Zoning Resolution

THE CITY OF NEW YORK
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CITY PLANNING COMMISSION
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Chapter 4 - Special Regulations Applying in Flood Zones

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Chapter 4 - Special Regulations Applying in Flood Zones

64-00 - GENERAL PURPOSES

LAST AMENDED
5/12/2021

The provisions of this Chapter establish special regulations which are designed to encourage flood-resilient building practices for new and existing buildings and in so doing to promote and protect public health, safety and general welfare. These general goals include, among others, the following purposes:

(a) to facilitate the development and alteration of buildings in flood zones consistent with the flood-resistant construction standards of Appendix G of the New York City Building Code;

(b) to enable buildings to be constructed or retrofitted pursuant to flood-resistant construction standards with a comparable amount of usable interior space to what is generally permitted within the applicable zoning district;

(c) to allow sea level rise to be incorporated into the design of buildings in flood zones in order to provide longer-term and greater protection from flood risk than what is currently required by Appendix G of the New York City Building Code;

(d) to mitigate the effects of elevated and flood-proofed buildings on the streetscape and pedestrian activity; and

(e) to promote the most desirable use of land in accordance with a well-considered plan and thus conserve the value of land and buildings, and thereby protect the City's tax revenues.

64-10 - GENERAL PROVISIONS

LAST AMENDED
5/12/2021

64-11 - Definitions

LAST AMENDED
12/5/2024

Definitions specifically applicable to this Chapter are set forth in this Section and may modify definitions set forth in Section 12-10 (DEFINITIONS). Where matter in italics is defined both in Section 12-10 and in this Chapter, the definitions in this Chapter shall govern.

Cottage envelope building

A "cottage envelope building" is a #single-# or #two-family# #detached# #residence# located within R1 through R5 Districts, #developed#, #enlarged#, or altered, pursuant to any of the optional provisions of Section 64-33 (Special Bulk Regulations for Cottage Envelope Buildings), provided that:

(a) such #single-# or #two-family# #detached# #residence# complies with Section 64-332 (Height and setback regulations for cottage envelope buildings); and

(b) is located within a #zoning lot# that has a #lot area# that is less than that required by the applicable district; and

(1) has a #lot width# that is either:

(i) less than that required under the provisions of Section 23-11 (Lot Area and Lot Width Regulations in R1 Through R5 Districts) in R1, R2, R3-1, R3-2, R3X, R4, R4A, R5, and R5A Districts; or

(ii) equal to or less than 30 feet in R3A, R4-1, R4B, R5B, and R5D Districts; or

(2) has a depth of less than 95 feet at any point.

All #cottage envelope buildings# shall also be #flood-resistant buildings#.

First story above the flood elevation

The "first story above the flood elevation" shall be the finished floor level of the first #story# located at or above the level at which a #building# complies with #flood-resistant construction standards# and, for #buildings# utilizing the #reference plane#, shall be no lower than the particular level established as the #reference plane#.

Flood map

"Flood map" shall be the most recent map or map data used as the basis for #flood-resistant construction standards#.

Flood-resistant building

A “flood-resistant building” is a #building or other structure#, which complies with all applicable #flood-resistant construction standards#.

Flood-resistant construction elevation

The “flood-resistant construction elevation” shall be the level of flood elevation required by Appendix G of the New York City Building Code for the “Flood design classification” of a #building or other structure# as set forth therein, or a height of two feet above the lowest grade adjacent to the #building or other structure#, whichever is higher.

Flood-resistant construction standards

“Flood-resistant construction standards” are the construction standards set forth in Appendix G of the New York City Building Code for “Post-FIRM Construction” that aid in protecting #buildings or other structures# in #flood zones# from flood damage, and governs both #building or other structures# that are required to comply with such standards and those that voluntarily comply. For #buildings or other structures# utilizing the provisions of this Chapter, #flood-resistant construction standards# shall be applied up to the #flood-resistant construction elevation# or higher.

High-risk flood zone

The “high-risk flood zone” is the area, as indicated on the #flood maps#, that has a one percent chance of flooding in a given year.

Lowest usable floor

The “lowest usable floor” of a #building# is the lowest floor of such #building# that contains #floor area#, and may include #basements# and #cellars#, as defined in Section 12-10 (DEFINITIONS).

Moderate-risk flood zone

The “moderate-risk flood zone” is the area, as indicated on the #flood maps#, and not within of the #high-risk flood zone#, that has a 0.2 percent chance of flooding in a given year.

Primary frontage

For the purposes of applying the provisions of paragraph (c) of Section 64-322 (Special floor area modifications for flood-resistant buildings), a “primary frontage” shall include:

(a) in #Commercial Districts#, frontages that meet the criteria for a “primary frontage” as defined in Section 37-311;

(b) in M1 Districts paired with #Residence Districts#, frontages along:

(1) #wide streets#;

(2) #narrow streets# within 50 feet of a #wide street#; and

(3) #narrrow streets# where an M1 District paired with a #Residence District# is mapped along an entire #block# frontage; and

(c) frontages where non-#residential uses# are required at the #ground-floor level# pursuant to a Special Purpose District or #waterfront public access area#.

Reference plane

The “reference plane” is a horizontal plane from which the height and setback regulations governing a #building or other structure# may be measured, in accordance with certain provisions of this Chapter. The #reference plane# shall not be located above the #first story above flood elevation#, as applicable.

For #zoning lots# located wholly or partially 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. However, where the #flood-resistant construction elevation# exceeds a height of 10 feet above the #base plane# or #curb level#, as applicable, the #reference plane# may be established at the #flood-resistant construction elevation#.

For #zoning lots# located wholly or partially 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.

64-12 - Applicability

LAST AMENDED
12/5/2024

The optional provisions of this Chapter shall apply to #zoning lots# located wholly or partially within #flood zones#, as follows:

(a) For all #zoning lots# in the #flood zone#

The provisions of Sections 64-31 (Special Bulk Regulations for All Buildings) and 64-41 (Special Parking Regulations for All Buildings), inclusive, may be applied to all #zoning lots#, regardless of whether #buildings or other structures# on such #zoning lots# comply with

#flood-resistant construction standards#.

