



## Zoning Resolution

THE CITY OF NEW YORK

Eric Adams, Mayor

CITY PLANNING COMMISSION

Daniel R. Garodnick, Chair

# Article VII - Administration

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## Zoning Resolution

THE CITY OF NEW YORK

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# Chapter 1 - Enforcement, Administration and Amendments

File generated by <https://zr.planning.nyc.gov> on 3/22/2024

# Chapter 1 - Enforcement, Administration and Amendments

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## 71-00 - ENFORCEMENT AND ADMINISTRATION

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LAST AMENDED  
12/15/1961

The Commissioner of the Department of Buildings shall administer and enforce this Resolution, except as otherwise specifically provided in the New York City Charter and in this Resolution.

The Department of Environmental Protection shall have exclusive jurisdiction to administer and enforce all provisions of this Resolution relating to air pollution, specifically including the performance standards regulating #smoke#, #dust# and other #particulate matter#, odorous matter, and #toxic or noxious matter# emitted into the atmosphere, in accordance with rules and regulations adopted by the Department of Environmental Protection.

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## 71-10 - PROCEDURE FOR AMENDMENTS

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LAST AMENDED  
4/30/2012

The City Planning Commission shall adopt resolutions to amend the text of this Resolution or the #zoning maps# incorporated therein, and the City Council shall act upon such amendments, in accordance with the provisions of the New York City Charter.



## Zoning Resolution

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# Chapter 2 - Interpretations and Variances

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## Chapter 2 - Interpretations and Variances

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### 72-00 - POWERS OF THE BOARD OF STANDARDS AND APPEALS

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LAST AMENDED  
12/15/1961

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#### 72-01 - General Provisions

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LAST AMENDED  
2/2/2011

The Board of Standards and Appeals (referred to hereinafter as the Board) shall have the power, pursuant to the provisions of the New York City Charter and of this Resolution, after public notice and hearing:

- (a) to hear and decide appeals from and to review interpretations of this Resolution;
- (b) to hear, decide, and determine, in a specific case of practical difficulties or unnecessary hardship, whether to vary the application of the provisions of this Resolution;
- (c) to hear and decide applications for such special permits as are set forth in this Resolution and are more specifically enumerated in Section [73-01](#) (General Provisions);
- (d) to adopt, amend, or repeal such rules or regulations as may be necessary to carry into effect the provisions of this Resolution;
- (e) to hear and decide applications for such authorizations as are set forth in this Resolution and enumerated in Section [72-30](#); and
- (f) to make such administrative determinations and findings as may be set forth in this Resolution or pursuant to Section [72-40](#) (AMORTIZATION OF CERTAIN ADULT ESTABLISHMENTS AND SIGNS FOR ADULT ESTABLISHMENTS) or to Section [72-41](#) (Continuation of Certain Adult Establishments).
- (g) to waive ~~bulk~~ regulations affected by unimproved ~~streets~~ where a ~~development~~, ~~enlargement~~ or alteration consists in part of construction within such ~~streets~~ and where such ~~development~~, ~~enlargement~~ or alteration would be ~~non-complying~~ absent such waiver, provided the Board has granted a permit pursuant to Section 35 of the General City Law and has prescribed conditions which require the portion of the ~~development~~ or ~~enlargement~~ to be located within the unimproved ~~streets~~ to be compliant and conforming to the provisions of this Resolution. Such bulk waivers shall only be as necessary to address ~~non-compliance~~ resulting from the location of the ~~development~~ or ~~enlargement~~ within and outside the unimproved ~~streets~~, and the ~~zoning lot~~ shall comply to the maximum extent feasible with all applicable zoning regulations as if such unimproved ~~streets~~ were not mapped. Where such ~~zoning lots~~ with ~~private roads~~ access fewer than 20 ~~dwelling units~~, such ~~bulk~~ waivers may be granted by the Board only where the ~~zoning lots~~ are fully compliant with the regulations for ~~private roads~~ set forth in Article II, Chapter 6. However, for ~~zoning lots~~ with ~~private roads~~ that access at least 20 ~~dwelling units~~, or for ~~zoning lots~~ with ~~private roads~~ that access fewer than 20 ~~dwelling units~~ for which a modification or waiver of the requirements for ~~private roads~~, pursuant to Section [26-26](#), is necessary, such ~~bulk~~ waivers shall be permitted only by authorization of the City Planning Commission, pursuant to Section [26-27](#) (Waiver of Bulk Regulations Within Unimproved Streets).

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#### 72-10 - APPEALS FOR INTERPRETATION

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LAST AMENDED  
12/15/1961

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## **72-11 - General Provisions**

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LAST AMENDED  
12/15/1961

The Board of Standards and Appeals shall hear and decide appeals from or may, on its own initiative, review any rule or regulation, order, requirement, decision or determination of the Commissioner of Buildings, of any duly authorized officer of the Department of Buildings, or of the Commissioner of any agency which, under the provisions of the New York City Charter, has jurisdiction over the #use# of land or over the #use# or #bulk# of #buildings or other structures#, subject to the requirements of this Resolution.

On such an appeal or review, the Board may reverse, affirm, in whole or in part, or modify, such rule, regulation, order, requirement, decision or determination and may make such rule, regulation, order, requirement, decision or determination as in its opinion should have been made in the premises in strictly applying and interpreting the provisions of this Resolution, and for such purposes the Board shall have the power of the officer from whose ruling the appeal or review is taken.

However, there shall be no appeal to or review by the Board from an interpretation of this Resolution made by the Board of Environmental Protection of the Department of Environmental Protection, or any other agency for which the New York City Charter establishes a board empowered to adopt rules and regulations for such agency.

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## **72-12 - Street Layout Varying From Maps**

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LAST AMENDED  
12/15/1961

Where the street layout actually on the ground varies from the street layout as shown on the #zoning maps#, the designation as shown on such maps shall be applied by the Board of Standards and Appeals, after public notice and hearing, in such a way as to carry out the intent and purpose of this Resolution.

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## **72-20 - VARIANCES**

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LAST AMENDED  
12/15/1961

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## **72-21 - Findings Required for Variances**

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LAST AMENDED  
2/2/2011

When in the course of enforcement of this Resolution, any officer from whom an appeal may be taken under the provisions of Section [72-11](#) (General Provisions) has applied or interpreted a provision of this Resolution, and there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of such provision, the Board of Standards and Appeals may, in accordance with the requirements set forth in this Section, vary or modify the provision so that the spirit of the law shall be observed, public safety secured and substantial justice done.

Where it is alleged that there are practical difficulties or unnecessary hardship, the Board may grant a variance in the application of the provisions of this Resolution in the specific case, provided that as a condition to the grant of any such variance, the Board

shall make each and every one of the following findings:

- (a) that there are unique physical conditions, including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to and inherent in the particular #zoning lot#; and that, as a result of such unique physical conditions, practical difficulties or unnecessary hardship arise in complying strictly with the #use# or #bulk# provisions of the Resolution; and that the alleged practical difficulties or unnecessary hardship are not due to circumstances created generally by the strict application of such provisions in the neighborhood or district in which the #zoning lot# is located;
- (b) that because of such physical conditions there is no reasonable possibility that a #development#, #enlargement#, extension, alteration or change of #use# on the #zoning lot# in strict conformity with the provisions of this Resolution will bring a reasonable return, and that the grant of a variance is therefore necessary to enable the owner to realize a reasonable return from such #zoning lot#; this finding shall not be required for the granting of a variance to a non-profit organization;
- (c) that the variance, if granted, will not alter the essential character of the neighborhood or district in which the #zoning lot# is located; will not substantially impair the appropriate use or development of adjacent property; and will not be detrimental to the public welfare;
- (d) that the practical difficulties or unnecessary hardship claimed as a ground for a variance have not been created by the owner or by a predecessor in title; however, where all other required findings are made, the purchase of a #zoning lot# subject to the restrictions sought to be varied shall not itself constitute a self-created hardship; and
- (e) that within the intent and purposes of this Resolution, the variance, if granted, is the minimum variance necessary to afford relief; and to this end, the Board may permit a lesser variance than that applied for.

It shall be a further requirement that the decision or determination of the Board shall set forth each required finding in each specific grant of a variance, and in each denial thereof which of the required findings have not been satisfied. In any such case, each finding shall be supported by substantial evidence or other data considered by the Board in reaching its decision, including the personal knowledge of, or inspection by, the members of the Board. Reports of other City agencies made as a result of inquiry by the Board shall not be considered hearsay, but may be considered by the Board as if the data therein contained were secured by personal inspection.

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## **72-22 - Conditions or Restrictions**

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LAST AMENDED  
12/15/1961

The Board of Standards and Appeals may prescribe such conditions or restrictions applying to the grant of a variance as it may deem necessary in the specific case, in order to minimize the adverse effects of such variance upon other property in the neighborhood. Such conditions or restrictions shall be incorporated in the building permit and certificate of occupancy. Failure to comply with such conditions or restrictions shall constitute a violation of this Resolution, and may constitute the basis for denial or revocation of a building permit or certificate of occupancy and for all other applicable remedies.

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## **72-23 - Lapse of Variances**

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LAST AMENDED  
7/18/1995

A variance granted under the provisions of this Resolution shall automatically lapse if substantial construction, in accordance with the plans for which such variance was granted, has not been completed within four years from the date of granting such

variance by the Board of Standards and Appeals or, if judicial proceedings have been instituted to review the Board's decision to grant any variance, the four-year lapse period shall commence upon the date of entry of the final order in such proceedings, including appeals.

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## **72-30 - AUTHORIZATIONS**

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LAST AMENDED  
4/9/1981

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## **72-31 - General Provisions**

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LAST AMENDED  
4/9/1981

The Board of Standards and Appeals shall have the power to issue authorizations on such matters as are set forth in this Section. The Board shall hear and decide applications for authorizations in an administrative proceeding in the same manner in which it hears appeals for interpretation pursuant to Section [72-10](#).

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## **72-40 - AMORTIZATION OF CERTAIN ADULT ESTABLISHMENTS AND SIGNS FOR ADULT ESTABLISHMENTS**

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LAST AMENDED  
10/31/2001

The Board of Standards and Appeals may permit any #non-conforming# #adult establishment# or any #non-conforming# #sign#, other than #advertising signs#, for an #adult establishment# to continue for a limited period of time beyond that provided for in Sections [52-734](#) (Non-conforming signs for adult establishments) or [52-77](#) (Termination of Adult Establishments), provided that:

- (a) an application is made by the owner of such establishment to the Board of Standards and Appeals at least 120 days prior to the date on which such establishment or #sign# must terminate;
- (b) the Board shall find, in connection with such establishment or #sign#, that:
  - (1) the applicant had made, prior to the #non-conformity#, substantial financial expenditures related to the #non-conformity#; and
  - (2) the applicant has not recovered substantially all of the financial expenditures related to the #non-conformity#; and
  - (3) the period for which such establishment or #sign# may be permitted to continue is the minimum period sufficient for the applicant to recover substantially all of the financial expenditures incurred related to the #non-conformity#.

For the purpose of this Section, "financial expenditures" shall mean the capital outlay made by the applicant to establish the #adult establishment# or #sign#, exclusive of the fair market value of the #building# in which such #use# or #sign# is located and exclusive of any improvements unrelated to the #non-conforming# #adult establishment# or #non-conforming# #accessory# business #sign# for #adult establishments#.

This Section shall not apply to #commercial# establishments described in Section [72-41](#) (Continuation of Certain Adult Establishments).

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## 72-41 - Continuation of Certain Adult Establishments

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LAST AMENDED

2/2/2011

Any #commercial# establishment in existence as of August 8, 2001 which: (i) subsequent to September 18, 1995, and prior to August 8, 2001, made financial expenditures so as to avoid becoming subject to the provisions of Section [32-01](#) or [42-01](#) (Special Provisions for Adult Establishments); and (ii) is defined as an #adult establishment# pursuant to the amendments to the definition of #adult establishment# in Section [12-10](#) adopted on October 31, 2001, shall terminate as an #adult establishment# within one year from October 31, 2001. Notwithstanding the foregoing, the Board of Standards and Appeals may permit such #adult establishment# to continue for a limited period beyond such one year period, provided that:

- (a) an application is made by the owner of such establishment to the Board of Standards and Appeals at least 120 days prior to the date on which such establishment must terminate;
- (b) the Board shall find, in connection with such establishment, that:
  - (1) the applicant had made, subsequent to September 18, 1995 and prior to August 8, 2001, substantial financial expenditures so as to avoid becoming subject to the provisions of Section [32-01](#) or [42-01](#);
  - (2) the applicant has not recovered substantially all such financial expenditures; and
  - (3) the period for which such establishment may be permitted to continue is the minimum period sufficient for the applicant to recover substantially all of such financial expenditures.

For purposes of this Section, "financial expenditures" shall mean the following: (i) any capital outlay for improvements made in connection with the configuration or reconfiguration of the amount of #floor area# and #cellar# space within such establishment accessible to customers either: (a) containing books, magazines, periodicals or other printed matter or photographs, films, motion pictures, video cassettes, slides or other visual matter characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas"; or (b) allocated to one of the activities described in paragraphs (1)(b), (1)(c) or (1)(d) of the definition of #adult establishment# in Section [12-10](#); and (ii) any purchases of books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides or other visual matter, which are not characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas."

The provisions of Sections [52-77](#) (Termination of Adult Establishments) and [72-40](#) (AMORTIZATION OF CERTAIN ESTABLISHMENTS AND SIGNS FOR ADULT ESTABLISHMENTS) shall not apply to #commercial# establishments subject to this Section.



## Zoning Resolution

THE CITY OF NEW YORK

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CITY PLANNING COMMISSION

Daniel R. Garodnick, Chair

# **Chapter 3 - Special Permits by the Board of Standards and Appeals**

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# Chapter 3 - Special Permits by the Board of Standards and Appeals

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## 73-00 - SPECIAL PERMIT USES AND MODIFICATIONS

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LAST AMENDED  
12/19/2017

### 73-01 - General Provisions

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LAST AMENDED  
4/22/2009

In harmony with the general purpose and intent of this Resolution and in accordance with the provisions set forth in this Chapter, the Board of Standards and Appeals may, in an appropriate case:

- (a) grant special permits for specified #uses# in specific districts (referred to hereinafter as special permit #uses#);
- (b) permit specified modifications of the #use# or #bulk# regulations of this Resolution;
- (c) permit the renewal of revoked building permits as provided in Sections [11-31](#) to [11-33](#), inclusive, relating to Building Permits Issued before Effective Date of Amendment; or
- (d) permit the renewal of a variance, exception, or permit issued by the Board prior to December 15, 1961, in accordance with the provisions of Section [11-41](#) relating to Exceptions, Variances, or Permits Previously Authorized;

provided that, in each specific case, the requirement for findings as set forth in this Chapter (or in the Sections referred to in paragraph (c) or (d) of this Section) shall constitute a condition precedent to the grant of such special permit, modification, or renewal.

In addition to meeting the requirements, conditions, and safeguards prescribed by the Board as set forth in this Chapter, each such special permit #use# shall conform to and comply with all of the applicable district regulations on #use#, #bulk#, supplementary #use# regulations, regulations applying along district boundaries, #accessory# #signs#, #accessory# off-street parking and off-street loading, and all other applicable provisions of this Resolution, except as otherwise specifically provided in this Chapter or as they may be modified in accordance with paragraph (b) of this Section. In the case of required #accessory# off-street parking, such #use# shall satisfy the requirements specified for such #uses# in Sections [25-31](#), [36-21](#) or [44-21](#) (General Provisions) except that, where no parking requirement is specified therein, such #use# shall satisfy the requirements set forth in this Chapter.

In the #waterfront area#, the powers of the Board to grant special permits are made inapplicable or modified in accordance with the provisions of Section [62-131](#) (Applicability of Article VII, Chapter 3).

### 73-02 - Further Requirements

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LAST AMENDED  
12/15/1961

It shall be a further requirement that the decision or determination of the Board of Standards and Appeals shall set forth each required finding in each specific grant of a special permit #use#, modification or renewal and, in each denial thereof, which of the required findings have not been satisfied. In any such case, each finding shall be supported by substantial evidence or other data considered by the Board in reaching its decision, including the personal knowledge of or inspection by the members of the Board.

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## 73-03 - General Findings Required for All Special Permit Uses and Modifications

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LAST AMENDED  
12/18/1980

The Board of Standards and Appeals shall have the power, as authorized by Section [73-01](#), paragraph (a) or (b), and subject to such appropriate conditions and safeguards as the Board shall prescribe, to grant special permit #uses# or modifications of #use#, parking, or #bulk# regulations as specifically provided in this Chapter, provided in each case:

- (a) The Board shall make all of the findings required in the applicable sections of this Chapter with respect to each such special permit #use# or modification of #use#, parking or #bulk# regulations and shall find that, under the conditions and safeguards imposed, the hazards or disadvantages to the community at large of such special permit #use# or modification of #use#, parking or #bulk# regulations at the particular site are outweighed by the advantages to be derived by the community by the grant of such special permit. In each case the Board shall determine that the adverse effect, if any, on the privacy, quiet, light and air in the neighborhood of such special permit #use# or modification of #use#, parking or #bulk# regulations will be minimized by appropriate conditions governing location of the site, design and method of operation.
- (b) In all cases the Board shall deny a special permit whenever such proposed special permit #use# or modification of #use#, parking or #bulk# regulations will interfere with any public improvement project (including housing, highways, public #buildings# or facilities, redevelopment or renewal projects, or right-of-way for sewers, transit or other public facilities) which is approved by or pending before the Board of Estimate, Site Selection Board or the City Planning Commission as determined from the calendars of each such agency issued prior to the date of the public hearings before the Board of Standards and Appeals.
- (c) When under the applicable findings the Board is required to determine whether the special permit #use# or modification of #use#, parking or #bulk# regulations is appropriately located in relation to the #street# system, the Board shall in its discretion make such determination on the basis of the Master Plan of Arterial Highways and Major Streets on the official City Map. Whenever the Board is required to make a finding on the location of a proposed special permit #use# or modification of #use#, parking or #bulk# regulations in relation to secondary or local #streets# and such classification of #streets# is not shown on the Master Plan, the Board in its discretion shall request the City Planning Commission to establish a report on the appropriate classification of such #street#.
- (d) For applications relating to Sections [73-243](#), [73-48](#) and [73-49](#), the Board in its discretion shall request from the Department of Transportation a report with respect to the anticipated traffic congestion resulting from such special permit #use# or modification of #use#, parking or #bulk# regulations in the proposed location. If such a report is requested, the Board shall in its decision or determination give due consideration to such report and further shall have the power to substantiate the appropriate finding solely on the basis of the report of the Department of Transportation with respect to the issue referred.
- (e) If a term of years is specified in the applicable section, the Board shall establish a term of years not to exceed such maximum. For those special permit #uses# or modification of #use# parking or #bulk# regulations for which a maximum term has not been specified, the Board may fix an appropriate term for any such special permit #use# or modification of #use# parking or #bulk# regulations.
- (f) On application for renewal of any such special permit authorized in this Chapter, the Board shall determine whether the circumstances warranting the original grant still obtain. In addition, the Board shall ascertain whether the applicant has complied with the conditions and safeguards theretofore described by the Board during the prior term. In the event that the Board shall find the applicant has been in substantial violation thereof, it shall deny the application for renewal.

