicular entrances and exits, are provided to prevent congestion;
- (d) that vehicular entrances and exits are provided for such #uses# and are located not less than 100 feet apart;
- (e) that in selecting the site due consideration has been given to the proximity and adequacy of bus and rapid transit facilities;
- (f) that such #use# is so located as not to impair the essential character or the future use of or development of the surrounding area;
- (g) that such #use# will not produce any adverse effects which interfere with the appropriate #use# of land in the district or in any adjacent district;
- (h) that such #bulk# modifications will not unduly obstruct the access of light and air to surrounding streets and properties; and
- (i) that in the case of modification of loading berth regulations to allow off-site loading berths, the Commission further finds:
  - (1) that an adequate alternate loading facility in the same ownership (single fee ownership or control or alternative ownership arrangements of the #zoning lot# definition in Section [12-10](#)) as the retail store is provided, subject to a deed restriction filed in an office of record binding the owner and his heirs and assigns to maintain the alternate facility throughout the life of the retail store;
  - (2) that the alternate loading facility is located within the same district or an adjoining C6-M, C8 or #Manufacturing District# and the maximum distance between the two sites is 1000 feet;
  - (3) that the location of the loading berths on the same #zoning lot# as the retail store would have a significant

impact on the existing #residential uses# in the #building#;

- (4) that the location of the loading berths on the same #zoning lot# as the retail store would create serious vehicular and pedestrian traffic conflict on the #street# upon which the store fronts; and
- (5) that the alternate location of such loading berths will not unduly affect the movement of pedestrians or vehicles on the #streets# surrounding the alternate site.

The Commission may prescribe additional conditions and safeguards to minimize adverse effects on the character of the surrounding area.

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## **74-93 - Special Commercial and Manufacturing Developments**

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LAST AMENDED  
12/19/2017

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### **74-931 - Special commercial or mixed use developments in Commercial Districts**

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LAST AMENDED  
12/19/2017

Within the boundaries of Community District 6, Borough of Queens, for #commercial# or #mixed use# #developments# or #enlargements# on two or more #zoning lots# in more than one #block#, which #zoning lots#, as defined in Section [12-10](#), each have single fee ownership or equivalent ownership arrangements for all lots comprising the #development# or #enlargement#, which are contiguous or would be contiguous but for their separation by a #street#, and located partially in a C4-2 District, partially in a C4-2F District, the City Planning Commission may permit upon application:

- (a) reduction of the parking requirement of Section [36-21](#) (General Provisions) by an amount not to exceed 50 percent, provided that the Commission finds that the applicant has demonstrated that the proposed parking is sufficient for the #uses# proposed;
- (b) any closed and demapped air space above a #street# to be considered as a part of the #development# or #enlargement# and to be used for automobile ways, or for pedestrian ways, provided the Commission finds that:
  - (1) each bridge over the #street# bed utilizes only unused #floor area# from an adjoining #zoning lot# within the #development# or #enlargement# and that no #floor area# credit is generated from the demapped air space;
  - (2) each bridge adjoins #zoning lots# which are wholly within the #development# or #enlargement#;
  - (3) the #curb levels# of the adjoining #zoning lots# are not affected by the closing and demapping of such air space;
  - (4) all #street# frontages of the #zoning lots# under each bridge are provided with satisfactory lighting; and
  - (5) a landscaped open, covered or enclosed space for public use at #street# level, linked with the pedestrian circulation system, is provided in one location within the #development# or #enlargement#, which open, covered or enclosed space is at least equivalent to the #street# area covered by the bridges, has a minimum area of 20,000 square feet and is maintained with planting and seating facilities, by the owner of the #development# or #enlargement# or his designee, said open, covered or enclosed space to be subject to such other requirements as the Commission may deem appropriate;

- (c) automobile service establishments, including: automobile, tire, battery, muffler and accessories establishments, including installation services; automobile glass and mirror shops, including installation services where such #use# is an integral part of the permitted principal #use#; automotive seat cover or convertible top establishments, including installation service, but not including automobile laundries; automobile painting establishments; automobile body repair establishments; or automobile fuel service stations;
- (d) modification of applicable #bulk# regulations by permitting the total permitted #floor area# for all #zoning lots# within such #development# or #enlargement# to be distributed without regard to #zoning# #lot lines# and permitting the location of #buildings# without regard for the applicable height and setback regulations, provided the Commission finds that:
  - (1) such distribution of #floor area# and location of #buildings# will result in better site planning and will thus benefit both the neighborhood and the City as a whole; and
  - (2) such distribution of #floor area# and location of #buildings# will permit adequate access of light and air to surrounding #streets# and properties; and
- (e) modification of the applicable provisions of Sections [32-64](#) (Surface Area and Illumination Provisions) and [32-65](#) (Permitted Projection or Height of Signs), provided that the Commission finds that such modification will result in a better site plan.