(b) For #zoning lots# containing #flood-resistant buildings#

The provisions of Sections 64-20 (SPECIAL USE REGULATIONS), 64-32 (Special Bulk Regulations for Flood-resistant Buildings), 64-42 (Special Parking Regulations for Flood-resistant Buildings), and 64-60 (SPECIAL REGULATIONS FOR NON-CONFORMING USES AND NON-COMPLYING BUILDINGS), inclusive, may be applied only to #zoning lots# containing #flood-resistant buildings#, including #cottage envelope buildings#, as applicable, and Section 64-33 (Special Bulk Regulations for Cottage Envelope Buildings) may additionally be applied exclusively to #zoning lots# containing #cottage envelope buildings#. Where such provisions are utilized, the provisions of Section 64-50 (STREETSCAPE REGULATIONS), inclusive, shall apply.

(c) For portions of #buildings#

The following provisions may be applied to portions of #buildings# as follows:

(1) the provisions of Section 64-311 (Special floor area modifications for all buildings) may be applied to portions of #buildings#, regardless of whether such portions comply with #flood-resistant construction standards#;

(2) the provisions of Section 64-32 (Special Bulk Regulations for Flood-resistant Buildings), inclusive, may be applied to portions of #buildings#, provided that such portions comply with #flood-resistant construction standards# for the entirety of its vertically contiguous segments. Where such provisions are utilized within portions of #buildings#, the provisions of Section 64-50, inclusive, shall apply.

64-13 - Applicability of District Regulations

LAST AMENDED
10/10/2013

The regulations of all other chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control.

64-20 - SPECIAL USE REGULATIONS

LAST AMENDED
6/6/2024

64-21 - Special Use Regulations for All Buildings

LAST AMENDED
5/12/2021

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

64-211 - Limitation on floors occupied by commercial uses

LAST AMENDED
6/6/2024

C1 C2

In the districts indicated, the provisions of Section 32-421 (Limitation on floors occupied by commercial uses) may be modified for #buildings# containing #residences# such that the limitations set forth in paragraphs (a) or (b) of such Section need not apply.

64-22 - Special Use 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 be applied to #zoning lots# containing #flood-resistant buildings#, including #cottage envelope buildings#. For such #zoning lots#, the underlying #use# regulations shall apply, except where permitted to be modified by this Section, inclusive.

64-221 - Measurement of height

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#. However, this provision shall not apply to #signs# not affixed to #buildings or other structures#.

64-222 - Ground floor use

LAST AMENDED
12/5/2024

In all districts, any applicable ground floor level requirements of this Resolution including, but not limited to, the location of such ground floor in relation to the adjoining sidewalk level, restrictions of types of #use#, the minimum depth for certain #uses#, maximum width for certain #uses#, minimum transparency requirement, and parking wrap and screening requirements, may be modified as follows:

(a) In locations of the #flood zone# where #flood-resistant construction standards# prohibit dry-flood-proofing, thereby limiting #uses# other than parking, storage and building access from being located below the #flood-resistant construction elevation#, such ground floor level requirements need not apply.

(b) In all other locations of the #flood zone#, all regulations of this Resolution restricting the location of a ground floor in relation to the adjoining sidewalk level need not apply, provided that all other ground floor level regulations shall be applied to the lowest #story# above grade that is not solely used for parking, storage or building access, and further provided that the finished floor level of such #story# shall be located either at or below the level of the #flood-resistant construction elevation# or five feet above #curb level#, whichever is higher. All associated transparency requirements may be measured from such level of the finished floor instead of the level of the adjoining sidewalk.

64-30 - SPECIAL BULK REGULATIONS

LAST AMENDED
5/12/2021

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

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

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

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

64-31 - Special Bulk Regulations for All Buildings

LAST AMENDED
5/12/2021

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

shall apply, except where permitted to be modified by this Section, inclusive.

64-311 - Special floor area modifications for all buildings

LAST AMENDED
12/6/2023

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

(a) Flood control devices

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

(b) Buildings containing non-#residential uses#

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

(1) the #building# is used exclusively for #non-residential uses#; and

(2) such floor space is located at or above the #flood-resistant construction elevation#.

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

LAST AMENDED
12/5/2024

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

(a) Mechanical equipment

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

(1) where any equipment is required to be located at least five feet from any #lot line#, such distance may be reduced to three feet for #zoning lots# that have less than the prescribed minimum #lot area# or #lot width# required by the applicable district regulations;

(2) the maximum height of such permitted obstructions for the applicable district:

(i) may be measured from the #reference plane# instead of the level of the adjoining grade or #curb level#, as applicable; or

(ii) for #zoning lots# containing #residences# and a #lot area# greater than or equal to one and one-half acres, may exceed the applicable height limitations, provided that:

(a) such equipment is contained within a #building or other structure# that is located at least 30 feet from any #legally required window#;

(b) any stack associated with heating, ventilation, and air conditioning (HVAC) systems exhausts at a height at least as tall as the tallest #building# containing #residences# on the #zoning lot#; and

(c) such #building or other structure# complies with one point of the streetscape mitigations set forth in Section 64-52 (Ground Floor Level Mitigation Options); and

(3) the maximum area that such equipment may occupy within a required #side yard#, #rear yard# or #rear yard equivalent#, or any #court# containing #legally required windows# need not apply where the height of such obstructions do not exceed the applicable underlying height allowances, as modified by the provisions of paragraph (a)(2)(ii)(a) of this Section.

(b) Berms

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

(c) Flood control devices

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

(d) Steps

In all #Residence Districts#, the provisions of paragraph (h) of Section 23-312 (Additional permitted obstructions generally permitted in all yards) shall be modified to allow steps within a required #yard# or #rear yard equivalent#, provided that such steps access any #story# located at or below the #first story above the flood elevation#.