- (g) The Board may permit the [enlargement](#) or [extension](#) of any existing [use](#), which, if new, would be permitted by special permit in the specified districts under the provisions of Section [73-01](#) and other applicable provisions of this Chapter, provided that before granting any such permit for [enlargement](#) or [extension](#) within the permitted districts, the Board shall make all of the required findings applicable to the special permit [use](#), except that:
- (1) in the case of colleges or universities in R1 or R2 Districts, the Board may waive all such required findings set forth in Section [73-121](#) (Colleges or universities); and
  - (2) in the case of public utility [uses](#), the Board may waive all such required findings set forth in Sections [73-14](#) (Public Service Establishments) or [73-16](#) (Public Transit, Railroad or Electric Utility Substations).

No such [enlargement](#) or [extension](#) shall create a new [non-compliance](#) or increase the existing degree of [non-compliance](#) with the applicable [bulk](#) regulations, except as may be permitted in accordance with the provisions of Sections [73-62](#) to [73-68](#), inclusive, relating to Modification of Bulk Regulations.

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## **73-04 - Conditions and Safeguards**

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LAST AMENDED  
8/16/1979

The Board of Standards and Appeals may prescribe such conditions and safeguards to the grant of special permit ([uses](#)) as it may deem necessary in the specific case, in order to minimize the adverse effects of such special permit upon other property and the community at large. Such conditions and safeguards shall be incorporated in the building permit and certificate of occupancy. Failure to comply with such conditions or restrictions shall constitute a violation of this Resolution, and may constitute the basis for denial or revocation of a building permit or certificate of occupancy and for all other applicable remedies.

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## **73-10 - SPECIAL PERMIT USES**

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LAST AMENDED  
7/22/1971

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## **73-11 - General Provisions**

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LAST AMENDED  
12/19/2017

Subject to the general findings required by Section [73-03](#) and in accordance with the provisions contained in Sections [73-12](#) to [73-35](#), inclusive, the Board of Standards and Appeals shall have the power to permit special permit [uses](#), and shall have the power to impose appropriate conditions and safeguards thereon.

In the [Special Midtown District](#), the powers of the Board to permit special permit [uses](#) are modified by the provisions of Sections [81-13](#) (Special Permit Use Modifications) and [81-061](#) (Applicability of Chapter 3 of Article VII).

Except as permitted pursuant to this Chapter, in R3, R4 or R5 Districts, the following [uses](#) shall be subject to the height and setback requirements of an R2 District:

Camps

Public utility or public service facilities

Radio and television towers, non-[accessory](#)

Riding academies or stables.

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## **73-12 - Community Facility Uses in R1, R2, R3-1, R3A, R3X, R4-1, R4A or R4B Districts**

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LAST AMENDED

9/9/2004

In R1, R2, R3-1, R3A, R3X, R4-1, R4A or R4B Districts, the Board of Standards and Appeals may permit specified #community facility uses# in accordance with the provisions of this Section.

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## **73-121 - Colleges or universities**

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LAST AMENDED

12/15/1961

The Board of Standards and Appeals may permit colleges or universities including professional schools but excluding business colleges or trade schools in R1 or R2 Districts, provided that the following findings are made:

- (a) that such #use# is so located as not to impair the character of the surrounding area or its future development as a neighborhood of #single-family residences#; and
- (b) that such #use# is so located as to draw a minimum of vehicular traffic to and through local #streets#.

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

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## **73-122 - College or school student dormitories or fraternity or sorority student houses**

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LAST AMENDED

2/2/2011

The Board of Standards and Appeals may permit college or school student dormitories or fraternity or sorority student houses in R1 or R2 Districts, provided that the following findings are made:

- (a) that such #use# does not exceed the maximum #floor area ratio# for #residential use# as set forth in Section [23-14](#) (Open Space and Floor Area Regulations in R1 Through R5 Districts);
- (b) that the amount of #open space# and its distribution on the #zoning lot# conform to standards appropriate to the character of the neighborhood;
- (c) that, notwithstanding the provisions of Section [25-33](#) (Waiver of Requirements for Spaces Below Minimum Number), at least one #accessory# off-street parking space is provided for each six beds; and
- (d) that such #use# conforms to all the other applicable Off-street Parking Regulations as set forth in Article II, Chapter 5.

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

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## **73-123 - Non-commercial clubs**

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LAST AMENDED

The Board of Standards and Appeals may permit non-commercial clubs, except swimming pool clubs or clubs with swimming pools located less than 500 feet from any #lot line#, in R1 or R2 Districts, provided that the following findings are made:

- (a) that such #use# is so located as not to impair the character of the surrounding area or its future development as a neighborhood of #single-family residences#;
- (b) that such #use# is so located as to draw a minimum of vehicular traffic to and through local #streets#;
- (c) that such #use# complies with the minimum required #open space ratio# and maximum #floor area ratio# for #residential use# as set forth in Section [23-14](#) (Open Space and Floor Area Regulations in R1 Through R5 Districts);
- (d) that not more than half the #open space# provided is occupied by driveways, private streets, open #accessory# off-street parking spaces or active outdoor recreation facilities; and
- (e) that the amount of #open space# provided and its distribution on the #zoning lot# conform to standards appropriate to the character of the neighborhood.

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

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### **73-124 - Welfare centers**

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LAST AMENDED  
12/15/1961

The Board of Standards and Appeals may permit welfare centers in R1 or R2 Districts, provided that the following findings are made:

- (a) that such #use# is so located as not to impair the character of the surrounding area or its future development as a neighborhood of #single-family residences#; and
- (b) that such #use# is conveniently accessible to the people it serves.

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

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### **73-125 - Ambulatory diagnostic or treatment health care facilities**

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LAST AMENDED  
1/18/2011

In R3A, R3X, R3-1, R4A, R4B or R4-1 Districts, excluding #lower density growth management areas#, the Board of Standards and Appeals may permit ambulatory diagnostic or treatment health care facilities listed in Use Group 4, limited in each case to a maximum of 10,000 square feet of #floor area#, provided that the Board finds that the amount of open area and its distribution on the #zoning lot# conform to standards appropriate to the character of the neighborhood.

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

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### **73-126 - Certain community facility uses in lower density growth management areas**

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In R3-1, R3A, R3X, R4-1, R4A or R4B Districts in #lower density growth management areas#, the Board of Standards and Appeals may permit ambulatory diagnostic or treatment health care facilities listed in Use Group 4, limited in each case to a maximum of 10,000 square feet of #floor area#, provided that such facilities are located on #zoning lots# that comply with the minimum #lot area# and #lot width# regulations of Section [23-35](#) (Special Provisions for Zoning Lots Containing Certain Community Facility Uses in Lower Density Growth Management Areas).

In addition, for #buildings# in R3, R4 and R5 Districts in #lower density growth management areas# subject to the provisions of paragraph (b) of Section [24-012](#) (Exceptions to the bulk regulations of this Chapter) the Board may permit the #development# of a #building# pursuant to the #bulk# regulations of Article II, Chapter 4 (Bulk Regulations for Community Facilities in Residence Districts).

In order to grant such special permit, the Board shall find that:

- (a) the amount and type of open area and its distribution on the #zoning lot# is compatible with the character of the neighborhood;
- (b) the distribution of #bulk# on the #zoning lot# will not unduly obstruct access of light and air to adjoining properties or #streets#; and
- (c) the scale and placement of the #building# on the #zoning lot# relates harmoniously with surrounding #buildings#.

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

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### **73-13 - Open Uses in R1 or R2 Districts**

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In R1 or R2 Districts, the Board of Standards and Appeals may permit outdoor tennis courts or ice skating rinks, provided that the Board finds that such #use# is so located as not to impair the character of the surrounding area or its future development as a neighborhood of #single-family residences#.

The Board shall prescribe the following conditions:

- (a) that such #use# and any #accessory# facilities affixed to the land are not located closer than 20 feet to any #lot line#; and
- (b) that all lighting is directed away from nearby #zoning lots# containing #residences#.

The Board may prescribe additional appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area, including requirements for screening or for landscaping.

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### **73-14 - Public Service Establishments**

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In all #Residence Districts#, the Board of Standards and Appeals may permit the #uses# set forth in paragraph (a) of this Section, provided that the findings set forth in paragraph (b) are met.

(a) The Board may permit the following #uses#:

Electric or gas utility substations, limited in each case to a site of not more than 10,000 square feet;

Potable water pumping stations;

Telephone exchanges or other communications equipment structures; or

#Energy infrastructure equipment#, without size restriction.

(b) In order to grant such permit, the Board shall find:

(1) that such #use# will serve the residential area within which it is proposed to be located;

(2) that there are serious difficulties in locating it in a district wherein it is permitted as of right and from which it could serve the residential area, which make it necessary to locate such #use# within a #Residence District#; and

(3) in the case of such electric or gas utility substations or potable water pumping stations, that the site for such #use# has a minimum #lot area# of 4,500 square feet.

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

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## **73-15 - Other Public Utility Facilities**

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LAST AMENDED

12/15/1961

In all #Residence Districts#, the Board of Standards and Appeals may permit public utility stations for oil or gas metering or regulating, or terminal facilities located at river crossings for access to electric, gas or steam lines, provided that the Board finds that the proposed location, design and method of operation will not have a detrimental effect on the privacy and quiet of the neighborhood and the safety of its inhabitants.

The Board may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area, including requirements for construction of fences, barriers or other safety devices, or for landscaping.

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## **73-16 - Public Transit, Railroad or Electric Utility Substations**

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LAST AMENDED

2/2/2011

In all #Residence# and #Commercial Districts#, and in M1 Districts in the #Special Downtown Jamaica District#, the Board of Standards and Appeals may permit electric utility substations (including transformers, switches, or auxiliary apparatus) or public transit or railroad electric substations, limited in each case to a site of not more than 40,000 square feet, and in the case of electric utility substations to a site of not less than 10,000 square feet, provided that the following findings are made:

- (a) that such #use# will serve either the residential community within which it is proposed to be located or the residential community immediately adjacent, and that there are serious difficulties in locating such #use# in a nearby district where it is permitted as-of-right;
- (b) in the case of public transit or railroad electric substations, that the site for such #use# has a minimum frontage of 50 feet and a minimum #lot area# of 4,500 square feet;
- (c) that the site for such #use# is so located in #Residence Districts# as to minimize the adverse effects on the integrity of existing and future development, or is so located in #Commercial Districts# as to minimize the interruption of the continuity of retail frontage;
- (d) that the architectural and landscaping treatment of such #use# will blend harmoniously with the rest of the area; and
- (e) that such #use# will conform to the performance standards applicable to M1 Districts.

The Board may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area, including requirements for soundproofing, for the construction of fences, barriers, or other safety devices, for screening of apparatus, or for landscaping.

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### **73-17 - Camps, Overnight or Outdoor Day**

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LAST AMENDED  
12/15/1961

In all #Residence Districts#, and in C1, C2 or C3 Districts, the Board of Standards and Appeals may permit overnight or outdoor day camps, whether commercial or philanthropic, for a term not to exceed five years, provided that the Board finds that such #use# will not cause excessive traffic congestion.

The Board shall prescribe the following conditions:

- (a) that a minimum of 150 square feet of #lot area# is provided for each child enrolled in the camp;
- (b) that along any #rear# or #side lot lines#, #yards# are provided, each with a minimum depth (or width) of 40 feet, within which no camp equipment is affixed to the land;
- (c) that in #Residence Districts# or C3 Districts the #zoning lot# is screened along the #rear# and #side lot lines#, and in C1 or C2 Districts along any #rear# or #side lot line# adjoining a #Residence District#, by a strip at least four feet wide, densely planted with shrubs or trees which are at least four feet high at the time of planting and which are of a type which may be expected to form a year-round dense screen at least six feet high within three years; and
- (d) that in the case of outdoor day camps, for each 6,000 square feet of #lot area#, one #accessory# off-street parking space of 500 square feet is provided to accommodate buses used in the transportation of campers, in addition to the #accessory# off-street parking requirement established for such #uses# under the applicable provisions of Sections [25-31](#) or [36-21](#) (General Provisions).

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

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### **73-18 - Riding Academies or Stables**

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LAST AMENDED  
12/15/1961

In all #Residence Districts#, and in C2, C6 or C7 Districts, the Board of Standards and Appeals may permit riding academies or stables operated as a recreation service, for a term not to exceed five years, provided that the following findings are made:

- (a) that such #use# is so located as not to impair the essential character of the surrounding area;
- (b) that adequate horseback riding facilities are available on the same #zoning lot# or within 600 feet of such #zoning lot#;
- (c) that the location and operation of such #use# will not be such as to result in any serious traffic hazards or conflicts on nearby #streets#; and
- (d) that in #Residence Districts#, no stables or riding areas are located within 40 feet of any #side# or #rear lot line#.

The Board may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area, including requirements for sanitation, for screening, or for landscaping.

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## **73-19 - Schools**

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LAST AMENDED  
11/19/1987

In C8 or M1 Districts, the Board of Standards and Appeals may permit #schools# which have no #residential# accommodations except #accessory# accommodations for a caretaker, provided that the following findings are made:

- (a) that within the neighborhood to be served by the proposed #school# there is no practical possibility of obtaining a site of adequate size located in a district wherein it is permitted as of right, because appropriate sites in such districts are occupied by substantial improvements;
- (b) that such #school# is located not more than 400 feet from the boundary of a district wherein such #school# is permitted as-of-right;
- (c) that 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#; and
- (d) that the movement of traffic through the #street# on which the #school# is located can be controlled so as to protect children going to and from the #school#. The Board shall refer the application to the Department of Traffic for its report with respect to vehicular hazards to the safety of children within the block and in the immediate vicinity of the proposed site.

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

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## **73-20 - ADDITIONAL SPECIAL PERMIT USES**

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LAST AMENDED  
5/12/2021

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## **73-201 - Theaters in C1 Districts**

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LAST AMENDED  
5/12/2021

In C1 Districts, the Board of Standards and Appeals may permit theaters with a capacity of not more than 500 persons in a new or existing #building#. In C1-5, C1-6, C1-7, C1-8 and C1-9 Districts, motion picture theaters shall have a minimum of four square feet of waiting area within the #zoning lot# for each seat. The required waiting space shall be either in an enclosed lobby or open area that is covered or protected during inclement weather and shall not include space occupied by stairs or space within 10 feet of a refreshment stand or of an entrance to a public toilet. The Board shall not apply these requirements to any additional motion picture theater created by the subdivision of an existing motion picture theater.

The Board may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of nearby residential areas.

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## **73-202 - Theaters in M1-5B Districts**

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LAST AMENDED

5/12/2021

In M1-5B Districts, the Board of Standards and Appeals may permit theaters for a term not to exceed five years, provided that the following findings are made:

- (a) that such #use# will not impair the character or the future use or development of the surrounding residential or mixed use neighborhoods;
- (b) that such #use# will not cause undue congestion in local #streets#; and
- (c) that such #use# provides a waiting area of adequate size to prevent obstruction of #street# areas and other #uses# within the same or other #building#.

The Board shall prescribe appropriate controls to minimize adverse effects on the character of the surrounding area, including, but not limited to, location of entrances and operable windows; provision of sound-lock vestibules; specification of acoustical insulation; maximum size of establishment; number, kinds of amplification of musical instruments or voices; shielding of flood lights; adequate screening; curb cuts, or parking.

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## **73-21 - Automotive Service Stations**

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LAST AMENDED

12/15/1961

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## **73-211 - Location in C2, C4, C6 or C7 Districts**

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LAST AMENDED

4/8/1998

In any C2, C4, C6 or C7 District whose longer dimension is 375 feet or more (exclusive of land in #streets#), the Board of Standards and Appeals may permit #automotive service stations#, provided that the following findings are made:

- (a) that the site for such #use# has a minimum area of 7,500 square feet; and
- (b) that the site for any such #use# which is not located on an arterial highway or a major #street# has a maximum area of 15,000 square feet.

The Board shall prescribe the following conditions:

- (1) that any facilities for lubrication, minor repairs or washing are located within a #completely enclosed# #building#;
- (2) that the site is so designed as to provide reservoir space for five waiting automobiles within the #zoning lot# in addition to spaces available within an enclosed lubritorium or at the pumps;
- (3) that entrances and exits are so planned that, at maximum expected operation, vehicular movement into or from the #automotive service station# will cause a minimum of obstruction on #streets# or sidewalks;
- (4) that, along any #rear lot line# or #side lot line# adjoining a #Residence District#, the #zoning lot# is screened, as the Board may prescribe, by either of the following methods:
  - (i) a strip at least four feet wide, densely planted with shrubs or trees at least four feet high at the time of planting and which are of a type which may be expected to form a year-round dense screen at least six feet high within three years; or
  - (ii) a wall or barrier or uniformly painted fence of fire-resistant material at least six feet high, but not more than eight feet above finished grade. Such wall, barrier, or fence may be opaque or perforated, provided that not more than 50 percent of its face is open; and
- (5) that #signs#, other than #advertising signs#, shall be subject to the applicable district #sign# regulations, provided that:
  - (i) in C2 Districts, the provisions of Sections [32-642](#) (Non-illuminated signs) and [32-643](#) (Illuminated non-flashing signs) shall be modified to permit non-#illuminated# or #illuminated# non-#flashing signs# with a total #surface area# not exceeding 150 square feet on any #zoning lot#; and
  - (ii) the provisions set forth in Section [32-652](#) (Permitted projection in all other Commercial Districts) may be modified in accordance with the provisions of Section [73-212](#) (Projection of accessory signs).

The Board may prescribe additional appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area, and to protect #residential zoning lots# which are adjoining or across the #street#.

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## **73-212 - Projection of accessory signs**

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LAST AMENDED  
12/15/1961

In C2, C4, C6 or C8 Districts, the Board of Standards and Appeals may permit not more than one #sign accessory# to an #automotive service station#, to project across a #street line# more than the amount permitted in Section [32-652](#) (Permitted projection in all other Commercial Districts), but in no case more than four feet, provided that the following findings are made:

- (a) That projection in the amount permitted is required for adequate advance identification of such #automotive service station# to motorists on heavily traveled #streets# in the interests of traffic safety.
- (b) That such #sign# conforms to all other applicable district #sign# regulations, and its total #surface area# is not more than 30 square feet.

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## **73-22 - Commercial Beaches**

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LAST AMENDED  
2/2/2011

In C3 Districts, the Board of Standards and Appeals may permit #commercial# beaches for a term not to exceed five years,

provided that the Department of Health has certified that the waters may be used for bathing purposes and do not violate safe and acceptable standards of water pollution, and provided further that the Board shall make the following findings:

- (a) that such #use# is so located as to minimize interference with the movement and navigation of ships or boats;
- (b) that no more than 20 percent of the shore line in any one mapped district is used for such #use#;
- (c) that no #accessory# stands for the sale of food or drink shall be located within 100 feet of a #Residence District# boundary, and that the total #floor area# of all such stands shall not exceed 200 square feet; and
- (d) that such #use# will not create such traffic congestion as to impair the residential character of the area. The Board shall refer the application to the Department of Traffic for a report as to whether the #use# will create such detrimental traffic congestion that it impairs such residential character.