The Commission may impose additional conditions and safeguards to improve the quality of the #development# or #enlargement# and minimize adverse effects on the character of the surrounding area, including restrictions on permitted #commercial# #uses#, #signs# and location of curb cuts to ease vehicular and pedestrian circulation in the area.

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## **74-932 - Self-service storage facility in designated areas within Manufacturing Districts**

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LAST AMENDED  
12/19/2017

On #zoning lots# in designated areas within #Manufacturing Districts# in Subarea 2, as shown on the maps in Appendix J (Designated Areas Within Manufacturing Districts) of this Resolution, the City Planning Commission may permit the #development#, #enlargement# not permitted pursuant to the provisions of Section [42-121](#) (Use Group 16D self-service storage facilities), or change of #use# of a #building# for #self-service storage facility# #use#.

To grant such permit, the Commission shall find that the #zoning lot# is appropriate for such #self-service storage facility# #use#, based on the land use characteristics of the proposed #zoning lot# and the surrounding area. In making this determination, the Commission may consider the following:

- (a) whether such #use# is consistent with the economic development objectives of the City for the designated area in which the #self-service storage facility# seeks to be located, and may, in making this determination, consult with the Department of Small Business Services;
- (b) whether recent trends for and levels of investment by #uses# listed in Use Groups 16D (other than a #self-service storage facility#), 17 or 18 demonstrate that there is minimal demand for space for such #uses# in the surrounding area;
- (c) whether the size and configuration of the #zoning lot# make it better suited for #self-service storage facility# #use# than for other #uses# listed in Use Groups 16D, 17 or 18;
- (d) for changes of #use# to existing #buildings#, whether the design and layout of loading docks, interior column spacing, floor-to-ceiling height and other relevant physical characteristics of the existing #building# make the #building# better suited for #self-service storage facility# #use# than for other #uses# listed in Use Groups 16D, 17 or 18;



- (e) whether the distance of the #zoning lot# from an arterial highway or a designated truck route, or lack of frontage on a #wide street#, makes the #zoning lot# better suited for #self-service storage facility use# than for other #uses# listed in Use Groups 16D, 17 or 18;
- (f) whether the distance of the #zoning lot# from mass transit that serves employees makes the #zoning lot# better suited for #self-service storage facility# #use# than for other #uses# listed in Use Groups 16D, 17 or 18;
- (g) whether the establishment of a #self-service storage facility# will cause environmental remediation work to be undertaken on the #zoning lot#; or
- (h) whether there is a concentration of existing #self-service storage facilities# in the surrounding area.

The Commission may impose appropriate conditions and safeguards to minimize any adverse effects upon the existing #uses# in the surrounding area.

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## 74-94 - Residences for People With Disabilities

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LAST AMENDED  
8/18/1977

In C6-2 Districts, for any #development# designed as a residence for people with disabilities, the City Planning Commission may, by special permit, modify the applicable height and setback regulations, #open space# and density requirements, regulations pertaining to permitted obstructions in required #yards#, and #accessory# parking requirements, and may increase, to a maximum of 7.2, the allowable #residential# #floor area ratio# on the #zoning lot# in accordance with the provisions of this Section. For purposes of this Section, a "residence for people with disabilities" is defined as a #residence# occupied at least 75 percent by disabled individuals or by households at least one of the members of which is disabled, and the remainder by individuals 62 years of age or older or by households at least one of the members of which is 62 years of age or older, and by the staff of such #residence# that:

- (a) contains #dwelling units# especially designed for disabled persons and reserved for use as residences for the disabled for a period of not less than 40 years;
- (b) contains related #accessory# social and welfare facilities primarily for residents which may also be made available to the community, such as cafeterias or dining halls, community rooms, workshops and other essential service facilities, provided that these facilities shall occupy #floor area#, #cellar# space or roof space in an amount equal to not less than 10 percent of the total #floor area# of the #building# or #buildings#. In no event shall the floor space occupied by lobbies, passageways, storage areas or other spaces normally provided in usual #residential buildings# be considered as part of the floor space attributable to the social and welfare facilities; and
- (c) is constructed with the assistance of mortgage financing or other financial assistance insured by or procured through or with the assistance of a municipal, State or Federal government agency.

As a condition for such special permit, the Commission shall make the following findings:

- (1) that the Mayor's Office for People with Disabilities, which may consult with other appropriate City agencies, has certified that the organization making the application for the special permit for the proposed residence for people with disabilities is a responsible group dealing with the needs of the disabled;
- (2) that the Commission, in consultation with the Mayor's Office for People with Disabilities and/or other appropriate City agencies, has determined that the special features and facilities are appropriate to the needs of the intended disabled residents of the #development#;

- (3) that the modifications of #bulk# requirements for the #development# will not impede adequate access of light and air to the surrounding #streets# and #residential# properties; and
- (4) that the modification of #accessory# off-street parking requirements on the #zoning lot# will not unduly inhibit surface traffic and pedestrian flow in the area.