64-32 - 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:

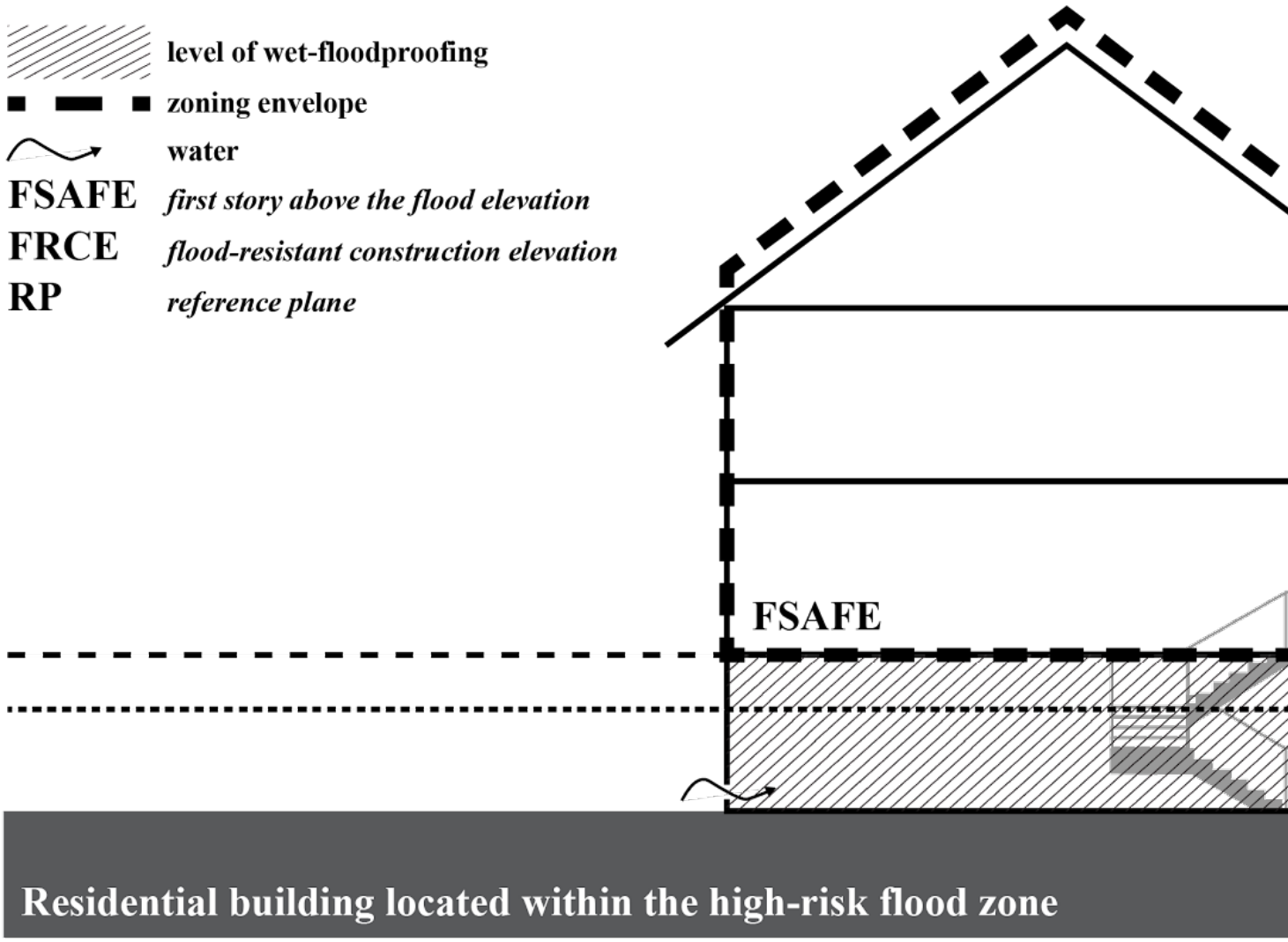
(1) to fences or other structures that are not #buildings#; and

(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



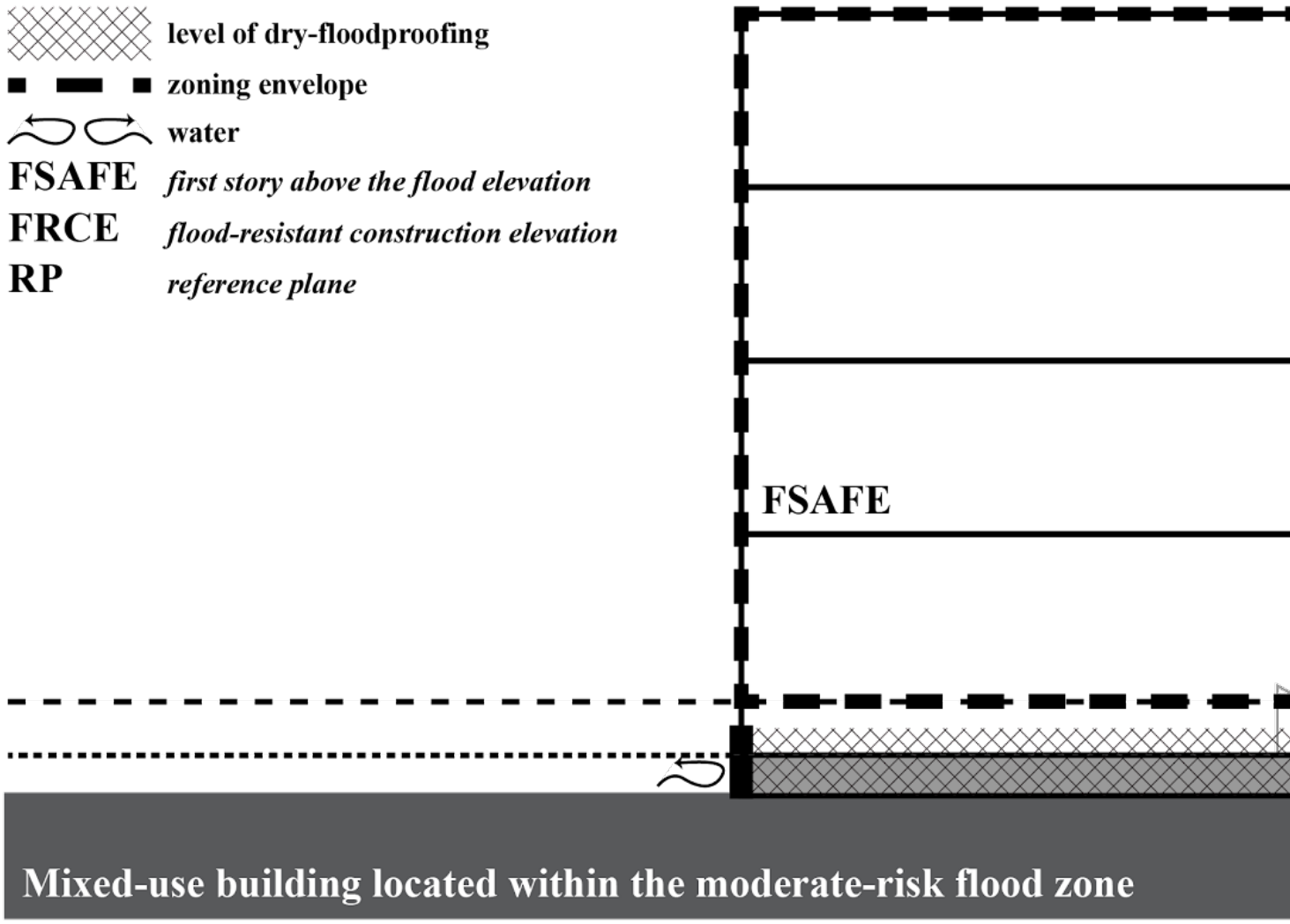
A #zoning lot# located within the #high-risk flood zone# has a #flood-resistant construction elevation# (as defined in Section 64-11) that equates to being located six feet above grade (for illustrative purposes). The owner of a #single-family# #detached# #residence# would like to elevate the first habitable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