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

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### **73-23 - Commercial Swimming Pools**

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LAST AMENDED  
2/2/2011

In C3 Districts, the Board of Standards and Appeals may permit #commercial# swimming pools with a pool area of not more than 5,000 square feet for a term not to exceed five years, provided that the following findings are made:

- (a) that such #use# is so located as not to impair the essential character or the future use or development of the nearby residential neighborhood; and
- (b) that such pool is not located within 200 feet of the shore line.

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

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### **73-24 - Eating or Drinking Places**

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LAST AMENDED  
12/18/1980

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### **73-241 - In C1-1, C1-2, C1-3, C1-4, C2-1, C2-2, C2-3, C2-4, C3, C5 or M1-5B Districts**

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LAST AMENDED  
2/2/2011

In C1-1, C1-2, C1-3, C1-4, C2-1, C2-2, C2-3, C2-4, C3, C5 or M1-5B Districts, the Board of Standards and Appeals may permit eating or drinking establishments with entertainment but not dancing, with a capacity of 200 persons or less, for a term not to exceed 10 years, provided that the following findings are made:

- (a) that such #use# will not impair the character or the future use or development of the surrounding residential or mixed use neighborhood;
- (b) that such #use# will not cause undue congestion in local #streets#;

- (c) that in M1-5B Districts, eating and drinking places shall be limited to not more than 5,000 square feet of floor space;
- (d) that in C1-1, C1-2, C1-3, C1-4, C2-1, C2-2, C2-3, C2-4, C5 and M1-5B Districts, such #use# shall be subject to the enclosure provisions of Section [32-411](#); and
- (e) that the application is made jointly by the owner of such #building# and the operators of such eating or drinking establishment.

The Board may modify the regulations relating to #signs# in C3 Districts to permit a maximum total #surface area# of 50 square feet of non-#illuminated# or #illuminated# non-#flashing signs#, provided that any #illuminated sign# shall not be less than 150 feet from the boundary of any #Residence District#.

For eating and drinking establishments for which special permits have previously been granted, the term may exceed 10 years at the discretion of the Board.

The Board shall prescribe appropriate controls to minimize adverse effects on the character of the surrounding area, including, but not limited to, location of entrances and operable windows, provision of sound-lock vestibules, specification of acoustical insulation, maximum size of establishment, kinds of amplification of musical instruments or voices, shielding of floodlights, adequate screening, curb cuts or parking.

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### **73-242 - In C3 Districts**

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LAST AMENDED  
5/12/2021

In C3 Districts, the Board of Standards and Appeals may permit eating or drinking establishments (including those which provide outdoor table service or musical entertainment but not dancing, with a capacity of 200 persons or less, and including those which provide music for which there is no cover charge and no specified showtime) for a term not to exceed five years, provided that the following findings are made:

- (a) that such #use# is so located as not to impair the essential character or the future use or development of the nearby residential neighborhood; and
- (b) that such #use# will generate a minimum of vehicular traffic to and through local #streets# in residential areas.

The Board may modify the regulations relating to #signs# in C3 Districts to permit a maximum total #surface area# of 50 square feet of non-#illuminated# or #illuminated# non-#flashing signs#, provided that any #illuminated sign# shall not be less than 150 feet from the boundary of any #Residence District#.

For eating and drinking establishments for which special permits have previously been granted, the term may exceed 10 years at the discretion of the Board.

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

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### **73-243 - In C1-1, C1-2 and C1-3 Districts**

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LAST AMENDED  
2/8/1990

In C1-1, C1-2 and C1-3 Districts, (except in Special Purpose Districts) the Board of Standards and Appeals may permit eating or drinking places (including those which provide musical entertainment but not dancing, with a capacity of 200 persons or less,

and those which provide outdoor table service) with #accessory# drive-through facilities for a term not to exceed five years, provided that the following findings are made:

- (a) the drive-through facility contains reservoir space for not less than 10 automobiles;
- (b) the drive-through facility will cause minimal interference with traffic flow in the immediate vicinity;
- (c) the eating or drinking place with #accessory# drive-through facility fully complies with the #accessory# off-street parking regulations for the indicated zoning district, including provision of the required number of #accessory# off-street parking spaces for the indicated zoning district (for the purpose of this finding, the waiver provisions of Sections [36-231](#) and [36-232](#) shall be inapplicable);
- (d) the character of the commercially zoned #street# frontage within 500 feet of the subject premises reflects substantial orientation toward the motor vehicle, based upon the level of motor vehicle generation attributable to the existing #commercial uses# contained within such area and to the subject eating or drinking place (excluding the #accessory# drive-through facility portion);
- (e) the drive-through facility shall not have an undue adverse impact on #residences# within the immediate vicinity of the subject premises; and
- (f) there will be adequate buffering between the drive-through facility and adjacent #residential uses#.

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

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### **73-244 - In C2, C3, C4\*, C6-4\*\*, M1-5B, M1-5M and M1-6M Districts, the Special Hudson Square District and the Special Tribeca Mixed Use District**

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LAST AMENDED  
3/20/2013

In C2, C3, C4\*, C6-4\*\*, M1-5B, M1-5M and M1-6M Districts, the Special Hudson Square District and the #Special Tribeca Mixed Use District#, the Board of Standards and Appeals may permit eating or drinking establishments with entertainment and a capacity of more than 200 persons or establishments of any capacity with dancing, for a term not to exceed three years, provided that the following findings are made:

- (a) that a minimum of four square feet of waiting area within the #zoning lot# shall be provided for each person permitted under the occupant capacity as determined by the New York City Building Code. The required waiting area shall be in an enclosed lobby and shall not include space occupied by stairs, corridors or restrooms. A plan shall be provided to the Board to ensure that the operation of the establishment will not result in the gathering of crowds or the formation of lines on the #street#;
- (b) that the entrance to such #use# shall be a minimum of 100 feet from the nearest #Residence District# boundary;
- (c) that such #use# will not cause undue vehicular or pedestrian congestion in local #streets#;
- (d) that such #use# will not impair the character or the future use or development of the surrounding residential or mixed use neighborhoods;
- (e) that such #use# will not cause the sound level in any affected conforming #residential use#, #joint living-work quarters for artists# or #loft dwelling# to exceed the limits set forth in any applicable provision of the New York City Noise Control Code; and

- (f) that the application is made jointly by the owner of the #building# and the operators of such eating or drinking establishment.

The Board shall prescribe appropriate controls to minimize adverse effects on the character of the surrounding area, including, but not limited to, location of entrances and operable windows, provision of sound-lock vestibules, specification of acoustical insulation, maximum size of establishment, kinds of amplification of musical instruments or voices, shielding of flood lights, adequate screening, curb cuts or parking.

Any violation of the terms of a special permit may be grounds for its revocation.

\* In C4 Districts where such #use# is within 100 feet from a #Residence District# boundary

\*\* In C6-4 Districts mapped within that portion of Community District 5, Manhattan, bounded by West 22nd Street, a line 100 feet west of Fifth Avenue, a line midway between West 16th Street and West 17th Street, and a line 100 feet east of Sixth Avenue

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## **73-25 - Children's Amusement Parks**

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LAST AMENDED

2/2/2011

In C8 or M1 Districts, the Board of Standards and Appeals may permit children's amusement parks with an area of at least 10,000 square feet but not more than 75,000 square feet, for a term not to exceed five years, provided that the following findings are made:

- (a) that such #use# is so located as not to impair the essential character or the future use or development of the surrounding area;
- (b) that the principal vehicular access for such #use# is not located on a local #street# or on an arterial highway;
- (c) that such #use# is not located within 400 feet of a #Residence District#;
- (d) that vehicular entrances and exits for such #use# are provided separately, and that no entrance is located less than 50 feet from any exit; and
- (e) that such #use# will not cause traffic congestion or other adverse effects which interfere with the appropriate use of land in the district or in any adjacent district, and that such #use# is so located as to minimize vehicular traffic to and through local #streets# in residential areas.

The Board may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area, or requirements for shielding of floodlights, adequate screening, or surfacing all access roads or driveways.

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## **73-26 - Funeral Establishments**

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LAST AMENDED

2/2/2011

In C1 or C4 Districts, the Board of Standards and Appeals may permit funeral establishments provided that the following findings are made:

- (a) that there are serious difficulties involved in locating within a district wherein such #use# is permitted as-of-right and from which it could serve the needs of its prospective clientele, which make it necessary to locate such #use# within a C1

or C4 District;

- (b) that the site for such #use# is so located as to cause minimum interruption of the continuity of the frontage devoted to retail shopping #uses#. In determining whether the #use# will cause only minimum interruption of such retail frontage, the Board may make a favorable finding on the ground that there exists a substantial number of other incompatible #uses# interrupting such frontage within 200 feet on either side of the proposed site (not including land in #streets#); and
- (c) that such #use# is so located as to draw a minimum of vehicular traffic to and through local #streets# in residential areas.

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

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## **73-27 - Newspaper Publishing**

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LAST AMENDED  
2/2/2011

In C6 Districts, the Board of Standards and Appeals may permit newspaper publishing establishments provided that the following findings are made:

- (a) that such #use# will not cause undue traffic congestion in local #streets#;
- (b) that such #use# is not located within 200 feet of a #Residence District#; and
- (c) that such #use# shall conform to all performance standards applicable in M1 Districts.

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

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## **73-28 - Utilization of Explosives in Manufacturing Processes**

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LAST AMENDED  
12/15/1961

In all #Manufacturing Districts#, the Board of Standards and Appeals may permit the utilization of Class IV explosives, as defined in Section [42-272](#) (Classifications), in manufacturing processes or other production and storage #accessory# thereto, provided that the following findings are made:

- (a) that such manufacture is carried on within #completely enclosed# #buildings or other structures# whose exterior walls are of incombustible materials;
- (b) that such #buildings or other structures# are protected throughout by an automatic fire extinguishing system which meets all requirements set forth in the Administrative Code of the City of New York; and
- (c) that such utilization and the storage #accessory# thereto complies with all additional applicable provisions of the Administrative Code and all rules and regulations of the Fire Department.

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

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## **73-30 - Radio or Television Towers**

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LAST AMENDED  
12/15/1961

In all districts, the Board of Standards and Appeals may permit non-#accessory# radio or television towers, provided that it finds that the proposed location, design, and method of operation of such tower will not have a detrimental effect on the privacy, quiet, light and air of the neighborhood.

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

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### **73-31 - Sand, Gravel or Clay Pits**

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LAST AMENDED  
12/15/1961

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### **73-311 - General provisions**

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LAST AMENDED  
4/23/1964

In all districts, the Board of Standards and Appeals may permit, for a term not to exceed 10 years, the extraction of sand, gravel, or clay from a #zoning lot# which is limited in size to a maximum of 50 acres and which is located not less than 1,000 feet from the nearest boundary of any #zoning lot# 10 acres or more in area used for such extraction, provided that the Board finds that such #use# is so located as not to impair the essential character or the future use or development of the surrounding area, and provided that the following conditions are met:

- (a) that the applicant submits a site plan showing the proposed extent and depth of the area to be excavated, together with the certification of the Department of Buildings that the proposed method of operations and the final elevation of the pit will not undermine or cause settlement to nearby #streets#, sewers, #buildings or other structures#, or installations;
- (b) that the applicant submits a plan for the rehabilitation of the #zoning lot# to be undertaken after the completion of the excavation operations which is satisfactory to the Board, and posts a bond, in an amount to be determined by the Board, for the performance of such rehabilitation;
- (c) that the entire perimeter of the #zoning lot#, except for necessary truck roads, is fenced, including locked gates, so as to prevent children from gaining access to the excavated areas;
- (d) that one #accessory# off-street parking space is provided for every 2,000 square feet of #lot area# or for every three employees, whichever shall require a lesser number of spaces; and
- (e) that the performance standards for M1 Districts shall apply to such operations in all districts other than M2 or M3 Districts, where the applicable performance standards shall govern.

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### **73-312 - Conditions on operation**

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LAST AMENDED  
12/15/1961

The Board of Standards and Appeals shall impose the following conditions on the method of operation of such #uses#:

- (a) that all drilling, blasting, or excavation operations shall be limited to Mondays through Fridays between the hours of 8:00 a.m. and 5:00 p.m.;
- (b) that the emission of process dust either from the area of operations or from the excavated materials themselves shall be minimized by frequent watering or by such other means as the Board shall direct;
- (c) that the warning notices respecting unlawful entry shall be posted on the fence, and that a watchman shall be stationed on the premises to police the entire area after normal working hours and on weekends and holidays; and
- (d) that excavation operations shall be undertaken in such manner as to avoid the creation of undrained pockets and the formation of stagnant pools. When topographical conditions make such compliance impossible, all pools of water resulting from surface drainage shall be sprayed in accordance with the requirements of the Department of Health to eliminate breeding places for mosquitoes or other insects.

The Board may prescribe additional appropriate conditions and safeguards to protect the public health, safety and general welfare during the period between the cessation of operations and the final rehabilitation of the site in accordance with approved plans.

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### **73-32 - Manufacture of Gaseous or Liquid Oxygen**

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LAST AMENDED  
10/11/1962

In M3 Districts, the Board of Standards and Appeals may permit the manufacture of gaseous or liquid oxygen provided that such manufacture complies with all the applicable provisions of the Administrative Code of the City of New York and all rules and regulations of the Fire Department.

The Board may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area, including adequate buffering.

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### **73-33 - Storage of Non-flammable Liquids**

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LAST AMENDED  
8/21/1969

In M1 Districts, the Board of Standards and Appeals may permit the storage of non-flammable liquids in tanks to be located no closer than 100 feet from a #Residence District# boundary.

The Board may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area, including adequate buffering.

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### **73-34 - Fire Stations in Prefabricated Temporary Structures**

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LAST AMENDED  
2/13/1970

In all #Residence Districts# except R1, R2, R3 and R4 Districts, the Board of Standards and Appeals may permit, for a term of five years, fire stations in prefabricated temporary structures, provided that such #use# is located in a high fire incidence area as designated by the Fire Department.

For fire stations in prefabricated temporary structures, in all #Residence Districts# except R1, R2, R3 and R4 Districts and in all

#Commercial# and #Manufacturing Districts#, the Board may permit modifications of the applicable regulations in Sections [23-40](#) to [23-55](#), inclusive, Sections [33-20](#) to [33-31](#), inclusive, and Sections [43-20](#) to [43-22](#), inclusive, relating to Yard Regulations.

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## **73-35 - Amusement Arcades**

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LAST AMENDED

4/8/1998

In C4-1 Districts, or in M2 or M3 Districts which contain shopping centers on March 4, 1976, the Board of Standards and Appeals may permit amusement arcades to be located within shopping centers for a term of one year, provided the following findings are made:

- (a) that the application for the special permit is a joint application made by the management of such shopping center and the operator of the proposed amusement arcade;
- (b) that such amusement arcade will be beneficial to the other #uses# located within the shopping center; and
- (c) that the #use# is so located within the shopping center that no entrance and no #sign# fronts upon or faces a #street#.

The special permit may be renewed for subsequent one year terms provided the Board finds that the facts upon which the special permit was granted have not substantially changed.

The Board may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area, including limitations on hours of operation or requirements for security and supervision.

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

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LAST AMENDED

7/22/1971

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## **73-41 - General Provisions**

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LAST AMENDED

12/17/1987

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

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

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LAST AMENDED

1/28/1965

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

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

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

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

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

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

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

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

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LAST AMENDED  
9/9/2004

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

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

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LAST AMENDED  
9/9/2004

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

- (a) the house of worship will be operated or utilized in such a manner as to reduce demand for on-site parking; and

- (b) such reduction is commensurate with the reduced demand for on-site parking.

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

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

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LAST AMENDED

2/2/2011

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

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

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### **73-433 - Reduction of existing parking spaces for income-restricted housing units**

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LAST AMENDED 3/22/2016

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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### **73-44 - Reduction of Parking Spaces for Ambulatory Diagnostic or Treatment Facilities Listed in Use Group 4 and Uses in Parking Requirement Category B1**

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In the districts indicated, the Board of Standards and Appeals may permit a reduction in the number of #accessory# off-street parking spaces required by the provisions of Section 36-21 or 44-21 (General Provisions) for ambulatory diagnostic or treatment facilities listed in Use Group 4 and #uses# in parking requirement category B1 in Use Group 6, 7, 8, 9, 10, 11, 14 or 16 to the applicable number of spaces specified in the table set forth at the end of this Section, provided that the Board finds that occupancy by ambulatory diagnostic or treatment facilities listed in Use Group 4 or #uses# in parking category B1 is contemplated in good faith on the basis of evidence submitted by the applicant. In such a case the Board shall require that the certificate of occupancy issued for the #building# within which such #use# is located shall state that no certificate shall thereafter be issued if the #use# is changed to a #use# listed in parking category B unless additional #accessory# off-street parking spaces sufficient to meet such requirements are provided on the site or within the permitted off-site radius.

REDUCED ACCESSORY OFF-STREET PARKING SPACES REQUIRED FOR AMBULATORY DIAGNOSTIC OR TREATMENT FACILITIES LISTED IN USE GROUP 4 AND COMMERCIAL USES IN PARKING REQUIREMENT CATEGORY B1

Parking Spaces Required per Number of Square Feet of #Floor Area# *	Districts
1 per 400	C1-1 C2-1 C3 C4-1
1 per 600	C1-2 C2-2 C4-2 C8-1 M1-1 M1-2 M1-3 M2-1 M2-2 M3-1
1 per 800	C1-3 C2-3 C4-3 C7 C8-2

\* For ambulatory diagnostic or treatment facilities listed in Use Group 4, parking spaces required per number of square feet of #floor area# or #cellar# space, except #cellar# space used for storage

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

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

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

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

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## 73-451 - For residences

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LAST AMENDED

2/2/2011

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

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

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

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

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

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LAST AMENDED

6/27/1963

The Board of Standards and Appeals may permit off-street parking spaces #accessory# to a #community facility# #use# other than a #non-profit hospital staff dwelling#, which #use# is located in an R1, R2, R3 or R4 District, to be provided off-site and located in any district, or may permit off-street parking spaces #accessory# to a #community facility# #use# other than a #non-profit hospital staff dwelling#, which #use# is located in any other #Residence District#, to be provided off-site and located in an R1, R2, R3 or R4 District or located in any other #Residence District# at a greater distance from the #zoning lot# than the maximum distance specified in Section [25-53](#) (Off-site Spaces for Permitted Non-residential Uses), provided that in such

instances, all such spaces shall be not further than 600 feet from the nearest boundary of the #zoning lot# containing such #use#, and provided further that the following special findings are made:

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

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

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LAST AMENDED  
6/27/1963

For non-#residential uses#, other than #non-profit hospital staff dwellings#, the Board of Standards and Appeals may extend the maximum permitted radius for off-site parking spaces located in #Commercial# or #Manufacturing Districts#, as specified in Sections [25-53](#) (Off-site Spaces for Permitted Non-residential Uses), [36-43](#) (Off-site Spaces for Commercial or Community Facility Uses) or [44-32](#) (Off-site Spaces for All Permitted Uses), from 600 to 1,200 feet, whenever the Board finds:

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

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

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LAST AMENDED  
9/9/2004

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

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

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

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

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LAST AMENDED

2/2/2011

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

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

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## **73-47 - Rental of Accessory Off-Street Parking Spaces to Non-Residents**

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LAST AMENDED

5/8/2013

In C1 or C5 Districts, for a term not to exceed five years, the Board of Standards and Appeals may permit off-street parking spaces #accessory# to #residences# or #non-profit hospital staff dwellings# to be rented for periods of less than one week, to persons who are not occupants of such #residences# or #non-profit hospital staff dwellings#, provided that such rental of spaces conforms to the provisions set forth in Section [36-46](#) (Restrictions on Use of Accessory Off-street Parking Spaces) and that the following special findings are made:

- (a) that the number of spaces to be rented or the location of access, thereto, is such as to draw a minimum of vehicular traffic to and through #streets# having predominantly #residential# frontages;
- (b) that the total number of spaces to be rented to non-residents does not exceed 100; and
- (c) that where the total number of spaces to be rented to non-residents exceeds 20, reservoir space is provided at the vehicular entrance to accommodate 10 automobiles or 20 percent of the spaces so rented, whichever amount is less.