For each square foot of space provided for #accessory# social or welfare facilities, the total #residential# #floor area# permitted on the #zoning lot# may be increased by two square feet. No #floor area# bonus provisions other than those set forth herein shall be applicable to the #zoning lot#. In no event shall the maximum #floor area ratio# on the #zoning lot# exceed 7.2.

The City Planning Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

For the purposes of this Section, the term "disabled" shall be applicable to any person who in the determination of the New York City Commissioner of Health has an impairment which is expected to be of long-continued and indefinite duration, is a substantial impediment to his or her ability to live independently and is of a nature that such ability could be improved by more suitable housing conditions.

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## **74-95 - Modifications of Housing Quality Special Permits**

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LAST AMENDED  
2/2/2011

Housing Quality #developments# granted a special permit by the Board of Estimate, prior to August 14, 1987, may be started or continued pursuant to that special permit.

The City Planning Commission may, upon application, authorize modifications of special permits granted before August 14, 1987, under previous Sections [74-95](#) (Housing Quality Developments) and [74-97](#) (Special Provisions for a Housing Quality Development on a Through Lot Divided by Residence-Manufacturing District Boundaries with a Substantial Grade Differential).

No such modification may create a new #non-compliance# or increase the degree of an existing #non-compliance#.

#Non-compliance# shall be measured pursuant to the applicable district #bulk# regulations and the provisions of Article II, Chapter 8.

In no event may the Commission grant a modification of a previously approved special permit, which would:

- (a) increase the height of the #building#;
- (b) extend the location of the exterior walls of the #building#;
- (c) increase the portion of the #zoning lot# covered by the #building#;
- (d) increase the #floor area# on the #zoning lot#;
- (e) reduce the amount of indoor and outdoor recreation space other than laundry rooms in the #building#;
- (f) reduce the amount of #bulk# storage within a #dwelling unit# or reduce shared #bulk# storage below 40 cubic feet of storage space for each additional 300 square feet of #dwelling unit#, or portion thereof, above 450 square feet; or
- (g) affect the provision and maintenance of off-site neighborhood improvements.

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## 74-96 - Industrial Business Incentive Areas

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LAST AMENDED

3/18/2021

For #developments# or #enlargements# on #zoning lots# located within any Industrial Business Incentive Area specified on the maps in Section [74-968](#) (Maps of Industrial Business Incentive Areas), the City Planning Commission may increase the maximum permitted #floor area ratio# in accordance with Section [74-963](#) (Permitted floor area increase). In conjunction with such #floor area# increase, the Commission may permit modifications to other #bulk# regulations, provisions for publicly accessible open spaces, as well as parking and loading requirements for such #developments# or #enlargements#, pursuant to Section [74-964](#) (Modifications in conjunction with a floor area increase).

All applications for a special permit pursuant to this Section, inclusive, shall be subject to the requirements, conditions and findings set forth in Section [74-962](#) (Application requirements), Section [74-965](#) (Conditions), Section [74-966](#) (Findings), and Section [74-967](#) (Compliance, recordation and reporting requirements).

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## 74-961 - Definitions

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LAST AMENDED

7/14/2016

For the purposes of Section [74-96](#) (Industrial Business Incentive Areas), inclusive, a “required industrial use” and an “incentive use” shall be defined as follows:

### Incentive Use

An “incentive use” is a #use# permitted by the applicable zoning district, that is allowed to occupy the additional #floor area# generated by a #required industrial use# with the exception of the following #uses#:

#transient hotels# in Use Group 5, as specified in Section [32-14](#);

#uses# in Use Groups 6A or 6C, as specified in Section [32-15](#);

#uses# in Use Group 7A, as specified in Section [32-16](#);

#uses# in Use Group 8C, as specified in Section [32-17](#);

#uses# in Use Group 10A, and any retail spaces #accessory# to wholesale offices or showrooms, with storage restricted to samples; in Use Group 10B as specified in Section [32-19](#);

#uses# in Use Group 12, as specified in Section [32-21](#);

#uses# in Use Group 13, as specified in Section [32-22](#); and

moving or storage offices, with no limitation as to storage or #floor area# per establishment, as well as packing or crating establishments, and warehouses, as specified in Section [32-25](#) (Use Group 16).