64-33 - Special Bulk Regulations for Cottage Envelope Buildings

LAST AMENDED
12/5/2024

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

64-331 - Special regulations for required yards and courts on zoning lots with cottage envelope buildings

LAST AMENDED
12/5/2024

R1 R2 R3 R4 R5

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

(a) Lot Coverage

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

(b) Front Yards

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

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

(c) Corner Lots

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

64-332 - Height and setback regulations for cottage envelope buildings

LAST AMENDED
12/5/2024

R1 R2 R3 R4 R5

In the districts indicated, all #cottage envelope buildings# shall be subject to the height and setback provisions set forth in Section 23-421 (Basic pitched-roof envelopes for certain districts), except that, for the purposes of this Section, attic space providing structural headroom of less than eight feet shall not be considered a #story#.

64-40 - SPECIAL PARKING REGULATIONS

LAST AMENDED
5/12/2021

The underlying parking regulations of this Resolution may be modified in accordance with the provisions of this Section inclusive. The provisions of this Section, inclusive, are optional, and are only applicable to #zoning lots# located wholly or partially within #flood zones#.

The provisions of Section 64-41 (Special Parking Regulations for All Buildings), inclusive, may be applied to #zoning lots# regardless of whether #buildings or other structures# on such #zoning lots# comply with #flood-resistant construction standards#.

The provisions of Section 64-42 (Special Parking Regulations for Flood-resistant Buildings), inclusive, may be applied to #zoning lots# containing #flood-resistant buildings#, including #cottage envelope buildings#.

64-41 - Special Parking Regulations for All Buildings

LAST AMENDED
5/12/2021

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

64-411 - For residential buildings with below-grade parking

LAST AMENDED
12/5/2024

R1 R2 R3 R4 R5

In the districts indicated, other than R4B and R5B Districts, where existing below-grade off-street parking facilities within #residential buildings# are eliminated and, in compliance with #flood-resistant construction standards#, are filled in, #accessory# off-street parking spaces may be relocated from such garages to the side or rear of such #buildings#, or to the #front yard# driveway that accessed the former garage, or to a shared driveway along a common #side lot line#, and such relocated parking spaces need not comply with the underlying parking location, curb cut spacing or permitted obstruction regulations that limit parking, provided that:

(a) no more than two parking spaces may be located in tandem (one behind the other);

(b) each relocated parking space shall have a dimension that conforms with the minimums set forth in Section 25-62 (Size and Location of Spaces); and

(c) where eliminated garages were accessed by a driveway less than 18 feet long, such driveway and curb cut shall be eliminated, and the former driveway planted to the extent necessary to

comply, or increase compliance, with the provisions of Section 23-613 (Front yard planting requirements) as if the #building# on the #zoning lot# was constructed after April 30, 2008.

Notwithstanding the modifications above, no modification to the maximum number of curb cuts on a #zoning lot# or the minimum or maximum width of a curb cut, shall be permitted.

In the event that there is no way to arrange relocated required parking spaces on the #zoning lot# in compliance with the provisions of this Section, given that #buildings# existing on May 12, 2021, will remain, the Commissioner of Buildings may waive the requirement for such spaces.

64-412 - Surfacing

LAST AMENDED
12/5/2024

R1 R2 R3 R4 R5

In the districts indicated, Section 25-64 (Surfacing) may be modified to allow dustless gravel on all open off-street parking spaces and on portions of driveways beyond the #front lot line# that access #single-# or #two-family residences# on a #zoning lot#.

64-42 - Special Parking 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#.

64-421 - Parking modifications

LAST AMENDED
12/5/2024

R1 R2 R3 R4 R5

In the districts indicated, except R4B and R5B Districts, the provisions of this Section shall apply to #zoning lots# containing #single-# or #two-family residences#. For such #zoning lots#, where off-street parking spaces are provided, the underlying parking regulations may be modified as follows:

(a) the regulations governing parking location, curb cut location, or permitted obstruction that limit parking need not apply, provided that all parking spaces are either located beneath the #first story above the flood elevation# within #buildings# or driveways directly in front of a garage opening. Such spaces shall have a dimension that conforms with the minimums set forth in Section 25-62 (Size and Location of Spaces). However, within #lower density growth management areas# the provisions of paragraph (c) of Section 25-632 (Driveway and curb cut regulations in lower density growth management areas) shall continue to apply; and

(b) the underlying curb cut spacing regulations for #zoning lots# existing on May 12, 2021, with a frontage of less than 35 feet along a #street# need not apply, provided that at least four feet of curb space is provided between a new curb cut and an existing curb cut on the same or an adjacent #zoning lot#.

Notwithstanding the modifications above, no modification to the maximum number of curb cuts on a #zoning lot# or the minimum or maximum width of a curb cut, shall be permitted.

All #zoning lots# utilizing this Section shall comply with the provisions of Section 23-613 (Front yard planting requirements) as if the #building# on the #zoning lot# was constructed after April 30, 2008.

64-50 - STREETSCAPE REGULATIONS

LAST AMENDED
6/6/2024

The provisions of this Section, inclusive, shall apply to #zoning lots# containing #flood-resistant buildings#, as set forth in paragraphs (b) and (c) of Section 64-12 (Applicability), that have a #street wall# within 50 feet of the #street line# in #Residence Districts#, #Commercial Districts# and M1 Districts. However, the provisions shall not apply to such #buildings# containing #uses# predominantly listed under Use Groups IV(B), IX(B) or X.

All #buildings# shall provide streetscape mitigation elements in the categories of access or ground floor level, in order to achieve the total points required in the following table. The total points required varies based upon the level of the #first story above the flood elevation#, as measured from #curb level#. The individual mitigation options are set forth in Sections 64-51 (Building Access Mitigation Options) and 64-52 (Ground Floor Level Mitigation Options). Cells marked with an “x” designate mandatory categories to fulfill at least one point out of the total points requirement.