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

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

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## **73-48 - Exceptions to Maximum Size of Accessory Group Parking Facilities**

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LAST AMENDED

5/8/2013

The Board of Standards and Appeals may permit #accessory# #group parking facilities# with more than 150 spaces in

#Commercial# or #Manufacturing Districts# or for hospital and related facilities in #Residence Districts# in accordance with the provisions of this Section provided that such provisions shall not apply to #accessory# off-street parking spaces provided in #public parking garages# in accordance with the provisions of Section [36-57](#) or [44-46](#) (Accessory Off-street Parking Spaces in Public Parking Garages).

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

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### **73-481 - For hospitals and related facilities in Residence Districts**

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LAST AMENDED

2/2/2011

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

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

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

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### **73-482 - In Commercial or Manufacturing Districts**

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LAST AMENDED

6/27/1963

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

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

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

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### **73-49 - Roof Parking**

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LAST AMENDED

6/27/1963

In C2-1, C2-2, C2-3, C2-4, C4-1, C4-2, C4-3, C4-4, C7, C8-1, C8-2, C8-3, M1-1, M1-2, M1-3, M2-1, M2-2 or M3-1 Districts,

the Board of Standards and Appeals may permit the parking or storage of motor vehicles on the roof of a #public parking garage# with a total of 150 spaces or less and, in all districts, the Board may permit modifications of the applicable provisions of Sections [25-11](#), [36-11](#) or [44-11](#) (General Provisions) so as to permit #accessory# off-street parking spaces to be located on the roof of a #building#. As a condition of permitting such roof parking, the Board shall find that the roof parking is so located as not to impair the essential character or the future use or development of adjacent areas.

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

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## **73-50 - SPECIAL PROVISIONS APPLYING ALONG DISTRICT BOUNDARIES**

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LAST AMENDED

6/12/1996

In appropriate cases, for #zoning lots# with single frontage, the Board of Standards and Appeals may permit primary business entrances, #show windows#, or #signs# not otherwise permitted under the provisions of Section [32-51](#) or [42-44](#) (Limitations on Business Entrances, Show Windows or Signs), provided that in no case shall any such primary business entrance, #show window# or #sign# be permitted within 10 feet of a #Residence District# boundary.

In addition, in appropriate cases, the Board may waive the requirements for #rear yards# or #side yards# set forth in Sections [33-29](#) or [43-30](#) (SPECIAL PROVISIONS APPLYING ALONG DISTRICT BOUNDARIES) or the requirements for #front yards# as set forth in Section [34-233](#) (Special provisions applying along district boundaries).

It is further provided that, in appropriate cases, the Board may waive in whole or in part the #front yard# requirement set forth in Section [43-304](#) (Required front yards along district boundary located in a street) after finding that such waiver will not have an adverse effect on the surrounding area. The Board shall prescribe appropriate conditions and safeguards to preserve and enhance the character of the surrounding area, and to ensure the maintenance of resulting #front yards#.

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## **73-51 - Modification of Supplementary Use Regulations**

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LAST AMENDED

8/22/1963

In C1, C2, C3, C4, C5, C6 or C7 Districts, the Board of Standards and Appeals may permit public utility radio or television facilities which do not comply with the applicable provisions of Section [32-42](#) (Location Within Buildings) to be located on the top #story# or the roof of a #building# and may prescribe appropriate conditions and safeguards to minimize adverse effects on #uses# occupying lower #stories# or on the character of the surrounding area.

In addition, the Board may permit public utility antennas, microwave platforms and dishes or other radio or television equipment to penetrate the maximum height limit or the #sky exposure plane# set forth in Section [33-43](#) (Maximum Height of Walls and Required Setbacks) or [33-44](#) (Alternate Front Setbacks) provided that such equipment shall not exceed 20 feet in height.

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## **73-52 - Modifications for Zoning Lots Divided by District Boundaries**

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LAST AMENDED

6/25/1964

Whenever a #zoning lot# existing in single ownership on December 15, 1961, or on the effective date of any applicable subsequent amendment to the #zoning maps# is divided by a boundary between two or more districts in which different #uses#

are permitted, the Board of Standards and Appeals may permit a #use# which is a permitted #use# in the district in which more than 50 percent of the #lot area# of the #zoning lot# is located to #extend# not more than 25 feet into the remaining portion of the #zoning lot#, where such #use# is not a permitted #use#, provided that the following findings are made:

- (a) that, without any such extension, it would not be economically feasible to use or #develop# the remaining portion of the #zoning lot# for a permitted #use#; and
- (b) that such extension will not cause impairment of the essential character or the future use or development of the surrounding area.

Where such an extension of a #use# is permitted, the Board may permit the #bulk#, off-street parking and loading, and all other regulations of the district in which more than 50 percent of the #lot area# of the #zoning lot# is located, to apply for the distance, not exceeding 25 feet, that such #use# is permitted to #extend# into the remaining portion of the #zoning lot#.

Any portion of the #zoning lot# beyond such distance shall be subject to all the regulations of the district in which it is located, and shall not be counted as #lot area# for a #building or other structure#, or portion thereof, used for such #extended use#.

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

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### **73-53 - Enlargements or Extensions of Certain Manufacturing or Related Uses**

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LAST AMENDED  
2/2/2011

- (a) In all districts, the Board of Standards and Appeals may modify #use# and #bulk# regulations to permit the #enlargement# or #extension# of #floor area# of a conforming or #non-conforming# #use# listed in Section [15-60](#) (REFERENCED COMMERCIAL AND MANUFACTURING USES), provided that:
  - (1) such #use# is not subject to termination pursuant to Section [52-70](#), et seq.;
  - (2) the #use# for which such special permit is being sought has been lawfully located on the #zoning lot# on which the expansion is to occur, or a portion thereof, for five years or more;
  - (3) the #building# in which such #use# is located has not previously been #enlarged#, pursuant to Sections [11-412](#), [43-121](#) or [72-21](#);
  - (4) the #use# is not listed in Use Group 18; and
  - (5) in a #Residence District#, such #enlargement# or #extension# shall be permitted in existing #floor area# or on a vacant portion of a #zoning lot# only when no lawful #residential use# has occupied such #floor area# or vacant portion of a #zoning lot# at any time during the five years prior to the date of application for such special permit.
- (b) Any #enlargement# or #extension# permitted pursuant to this Section shall be subject to the following requirements:
  - (1) the permitted #enlargement# or #extension# may be the greater of:
    - (i) 45 percent of the #floor area# occupied by such #use# on December 17, 1987; or
    - (ii) 2,500 square feet additional to the #floor area# occupied by such #use# on December 17, 1987.

In no event shall the amount of #enlargement# or #extension# under paragraph (b)(i) of this Section exceed 10,000

square feet additional to the #floor area# occupied by such #use# on December 17, 1987;

- (2) unless the #zoning lot# is located within an M2 or M3 District, more than 300 feet from a #Residence District# boundary, any #enlarged# or #extended# portion, or activity generated by such #enlargement# or #extension#, including storage and processing, shall be in #completely enclosed# #buildings#;
  - (3) in the case of a #non-conforming# #use#, such #enlarged# or #extended use# shall conform to all performance standards applicable in an M1 District located at the boundary with a #Residence District#; however, conforming #uses# shall conform to the applicable performance standards of the district in which they are located;
  - (4) no open #uses# of any kind, including storage or processing, shall be permitted within 30 feet of a #rear lot line# that is located within a #Residence District# or within 30 feet of the #rear lot line# that coincides with a #rear lot line# of a #zoning lot# in a #Residence District#;
  - (5) no #enlargement# or #extension# that exceeds 16 feet above #curb level# shall be permitted within 30 feet of the #rear lot line# that coincides with a #rear lot line# of a #zoning lot# in a #Residence District#;
  - (6) no #enlargement# or #extension# that exceeds 16 feet above #curb level# shall be permitted within eight feet of the #side lot line# that coincides with a #rear lot line# of a #zoning lot# in a #Residence District#;
  - (7) no open #uses# of any kind, including storage or processing, shall be permitted within eight feet of the #side lot line# that coincides with a #rear lot line# of a #zoning lot# in a #Residence District#;
  - (8) no #enlargement# or #extension#, or open #uses# of any kind, including storage or processing, shall be permitted within eight feet of the #lot line# which coincides with a #side lot line# of a #zoning lot# in an R1, R2, R3, R4 or R5 District; and
  - (9) no #side yard# shall be required in an R6, R7, R8, R9 or R10 District or in a #Commercial District# or #Manufacturing District#; however, if such #side yard# is provided, it must be at least eight feet in width.
- (c) In granting such special permit, the Board shall find:
- (1) that such #enlargement# or #extension# will not generate significant increases in vehicular or pedestrian traffic nor cause congestion in the surrounding area;
  - (2) that there will be adequate parking for any vehicles generated by such #enlargement# or #extension#;
  - (3) that any required #side yard# shall be suitably landscaped or fenced as the Board shall prescribe;
  - (4) that any #accessory# parking or loading generated by such #enlargement# or #extension# shall be suitably buffered from adjacent #uses# by methods that the Board shall prescribe; and
  - (5) that the special permit, if granted, will not alter the essential character of the neighborhood or district in which the #use# is located, nor impair the future use or development of the surrounding area.

The Board may prescribe appropriate conditions and safeguards including, if appropriate, limitations on hours of parking and delivery, requirements for off-street loading, and location of curb cuts to minimize adverse effects of the #enlargement#, #extension# or existing #uses# on the character of the surrounding area, and to protect #residential# or #commercial zoning lots#.

LAST AMENDED  
7/22/1971

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## **73-61 - General Provisions**

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LAST AMENDED  
5/13/1982

Subject to the general findings required by Section [73-03](#) and in accordance with the provisions contained in Sections [73-62](#) to [73-68](#) inclusive, the Board of Standards and Appeals shall have the power to permit modification of the #bulk# regulations of this Resolution, and shall have the power to impose appropriate conditions and safeguards thereon.

In the #Special Midtown District#, the powers of the Board to permit modification of the #bulk# regulations are made inapplicable in accordance with the provisions of Section [81-061](#) (Applicability of Chapter 3 of Article VII).

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## **73-62 - Modification of Bulk Regulations for Buildings Containing Residences**

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LAST AMENDED  
2/2/2011

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### **73-621 - Enlargement, change of use, or extension within buildings containing residential uses**

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LAST AMENDED  
2/2/2011

For a complying or #non-complying# #building# existing on December 15, 1961, or in R2X, R3, R4 or R5 Districts on June 30, 1989, and containing #residential uses#, the Board of Standards and Appeals may permit an #enlargement#, a change of #use# or (in the case of a #mixed building#) an #extension#, provided that such #enlargement#, change of #use# or #extension# shall not create any new #non-compliance# or increase the amount or degree of any existing #non-compliance# except as provided in this Section.

In the districts and for the #buildings# for which an #open space ratio# is required, the #open space ratio# permitted under this Section shall not be less than 90 percent of the #open space ratio# required under the applicable #bulk# regulations set forth in Article II or III of this Resolution. In the districts and for the #buildings# to which a maximum #lot coverage# applies, the maximum #lot coverage# permitted under this Section shall not exceed 110 percent of the maximum #lot coverage# permitted under the applicable #bulk# regulations set forth in Article II or III of this Resolution. In all districts, the #floor area ratio# permitted under this Section shall not exceed the #floor area ratio# permitted under such regulations by more than 10 percent. In R2X, R3 or R4 Districts, the additional #floor area# permitted pursuant to this Section may be computed using a base #floor area ratio# including the #floor area# permitted under a sloping roof with a structural headroom between five and eight feet when such space is provided in the #building#.

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### **73-622 - Enlargements of single- and two-family detached and semi-detached residences**

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LAST AMENDED  
5/12/2021

The Board of Standards and Appeals may permit an #enlargement# of an existing #single-# or #two-family# #detached# or #semi-detached# #residence#, except #cottage envelope buildings# as such term is defined in Section [64-11](#) (Definitions), utilizing the provisions of Section [64-33](#) (Special Bulk Regulations for Cottage Envelope Buildings), within the following areas:

- (a) Community Districts 11 and 15, in the Borough of Brooklyn;
- (b) R2 Districts within the area bounded by Avenue I, Nostrand Avenue, Kings Highway, Avenue O and Ocean Avenue, Community District 14, in the Borough of Brooklyn; and
- (c) within Community District 10 in the Borough of Brooklyn, after October 27, 2016, only the following applications, Board of Standards and Appeals Calendar numbers 2016-4218-BZ, [234-15-BZ](#) and 2016-4163-BZ, may be granted a special permit pursuant to this Section. In addition, the provisions of Section [73-70](#) (LAPSE OF PERMIT) and paragraph (f) of Section [73-03](#) (General Findings Required for All Special Permit Uses and Modifications), shall not apply to such applications and such special permit shall automatically lapse and shall not be renewed if substantial construction, in compliance with the approved plans for which the special permit was granted, has not been completed within two years from the effective date of issuance of such special permit.

Such #enlargement# may create a new #non-compliance#, or increase the amount or degree of any existing #non-compliance#, with the applicable #bulk# regulations for #lot coverage#, #open space#, #floor area#, #side yard#, #rear yard# or perimeter wall height regulations, provided that:

- (1) any #enlargement# within a #side yard# shall be limited to an #enlargement# within an existing #non-complying# #side yard# and such #enlargement# shall not result in a decrease in the existing minimum width of open area between the #building# that is being #enlarged# and the #side lot line#;
- (2) any #enlargement# that is located in a #rear yard# is not located within 20 feet of the #rear lot line#; and
- (3) any #enlargement# resulting in a #non-complying# perimeter wall height shall only be permitted in R2X, R3, R4, R4A and R4-1 Districts, and only where the #enlarged building# is adjacent to a #single-# or #two-family# #detached# or #semi-detached# #residence# with an existing #non-complying# perimeter wall facing the #street#. The increased height of the perimeter wall of the #enlarged building# shall be equal to or less than the height of the adjacent #building's# #non-complying# perimeter wall facing the #street#, measured at the lowest point before a setback or pitched roof begins. Above such height, the setback regulations of Section [23-631](#), paragraph (b), shall continue to apply.

The Board shall find that the #enlarged# #building# will not alter the essential character of the neighborhood or district in which the #building# is located, nor impair the future use or development of the surrounding area. The Board may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

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### **73-623 - Bulk modifications for certain Quality Housing buildings on irregular sites**

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LAST AMENDED 3/22/2016

For #developments# or #enlargements# of #Quality Housing buildings# in which at least 50 percent of the #dwelling units# are #income-restricted housing units#, or at least 50 percent of its total #floor area# is a #long-term care facility# or philanthropic or non-profit institution with sleeping accommodation, the Board of Standards and Appeals may modify the underlying #bulk# regulations, other than #floor area ratio#, provided that in no event shall such #building# height or the number of #stories# therein exceed those set forth in paragraph (b) of Section [23-664](#) (Modified height and setback regulations for certain Inclusionary Housing buildings or affordable independent residences for seniors), and provided that the Board finds that:

- (a) there are physical conditions, including irregularity, narrowness or shallowness of lot size or shape, or topographical features that create practical difficulties in complying with the #bulk# regulations for #Quality Housing buildings# and would adversely affect the #building# configuration or site plan;
- (b) the practical difficulties of developing on the #zoning lot# have not been created by the owner or by a predecessor in title;

- (c) the proposed modifications will not unduly obstruct access of light and air to adjoining properties or #streets#;
- (d) the proposed scale and placement of the #development# or #enlargement# relates harmoniously with the surrounding area; and
- (e) the requested modification is the least amount necessary to relieve such practical difficulties.

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

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## **73-624 - Reduction or modification of Mandatory Inclusionary Housing requirements**

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LAST AMENDED

3/22/2016

For a #development#, #enlargement# or #conversion# subject to the provisions of paragraph (d)(3), inclusive, of Section [23-154](#) (Inclusionary Housing), the Board of Standards and Appeals may, upon determining that a hardship that is specifically created by the requirements of such Section exists, modify the income levels specified for #qualifying households#, reduce the amount of #affordable floor area# required or reduce the amount of a payment into the #affordable housing fund#, provided the Board finds that:

- (a) the applicant has applied for any appropriate relief for which such #development#, #enlargement# or #conversion# is eligible for any financial hardship or practical difficulty not specifically created by the requirements of Section [23-154](#), paragraphs (d)(3)(i) through (d)(3)(v) and (d)(5);
- (b) such requirements for #affordable housing# or a contribution to an #affordable housing fund# create an unnecessary hardship, with no reasonable possibility that a #development#, #enlargement# or #conversion# on the #zoning lot# in strict compliance with the provisions of Section [23-154](#), paragraphs (d)(3)(i) through (d)(3)(v) and (d)(5), and Section [23-90](#) (INCLUSIONARY HOUSING), inclusive, will bring a reasonable return, and that a modification or reduction of these requirements is therefore necessary to enable the owner to realize a reasonable return from such #zoning lot#; and
- (c) the unnecessary hardship claimed as a basis for such modification or reduction has not been created by the owner or by a predecessor in title.

In determining whether a hardship exists, the Board shall consider whether alternative permitted #uses#, or alternative forms of housing tenure would bring a reasonable return from the #zoning lot#.

The Board may modify #affordable housing# requirements set forth in Section [23-154](#), paragraphs (d)(3)(i) through (d)(3)(iv) and (d)(5), to permit appropriate relief as follows.

First, the Board shall determine whether compliance with the requirements of Option 1, Option 2 or the Deep Affordability Option, as set forth in Section [23-154](#), paragraphs (d)(3)(i), (d)(3)(ii) and (d)(3)(iii), respectively, where not otherwise permitted, provides sufficient relief.

If the Board does not so find, the Board shall next determine whether compliance with the requirements of the Workforce Option, as set forth in Section [23-154](#), paragraph (d)(3)(iv), where not otherwise permitted, provides sufficient relief.

If the Board does not so find, the Board, in consultation with the Department of Housing Preservation and Development, shall determine a modification or reduction of the requirements of Section [23-154](#), paragraph (d)(3)(i) through (d)(3)(iv) and (d)(5), that represents the minimum necessary modification or reduction to afford relief.

In addition, the Board, in consultation with the Department of Housing Preservation and Development, may permit a modification or reduction of the requirements of Section [23-154](#), paragraph (d)(3)(v) that represents the minimum necessary modification or reduction to afford relief.