### Required Industrial Use

A “required industrial use” is a #use# that helps achieve a desirable mix of #commercial# and #manufacturing uses# in an Industrial Business Incentive Area, and that generates additional #floor area# pursuant to provisions set forth in Section [74-962](#)

and is listed in:

Use Group 11A as specified in Section [32-20](#);

Use Group 16A, as specified in Section [32-25](#), excluding animal hospitals and kennels; animal pounds or crematoriums; automobile, motorcycle, trailer, or boat sales; crematoriums, human; motorcycle or motor scooter rental establishments; poultry or rabbit killing establishments; riding academies; stables for horses; and trade schools for adults;

Use Group 16B, as specified in Section [32-25](#);

Use Group 17B, as specified in Section [42-14](#);

Use Group 17C, as specified in Section [42-14](#); and

Use Group 18A, as specified in Section [42-15](#), limited to beverages, alcoholic or breweries; where permitted by the provisions of the applicable zoning district and provided the applicable performance standards pursuant to Section [42-20](#) are met.

Any diagnostic medical laboratories that receive patients shall not be considered a #required industrial use#.

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## 74-962 - Application requirements

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LAST AMENDED

5/12/2021

All applications for a special permit pursuant to this Section shall include the following:

- (a) site plans and elevations which shall establish distribution of #floor area#, height and #setback#, sidewalk widths, primary business entrances, including parking and loading, #yards# and publicly accessible open space, signage and lighting;
- (b) floor plans of all floors which shall establish the location, access plan and dimensions of freight elevators and loading areas and the location of #floor area# dedicated to #required industrial uses# and #incentive uses#;
- (c) drawings that show, within a 600-foot radius, the location and type of #uses#, the location, dimensions and elements of off-site open areas including #streets#, waterfront and #upland# parcels, elements of a Waterfront Access Plan, as applicable, and the location of #street# trees and #street# furniture and any other urban design elements. Where applicable, for applications in Industrial Business Incentive Area 1, the plans shall demonstrate that any publicly accessible open space provided meets the requirements of paragraph (f) of Section [74-965](#) (Conditions); and
- (d) for #zoning lots# in #flood zones#, flood protection plans, location of mechanical equipment, areas for storage of any hazardous materials and proposed structural or design elements intended to mitigate the impacts of flood and storm events.

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## 74-963 - Permitted floor area increase

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LAST AMENDED

3/18/2021

In Industrial Business Incentive Areas, the City Planning Commission may increase the maximum #floor area ratio# on a #zoning lot# in accordance with the Table in this Section.

For #developments# or #enlargements# in the district indicated in Column A, for each square foot of #required industrial uses#, the base maximum #floor area ratio# on a #zoning lot#, set forth in Column B may be increased by 3.5 square feet up to the maximum #floor area ratio# for all #uses# on the #zoning lot# as set forth in Column E, provided that such increase in #floor area# is occupied by #required industrial uses# and #incentive uses# up to the maximum #floor area ratio# set forth in Column C (Maximum Additional #Floor Area Ratio# for #Required Industrial Uses#), and Column D (Maximum Additional #Floor Area Ratio# for #Incentive Uses#), respectively. In no event shall such #development# or #enlargement# include a #transient hotel#.

FLOOR AREA INCREASE PERMITTED  
IN INDUSTRIAL BUSINESS INCENTIVE AREAS

A	B	C	D	E
District	Base Maximum #Floor Area Ratio#	Maximum Additional #Floor Area Ratio# for #Required Industrial Uses#	Maximum Additional #Floor Area Ratio# for #Incentive Uses#	Maximum #Floor Area Ratio# for All #Uses#
M1-2	2.0	0.8	2.0	4.8
M1-4	2.0	1.3	3.2	6.5

Applications for such #floor area# increases are eligible for modifications set forth in Section [74-964](#) (Modifications in conjunction with a floor area increase), and are subject to the conditions set forth in Section [74-965](#) and findings set forth in Section 74-966.

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**74-964 - Modifications in conjunction with a floor area increase**

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LAST AMENDED  
3/18/2021

In Industrial Business Incentive Areas, the City Planning Commission may modify the following in conjunction with an application for a #floor area# increase pursuant to Section [74-963](#) (Permitted floor area increase).

(a) Bulk modifications

(1) Yard regulations

In all Industrial Business Incentive Areas, the #rear yard# regulations set forth in Section [43-20](#) (YARD REGULATIONS), inclusive, shall be modified pursuant to the provisions of paragraph (c) of Section [74-965](#) (Conditions). In addition, the Commission may modify any other #yard# regulations set forth in Section [43-20](#), inclusive.

(2) Height and setback regulations

(i) In Industrial Business Incentive Area 1, the height and setback regulations of Section [43-40](#) (HEIGHT AND SETBACK REGULATIONS), inclusive, shall be modified pursuant to the conditions of paragraph (d) of Section [74-965](#).