The points awarded for compliance with each individual mitigation are set forth in parentheses after the title to each paragraph describing a mitigation element.

For #corner lots#, the total points requirement set forth in this Section shall apply separately along each #street frontage# except where the #street wall# width along one of the #street frontages# is 25 feet or less, the requirements need only apply to one frontage.

Where #zoning lots# are required to provide streetscape elements in accordance with other provisions of this Resolution, such elements may also be utilized towards meeting the requirements of this Section, provided that such elements comply with the applicable standard herein.

In addition, all #buildings# shall meet the requirements set forth in Section 64-53 (Screening Requirements for Parking Within or Below Buildings) as applicable.

Level of the #first story above the flood elevation#	Streetscape Mitigation Elements		Total Points Required
	Building Access (Section 64-51)	Ground Floor Level (Section 64-52)	
Below five feet or no #first story above the flood elevation#			1
Five feet or above	x	x	3[1,2]

1 #Single-# and #two-family residences# on a #zoning lot# less than 25 feet wide with a #first story above the flood elevation# at five feet or above need only satisfy a total of two points instead of the three points set forth in the above table.

2 If the requirements of this Section apply to only a portion of the #building# with a #first story above the flood elevation# at five feet or above, and such portion of the #building# does not

have a #primary entrance#, the total points required shall be two, and they need only be satisfied through the ground floor level category.

64-51 - Building Access Mitigation Options

LAST AMENDED
5/12/2021

64-511 - Options available for all #buildings#

LAST AMENDED
5/12/2021

The streetscape mitigations options of this Section may be applied to all #buildings#. Where provided as a required streetscape mitigation element, the following shall apply:

(a) Entrance close to grade
(one point)

The #primary entrance# for the principal #use# for the #building# shall be located within two feet of the level of the adjoining sidewalk. However, for #mixed buildings# in #Commercial Districts# the #primary entrance# for the non-#residential use# on the ground floor shall be located within two feet of the level of the adjoining sidewalk, regardless of whether it is the principal #use#.

(b) Recessed access
(one point)

Recesses in the #street wall# shall accommodate the #primary entrance# to the #building#, including stairs or ramps to such entrance. However, recesses shall not exceed 50 percent of the #aggregate width of street wall# for the #building#.

(c) Wide stairs
(one point)

The #primary entrance# to a #building# along the #street wall# shall include stairs:

(1) with a minimum width of five feet where the #aggregate width of street walls# of the #building# is less than or equal to 25 feet; and

(2) with a minimum width of eight feet where the #aggregate width of street walls# of the #building# is greater than 25 feet.

In both cases, the run of such stairs shall be oriented perpendicular, or within 15 degrees of being perpendicular, to such #primary entrance# for at least 50 percent of the height of such stairs.

(d) Covered access
(one point)

The #primary entrance# to a #building# shall have a porch or access area covered by a roof or other permanent structure, provided that all structural elements shall have a minimum width or depth of at least three inches. Such roof or other permanent structure shall be located at a

minimum height at least eight feet above the finished floor of the #primary entrance#. In addition, such covering shall have a depth of at least three feet measured perpendicular to the #street wall# and shall extend along at least 50 percent of the #aggregate width of the street wall#.

64-512 - Additional options available for single-family, two-family, or three-family residences

LAST AMENDED
5/12/2021

The streetscape mitigations options of this Section may be applied to all #single-#, #two-#, or three-#family residences#. Where provided as a required streetscape mitigation element, the following shall apply:

(a) Porch or landing
(one point)

The #primary entrance# to a building shall have a porch or landing with a depth of at least three feet and a width that is at least 50 percent of the #aggregate width of the street wall#. However, such porch or landing need not exceed a width of 25 feet.

(b) Stair turn or stair landing
(one point)

The #primary entrance# shall be accessed by stairs or ramps that, at a point no higher or lower than two feet from the beginning and end of the stair run, respectively, either change direction in plan or incorporate at least one landing.

64-513 - Additional options available for all buildings except single-, two-family, or three-family residences

LAST AMENDED
5/12/2021

The streetscape mitigations options of this Section may be applied to all #buildings# except #single-#, #two-#, or three-#family residences#. Where provided as a required streetscape mitigation element, the following shall apply:

Multiple entrances
(one point)

Multiple entrances into the #building# shall be provided, with at least one entrance per every 50 linear feet of #street frontage#. Fractions equal to or greater than one-half resulting from this calculation shall be considered one entrance.

64-52 - Ground Floor Level Mitigation Options

LAST AMENDED
5/12/2021

For the purposes of this Section, where there is a reference to a “blank wall,” the following shall apply:

(a) For #manufacturing buildings#, the provisions of Type 2 blank walls set forth in Section 37-361 (Blank wall thresholds) shall apply.

(b) For #commercial buildings#, #community facility buildings# and #mixed buildings#, the provisions of Type 3 blank walls set forth in Section 37-361 shall apply.

(c) For #residential buildings#, the provisions of Type 4 blank walls set forth in Section 37-361 shall apply.

Such blank walls shall be covered by one or more options in Section 37-362 (Mitigation elements) or by options as described in this Section, inclusive. In addition, any surface area of a wall which bounds stairs, ramps, landings, or chair lifts facing a #street# and that exceeds a height and width of four feet shall constitute a blank wall and comply with the standards of Type 3 blank wall. Such blank wall surfaces shall be calculated between the level of the adjoining sidewalk and the level of the #first story above the flood elevation#. In addition, any surface area of a wall which bounds stairs, ramps, landings, or chair lifts facing a #street# and that exceeds a height and width of four feet shall constitute a blank wall and comply with the standards of Type 3 blank wall. Such blank wall surfaces shall be calculated between the level of the adjoining sidewalk and the level of the #first story above the flood elevation#.

64-521 - Options available for all buildings

LAST AMENDED
5/12/2021

The streetscape mitigations options of this Section may be applied to all #buildings#. Where provided as a required streetscape mitigation element, the following shall apply:

(a) Surface treatment
(one point)

Surface treatment shall be provided for blank walls in the form of wall treatment, surface texture, or any combination thereof, pursuant to the provisions set forth in paragraphs (a)(1) or (a)(2) of Section 37-362 (Mitigation elements).