A copy of each application to the Board for a special permit under the provisions of this Section shall be provided by the applicant to the Department of Housing Preservation and Development concurrently with its submission to the Board. Before the Board issues a final determination on any application made pursuant to this Section, #HPD# shall submit comment or appear before the Board regarding such application.

A special permit pursuant to this Section shall lapse after a term of four years, pursuant to Section [73-70](#) (LAPSE OF PERMIT). When considering an application for renewal of a special permit pursuant to paragraph (f) of Section [73-03](#) (General Findings Required for All Special Permit Uses and Modifications), the Board shall consult with #HPD# in determining whether the circumstances warranting the original grant of such permit still obtain, and may renew, modify, or deny the application for renewal, as appropriate.

The Board may prescribe such conditions and safeguards as it deems necessary to minimize adverse effects upon the surrounding area and the community at large.

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## **73-625 - Modification of Affordable Housing Fund payment options in the SoHo NoHo Mixed Use District**

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LAST AMENDED 12/15/2021

Within the #Special SoHo-NoHo Mixed Use District#, for #conversions# from non-#residential# to #residential use# in #buildings# existing prior to December 15, 2021, that are not otherwise subject to paragraph (d)(3)(v) of Section [23-154](#) (Inclusionary Housing), the Board of Standards and Appeals may permit a contribution to the #affordable housing fund# pursuant to such paragraph to satisfy the requirements of paragraph (d)(3), inclusive, of such Section, provided that the Board finds that:

- (a) the configuration of the #building# imposes constraints, including, but not limited to, deep, narrow or otherwise irregular #building# floorplates, limited opportunities to locate #legally required windows#, or pre-existing locations of vertical circulation or structural column systems, that would create practical difficulties in reasonably configuring the required #affordable floor area# into a range of apartment sizes and bedroom mixes serving a number of lower-income residents comparable to what such quantity of #affordable floor area# would serve in a more typical configuration, pursuant to the #guidelines# of the Inclusionary Housing Program. Before the Board issues a final determination on any application made pursuant to this Section, the Department of Housing Preservation and Development shall submit comment or appear before the Board regarding this finding;
- (b) the practical difficulties existed on December 15, 2021.

For the purposes of this Section, defined terms include those set forth in Sections [12-10](#) and 23-911.

A copy of each application to the Board for a special permit under the provisions of this Section shall be provided by the applicant to the Department of Housing Preservation and Development concurrently with its submission to the Board.

The Board may prescribe such conditions and safeguards as it deems necessary to minimize adverse effects upon the surrounding area and the community at large.

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## **73-63 - Enlargement of Non-residential Buildings**

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LAST AMENDED  
2/2/2011

For a complying or #non-complying# #non-residential building# existing on December 15, 1961, the Board of Standards and Appeals may permit an #enlargement#, provided that such #enlargement# shall not create any new #non-compliance# or increase the amount or degree of any existing #non-compliance# except as provided in this Section.

In all districts, the #floor area ratio# permitted under this Section shall not exceed the #floor area ratio# permitted under the applicable #bulk# regulations set forth in Article II, III or IV of this Resolution by more than 10 percent, or 10,000 square feet, whichever is less.

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## **73-64 - Modifications for Community Facility Uses**

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LAST AMENDED  
9/9/2004

On a #zoning lot# occupied by any of the #community facility# #uses# specified in this Section, and in all districts where such #uses# are permitted as-of-right or by special permit, the Board of Standards and Appeals may permit #developments# or #enlargements# for such #uses#, which do not comply with certain applicable district #bulk# regulations, in accordance with the provisions of this Section.

Such specified #community facility# #uses# are:

College or school student dormitories or fraternity and sorority student houses

Colleges or universities, including professional schools, but excluding business colleges or trade schools

Community centers

Houses of worship, rectories, parish houses or seminaries

Libraries, museums or non-commercial art galleries

Monasteries, convents or novitiates

#Non-profit hospital staff dwellings#

Non-profit or voluntary hospitals and related facilities

Philanthropic or non-profit institutions with or without sleeping accommodations, excluding ambulatory diagnostic or treatment health care facilities listed in Use Group 4

#Schools#.

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## **73-641 - Integration of new buildings or enlargements with existing buildings**

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LAST AMENDED  
11/30/2017

For any such new #building# or #enlargement#, subject to the required findings set forth in this Section, the Board of Standards and Appeals may permit modifications of the applicable regulations in Sections [24-38](#), [33-28](#) or [43-28](#) (Special Provisions for Through Lots), or in Sections [24-50](#) through [24-55](#), inclusive, paragraphs (b) through (d) of Section [24-56](#), Sections [33-40](#) through [33-45](#), inclusive, or Sections [43-41](#) through [43-45](#), inclusive, relating to Height and Setback Regulations, or in Sections

[24-61](#) through [24-65](#), inclusive, Section [33-51](#), or Section [43-51](#), relating to Court Regulations and Minimum Distance between Windows and Walls or Lot Lines, provided that on December 15, 1961, the applicant owned the #zoning lot# or any portion thereof, and continuously occupied and used one or more #buildings# located thereon for a specified #community facility# #use#, from December 15, 1961, until the time of application. However, for #Quality Housing buildings# utilizing the height and setback regulations of Article II, Chapter 3, as required by Sections [24-50](#) and [33-40](#), the Board shall not permit modification to the provisions of Sections [23-67](#) through [23-69](#), inclusive.

As a condition of granting such modification, the Board shall find:

- (a) that such modification is required in order to enable such #use# to provide an essential service to the community;
- (b) that without such modification there is no way to design and construct the new #buildings# or #enlargements# in satisfactory physical relationships to the existing #buildings# which are to remain upon the site, so as to produce an integrated development; and
- (c) that such modification is the minimum modification necessary to permit the development of such integrated community facility, and thereby creates the least detriment to the character of the neighborhood and the use of nearby #zoning lots#.

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### **73-642 - Temporary failure to comply**

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LAST AMENDED

2/2/2011

In any district where such a specified #community facility# #use# is permitted, and on any #zoning lot# where one or more #buildings# occupied by such #use# exist on the date of application for the special permit, the Board of Standards and Appeals may permit #development# or #enlargements# which, only because of the continued existence of such #buildings# on a temporary basis, fail to comply with one or more of the applicable district #bulk# regulations, provided that the Board finds that continued use of the existing #buildings# is essential as a service to the community until the new construction makes it possible to replace the facilities contained therein.

The Board shall prescribe as a condition of such permit that such existing #buildings# will be removed within a stated period of time not to exceed two years after completion of the #development# or #enlargement#.

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### **73-643 - Community centers**

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LAST AMENDED

2/2/2011

In any such #development# or #enlargement# consisting of a community center serving primarily the residents of the #zoning lot#, the Board of Standards and Appeals may permit the density regulations set forth in Sections [24-20](#) (APPLICABILITY OF DENSITY REGULATIONS TO ZONING LOTS CONTAINING BOTH RESIDENTIAL AND COMMUNITY FACILITY USES) or [35-40](#) (APPLICABILITY OF DENSITY REGULATIONS) to be modified, provided that the total number of #dwelling units# permitted by these Sections and all other applicable #bulk# regulations set forth in Articles II and III of this Resolution shall not be increased by more than 10 percent.

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### **73-65 - Public Utilities and Special Infrastructure**

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## 73-651 - Enlargement of public utility facilities

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The Board of Standards and Appeals may permit modifications to the #bulk# regulations for certain #enlargements# of public utility facilities set forth in paragraph (a) of this Section, provided that the findings set forth in paragraph (b) are met.

- (a) The Board may permit #enlargements# which do not comply with the applicable district #bulk# regulations for #buildings or other structures# existing on December 15, 1961, within which any one of the following public utilities is located:

Electric or gas utility substations;

Telephone exchanges or other communications equipment structures;

Water or sewage pumping stations; or

#Energy infrastructure equipment#.

- (b) In order to grant such permit, the Board shall find:

- (1) that the growth of the utility service demand in the area served by the #building or other structure# requires such #enlargement# to house the additional facilities needed to fulfill the demand;
- (2) that the network of lines, pipes or other distribution facilities located below the surface of the #streets# is so integrated with the operations carried on within such #building# that the provision of such additional facilities at another location would cause substantial duplication of plant and facilities and inconvenience to the public; and
- (3) that #non-compliance#, if any, with the applicable #yard# or height and setback regulations is the minimum made necessary by essential engineering requirements.

The Board may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area and shall require that the certificate of occupancy shall be limited to such #use#.

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## 73-652 - Energy infrastructure equipment and mechanical equipment

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The Board of Standards and Appeals may permit the #bulk# modifications set forth in paragraph (a) of this Section, provided that the findings set forth in paragraph (b) are met.

- (a) The Board may permit modifications to all #bulk# regulations, other than #floor area ratio#, in order to accommodate #energy infrastructure equipment# or #accessory# mechanical equipment.
- (b) In order to grant such permit, the Board shall find that:
  - (1) such modifications would facilitate one or more of the following sustainability goals:
    - (i) reduction of the electrical demand of the #building# on the energy grid;
    - (ii) increased energy generation or storage at an essential location for the purposes of operating the energy grid;
    - (iii) support compliance with the standards of the New York City Energy Conservation Code (NYCECC); or
    - (iv) support compliance with the carbon emission reduction requirements of Local Law 97 of 2019;
  - (2) such modifications are the minimum necessary to allow for an appropriate installation, with consideration for collocation of other #uses#, whether upon a rooftop, within a #building or other structure#, or in an open area on the #zoning lot#; and
  - (3) the proposed modifications will not impair the character or the future use or development of the surrounding area.

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

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## **73-66 - Height Regulations Around Airports**

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LAST AMENDED  
7/23/1964

The Board of Standards and Appeals may permit the construction, #enlargement#, or reconstruction of a #building or other structure# in excess of the height limits established under Sections [61-21](#) (Restriction on Highest Projection of Building or Structure) or [61-22](#) (Permitted Projection Within any Flight Obstruction Area), provided that the applicant submits a site plan, with elevations, showing the proposed #building or other structure# in relation to such maximum height limits, and that the Board finds that such proposed #building or other structure#, #enlargement#, or reconstruction would not constitute a hazard (either under the existing layout of the airport or under any planned reorientation or lengthening of the airport runways) to the safety of the occupants of such proposed #building#, to other #buildings# in the vicinity or to the safety of air passengers, and would not disrupt established airways.

The Board shall refer the application to the Federal Aviation Administration for a report as to whether such construction will constitute a danger to the safety of air passengers or disrupt established airways.

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## **73-67 - Additional Floor Space of Public Parking Garages**

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LAST AMENDED  
10/29/2007

In C2-1, C2-2, C2-3, C2-4, C4-1, C4-2, C4-3, C4-4, C4-5D, C7, C8-1, C8-2, C8-3, M1-1, M1-2, M1-3, M2-1, M2-2 or M3-1 Districts, for #public parking garages# with a total of 150 spaces or less, the Board of Standards and Appeals may permit floor space on one or more #stories# to be exempted from the definition of #floor area# as set forth in Section [12-10](#) (DEFINITIONS), provided that all floor space so exempted is located not more than 23 feet above #curb level# and provided that the following findings are made:

- (a) that the additional floor space permitted is needed in order to prevent excessive on-street parking demand and relieve traffic congestion; and
- (b) that the hazards or disadvantages to the community at large resulting from the additional floor space permitted are outweighed by the advantages to be derived by the community therefrom under the conditions and safeguards imposed.

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

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## **73-68 - Height and Setback and Yard Modifications**

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LAST AMENDED  
2/2/2011

In C5-5, C6-8 and C6-9 Districts, the Board of Standards and Appeals may permit modifications of the applicable regulations in Sections [33-26](#) to [33-30](#), inclusive, relating to Rear Yard Regulations, or in Sections [33-41](#) to [33-45](#), inclusive, relating to Height and Setback Regulations.

The Board may grant such modifications upon consideration that the applicable height and setback or #rear yard# regulations cannot be complied with by some method feasible for the applicant to pursue because of size or irregular shape of the lot, size or irregular shape of the #block#, and width of #streets#. The Board shall also consider the characteristics of surrounding development.

The Board shall require, where appropriate, sufficient safeguards to ensure the free flow of pedestrian and vehicular traffic in the general area. The Board may prescribe additional appropriate conditions and safeguards to enhance the character of the surrounding area.

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## **73-69 - Rear Yard Modifications**

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LAST AMENDED  
4/30/2008

The Board of Standards and Appeals may permit modifications to the #rear yards# required pursuant to Sections [23-543](#), [24-393](#), [33-303](#) or [43-313](#) (For zoning lots with multiple rear lot lines) for #zoning lots# existing on April 30, 2008, provided the following findings are made:

- (a) that due to the irregular shape of the #zoning lot#, compliance with the #rear yard# regulations would create site planning constraints and adversely affect the layout and development of the site; and
- (b) that the requested reduction in #rear yard# depth is the least amount necessary to grant relief.

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

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## 73-70 - SPECIAL PERMITS IN THE FLOOD ZONE

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LAST AMENDED  
5/12/2021

The following Sections shall apply to #zoning lots# located wholly or partially within the #flood zone#.

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## 73-71 - Special Permit for Modification of Certain Zoning Regulations

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LAST AMENDED  
5/12/2021

In #flood zones#, for all districts, the Board of Standards and Appeals may permit modification of the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Zones), and any other applicable ground floor #use#, supplementary #use#, #bulk#, and parking regulations of the Zoning Resolution, provided that the conditions of paragraph (a) of this Section, and the findings of paragraph (b) are met.

For the purposes of this Section, defined terms include those in Section [12-10](#) and those in Section [64-11](#).

(a) Conditions

All applications shall be subject to the following conditions:

- (1) the #building# complies with #flood-resistant construction standards#;
- (2) any modification of height and setback regulations related to increasing the permitted overall height shall not exceed the maximum height permitted by the applicable underlying district regulations by 10 percent, or 10 feet, whichever is greater, as measured from the #reference plane#; and
- (3) any increase in the amount of permitted #floor area# shall be limited to no more than 20 percent of the #floor area# permitted on the #zoning lot#, and in no event more than 10,000 square feet of #floor area#. However, such restriction shall not apply to #non-complying# #buildings# with #non-complying# #floor area#, provided that the total #floor area# of the altered, #enlarged#, relocated, or reconstructed #building#, does not exceed the amount of existing #floor area# of such pre-existing #building#.

(b) Findings

In order to grant the special permit, the Board shall find that:

- (1) there would be a practical difficulty in complying with #flood-resistant construction standards# without such modifications, and that such modifications are the minimum necessary to allow for an appropriate #building# in compliance with #flood-resistant construction standards#;
- (2) any modification related to an increase in the amount of permitted #floor area# is the minimum necessary to address practical difficulties in retaining pre-existing habitable space;
- (3) any modification related to parking regulations to permit a reduction in the number of #accessory# off-street parking spaces and the change in location of #accessory# off-street parking spaces, will:
  - (i) facilitate an improved site plan;
  - (ii) not cause traffic congestion; and

- (iii) not have undue adverse effects on residents, businesses or #community facilities# in the surrounding area, as applicable, including the availability of parking spaces for such #uses#; and
- (4) the proposed modifications will not alter the essential character of the neighborhood in which the #building# is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with #flood-resistant construction standards#.

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

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## 73-72 - Special Permit for Ground Floor Uses in Residence Districts

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LAST AMENDED  
5/12/2021

In all #Residence Districts#, for #buildings# containing #residential uses#, the Board of Standards and Appeals may permit offices, as listed in Use Group 6B, provided that the conditions of paragraph (a) of this Section, and the findings of paragraph (b) of this Section are met:

(a) Conditions

All applications shall be subject to the following conditions:

- (1) the #building# complies with #flood-resistant construction standards#;
- (2) the office #use# is located on the lowest #story# above grade within the #building#;
- (3) access to such office #use# is from a separate entrance than that serving the #residential# portion of the #building#;
- (4) the #floor area# associated with such office #use# shall be considered as #community facility# #use# for the purposes of determining compliance with the applicable district #floor area ratio# regulations, and amount of #floor area# attributed to such office #use# shall not exceed 10,000 square feet;
- (5) the office #use# complies with the #accessory# off-street parking regulations for ambulatory diagnostic or treatment health care facilities, as listed in Section [22-14](#) (Use Group 4), in accordance with Article II, Chapter 5 (Accessory Off-Street Parking and Loading Regulations); and
- (6) such office #use# complies with #accessory# #signs# regulations for #buildings# containing #residences#, as set forth in Section [22-32](#) (Permitted Non-Illuminated Accessory Signs).

(b) Findings

In order to grant the special permit, the Board shall find that:

- (a) such office #use# will generate a minimum of vehicular traffic to and through local #streets# and will not create traffic congestion;
- (b) such office #use# will not produce objectionable effects; and
- (c) such office #use# will not alter the essential character of the neighborhood in which the #building# is located.

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

area.

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## **73-80 - LAPSE OF PERMIT**

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LAST AMENDED

5/12/2021

A special permit for a specified #use# or for a modification of the #use# or #bulk# regulations granted under the provisions of this Resolution shall automatically lapse if substantial construction, in accordance with the plans for which such permit was granted, has not been completed within four years from the date of granting such permit by the Board of Standards and Appeals or, if judicial proceedings have been instituted to review the Board's decision, the four-year lapse period shall commence upon the date of entry of the final order in such proceedings, including appeals.



Zoning Resolution

THE CITY OF NEW YORK  
Eric Adams, Mayor

CITY PLANNING COMMISSION  
Daniel R. Garodnick, Chair

## Chapter 4 - Special Permits by the City Planning Commission

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## Chapter 4 - Special Permits by the City Planning Commission

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### 74-00 - POWERS OF THE CITY PLANNING COMMISSION

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LAST AMENDED  
12/15/1961

#### 74-01 - General Provisions

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LAST AMENDED  
3/22/2016

In harmony with the general purpose and intent of this Resolution and in accordance with the provisions set forth in this Chapter, the City Planning Commission may, after public notice and hearing, grant special permits in specific districts for the #uses# listed in this Chapter, whose location or control requires special consideration or major planning factors, or for specified modifications of the #use# or #bulk# regulations of this Resolution, provided that in each specific case the requirement for findings as set forth in this Chapter shall constitute a condition precedent to the grant of such special permit.

In addition to meeting the requirements, conditions, and safeguards prescribed by the Commission as set forth in this Chapter, each such special permit #use# or #building or other structure# permitted hereunder shall conform to and comply with all of the applicable regulations on #use#, #bulk#, supplementary #use# regulations, regulations applying along district boundaries, #accessory# #signs#, #accessory# off-street parking and off-street loading, and all other applicable provisions of this Resolution except as otherwise specifically provided in this Chapter.

In addition, the Commission, with the concurrence of the Board of Estimate, shall also have the power to permit the renewal of an exception or permit issued prior to December 15, 1961, in accordance with the provisions of Section [11-41](#) relating to Exceptions, Variances or Permits Previously Authorized.

In all Special Purpose Districts, the provisions of [23-934](#) (Special permit approval in Special Purpose Districts), with respect to special permits that modify #use# or #bulk#, shall apply. In the #Special Midtown District#, the powers of the Commission to permit special permit #uses# are modified by the provisions of Section [81-13](#) (Special Permit Use Modifications), and the powers of the Commission to permit modification of the #bulk# regulations or grant bonus #floor area# for certain amenities are made inapplicable or modified in accordance with the provisions of Section [81-062](#) (Applicability of Chapter 4 of Article VII).