(ii) In Industrial Business Incentive Area 2, the Commission may modify the height and setback regulations of Section [43-40](#), inclusive.

(b) Modification for publicly accessible open space

In Industrial Business Incentive Area 1, where a publicly accessible open space is provided pursuant to paragraph (f) of Section [74-965](#), the Commission may modify the provisions of Section [37-70](#) (PUBLIC PLAZAS), inclusive.

(c) Parking and loading modifications

In all Industrial Business Incentive Areas, the Commission may reduce or waive the off-street parking requirements set forth in Section [44-20](#) (REQUIRED ACCESSORY OFF-STREET PARKING SPACES FOR MANUFACTURING, COMMERCIAL OR COMMUNITY FACILITY USES), inclusive, not including bicycle parking, and may also reduce or waive the loading berth requirements as set forth in Section [44-50](#) (OFF-STREET LOADING REGULATIONS), inclusive.

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## 74-965 - Conditions

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LAST AMENDED  
5/12/2021

In Industrial Business Incentive Areas, applications for #floor area# increases pursuant to Section [74-963](#) (Permitted floor area increase) and modifications pursuant to Section [74-964](#) (Modifications in conjunction with a floor area increase), are subject to the following conditions:

(a) Minimum amount of #required industrial uses#

#Required industrial uses# shall occupy a minimum horizontally contiguous #floor area# of 5,000 square feet in Industrial Business Incentive Area 1, and 2,500 square feet in Industrial Business Incentive Area 2, and shall be served by loading areas and freight elevators with sufficient capacity.

(b) Minimum sidewalk width

In all Industrial Business Incentive Areas, all #developments# and horizontal #enlargements# that front upon a #street line# shall provide a sidewalk with a minimum width of 15 feet along the entire frontage of the #zoning lot#. Such sidewalk, and any open area on the #zoning lot# required to meet such minimum width shall be improved as a sidewalk to Department of Transportation standards; shall be at the same level as the adjoining public sidewalk; and shall be accessible to the public at all times.

(c) Yards

In all Industrial Business Incentive Areas, the #rear yard# regulations set forth in Section [43-20](#) (YARD REGULATIONS), inclusive, shall not apply to any #development# or #enlargement# on a #through lot# or the #through lot# portion of a #zoning lot#.

(d) Height and setback

In Industrial Business Incentive Area 1, the #street wall# location requirements and height and setback regulations of this paragraph shall apply to any #development# or #enlargement#. For the purposes of applying the provisions of this paragraph, any sidewalk widening line provided pursuant to the minimum sidewalk width requirement of paragraph (b) shall be considered the #street line#. All heights shall be measured from the #base plane#.

- (1) The #street wall# of any #building# shall be located on the #street line# and shall extend to a height not lower than a minimum base height of 40 feet and not higher than a maximum base height of 75 feet or the height of the #building#, whichever is less. At least 70 percent of the aggregate width of such #street wall# below 12 feet shall be located at the #street line# and no less than 70 percent of the aggregate area of the #street wall# up to the base height shall be located at the #street line#. However, up to a width of 130 feet of such #street wall# located on the short end of the #block# may be set back from the #street line# to accommodate a publicly accessible open space provided pursuant to paragraph (f) of this Section.
- (2) The height of a #building or other structure#, or portion thereof, located within 10 feet of a #wide street# or within 15 feet of a #narrow street# shall not exceed a maximum base height of 75 feet. Permitted obstructions as set forth in Section [43-42](#) shall be modified to include dormers above the maximum base height within the front setback area, provided that on any #street# frontage, the aggregate width of all dormers at the maximum base height does not exceed 50 percent of the #street wall# and a maximum height of 110 feet. Beyond 10 feet of a #wide street# and 15 feet of a #narrow street#, the height of a #building or other structure# shall not exceed a maximum #building# height of 110 feet. Where a publicly accessible open space is provided pursuant to paragraph (f) of this Section, such maximum #building# height may be increased to 135 feet.
- (3) Along the short dimension of a #block#, up to 130 feet of such #street wall# may be set back from the #street line# to accommodate a publicly accessible open space provided pursuant to paragraph (f) of this Section, and a #street wall# located at the #street line# that occupies not more than 40 percent of the short end of the #block# may rise without setback to the maximum #building# height.

(e) Ground floor design

In all Industrial Business Incentive Areas the ground floor level #street walls#, and ground floor level walls fronting on a publicly accessible open space of a #development# or horizontal #enlargement# provided pursuant to paragraph (f) of this Section, shall be glazed in accordance with the provisions of Section [37-34](#) (Minimum Transparency Requirements). The ground floor transparency requirements of this paragraph (e) shall not apply to #uses# listed in Use Groups 11, 16, 17 and 18, provided that any portion of the ground floor level #street wall# without transparency shall be subject to the provisions for Type 1 blank walls set forth in Section [37-361](#) (Blank wall thresholds), and any #street wall# exceeding the particular thresholds set forth in such Section shall provide visual mitigation elements in accordance with the provisions of paragraphs (a) or (b)(1) of Section [37-362](#) (Mitigation elements).