If the level of the #first story above flood elevation# is greater than 10 feet, surface treatment shall only be required to a height of 10 feet above the level of the adjoining sidewalk.

(b) Linear treatment
(one or, where noted, two points)

Linear treatment shall be provided for blank walls in the form of planting, pursuant to the provisions set forth in paragraph (b)(1) of Section 37-362, pursuant to one of the following options below, or any combination thereof. Where the options of this Section are utilized, the percentage requirement associated with the applicable type of blank wall set forth in Section 37-36 (Special Requirements for Blank Walls) shall not apply.

(1) Raised front #yards# and #open space#

For #residential buildings# in #Residence Districts# where the distance between the #street wall# and the #street line# is 10 feet or more, the grade between the #street line# and blank walls, and their prolongations, shall be elevated above the level of the adjoining sidewalk so that the height of such grade that is midway between the #street line# and blank walls and prolongations is at least 18 inches above #curb level# at all points, except for pedestrian ways, vehicular access and off-street parking spaces permitted pursuant to 64-40 (SPECIAL PARKING REGULATIONS). The area with final grade above the level of the adjoining sidewalk shall be greater than 30 percent of the total area between the #street line# and blank walls and their prolongations.

Raised front #yards# and #open spaces# shall be planted in accordance with applicable planting requirements in this Resolution.

This option shall satisfy two points if the area with final grade above #curb level# is greater than 50 percent of the total area between the #street line# and blank walls and their prolongations.

(2) Terraced front #yards# and #open spaces#

For #residential buildings# in #Residence Districts#, terraced planting areas shall be provided. The retaining walls of such areas shall not be less than an average height of three feet and exceed an average height of six feet, as measured from the level of the adjoining sidewalk below such wall, and the retaining wall closest to the #street line# shall not exceed a height of three feet. The area with the retaining walls shall be greater than 30 percent of the total area between the #street line# and blank walls and their prolongations. Planting shall also be provided for at least 50 percent of the linear footage above and below the retaining walls, through a combination of perennials, annual flowers, decorative grasses or shrubs.

This option shall satisfy two points if the area with the retaining walls is greater than 50 percent of the total area between the #street line# and blank walls and their prolongations.

64-522 - Additional options available for single-, two-, or three-family residences

LAST AMENDED
5/12/2021

The streetscape mitigations options of this Section may be applied to all #single-#, #two-#, or three-#family residences#. Where provided as a required streetscape mitigation element, the following shall apply:

(a) Transparency
(one point)

Transparent glazing materials shall occupy at least 20 percent of the surface area of the #street wall# of the ground floor, measured between a height of two feet and 10 feet, or the height of the ground floor ceiling, whichever is higher, as measured from the adjoining sidewalk.

(b) Additional fenestration
(one point)

In addition to the #primary entrance#, one or more doors, including garage doors, shall be provided.

64-523 - Additional options available for all buildings except single-, two-, or three-family residences

LAST AMENDED
12/5/2024

The streetscape mitigations options of this Section may be applied to all #buildings# except #single-family#, #two-family#, or three-family residences. Where provided as a required streetscape mitigation element, the following shall apply:

(a) Transparency with #use#
(one point)

One or more of the following options may apply:

(1) Lobby
(one point)

In all districts, a lobby that complies with the standards set forth in Section 37-33 (Maximum Width of Certain Uses), shall be provided. Transparent glazing materials shall occupy at least 40 percent of the surface area of the #street wall# of the lobby, measured between a height of two feet and 10 feet, or the height of the ground floor ceiling, whichever is higher, as measured from the adjoining sidewalk.

(2) #Community facilities# and #accessory# #residential uses#
(one point)

In all districts, for #buildings# containing #residences# with three or more #dwelling units#, at least 50 percent of the #ground floor level# #street wall# shall be allocated to #accessory# #residential uses# other than #accessory# off-street parking, or #community facilities uses#, including, but not limited to, recreation space or bicycle storage, that extends to a minimum depth of 15 feet from the #street wall#. Transparent glazing materials shall occupy at least 40 percent of the surface area of the #street wall# of such #uses#, measured between a height of two feet and 10 feet, or the height of the ground floor ceiling, whichever is higher, as measured from the adjoining sidewalk. Where the spaces for such #uses# need not be fully enclosed, decorative screening or latticework may be substituted for transparent glazing materials.

(3) Non-#residential uses#
(one point)

In #Commercial Districts#, #uses# on the #ground floor level#, to the minimum depth set forth in Section 37-32 (Ground Floor Depth Requirements for Certain Uses), shall be limited to non-#residential uses#, except for lobbies and entrances and exits to #accessory# parking spaces provided in accordance with Section 37-33. Ground floor level #street walls# shall be glazed in accordance with Section 37-34 (Minimum Transparency Requirements) except that the transparent materials may begin higher than 2 feet, 6 inches, above the level of the adjoining sidewalk.

If #group parking facilities# are provided, they shall be wrapped by #floor area#, in accordance with paragraph (a) of Section 37-35 (Parking Wrap and Screening Requirements).

(b) Transparency close to grade
(one point)

In all districts, transparent materials provided to satisfy #street wall# transparency requirements shall not begin higher than 2 feet, 6 inches above the level of the adjoining sidewalk. The floor level behind such transparent glazing materials shall not exceed the level of the window sill for a depth of at least four feet, as measured perpendicular to the #street wall#.

(c) Linear treatment
(one point)

Linear treatment shall be provided for blank walls in the form of benches, bicycle racks, tables and chairs, or any combination thereof, as set forth in paragraph (b) of Section 37-362 (Mitigation elements).

64-53 - Screening Requirements for Parking Within or Below Buildings

LAST AMENDED
6/6/2024

The provisions of this Section shall apply to all #buildings# other than:

(a) #single# or #two-family residences#; and

(b) #buildings# containing #uses# predominantly listed under Use Group IV(B), IX(B) or X.

Where the #first story above the flood elevation# is five or more feet above #curb level# and the #street wall# of a #building# is within 50 feet of the #street line#, for any level where off-street parking is provided within or below a #building#, such parking shall be either wrapped by #floor area# or screened pursuant to the provisions of Section 37-35 (Parking Wrap and Screening Requirements).

#Buildings# in existence prior to May 12, 2021, shall not be altered in any way that will create a new #non-compliance# or increase the degree of #non-compliance# with the provisions of this Section.