In the #waterfront area#, the powers of the Commission to grant special permits are made inapplicable or modified in accordance with the provisions of Section [62-132](#) (Applicability of Article VII, Chapters 4, 8 and 9).

Except as permitted pursuant to this Chapter, in R3, R4 or R5 Districts, the following #uses# shall be subject to the height and setback requirements of an R2 District:

Fire stations

Police stations

Public transit, railroad or electric utility substations limited to sites of not less than 40,000 square feet and not more than 10 acres

Sewage disposal plants.

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#### 74-02 - Further Requirements

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LAST AMENDED  
8/24/1967

It shall be a further requirement that the decision or determination of the City Planning Commission shall set forth each required finding in each specific grant of a special permit #use#, or modification of the #use# or #bulk# regulations, and in each denial thereof which of the required findings has not been satisfied. In any such case, each finding shall be supported by substantial evidence or other data considered by the Commission in reaching its final decision, including the personal knowledge of or inspection by the members of the Commission.

In no case shall a special permit for a proposed sewage treatment plant or pumping station under Section [74-73](#) of this Chapter be denied without a prior public hearing by the Commission. Such public hearing must be held by the Commission and decision given within six months of the date of filing of the request for such special permit with the Commission.

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### 74-20 - REQUIREMENTS FOR APPLICATIONS

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LAST AMENDED  
7/26/1962

An application to the City Planning Commission for the grant of a special permit respecting any of the #uses# specified in this Chapter shall include a site plan showing the location and proposed #use# of all #buildings or other structures# on the site, the location of all vehicular entrances and exits and off-street parking spaces, and such other information as may be required by the Commission.

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#### 74-21 - Conditions and Safeguards

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LAST AMENDED  
8/16/1979

The City Planning Commission may prescribe such conditions and safeguards to the grant of special permits as it may deem necessary in the specific case, in order to minimize the adverse effects of such special permit upon other property and the community at large. Such conditions and safeguards shall be incorporated in the building permit and certificate of occupancy. Failure to comply with such conditions or restrictions shall constitute a violation of this Resolution, and may constitute the basis for denial or revocation of a building permit or certificate of occupancy and for all other applicable remedies.

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### 74-30 - SPECIAL PERMIT USES

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LAST AMENDED  
12/15/1961

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#### 74-31 - General Provisions for Special Permit Uses

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LAST AMENDED  
3/22/2016

The City Planning Commission shall have the power to permit in the districts indicated, the special permit #uses# set forth in this Chapter and to prescribe appropriate conditions and safeguards thereon, provided that in each specific case:

- (a) The Commission shall make all of the findings required in the applicable sections of this Chapter with respect to each such special permit #use#, and shall find that the hazards or disadvantages to the community at large through the location of such #use# at the particular site are outweighed by the advantages to be derived by the community from the grant of such special permit #use#.

The Commission shall in each case determine that the adverse effects, if any, on the privacy, quiet, light and air in the neighborhood of such #use# will be minimized by appropriate conditions governing location of the site, design and method of operation.

- (b) In all cases, the Commission shall deny a special permit #use# whenever such #use# will interfere with a public improvement project (including housing, highways, public #buildings# or facilities, redevelopment or renewal projects, or rights-of-way for sewers, transit or other public facilities) which is approved by or pending before the Board of Estimate or City Planning Commission, as determined from the calendar of each such agency issued prior to the date of the public hearing on the application for a special permit #use#.
- (c) Where, under the applicable findings, the Commission is required to determine whether the special permit #use# is appropriately located in relation to the #street# system, the Commission shall make such determination on the basis of the Master Plan of Arterial Highways and Major Streets. Whenever the Commission is required to make a finding on the location of a proposed special permit #use# in relation to secondary or local #streets# and such classification of #streets# is not shown on the Master Plan, the Commission shall thereupon establish the appropriate classification of such #streets#.
- (d) All applications relating to Sections 74-41 to 74-70, inclusive, and Section 74-80 shall be referred by the Commission to the Department of Traffic for its report with respect to the anticipated traffic congestion resulting from such special permit #use# in the proposed location, and when so required in the specific Section, the Commission shall refer the application to a designated agency for a report on the issue in question. If such agency shall report thereon within one month from the date of referral, the Commission shall, in its determination, give due consideration to such report and, further, shall have the power to substantiate the appropriate findings solely on the basis of the report by such agency with respect to the issue referred. If such agency does not report within one month, the Commission may make a final determination without reference thereto.
- (e) The Commission may authorize any special permit #use# for such term of years as it deems appropriate.
- (f) The Commission may permit the #enlargement# or #extension# of any existing #use# which, if new, would be permitted by special permit in the specified districts under the provisions of Section 74-01 (General Provisions) and other applicable provisions of this Chapter, provided that before granting any such permit for #enlargement# or #extension# within the permitted districts, the Commission shall make all of the required findings applicable to the special permit #use#, except that:
- (1) in the case of #public parking garages# or #public parking lots#, the Commission may waive all such applicable required findings set forth in Section 74-51 or 74-52, except that the capacity of any such garage or lot in a C1 District shall not exceed 100 spaces; and
  - (2) in the case of electric utility substations or public transit or railroad electric substations, the Commission may waive all such required findings set forth in Section 74-61, except that the requirements with respect to site size shall not be waived.

No such #enlargement# or #extension# shall create a new #non-compliance# or increase the degree of #non-compliance# with the applicable #bulk# regulations.

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## 74-32 - Additional Considerations for Special Permit Use and Bulk Modifications

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LAST AMENDED  
3/22/2016

Where a special permit application would allow a significant increase in #residential# #floor area# and the special #floor area# requirements in #Mandatory Inclusionary Housing areas# of paragraph (d) of Section 23-154 (Inclusionary Housing) are not otherwise applicable, the City Planning Commission, in establishing the appropriate terms and conditions for the granting of such special permit, shall apply such requirements where consistent with the objectives of the Mandatory Inclusionary Housing program as set forth in Section 23-92 (General Provisions). However, where the Commission finds that such special permit application would facilitate significant public infrastructure or public facilities addressing needs that are not created by the proposed #development#, #enlargement# or #conversion#, the Commission may modify the requirements of such paragraph (d).

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## 74-40 - USE PERMITS

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LAST AMENDED  
12/21/2005

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## 74-41 - Arenas, Auditoriums, Stadiums or Trade Expositions

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LAST AMENDED  
9/14/2023

C4 C6 C7 C8 M1 M2 M3

- (a) The City Planning Commission may permit arenas, auditoriums or stadiums with a capacity in excess of 2,500 seats, or trade expositions with a rated capacity in excess of 2,500 persons, provided that the following findings are made:
- (1) that the principal vehicular access for such #use# is not located on a local #street# but is located on an arterial highway, a major #street# or a secondary #street# within one-quarter mile of an arterial highway or major #street#;
  - (2) that such #use# is so located as to draw a minimum of vehicular traffic to and through local #streets# in nearby residential areas;
  - (3) that such #use# is not located within 200 feet of a #Residence District#;
  - (4) that adequate reservoir space at the vehicular entrance, and sufficient vehicular entrances and exits, are provided to prevent traffic congestion;
  - (5) that vehicular entrances and exits for such #use# are provided separately and are located not less than 100 feet apart; and
  - (6) that due consideration has been given to the proximity of bus and rapid transit facilities to serve such #use#.
- (b) In Community District 7 in the Borough of the Bronx, the Commission may permit an indoor arena with a maximum seating capacity of 6,000 within 200 feet of a #Residence District# and, in conjunction with such arena, permit modifications of the provisions of Sections 32-64 (Surface Area and Illumination Provisions), 32-655 (Height of signs in all other Commercial Districts), and 36-

62 (Required Accessory Off-street Loading Berths), provided that:

- (1) the provisions of paragraphs (a)(1), (a)(2), (a)(4), (a)(5) and (a)(6) of this Section are met;
  - (2) open space surrounding such arena will be located and arranged to provide adequate pedestrian gathering areas to minimize disruption to the surrounding areas;
  - (3) the arena includes noise attenuation features and measures which serve to reduce arena-related noise in the surrounding area, including at nearby #residences#;
  - (4) where Sections 32-64 and 32-655 are modified, a #signage# plan has been submitted showing the location, size, height and illumination of all #signs# on the #zoning lot#, and the Commission finds that all such #signs#, and any illumination from or directed upon such #signs#, are located and arranged so as to minimize any negative effects from the arena #use# on nearby #residences#; and
  - (5) where Section 36-62 is modified, a loading plan has been submitted that addresses the operational needs of all servicers of the arena and shows the number, location and arrangement of all loading berths on the #zoning lot#, and the Commission finds that such loading plan is adequate to address the loading demand generated by the arena #use# and has received assurances that the arena operator will implement such plan in accordance with its terms.
- (c) In the Pennsylvania Station Subarea B4 of the Farley Corridor Subdistrict B of the #Special Hudson Yards District#, the Commission may permit arenas with seating in excess of 2,500 persons, provided that the following findings are made:
- (1) the provisions of paragraphs (a)(1) through (a)(6) of this Section are met; and
  - (2) the proposed loading for the arena will not unduly: interfere with the use of public spaces; interfere with transit facilities; interrupt the flow of pedestrian traffic in the pedestrian circulation network; or interfere with the efficient functioning of adjacent #streets# including for the staging or queuing of vehicles for loading or for security checks. An application for this special permit shall include a loading operations plan that describes the number, location and arrangement of all loading berths on the #zoning lot# as well as the location and management of off-site storage and staging of vehicles associated with the arena #use#. The plan shall be referred to the Department of Transportation and affected transit agencies for a report or recommendations on the plan. The Commission shall, in its determination, give due consideration to these reports and recommendations.

The Commission may require that, within six months of approval of the special permit, the applicant submit to the Chairperson of the City Planning Commission a transportation management plan, developed in consultation with the Department of City Planning and the Department of Transportation, to detail the loading operations plan.

The Chairperson shall certify that the loading operations, as described in the transportation management plan, comply with the relevant conditions of the Commission's resolution.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area, including limitations on #signs#, requirements for soundproofing of arenas or auditoriums, shielding of floodlights, screening of open #uses# or surfacing all access roads or driveways. The Commission may also prescribe requirements for pedestrian-accessible open areas surrounding the arena, auditorium or stadium, including #accessory# directional or building identification #signs# located therein. In addition, within Pennsylvania Station Subarea B4 of the #Special Hudson Yards District#, design changes to existing #plazas# located within such pedestrian-accessible open areas may be made without a certification by the Chairperson of the Commission pursuant to Section 37-625, and the design standards of Section 37-70, inclusive, shall not apply to such #plazas#.

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## 74-42 - Drive-in Theaters

LAST AMENDED  
2/2/2011

In C7 or C8 Districts or any #Manufacturing District#, the City Planning Commission may permit drive-in theaters, limited to a maximum capacity of 500 automobiles, provided that the following findings are made:

- (a) that the principal vehicular access for such #use# is not located on a local #street# or an arterial highway but is located on a major or secondary #street# within one-quarter mile of an arterial highway;
- (b) that such #use# is so located as to draw a minimum of vehicular traffic to and through local #streets# in nearby residential areas;
- (c) that such #use# is not located within 200 feet of a #Residence District#;
- (d) that adequate reservoir space at the vehicular entrance, and sufficient vehicular entrances and exits, are provided to prevent congestion; and
- (e) that vehicular entrances and exits for such #use# are provided separately and are located not less than 100 feet apart.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area, including limitations on #signs# or requirements for shielding of floodlights, screening or surfacing all access roads or driveways.

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## 74-43 - Racetracks

LAST AMENDED  
2/2/2011

In C8 Districts or any #Manufacturing District#, the City Planning Commission may permit racetracks, provided that the following findings are made:

- (a) that the principal vehicular access for such #use# is not located on a local #street# but is located either on an arterial highway, a major #street#, or a secondary #street# within one-quarter mile of an arterial highway or major #street#;
- (b) that such #use# is so located as to draw a minimum of vehicular traffic to and through local #streets# in nearby residential areas;
- (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 for such #use# are provided separately and are located not less than 100 feet apart; and
- (e) that, in selecting the site, due consideration has been given to the proximity and adequacy of bus and rapid transit facilities.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area, including limitations on #signs# or requirements for shielding of floodlights, screening or surfacing all access roads or driveways.

In addition, the Commission shall require the provision of adequate #accessory# off-street parking spaces necessary to prevent the creation of traffic congestion caused by the curb parking of vehicles generated by such #use#, and shall determine the required spaces in accordance with the requirements established in this Resolution with respect to other major traffic generating #uses#.

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## 74-44 - Children's Amusement Parks

LAST AMENDED  
2/2/2011

In C8 or M1 Districts, the City Planning Commission may permit children's amusement parks with an area of at least 75,000 square feet, but not more than 10 acres, provided that the following findings are made:

- (a) that such #use# is so located as not to impair the essential character or the future use or development of the surrounding area;
- (b) that the principal vehicular access for such #use# is not located on a local #street# or on an arterial highway, but is located on a major or secondary #street# within one-quarter mile of an arterial highway or a major #street#;
- (c) that such #use# will not produce traffic congestion or other adverse effects which interfere with the appropriate use of land in the district or in any adjacent district, and that such #use# is so located as to draw a minimum of vehicular traffic to and through local #streets# in nearby residential areas;
- (d) that such #use# is not located within 400 feet of a #Residence District#; and
- (e) that vehicular entrances and exits for such #use# are provided separately and are located not less than 50 feet apart.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area, including limitations on #signs# or requirements for shielding of floodlights, screening or surfacing all access roads or driveways.

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#### **74-45 - Swimming Pool Clubs or Certain Non-commercial Clubs**

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LAST AMENDED  
2/2/2011

In all #Residence Districts#, the City Planning Commission may permit a non-commercial outdoor swimming pool club, or any non-commercial club with an outdoor swimming pool located less than 500 feet from any #lot line#, provided that the following findings are made:

- (a) that such #use# is so located as not to impair the essential character or future use or development of the nearby residential neighborhood;
- (b) that such #use# is so located as to draw a minimum of vehicular traffic to and through local #streets#;
- (c) that such #use# has adequate reservoir space at the vehicular entrance to prevent the congestion of automobiles on the #streets#;
- (d) that in R1, R2, R3 or R4 Districts, the pool or any #accessory# facilities affixed to the land are not located closer than 100 feet or, in the case of an #accessory# outdoor tennis court, such tennis court shall not be closer than 20 feet, to any #side# or #rear lot line# coincident with a #side# or #rear lot line# of an adjoining #zoning lot# in a #Residence District#, and not located closer than 50 feet to any #street line#, and that any planned temporary enclosure such as an air-supported structure be indicated on the plans submitted with this application, and in no event shall such a structure be located closer than 50 feet from any #street# or #lot line#, if such a structure is planned subsequent to the approval of the special permit, then an amended application subject to the same approvals of this Section shall be submitted; and
- (e) that for every 200 square feet of #lot area# used for the pool and its #accessory# facilities, one #accessory# off-street parking space is provided.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area, including limitations on #signs# or the hours of operation, or requirements for shielding of floodlights, screening or surfacing of all access roads or driveways.

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#### **74-46 - Indoor Interactive Entertainment Facilities**

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LAST AMENDED  
1/8/1997

In C4, C6, C7, C8 Districts and M1 Districts, except in M1-1, M1-5B Districts and M1 Districts with a suffix "D," the City Planning Commission may permit, for a term not to exceed five years, indoor interactive entertainment facilities with eating and drinking, consisting of mechanical, electronic or computer-supported games subject to the following conditions:

- (a) there shall be a minimum of 1,000 square feet of #floor area# per game. This requirement shall not apply within the Theater Subdistrict of the #Special Midtown District#;
- (b) the entrance to such #use# shall be a minimum of 200 feet from the nearest #Residence District# boundary;
- (c) in C4 and C6 Districts, a minimum of four square feet of waiting area within the #zoning lot# shall be provided for each person permitted under the occupant capacity as determined by the New York City Building Code. The required waiting area shall be in an enclosed lobby and shall not include space occupied by stairs, corridors or restrooms;
- (d) parking shall be provided in accordance with the parking regulations for Use Group 12A (Parking Category D); and
- (e) the application is made jointly by the owner of the #building# and the operators of such indoor interactive entertainment facility.

In addition to the above conditions, the Commission shall find that:

- (1) such #use# will not impair the character or the future use or development of the surrounding area;
- (2) there is a reasonable plan to prevent the gathering of crowds and the formation of lines on the #street#;
- (3) such #use# will not cause undue vehicular or pedestrian congestion in local #streets#; and
- (4) such #use# will not cause the sound level in any affected conforming #residential use# or #joint living-work quarters for artists# to exceed the limits set forth in any applicable provision of the New York City Noise Control Code.

The Commission shall prescribe additional appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area, including, but not limited to: location of entrances and operable windows, provision of sound-lock vestibules, specification of acoustical insulation, maximum size of establishment, kinds of mechanical amplification, shielding of flood lights, adequate screening, curb cuts or parking.

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#### **74-47 - Amusement Arcades**

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LAST AMENDED  
7/26/2001

In C6 Districts only, the City Planning Commission may permit amusement arcades to be located within department stores of a minimum 150,000 square feet of #floor area#, railroad terminal #buildings#

other than Grand Central Station, bus terminal #buildings# or office #buildings# of a minimum 500,000 square feet of #floor area#. Such amusement arcades shall not occupy more than one location in one #building# and shall not occupy more than 4,000 square feet of area and the arcade shall be located at least 500 feet from any #Residence District# or any C1 or C2 District, or for #zoning lots# located wholly or partially within the Fulton Mall Subdistrict of the #Special Downtown Brooklyn District#, such amusement arcade may be separated from any #Residence District# or any C1 or C2 District by a #street# that has a width greater than 110 feet and such amusement arcade shall be located below #street# level. An application for an amusement arcade pursuant to this Section shall contain plans of the location and arrangement of the proposed #use# and duplicate copies of the application filed with the Department of Consumer Affairs for an arcade license. Such amusement arcades may be permitted for renewable terms, subject to annual certification as to compliance with the conditions of this permit, provided the Commission finds that:

- (a) the application for such special permit is a joint application made by the owner of the #building# and the operator of the proposed amusement arcade;
- (b) such amusement arcade will not have a deleterious effect on the other #uses# located within the #building# and the surrounding area; and
- (c) the #use# is so located within the #building# that no entrance nor any #sign# of the amusement arcade fronts upon or faces a #street#.

No special permit shall be issued pursuant to this Section unless the Commission has received a report from the Department of Consumer Affairs concerning the applicant, including any prior experience with the said Department and recommendations as to the operation of the arcade so as to protect the consumer.

This permit shall become effective upon the issuance of an appropriate license from the Department of Consumer Affairs, whose requirements concerning the location, number and arrangement of machines, hours of operation and requirements for supervision or security shall be incorporated within the special permit and govern those aspects of the special permit.

The Commission may renew the special permit for subsequent terms provided the Commission finds that the facts upon which the permit was granted have not substantially changed. With respect to any special permit or subsequent renewals under this Section, the provisions of paragraph (d) of Section [74-31](#) (General Provisions) shall not apply.