(f) Publicly accessible open space

In Industrial Business Incentive Area 1, a publicly accessible open space shall be provided where the additional #building# height provision of paragraph (d)(2) of this Section is used. Such publicly accessible open space shall contain an area of not less than 12 percent of the #lot area# of the #zoning lot# and a minimum of at least 2,000 square feet in area. In addition, such publicly accessible open space shall comply with the provisions set forth in Section [37-70](#) (PUBLIC PLAZAS), inclusive, except that certification requirements of Sections [37-73](#) (Kiosks and Open Air Cafes) and [37-78](#) (Compliance) shall not apply.

(g) Signs

In all Industrial Business Incentive Areas, the following shall apply:

- (1) #Signs# shall be subject to the regulations applicable in C6-4 Districts as set forth in Section [32-60](#) (SIGN REGULATIONS), inclusive. Information #signs# provided pursuant to paragraph (g)(2) of this Section shall not count towards the maximum permitted #surface area# regulations of Section [32-64](#) (Surface Area and Illumination Provisions), inclusive.

- (2) An information #sign# shall be provided for all #buildings# subject to the #use# restrictions of this special permit. Such required #sign# shall be mounted on an exterior #building# wall adjacent to and no more than five feet from all primary entrances of the #building#. The #sign# shall be placed so that it is directly visible, without any obstruction, to persons entering the building, and at a height no less than four feet and no more than five and a half feet above the adjoining grade. Such #sign# shall be legible, no less than 12 inches by 12 inches in size and shall be fully opaque, non-reflective and constructed of permanent, highly durable materials. The information #sign# shall contain: the name and address of the building in lettering no less than three-quarters of an inch in height; and the following statement in lettering no less than one-half of an inch in height, “This building is subject to Industrial Business Incentive Area regulations which require a minimum amount of space to be provided for specific industrial uses.” The information #sign# shall include the internet URL, or other widely accessible means of electronically transmitting and displaying information to the public, where the information required in paragraph (b) of Section [74-967](#) (Compliance, recordation and reporting requirements) is available to the public.

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## 74-966 - Findings

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LAST AMENDED  
3/18/2021

In order to grant additional #floor area# and any modifications to #bulk#, publicly accessible open space or parking and loading regulations, the City Planning Commission shall find that:

- (a) For all applications with a #floor area# increase, and for any applications with #bulk# modifications, such increase or modification:
- (1) will promote a beneficial mix of #required industrial# and #incentive uses#;
  - (2) will result in superior site planning, harmonious urban design relationships and a safe and enjoyable streetscape;
  - (3) will result in a #building# that has a better design relationship with surrounding #streets# and adjacent open areas;
  - (4) will result in a #development# or #enlargement# that will not have an adverse effect on the surrounding neighborhood; and
  - (5) will, for #yard# or height and setback regulations, provide a better distribution of #bulk# on the #zoning lot# and will not unduly obstruct the access to light and air of surrounding #streets# and properties.
- (b) Where modifications to publicly accessible open space requirements of paragraph (f) of Section [74-965](#) (Conditions) are proposed, such modifications will result in a publicly accessible open space of equivalent or greater value as a public amenity.
- (c) Where modifications to parking or loading regulations are proposed:
- (1) such reduction or waiver of required parking spaces will not create or contribute to serious traffic congestion and will not unduly inhibit vehicular and pedestrian movement;
  - (2) the number of curb cuts provided are the minimum required for adequate access to off-street parking and loading berths, and such curb cuts are located so as to cause minimum disruption to traffic, including vehicular, bicycle and pedestrian circulation patterns;
  - (3) the #streets# providing access to the #development# or #enlargement# are adequate to handle the traffic



generated thereby, or provision has been made to handle such traffic; and

- (4) the reduction or waiver of loading berths requirements will not create or contribute to serious traffic congestion or unduly inhibit vehicular and pedestrian movement.

The Commission may prescribe appropriate additional conditions and safeguards to minimize adverse effects on the character of the surrounding area.

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## **74-967 - Compliance, recordation and reporting requirements**

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LAST AMENDED

3/18/2021

Applications for #floor area# increases and modifications in Industrial Business Incentive Areas are subject to the following requirements:

- (a) Compliance and recordation

Failure to comply with a condition or restriction in a special permit granted pursuant to Section [74-96](#) (Industrial Business Incentive Areas), inclusive, or with applicable approved plans, or with provisions of paragraphs (a), (b) and (c) of this Section, shall constitute a violation of this Resolution and may constitute the basis for denial or revocation of a building permit or certificate of occupancy, or for a revocation of such special permit, and for the implementation of all other applicable remedies.