64-60 - SPECIAL REGULATIONS FOR NON-CONFORMING USES AND NON-COMPLYING BUILDINGS

LAST AMENDED
5/12/2021

The provisions of this Section, inclusive, are optional, and may be applied to #buildings# with #non-conforming# #uses#, or to #non-complying# #buildings or other structures#, as applicable, that are also #flood-resistant buildings#.

64-61 - Special Provisions for Non-conforming Uses

LAST AMENDED
5/12/2021

For all #buildings# with #non-conforming# #uses#, the provisions of Sections 52-20 (REPAIRS OR ALTERATIONS), 52-40 (ENLARGEMENTS OR EXTENSIONS), and 52-50 (DAMAGE OR DESTRUCTION), inclusive, shall be modified to allow a #non-conforming# #use# to be continued, and a #building# with #non-conforming# #uses# to be altered, #enlarged#, relocated or reconstructed to comply with #flood-resistant construction standards#, pursuant to the provisions of this Section, inclusive.

Where a #building# with #non-conforming# #uses# is also #non-complying# with the applicable #bulk# regulations, #non-compliances# may be continued, increased or newly created only in accordance with the provisions of Section 64-612 (Special floor area regulations for buildings with non-conforming uses), Section 64-613 (Special height regulations for buildings with non-conforming uses), and Section 64-614 (Process for establishing non-conforming uses), except that Section 64-622 (Special open area regulations for non-complying buildings) and Section 64-624 (Process for establishing non-compliances) may also apply.

In addition, damage and destruction provisions set forth in Section 64-611 (Special regulations for damage or destruction provisions for buildings with non-conforming uses) shall apply to such #buildings#.

64-611 - Special regulations for damage or destruction provisions for buildings with non-conforming uses

LAST AMENDED

5/12/2021

The provisions set forth in Sections 52-53 (Buildings or Other Structures in All Districts) and 52-54 (Buildings Designed for Residential Use in Residence Districts) shall be modified to allow all #buildings# containing #non-conforming# #uses# to be reconstructed, provided that:

(a) for #non-conforming# #single-# and #two-family residences# in #Residence Districts# and #Commercial Districts#, except C8 Districts, such reconstruction may exceed 75 percent of the total #floor area# of the #building#;

(b) for #non-conforming# #single-# and #two-family residences# in C8 Districts or #Manufacturing Districts#, such reconstruction may exceed 75 percent of the total #floor area# of the #building# provided that 25 percent or more of the aggregate length of the #block# frontage on both sides of the #street# facing each other is occupied by #zoning lots# containing #residential# or #community facility uses#;

(c) for all other #buildings# with #non-conforming# #uses#, the extent of reconstructed #floor area# shall not exceed 75 percent of the total #floor area# of the #building#.

64-612 - Special floor area regulations for buildings with non-conforming uses

LAST AMENDED
5/12/2021

The maximum amount of #non-conforming# #floor area# in the altered, #enlarged#, relocated or reconstructed #building# shall not exceed the amount of #non-conforming# #floor area# existing prior to the alteration or reconstruction work.

64-613 - Special height regulations for buildings with non-conforming uses

LAST AMENDED
5/12/2021

The maximum height of such altered, #enlarged#, relocated or reconstructed #building# with #non-conforming# #uses#, shall not exceed the maximum height permitted by the applicable district regulations, except that for #non-conforming# #residences# in C8 Districts or #Manufacturing Districts#, the maximum height of such altered, #enlarged#, relocated or reconstructed #building#, shall comply with one of the following options:

(a) for #single# or #two-family residences#, a horizontal plane equivalent to a height of 35 feet, and for #buildings# other than #single-# or #two-family residences#, the applicable #sky exposure plane# for the district; or

(b) for all #residences# a horizontal plane equivalent to the pre-existing height of such #building#, as measured from the top of the #lowest usable floor#, to the highest point of such pre-existing #building#, as measured from the #reference plane#.

64-614 - Process for establishing non-conforming uses

LAST AMENDED
5/12/2021

For all #buildings# with #non-conforming# #uses# utilizing any of the provisions of this Section, the amount of pre-existing #non-conforming# #floor area# and pre-existing #non-compliances#, as applicable, shall be based either on construction documents for such #building# that were previously approved by the Department of Buildings at the time of construction, #enlargement#, or subsequent alteration, as applicable, of the #building# or, where an approved set of construction documents does

not exist for such #building#, an as-built drawing set completed by a professional engineer or architect. The Department of Buildings may request additional information to substantiate proof of #non-conformances# and #non-compliances#, as applicable. Verification by the Department of Buildings of such documentation shall be a pre-condition prior to any demolition for reconstruction work, or alteration permit issued by the Department of Buildings for a #zoning lot# altering or reconstructing #buildings# with #non-conforming# #uses# and #non-compliances#, as applicable, pursuant to the provisions of this Section.

64-62 - Special Provisions for Non-complying Buildings

LAST AMENDED
5/12/2021

For all #non-complying# #buildings or other structures#, the provisions of Sections 54-20 (REPAIRS OR ALTERATIONS), 54-30 (ENLARGEMENTS OR CONVERSIONS), and 54-40 (DAMAGE OR DESTRUCTION IN NON-COMPLYING BUILDINGS), inclusive, shall be modified to allow a #non-compliance# to be continued, and such #non-complying# #building or other structure# to be altered, #enlarged#, relocated or reconstructed to comply with #flood-resistant construction standards#, subject to the permitted thresholds of Sections 54-41 (Permitted Reconstruction) and 54-42 (Use of Alternate Formula), and the provisions of this Section.

In addition, such altered, #enlarged#, relocated or reconstructed #building or other structure# may create a new #non-compliance# with, or increase the degree of existing #non-compliance# with the applicable #bulk# regulations for the district, subject to the applicable provisions of this Section, inclusive.

64-621 - Special floor area regulations for non-complying buildings

LAST AMENDED
5/12/2021

For #buildings# with #non-complying# #floor area#, the maximum amount of #floor area# in the altered, #enlarged#, relocated or reconstructed #building# shall not exceed the amount of pre-existing #floor area#, nor shall it exceed the maximum #floor area# permitted by the applicable district regulations by more than 20 percent. In addition, subsequent to such alteration, #enlargement#, relocation or reconstruction, no #extension# or change of #use# may create a new #non-compliance# or increase the degree of existing #non-compliance# with #floor area#.

64-622 - Special open area regulations for non-complying buildings

LAST AMENDED
12/5/2024

The following provisions may apply to #non-complying# #buildings or other structures#.