The Commission shall retain the right to revoke the special permit, at any time, if it determines that the nature or manner of operation of the permitted #use# has been altered from that authorized. The Commission and the Department of Consumer Affairs shall notify each other of any permit or license revocation hereunder.

Revocation of a special permit or a Department of Consumer Affairs license shall cause a revocation of the related license or special permit respectively. The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

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## 74-48 - Scientific Research and Development Facility

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LAST AMENDED  
5/5/2004

In C2-7 Districts within Community District 8 in the Borough of Manhattan, and in C6 Districts, the City Planning Commission may permit a scientific research and development facility as a #commercial use#, where such facility contains laboratories for medical, biotechnological, chemical or genetic research, including space for production, storage and distribution of scientific products generated through research and, in conjunction with such facility, may allow the modifications set forth in paragraph (a) of this Section. For a special permit to be granted, applications shall comply with conditions in paragraph (b) and the findings of paragraph (c) of this Section. Additional requirements are set forth in paragraph (d).

(a) Additional modifications

For such scientific research and development facility, the Commission may modify the following:

- (1) height and setback regulations; and
- (2) where such facility is located within C2-7 Districts:
  - (i) #sign# regulations;
  - (ii) #floor area ratio# regulations, up to the maximum #floor area ratio# permitted for #community facility uses# for the District; and
  - (iii) #yard# regulations.

(b) Conditions

As a condition for granting a special permit, such facility shall:

- (1) conform to the performance standards applicable to M1 Districts;
- (2) occupy a #zoning lot# that either contains a minimum #lot area# of 40,000 square feet or comprises an entire #block#; and
- (3) occupy a #zoning lot# containing no #residential use#.

(c) Findings

As a condition for granting a special permit, the Commission shall find that the scientific research and development facility:

- (1) will not unduly affect the essential character or impair the future use and development of the surrounding area;
- (2) will be located so as to draw a minimum of vehicular traffic to and through local #streets#;
- (3) provides fully enclosed storage space for all raw materials, finished products, by-products and waste materials including debris, refuse and garbage; and
- (4) that the modification of such height and setback to any applicable #bulk# regulations will not unduly obstruct the access of light and air to adjoining properties or public #streets#.
- (5) with regard to #sign# modifications:
  - (i) a signage plan has been submitted showing the location, size, height, and illumination of all #signs# on the #zoning lot#;
  - (ii) the modifications are consistent with the amount and location of commercial life sciences laboratories that the Commission finds appropriate on the #zoning lot#; and
  - (iii) #illuminated signs#, if provided:
    - (a) utilize an illumination type, and are located and oriented in a manner so as to minimize any negative effects on nearby residences; and
    - (b) do not alter the essential character of the adjacent area.

(d) Additional requirements

- (1) To minimize traffic congestion in the area, the Commission shall require the provision of off-street loading berths conforming to the requirements set forth in Section [36-62](#) (Required Accessory Off-street Loading Berths) for #commercial uses#.
- (2) The Commission may also require the provision of #accessory# off-street parking facilities to prevent the creation of traffic congestion caused by the curb parking of vehicles generated by such #use#. The size and location of such parking, bicycle parking, and loading facilities shall comply with the applicable provisions of Section [36-00](#), inclusive.
- (3) All applications for the grant of a special permit pursuant to this Section shall be referred to the Commissioner of Health of the City of New York or its successor for a report and recommendations on matters relating to health, safety and general welfare of the public with regard to the proposed facility. If the report is received within 45 days from the date of referral, the Commission shall, in its determination, give due consideration to the report and its recommendations. If such agency does not report within 45 days, the Commission may make a final determination without reference thereto.

In order to promote and protect the public health, safety and general welfare, the City Planning Commission may impose additional conditions and safeguards and more restrictive performance standards where necessary.)

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#### **74-49 - Residential Use in C4-1 Districts in Staten Island**

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LAST AMENDED  
2/2/2011

In the Borough of Staten Island, in C4-1 Districts that occupy at least four acres within a #block# and in other C4-1 Districts for #zoning lots# that had a #lot area# greater than 20,000 square feet on December 21, 2005, or on any subsequent date, the City Planning Commission may permit #residences#, provided such #residences# comply with the #bulk# regulations for R5 Districts as set forth in Article II, Chapter 3, or Article III, Chapter 5, as applicable.

In order to grant such permit, the Commission shall find that such #residences# are part of a superior site plan, such #residences# are compatible with the character of the surrounding area and that the #streets# providing access to such #residences# are adequate to handle the traffic generated thereby or provision has been made to handle such traffic.

The Commission may prescribe appropriate safeguards and conditions to minimize the adverse effect of any #residences# permitted under this Section on the character of the surrounding area.

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#### **74-50 - OFF-STREET PARKING ESTABLISHMENTS**

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LAST AMENDED  
12/15/1961

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#### **74-51 - Public Parking Garages or Public Parking Lots Outside High Density Central Areas**

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LAST AMENDED  
1/11/1962

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#### **74-511 - In C1 Districts**

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LAST AMENDED  
2/2/2011

In C1-1, C1-2, C1-3 or C1-4 Districts, the City Planning Commission may permit #public parking garages# or #public parking lots# with a capacity of not more than 100 spaces, provided that the regulations set forth in Sections [36-53](#) (Width of Curb Cuts and Location of Access to the Street), [36-55](#) (Surfacing) and [36-56](#) (Screening) are met. The Commission may permit some of such spaces to be located on the roof of such #public parking garage#, or may permit floor space on one or more #stories# and up to a height of 23 feet above #curb level#, to be exempted from the definition of #floor area# as set forth in Section [12-10](#) (DEFINITIONS). As a condition of permitting such #use#, the Commission shall make the following findings:

- (a) that such #use# is so located as to draw a minimum of vehicular traffic to and through local #streets# in nearby residential areas;
- (b) that such #use# has adequate reservoir space at the vehicular entrance to accommodate a minimum of 10 automobiles or 20 percent of the spaces so provided, whichever amount is less;
- (c) that, where roof parking is permitted, such roof parking is so located as not to impair the essential character or future use or development of adjacent areas; and
- (d) that, where any floor space is exempted from the definition of #floor area#, such additional floor space is needed in order to prevent excessive on-street parking demand and relieve traffic congestion.

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

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#### **74-512 - In other Districts**

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LAST AMENDED  
10/17/2019

In C2-1, C2-2, C2-3, C2-4, C4-1, C4-2, C4-3, C4-4, C4-5D, C7, C8-1, C8-2, C8-3, M1-1, M1-2, M1-3, M2-1, M2-2 or M3-1 Districts, the City Planning Commission may permit #public parking garages# or #public parking lots# with more than 150 spaces, provided that the applicable regulations set forth in Sections [36-53](#) (Width of Curb Cuts and Location of Access to the Street) or [44-43](#) (Location of Access to the Street), Sections [36-55](#) or [44-44](#) (Surfacing) and Sections [36-56](#) or [44-45](#) (Screening) are met. The Commission may permit some of such spaces to be located on the roof of such #public parking garage#, or may permit floor space on one or more #stories# and up to a height of 23 feet above #curb level# to be exempted from the definition of #floor area# as set forth in Section [12-10](#) (DEFINITIONS). As a condition of permitting such #use#, the Commission shall make the following findings:

- (a) that the principal vehicular access for such #use# is located on an arterial highway, a major #street# or a secondary #street# within one-quarter mile of an arterial highway or major #street#, except that in C5 or C6 Districts such access may be located on a local #street#;
- (b) that such #use# is so located as to draw a minimum of vehicular traffic to and through local #streets# in nearby residential areas;
- (c) that such #use# has adequate reservoir space at the vehicular entrances to accommodate either 10 automobiles or five percent of the total parking spaces provided by the #use#, whichever amount is greater, but in no event shall such reservoir space be required for more than 50 automobiles;
- (d) that the #streets# providing access to such #use# will be adequate to handle the traffic generated thereby;
- (e) that, where roof parking is permitted, such roof parking is so located as not to impair the essential character or future use or development of adjacent areas; and
- (f) that, where any floor space is exempted from the definition of #floor area#, such additional floor space is needed in order to prevent excessive on-street parking demand and relieve traffic congestion.

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

This Section shall not apply to the #Manhattan Core# where the regulations set forth in Article I, Chapter 3, shall apply, except as provided in Section [13-06](#) (Previously Filed or Approved Special Permits or Authorizations).

For existing #public parking garages# located within a C4-4 District in Community District 4 in the Borough of Queens where such garage facility existed before October 17, 2019, and was previously granted a special permit pursuant to this Section, the finding set forth in paragraph (c) of this Section shall not apply. In lieu thereof, the number of reservoir spaces required shall be consistent with a finding that the permitted parking facility will not create or contribute to serious traffic congestion and will not unduly inhibit vehicular traffic and pedestrian flow in the surrounding area.

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#### **74-513 - In C7 Districts**

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LAST AMENDED  
2/2/2011

In C7 Districts, the City Planning Commission may permit #public parking garages# or #public parking lots# of any capacity, provided that the applicable regulations set forth in Sections [36-53](#) (Width of Curb Cuts and Location of Access to the Street), [36-55](#) (Surfacing) and [36-56](#) (Screening) are met. The Commission may permit some of such spaces to be located on the roof of such #public parking garage#, or may permit floor space on one or more #stories# and up to a height of 23 feet above #curb level#, to be exempted from the definition of #floor area# as set forth in Section [12-10](#) (DEFINITIONS). As a condition of permitting such #use#, the Commission shall make the following findings:

- (a) that the principal vehicular access for such #use# is located on an arterial highway, or major #street#, or a secondary #street# within one-quarter mile of an arterial highway or major #street#;
- (b) that such #use# is so located as to draw a minimum of vehicular traffic to and through local #streets# in nearby residential areas;
- (c) that such #use# has adequate reservoir space at the vehicular entrances to accommodate either 10 automobiles or five percent of the total parking spaces provided by the #use#, whichever amount is greater, but in no event shall such reservoir space be required for more than 50 automobiles;
- (d) that the #streets# providing access to such #use# will be adequate to handle the traffic generated thereby;
- (e) that, where roof parking is permitted, such roof parking is so located as not to impair the essential character or future use or development of adjacent areas; and
- (f) that, where any floor space is exempted from the definition of #floor area#, such additional floor space is needed in order to prevent excessive on-street parking demand and relieve traffic congestion.

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

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#### **74-52 - Parking Garages or Public Parking Lots in High Density Central Areas**

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LAST AMENDED  
5/8/2013

In C1-5, C1-6, C1-7, C1-8 or C1-9 Districts, the City Planning Commission may permit #public parking garages# or #public parking lots# with a capacity of not more than 100 spaces, and in C2-5, C2-6, C2-7, C2-8, C4-5, C4-5A, C4-5X, C4-6, C4-7, C6, C8-4, M1-4, M1-5, M1-6, M2-3, M2-4 or M3-2 Districts, the Commission may permit #public parking garages# with any capacity or #public parking lots# with more than 150 spaces, and in C5 and C6-1A Districts, the Commission may permit #public parking garages# or #public parking lots# with any capacity, provided that the applicable regulations set forth in Sections [36-53](#) (Width of Curb Cuts and Location of Access to the Street) or [44-43](#) (Location of Access to the Street), Sections [36-55](#) or [44-44](#) (Surfacing) and Sections [36-56](#) or [44-45](#) (Screening) are met.

The Commission may permit some of such spaces to be located on the roof of such #public parking garage#, or may permit floor space on one or more #stories# and up to a height of 23 feet above #curb level#, to be exempted from the definition of #floor area# as set forth in Section [12-10](#) (DEFINITIONS). As a condition of permitting such #use#, the Commission shall make the following findings:

- (a) that such #use# will not be incompatible with, or adversely affect the growth and development of, #uses# comprising vital and essential functions in the general area within which such #use# is to be located;
- (b) that such #use# will not create or contribute to serious traffic congestion and will not unduly inhibit surface traffic and pedestrian flow;
- (c) that such #use# is so located as to draw a minimum of vehicular traffic to and through local #streets# in nearby residential areas;
- (d) that such #use# has adequate reservoir space at the vehicular entrances to accommodate automobiles equivalent in number to 20 percent of the total number of spaces up to 50 and five percent of any spaces in excess of 200, but in no event shall such reservoir space be required for more than 50 automobiles;
- (e) that the #streets# providing access to such #use# will be adequate to handle the traffic generated thereby;
- (f) that, where roof parking is permitted, such roof parking is so located as not to impair the essential character or future use or development of adjacent areas; and
- (g) that, where any floor space is exempted from the definition of #floor area#, such additional floor space is needed in order to prevent excessive on-street parking demand and relieve traffic congestion.

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

This Section shall not apply to the #Manhattan Core# where the regulations set forth in Article I, Chapter 3, shall apply, except as provided in Section [13-06](#) (Previously Filed or Approved Special Permits or Authorizations).

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#### **74-53 - Accessory Group Parking Facilities for Uses in Large-Scale Residential Developments or Large-Scale Community Facility Developments or Large-Scale General Developments**

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LAST AMENDED  
5/8/2013

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#### **74-531 - Additional parking spaces or roof parking for accessory group parking facilities**

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LAST AMENDED 3/22/2016

The City Planning Commission may permit #group parking facilities# #accessory# to #uses# in #large-scale residential developments# or #large-scale community facility developments# or #large-scale general developments# with more than the prescribed maximum number of parking spaces set forth in Sections [25-12](#), [36-12](#) and [44-12](#) (Maximum Size of Accessory Group Parking Facilities) or may permit modifications of the applicable provisions of Sections [25-11](#), [36-11](#) and [44-11](#) (General Provisions) so as to permit off-street parking spaces #accessory# to such #uses# to be located on the roof of a #building#.

As a condition of permitting such exceptions or modifications, the Commission shall make the following findings:

- (a) that such #use# is so located as to draw a minimum of vehicular traffic to and through local #streets# in residential areas;
- (b) that such #use# has adequate reservoir space at the vehicular entrance to accommodate either 10 automobiles or five percent of the total parking spaces provided by the #use#, whichever amount is greater, but in no event shall such reservoir space be required for more than 50 automobiles;
- (c) that the #streets# providing access to such #use# will be adequate to handle the traffic generated thereby; and
- (d) that where roof parking is permitted, such roof parking is so located as not to impair the essential character or future use or development.

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

This Section shall not apply to the #Manhattan Core# where the regulations set forth in Article I, Chapter 3, shall apply, or to the #Long Island City area#, as defined in Section [16-02](#) (Definitions), where the regulations set forth in Article I, Chapter 6, shall apply.

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#### **74-532 - Reduction or waiver of parking requirements for accessory group parking facilities**

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LAST AMENDED 3/22/2016

The City Planning Commission may, in conjunction with an application for a #large-scale residential development# or #large-scale general development# in the #Transit Zone# seeking a #bulk# modification, reduce or waive the number of required #accessory# #residential# off-street parking spaces, including any spaces previously required for an existing #building# on the #zoning lot#, provided the Commission finds that:

- (a) where the applicant is seeking a reduction of parking spaces required by Section [25-23](#) (Requirements Where Group Parking Facilities Are Provided), such reduction will facilitate the creation or preservation of #income-restricted housing units# in such #large-scale residential development# or #large-scale general development#. Such finding shall be made upon consultation with the Department of Housing Preservation and Development;
- (b) the anticipated rates of automobile ownership for residents of such #large-scale residential development# or #large-scale general development# are minimal and that such reduction or waiver is warranted;
- (c) such reduction of parking spaces will not have undue adverse impacts on the residents, businesses or #community facilities# in the surrounding area, including the availability of parking spaces for such #uses#; and
- (d) such reduction of parking spaces will result in a better site plan.

In determining the amount of parking spaces to reduce or waive, the Commission may take into account current automobile ownership patterns for an existing #building# containing #residences# on the #zoning lot#, as applicable.

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

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#### **74-533 - Reduction of parking spaces to facilitate affordable housing**

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LAST AMENDED 3/22/2016

In all districts in the #Transit Zone#, the City Planning Commission may permit a waiver of, or a reduction in, the number of required #accessory# off-street parking spaces for #dwelling units# in a #development# or #enlargement# that includes at least 20 percent of all #dwelling units# as #income-restricted housing units# as defined in Section [12-10](#) (DEFINITIONS), provided the Commission finds that such waiver or reduction:

- (a) will facilitate such #development# or #enlargement#. Such finding shall be made upon consultation with the Department of Housing Preservation and Development;
- (b) will not cause traffic congestion; and
- (c) will not have undue adverse effects on residents, businesses or #community facilities# in the surrounding area, as applicable, including the availability of parking spaces for such #uses#.

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

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#### **74-54 - Rear Yard Modifications**

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LAST AMENDED  
10/9/1969

In C4, C6, C7, C8, M1, M2 or M3 Districts, for #public parking garages# with more than 150 spaces, the City Planning Commission may permit modifications of the applicable regulations in Sections [33-26](#) to [33-30](#), inclusive, and Sections [43-26](#) to [43-31](#), inclusive, relative to #rear yard# regulations, provided the following findings are made:

- (a) that the #public parking garage# will alleviate excessive on-street parking demand and thereby relieve traffic congestion in the area; and
- (b) that because of site limitations such modification is necessary for the proper design and operation of the #public parking garage#.

The Commission shall consider the characteristics of surrounding development and may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of adjacent areas.

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#### **74-55 - Off-street Parking Requirement for Youth-oriented or Senior Citizen-oriented Community Centers and Non-profit Neighborhood Settlement Houses**

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LAST AMENDED  
2/2/2011

In C1-2 and C2-2 Districts, for youth-oriented or senior citizen-oriented community centers and non-profit neighborhood settlement houses, the City Planning Commission may permit modifications of the parking requirement of Section [36-21](#), provided the following findings are made:

- (a) that, because of site limitations, such a reduction is necessary for the proper design and operation of such community centers and non-profit neighborhood settlement houses; and
- (b) that available off-site parking and mass transit facilities are adequate to satisfy the additional parking demand generated by such #community facility#.

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## 74-56 - Open Automobile Rental Establishments

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LAST AMENDED  
2/2/2011

In C2 Districts within a one-half mile radius of the main entrance of La Guardia Airport, located at the intersection of Grand Central Parkway and the 94th Street Bridge, the City Planning Commission may permit open automobile rental establishments on #zoning lots# having a frontage of at least 200 feet on Ditmars Boulevard, provided that the following findings are made:

- (a) that such open #use# will not be incompatible with, or adversely affect the growth and development of, appropriate #uses# in the general area within which such open #use# is to be located;
- (b) that such open #use# will not create or contribute to serious traffic congestion and will not unduly inhibit surface traffic and pedestrian flow;
- (c) that such open #use# is so located as to draw a minimum of vehicular traffic to and through local #streets# in nearby residential areas;
- (d) that such open #use# has adequate reservoir space at the vehicular entrances to accommodate either 10 automobiles or five percent of the total parking spaces provided by the open #use#, whichever amount is greater, but in no event shall such reservoir space be required for more than 50 automobiles;
- (e) that the #streets# providing access to such open #use# will be adequate to handle the traffic generated thereby;
- (f) that acoustic barriers be installed around the parking areas to minimize noise impacts on surrounding properties;
- (g) that visual barriers be installed and properly maintained to screen the parking area from surrounding properties; and
- (h) that #accessory# automotive repairs, maintenance and car washing are within an enclosed #building#.