A Notice of Restrictions, the form and content of which shall be satisfactory to the Commission, for a property subject to #use# restrictions or #public plaza# requirements, as applicable, pursuant to this Section, shall be recorded against the subject tax lot in the Office of the City Register or, where applicable, in the County Clerk's office in the county where the tax lot is located.

The filing and recordation of such Notice of Restrictions shall be a precondition to the issuance of any building permit utilizing the provisions set forth in this Section. The recording information shall be referenced on the first certificate of occupancy to be issued after such notice is recorded, as well as all subsequent certificates of occupancy, for as long as the restrictions remain in effect. No temporary certificate of occupancy for any portion of the #building# to be occupied by #incentive uses# shall be issued until a temporary certificate of occupancy for the core and shell is issued for all portions of the #building# required to be occupied by #required industrial uses#.

- (b) Periodic notification by owner

No later than the 20th day after the lease executed by a new tenant permits occupancy of any #required industrial space#, the owner of a #building# subject to #use# restrictions of this special permit shall provide the following information at the designated internet URL, or other widely accessible means of electronically transmitting and displaying information to the public pursuant to paragraph (g)(2) of Section [74-965](#) (Conditions). If no new tenant executes a lease for any #required industrial space# within the calendar year, such information shall be provided no later than the 20th day of the following calendar year. Such electronic information source shall be accessible to the general public at all times and include the information specified below:

- (1) the date of the most recent update of this information;
- (2) total #floor area# of the #required industrial uses# in the #development#;
- (3) a digital copy of all approved special permit drawings pursuant to Section [74-962](#) (Application requirements);

- (4) the name of each business establishment occupying #floor area# reserved for #required industrial uses#. Such business establishment name shall include that name by which the establishment does business and is known to the public. For each business establishment, the amount of #floor area#, the Use Group, subgroup and specific #use# as listed in this Resolution shall also be included;
- (5) contact information, including the name of the owner of the #building# and the building management entity, if different, the name of the person designated to manage the #building#, and the street address, current telephone number and e-mail address of the management office. Such names shall include the names by which the owner and manager, if different, do business and are known to the public; and
- (6) all prior periodic notification information required pursuant to the provisions of this paragraph (b). However, such notification information that is older than four years from the date of the most recent update need not be included.

(c) Annual reporting by qualified third party

No later than June 30 of each year, beginning in the first calendar year following the calendar year in which a temporary or final certificate of occupancy was issued for a #building# subject to #use# restrictions of this Section, the owner of a #building# subject to #use# restrictions of this Section shall cause to be prepared a report on the existing conditions of the #building#, as of a date of inspection which shall be no earlier than May 15 of the year in which the report is filed.

The inspection shall be preceded by an annual notification letter from the owner of a #building# subject to #use# restrictions of this Section to all the #required industrial use# tenants of the #building# announcing the date of such inspection, that the organization conducting the inspection shall have access to the spaces occupied by #required industrial uses#, and encouraging the tenants to provide information including, but not limited to, the number of employees for each such space, to the organization.

The owner of a #building# subject to #use# restrictions of this Section shall cause such report to be prepared by an organization under contract with the City to provide inspection services, or on the Department of Small Business Services list of certified firms that provides such inspection services, or by an organization that the Commissioner of the Department of Small Business Services determines to be qualified to produce such report, or, in Industrial Business Incentive Area 2, by a special inspection agency that is registered with the City as established in Section 28-101.5 of the Administrative Code. Such organization or agency selected by the owner to prepare such report shall have a professional engineer or a registered architect, licensed under the laws of the State of New York, certify the report. Such report shall be in a form provided by the Director of the Department of City Planning, and shall include all of the information required pursuant to the provisions of paragraph (b) of this Section, and additional information as set forth in this paragraph (c):

- (1) a description of each establishment including the North American Industry Classification System (NAICS) code and number of employees;
- (2) the total amount of #required industrial use# #floor area# that is vacant, as applicable;
- (3) the average annual rent for the portions of the #building#, in the aggregate, required to be occupied by #required industrial uses#. However, prior to 36 months from the date of execution of a lease by the first #required industrial use# tenant in the building, no such figure shall be required to be included in any report due pursuant to this paragraph (c). For all calendar years following the year in which the first average annual rent figure is required to be submitted as part of an annual report, the average annual rent figure reported shall be for the annual average rent for the calendar year two years prior to the year in which the report is due; and
- (4) the number of new leases executed during the calendar year, categorized by lease duration, in five year increments

from zero to five years, five to 10 years, 10 to 15 years, 15 to 20 years and 20 years or greater.