(a) Relocation allowances

#Non-complying# #buildings or other structures# may continue an existing #non-compliance#, increase the degree of an existing #non-compliance#, or create a new #non-compliance# with #yards#, #open space#, #open space ratio#, #lot coverage#, #courts#, minimum distances between two or more #buildings#, or minimum distances between #legally required windows# and walls or #lot lines#, in order to relocate or alter the footprint of the #building#, provided that:

(1) the resulting #lot coverage# shall be less than or equal to that of the pre-existing #building or other structure# as it existed prior to the alteration, #enlargement#, relocation or reconstruction work or the amount permitted by the district, as applicable, whichever is greater, except that, where the provisions of paragraph (b) of this Section are utilized, the #first story above the flood elevation# and any #stories# below, may be exempted from such calculation;

(2) a new or increased #non-compliance# into an open area shall not exceed a horizontal distance of five feet, as measured perpendicular to the outermost edge of the #non-complying# #building or other structure#, as it existed prior to the alteration, #enlargement#, relocation or reconstruction work, except that such limitation shall not apply:

(i) where the pre-existing #building or other structure# is located either partially or entirely seaward of the #shoreline#, and such #building or other structure# will be altered, #enlarged#, relocated or reconstructed to be repositioned landward of the #shoreline# on the same #zoning lot#; or

(ii) where additional distance is necessary to accommodate access, including stairs, ramps or lifts in a required #yard#, provided that any additional encroachment is limited to the depth of such access;

(3) any new or increased #non-compliance# shall not result in an open area of:

(i) less than five feet between the wall of a #building or other structure# and a #rear lot line#;

(ii) less than three feet between the wall of a #building or other structure# and a #front lot line#, in districts with #front yard# requirements; and

(iii) three feet between the wall of a #building or other structure# and a #side lot line# for #detached buildings# in districts that do not allow #zero lot line buildings#; and

(4) the height of #buildings or other structures# within #non-complying# #yards# or #open space#, as measured from the #reference plane#, shall not exceed the height set forth in paragraph (a) of Section 64-623 (Special height regulations for non-complying buildings).

(b) Allowances for horizontal expansions

The #first story above the flood elevation# and #stories# located below such #story#, may create a new #non-compliance# with, or increase the degree of existing #non-compliance# with the applicable #rear yards#, #open space#, #open space ratio#, or #lot coverage# regulations for the district, provided that:

(1) the increased #lot coverage# does not exceed an additional 20 percent of such #lot coverage# permitted by Section 23-361 (Maximum lot coverage in R1 through R5 Districts);

(2) for #single-# or #two-family residences#, the encroachment into a #rear yard# does not result in a #rear yard# with a depth of less than 10 feet; and

(3) in all districts, the encroachment into a required open area does not exceed a height of 15 feet, as measured from the #first story above the flood elevation#.

Nothing in this Section shall affect the permitted obstruction allowances set forth by the district regulations.

64-623 - Special height regulations for non-complying buildings

LAST AMENDED
12/5/2024

For #buildings or other structures# that are #non-complying# with the applicable district height and setback regulations, the maximum height of such altered, #enlarged#, relocated or reconstructed #building or other structure#, shall not exceed the height permitted pursuant to either paragraph (a) or (b) of this Section, as applicable. An alteration, #enlargement#, relocation or reconstruction pursuant to this Section may continue an existing #non-compliance#, increase the degree of an existing #non-compliance#, or create a new #non-compliance# with height and setback regulations, and may continue or increase a #non-compliance# with other #bulk# regulations associated with such #non-complying# height, subject to the limitations of this Section. All permitted obstruction) allowances shall be measured with respect to the modified envelopes of this Section.

(a) For pre-existing #buildings or other structures# that do not exceed the overall permitted height

Where the height of a pre-existing #building or other structure# does not exceed the overall height permitted by the applicable district regulations, as measured from the top of the #lowest usable floor# to the highest point of such pre-existing #building#, the height of such altered, #enlarged#, relocated or reconstructed #building or other structure# shall not exceed:

(1) the applicable #sky exposure plane#, for #buildings# governed by #sky exposure planes# as measured from the #reference plane#; or

(2) a horizontal plane equivalent to the maximum #building# height permitted by the applicable district for all other #buildings# as measured from the #reference plane#.

(b) For pre-existing #buildings or other structures# that exceed the overall permitted height

Where the height of a pre-existing #building or other structure# exceeds the overall height permitted by the applicable district regulations, as measured from the top of the #lowest usable floor# to the highest point of such pre-existing #building#:

(1) the height of such altered, #enlarged#, relocated or reconstructed #building or other structure# as measured from the #reference plane# shall not exceed a horizontal plane equivalent to the pre-existing height of such #building#, as measured from the top of the #lowest usable floor#, to the highest point of such pre-existing #building#, provided also that such height shall not exceed the overall height permitted by the applicable district regulations by 10 percent, or 10 feet, whichever is less; and

(2) for #buildings# or other #structures# subject to the regulations of Section 23-421 (Basic pitched-roof envelopes for certain districts), where the degree of the alteration or reconstruction exceeds 75 percent of the #floor area#, the height of a perimeter wall of such altered, #enlarged#, relocated or reconstructed #building or other structure# as measured from the #reference plane# shall not exceed the higher of the maximum perimeter wall height for the district, or the pre-existing height of such perimeter wall, as measured from the top of the #lowest usable floor# to the highest point in such pre-existing #building# before setback.

However, the height allowances of this Section shall not apply to #single# or #two-family residences# that are not #non-complying# with #floor area# requirements, or where the provisions of paragraph (b) of Section 64-622 (Special open area regulations for non-complying buildings) are utilized.

64-624 - Process for establishing non-compliances

LAST AMENDED
5/12/2021

For all #non-complying# #buildings or other structures# utilizing any of the provisions of this Section, the amount of pre-existing #non-compliances# shall be based either on the construction documents of such #building or other structure# previously approved by the Department of Buildings at the time of construction, #enlargement#, or subsequent alteration of such #building or other structure#, as applicable, or, where an approved set of construction documents does not exist for such #building or other structure#, an as-built drawing set completed by a professional engineer or architect. The Department of Buildings may request additional information to substantiate proof of #non-compliances#. Verification by the Department of Buildings of such documentation shall be a pre-condition prior to any demolition for reconstruction work, or alteration permit issued by the Department of Buildings for a #zoning lot# altering or reconstructing #non-compliances# pursuant to the provisions of this Section.