The report shall be submitted to the Director of the Department of City Planning by any method, including e-mail or other electronic means, acceptable to the Director. The applicable Community Board, Borough President and local City Council member shall be included in such transmission.

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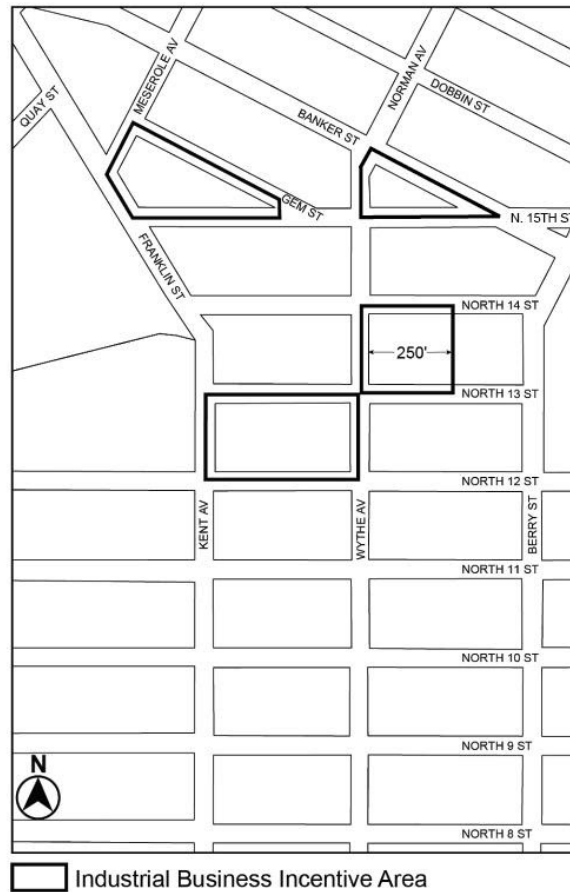
## 74-968 - Maps of Industrial Business Incentive Areas

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LAST AMENDED

12/9/2021

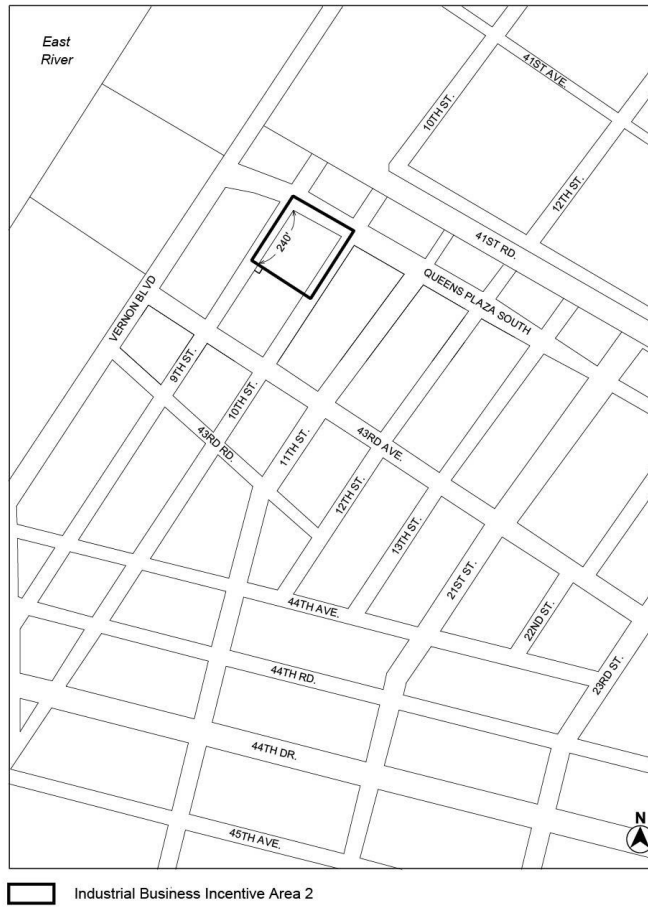
Map 1: Brooklyn



Portion of Community District 1,

Borough of Brooklyn

Map 2: Queens



Portion of Community District 2,

Borough of Queens

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## **74-99 - Lapse of Authorization or Special Permit**

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LAST AMENDED  
7/18/1995

Any authorization or special permit granted by the City Planning Commission pursuant to this Chapter shall automatically lapse if substantial construction has not been completed as set forth in Section [11-42](#) (Lapse of Authorization or Special Permit Granted by the City Planning Commission Pursuant to the 1961 Zoning Resolution). For any renewal of such authorization or special permit, the provisions of Section [11-43](#) (Renewal of Authorization or Special Permit) shall apply.