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

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## 74-60 - PUBLIC SERVICE OR TRANSPORTATION FACILITIES

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LAST AMENDED  
12/15/1961

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### 74-61 - Public Transit, Railroad or Electric Utility Substations

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LAST AMENDED  
9/10/2007

In all #Residence# and #Commercial Districts#, and in M1 Districts in the #Special Downtown Jamaica District#, the City Planning Commission may permit electric utility substations (including transformers, switches, or auxiliary apparatus) or public transit or railroad electric substations, limited in each case to a site of not less than 40,000 square feet nor more than 10 acres, provided that the following findings are made:

- (a) that there are serious difficulties in locating such #use# in a nearby district where it is permitted as-of-right;
- (b) that the site for such #use# is so located as to minimize the adverse effects on the integrity of existing and future development;
- (c) that the architectural and landscaping treatment of such #use# will blend harmoniously with the rest of the area; and
- (d) that such #use# will conform to the performance standards applicable to M1 Districts.

The City Planning Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area, including requirements for soundproofing of electric substations, for the construction of fences, barriers, or other safety devices, for surfacing of all access roads and driveways, for shielding of floodlights or other artificial illumination, or for landscaping or screening.

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### 74-62 - Railroad Passenger Stations

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LAST AMENDED  
2/2/2011

- (a) Except as provided in paragraph (b) of this Section, the City Planning Commission may permit the construction of railroad passenger stations in all districts, provided that the following findings are made:
  - (1) that the principal access for such #use# is not located on a local #street#;
  - (2) that such #use# is so located as to draw a minimum of vehicular traffic to and through local #streets# in residential areas; and
  - (3) that vehicular entrances and exits for such #use# are provided separately and are located not less than 50 feet apart.

The City Planning Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area, including requirements for shielding of floodlights or surfacing of access roads or driveways.

In addition, the Commission shall require the provision of adequate #accessory# off-street parking spaces necessary to prevent the creation of traffic congestion caused by the curb parking of vehicles generated by such #use#, and shall determine the required spaces in accordance with the purposes established in this Resolution with respect to other major traffic-generating facilities. The Commission shall require, in any event, not less than 20 spaces for the temporary parking of automobiles, and three spaces for buses.

- (b) In Community Districts 4 and 5 in the Borough of Manhattan, the City Planning Commission may permit the construction of railroad passenger stations and ventilation facilities or other facilities or services used or required in connection with such railroad passenger station or in connection with an underground railroad right-of-way that provides access to such railroad passenger station, and may permit waivers of applicable #bulk# regulations, other than #floor area ratio#, in connection with such ventilation facilities, or other facilities or services, provided that the following findings are made:
  - (1) that the principal access for such railroad passenger station is not located on a local #street#;
  - (2) that such railroad passenger station is so located as to draw a minimum of vehicular traffic to and through local #streets# in residential areas;

- (3) that any vehicular entrances and exits for such railroad passenger station are provided separately and are located not less than 50 feet apart;
- (4) that the locations of at-grade entrances to such railroad passenger station are well situated in relation to existing at-grade pedestrian circulation patterns;
- (5) that any below-grade pedestrian circulation elements provided in connection with the railroad passenger station are well integrated with any existing or planned below-grade pedestrian circulation networks providing connections to and from other transportation facilities; and
- (6) for ventilation facilities or other facilities or services used or required in connection with a railroad passenger station or in connection with an underground railroad right-of-way that provides access to a railroad passenger station, that:
  - (i) any #bulk# modifications are the minimum necessary for the proper operation of the facility; and
  - (ii) the design of the facility will blend harmoniously with the surrounding area or that a process has been created with the purpose of ensuring that the future design of the facility takes into account existing conditions and anticipated development in the surrounding area.

Railroad passenger station entrances provided pursuant to paragraph (b)(4) of this Section and railroad passenger station emergency access stairs, located within #publicly accessible open areas# of #zoning lots# subject to the provisions of Section [81-542](#) (Retention of floor area bonus for plazas or other public spaces), shall be permitted obstructions within such #publicly accessible open areas#, provided that the Commission finds that any encroachment within such #publicly accessible open areas# by such entrances or emergency access stairs will facilitate improved pedestrian circulation to, from and within the proposed railroad passenger station.

The special permit shall provide that such #publicly accessible open area# shall be designed and improved in connection with the installation of entrances or railroad passenger station emergency access stairs pursuant to a site plan accepted by the Chairperson of the Commission. The proposed site plan shall be referred to the affected Community Board, City Council Member and Borough President. Included with the site plan shall be a report to the Chairperson demonstrating that any comments and recommendations of the affected Community Board, City Council Member and Borough President have been considered, as set forth in a written response to such comments or recommendations. Where design modifications have been made in response to such comments and recommendations, the report shall identify how the design has been modified. The Chairperson shall not accept such site plan prior to 60 days after such referral. A #publicly accessible open area# improved pursuant to an accepted site plan shall be deemed to be certified pursuant to Section [37-625](#) (Design changes) and the standards set forth therein. Subsequent modifications of the site plan for such #publicly accessible open area#, including modifications involving the co-location of transportation facility entrances, shall be subject to this paragraph. An application to modify the site plan to facilitate the co-location of railroad passenger station entrances may be filed by the transportation agency seeking to co-locate a transportation facility entrance in the #publicly accessible open area# or by the property owner. Such application shall include evidence of consultation with any transportation agency with existing or planned facilities located in the #publicly accessible open area#. The modified site plan shall also be referred to such transportation agency by the Chairperson for comment.

The Commission may prescribe appropriate conditions and safeguards to minimize pedestrian and vehicular congestion and to minimize adverse effects on the character of the surrounding area, including requirements for shielding of floodlights, surfacing of access roads or driveways, mitigation of pedestrian impacts, signage requirements, or screening or placement of the facilities or services permitted pursuant to paragraph (b) of this Section.

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## 74-63 - Bus Stations

LAST AMENDED  
12/15/1961

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### 74-631 - New bus stations with 10 or more berths

LAST AMENDED  
2/2/2011

In C4, C6 or #Manufacturing Districts#, the City Planning Commission may permit the construction of a bus station with 10 or more berths for buses on a site of not less than 20,000 square feet, provided that the following findings are made:

- (a) that the use of the premises as a bus station will not create serious traffic congestion, will not be detrimental to public health or general welfare and is consistent with the master plan of the city;
- (b) that the principal access for such #use# is not located on a local #street# but is located either on an arterial highway, a major #street# or a secondary #street# within one-quarter mile of an arterial highway or major #street#;
- (c) that such #use# is not located within 200 feet of a #Residence District#, or is otherwise separated from nearby residential areas by topographical or physical conditions of the land;
- (d) that vehicular entrances and exits for such facility are provided separately and are located not less than 100 feet apart; and
- (e) that access to such #use# is located on a #street# not less than 60 feet in width.

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

In addition, the Commission shall require the provision of adequate #accessory# off-street parking spaces necessary to prevent the creation of traffic congestion caused by the curb parking of vehicles generated by such #use# and shall determine the required spaces in accordance with the purposes established in this Resolution with respect to other major traffic-generating facilities. The Commission shall require, in any event, no less than 20 spaces for the temporary parking of automobiles.

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### 74-632 - New bus stations with fewer than 10 berths

LAST AMENDED  
12/15/1961

In C1, C2, C4, C6, C7 or C8 Districts, or in any #Manufacturing District#, the City Planning Commission may permit bus stations with fewer than 10 berths for buses on a site of not less than 20,000 square feet, provided that the following findings are made:

- (a) that the use of the premises as a bus station will not create serious traffic congestion, will not be detrimental to public health or general welfare and is consistent with the master plan of the City;
- (b) that the principal access of such #use# is not located on a local #street#;
- (c) that vehicular entrances and exits for such facility are provided separately and are located not less than 50 feet apart; and
- (d) that access to such #use# is located on a #street# not less than 60 feet in width.

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

In addition, the Commission shall require the provision of adequate #accessory# off-street parking spaces necessary to prevent the creation of traffic congestion caused by the curb parking of vehicles generated by such #use#, and shall determine the required spaces in accordance with the purposes established in this Resolution with respect to other major traffic-generating facilities. The Commission shall require, in any event, not less than 10 spaces for the temporary parking of automobiles.

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### 74-633 - Existing bus stations

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LAST AMENDED  
12/15/1961

All bus stations lawfully existing on December 15, 1961 are permitted to continue for the duration of the term for which such #use# has been authorized but the #enlargement#, #extension#, reconstruction or relocation of any bus station heretofore or hereafter constructed shall not be permitted except in accordance with the provisions set forth in Sections [74-631](#) or 74-632.

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### 74-64 - Trucking Terminals or Motor Freight Stations

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LAST AMENDED  
12/15/1961

In C8 Districts, the City Planning Commission may permit trucking terminals or motor freight stations with sites in excess of 20,000 square feet, provided that the following findings are made:

- (a) that the principal access for such #use# is not on a local #street# but is located within one-quarter mile of a secondary or major #street#;
- (b) that vehicular entrances and exits for such #use# are provided separately and are located not less than 100 feet apart;
- (c) that such #use# is not located within 200 feet of a #Residence District# boundary; and
- (d) that access to such #use# is located on a #street# not less than 60 feet in width.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area, including requirements for shielding of floodlights, screening and surfacing all access roads or driveways.

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### 74-65 - Airports

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LAST AMENDED  
12/15/1961

In all #Manufacturing Districts#, the City Planning Commission may permit the construction, reconstruction, or #enlargement# of airports and their facilities, in any case where the applicant has submitted a site plan showing the location and dimensions of all runways, in addition to all other information required in Section [74-20](#) (REQUIREMENTS FOR APPLICATIONS), provided that the following findings are made:

- (a) that the airport is an appropriate #use# of the land and will not unduly interfere with surrounding land #uses#; and
- (b) that due consideration has been given to the selection of a site situated near or adjacent to large parks or other open areas, or bodies of water.

The Commission shall refer the application to the Federal Aviation Administration, for the report of such agency as to whether such airport is either an integral part of, or will not interfere with, the general plan of airports for New York City and the surrounding metropolitan region; and whether a new, reoriented, or lengthened runway will interfere with the flight pattern of any nearby airport.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area, and in the event that the application is granted, the Commission may adopt a resolution to amend the #zoning maps# so that for a depth of at least one-quarter mile around the entire perimeter of the airport, any adjacent #Residence District# shall be mapped as an R1, R2, or R3 District, and any adjacent #Commercial# or #Manufacturing District# shall be mapped as a C1, C2, C3, C4-1, C7, C8-1, C8-2, M1-1, M1-2, M1-4, M2-1, M2-3 or M3 District.

The Commission shall require the provision of adequate #accessory# off-street parking spaces necessary to prevent the creation of traffic congestion caused by the curb parking of vehicles generated by such #use# and shall determine the required spaces in accordance with the purposes established in this Resolution with respect to other major traffic-generating facilities.

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### 74-66 - Heliports

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LAST AMENDED  
7/23/1964

In C3, C4, C5, C6, C7 or C8 Districts or in any #Manufacturing District#, the City Planning Commission may permit the construction, reconstruction, or #enlargement# of heliports and their facilities where the applicant has submitted a site plan showing the location of landing areas, in addition to all other information required in Section [74-20](#) (REQUIREMENTS FOR APPLICATIONS), provided that the following findings are made:

- (a) that the heliport is an appropriate #use# of the land and will not unduly interfere with surrounding land #uses#; and
- (b) that due consideration has been given to the selection of a site situated near or adjacent to large parks or other open areas, or bodies of water.

The Commission shall refer the application to the Federal Aviation Administration for the report of such agency as to whether the heliport is either an integral part of, or will not interfere with, the general plan of airports for New York City and the surrounding metropolitan region.

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

The Commission shall require the provision of adequate #accessory# off-street parking spaces necessary to prevent the creation of traffic congestion caused by the curb parking of vehicles generated by such #use# and shall determine the required spaces in accordance with the purposes established in the Resolution with respect to other major traffic-generating facilities.

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### 74-67 - Fire or Police Stations

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LAST AMENDED  
2/2/2011

In all #Residence Districts#, the City Planning Commission may permit fire or police stations, provided that the following findings are made:

- (a) that such #use# will serve the residential area within which it is provided to be located; that there are serious difficulties in locating it in a district wherein it is permitted as-of-right and from which it

could serve the residential area, which make it necessary to locate such #use# within a #Residence District#; and

- (b) in the case of fire stations, that such #use# is so located as to minimize the movement of fire apparatus through local #streets# in residential areas.

For any such #use#, the Commission may permit appropriate modifications of the applicable regulations of Article II, Chapter 3, provided that such #use# complies with all the applicable district #bulk# regulations for #community facility buildings# as set forth in Article II, Chapter 4.

The Commission may prescribe appropriate conditions or safeguards to minimize adverse effects on the character of the surrounding area, including requirements for landscaping.

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## 74-68 - Development Within or Over a Right-of-Way or Yards

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LAST AMENDED  
2/22/1990

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## 74-681 - Development within or over a railroad or transit right-of-way or yard

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LAST AMENDED  
7/26/2001

- (a) In all districts, when a #development# or #enlargement#, including large-scale developments pursuant to Section [74-74](#), [78-00](#) et seq. or [79-00](#) et seq. is located partially or entirely within a railroad or transit right-of-way or yard and/or in #railroad or transit air space#, the City Planning Commission may permit:
- (1) that portion of the railroad or transit right-of-way or yard which will be completely covered over by a permanent platform to be included in the #lot area# for such #development# or #enlargement#;
  - (2) any portion of the right-of-way or yard where railroad or transit #use# has been permanently discontinued or terminated to be included in the #lot area# for such #development# or #enlargement#;
  - (3) notwithstanding the applicable district regulations, certain #uses# may be located beneath a portion of a permanent platform, including a platform street as follows:
    - (i) any #use# #accessory# to a primary #use# located on the #zoning lot#;
    - (ii) a #public parking garage# or #public parking lot# provided the findings set forth in Section [74-52](#) and hereby made applicable, are met for such garage or lot;
    - (iii) a railroad passenger station (pursuant to Section [74-62](#)) or a railroad including right-of-way, freight terminal, yard or appurtenance, or a facility or service used or required in railroad operations;
    - (iv) a public transit yard, vehicle storage, warehouse, trucking terminal or motor freight station (without limitation on #lot area# per establishment).
- (b) As a condition for granting a special permit, the Commission shall find that:
- (1) the #streets# providing access to all #uses# pursuant to paragraph (a) of this Section are adequate to handle traffic resulting therefrom;
  - (2) the distribution of #floor area# and the number of #dwelling units# or #rooming units# does not adversely affect the character of the surrounding area by being unduly concentrated in any portion of such #development# or #enlargement#, including any portion of the #development# or #enlargement# located beyond the boundaries of such railroad or transit right-of-way or yard;
  - (3) all #uses#, #developments# or #enlargements# located on the #zoning lot# or below a platform do not adversely affect one another;
  - (4) if such railroad or transit right-of-way or yard is deemed appropriate for future transportation #use#, the site plan and structural design of the #development# do not preclude future use of, or improvements to, the right-of-way for such transportation #use#.
- (c) For any #development# or #enlargement# located within or over railroad or transit right-of-way or yard:
- (1) the application to be filed with the Commission for special permit approval pursuant to this Section shall include a site plan showing:
    - (i) the total #lot area# of that portion of a railroad or transit right-of-way or yard to be covered by a platform; and/or
    - (ii) the total #lot area# of such right-of-way or yard that has been permanently discontinued or terminated;
  - (2) ownership of rights to #develop# in #railroad or transit air space# or within a railroad or transit right-of-way or yard where such #use# has been permanently discontinued or terminated, shall meet the requirements of the #zoning lot# definition in Section [12-10](#) (DEFINITIONS);
  - (3) where the railroad or transit right-of-way or yard is to be covered over by a permanent platform, such platform shall be unperforated except for such suitably protected openings as may be required for utilities, ventilation, drainage or other necessary purposes;
  - (4) the Commission may establish an appropriate level or levels instead of #curb level# as the reference plane for the applicable regulations pertaining to, but not limited to, height and setback, #floor area#, #lot coverage#, #open space#, #yards#, and minimum distance between #buildings#;
  - (5) the Commission may permit #buildings# to be connected by a bridge or tunnel, within a portion of a #street#, provided that the street volume occupied by such bridge or tunnel is not mapped and owned by the City, and provided that such structure is used exclusively for pedestrian or vehicular circulation; however, in no event shall such a bridge or tunnel be considered as #lot area# or generate any #floor area#; and in the case of a bridge, the Commission shall find that such bridge will:
    - (i) provide adequate vertical clearance at all points measured from #curb level# to the soffit;
    - (ii) not rest upon columns or other supports that intrude upon the #street#;
    - (iii) provide illumination of at least five foot candles at the #curb level# for the #street# area beneath the bridge;
    - (iv) not unduly obstruct any significant scenic view; and
    - (v) provide adequate light and air to the #street# or surrounding public spaces or #streets#.

In the case of a tunnel, the Commission may permit #buildings# to be connected by a tunnel under a #street#, provided the Commission finds that the tunnel is used exclusively for vehicular circulation and is necessary to achieve improved vehicle circulation within the #development# and on adjoining #streets#.

- (d) The Commission shall require the provision of adequate #accessory# off-street parking spaces and loading berths necessary to prevent the creation of traffic congestion caused by the curb parking of vehicles generated by any #use# permitted on the #zoning lot#, and shall determine the required number of parking spaces and loading berths in accordance with the purposes established in this Resolution with respect to other major traffic-generating facilities.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area, and may require where the #development# or #enlargement# includes an active railroad or transit #use#, that the structural design of such #development# or #enlargement# make due allowance for changes within the layout of tracks or other structures within such #railroad or transit air space# or railroad or transit right-of-way or yard which may be deemed necessary in connection with future development or improvement of the transportation system.

Prior to granting a special permit, the Commission shall request the Metropolitan Transportation Authority and the Departments of Transportation of the State of New York and the City of New York to indicate within 30 days whether said agencies have any plan to use that portion of the #railroad or transit air space# or railroad or transit right-of-way or yard where the railroad or transit #use# has been permanently discontinued or terminated.

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## 74-682 - Developments over streets

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LAST AMENDED  
10/7/2008

In R9 or R10 Districts when the air space above a #street# or portion thereof is closed, demapped and conveyed by the City to the owner of an adjoining #zoning lot# owned by a non-profit institution pursuant to State-enabling legislation enacted in 1971, the City Planning Commission may, by special permit, allow in such demapped air space, the #development# or #enlargement# of #buildings# which are an expansion of an existing hospital, college, university or functionally-related facility. In connection therewith, the Commission may also permit modification of off-street loading and #bulk# regulations, except #floor area ratio# regulations, under the applicable district regulation, provided that the requirements set forth in the 1973 Agreement among the City of New York, the Society of the New York Hospital, and the New York Society for the Relief of the Ruptured and Crippled, maintaining the Hospital for Special Surgery and the Rockefeller University are met; and that such demapped air space shall be considered as part of the adjoining #zoning lot#, except that any #building# located in demapped air space shall utilize only unused #floor area# from the portion of the adjoining #zoning lot# not within the demapped air space.

In order to grant such special permit, the Commission shall find:

- (a) for #development# or #enlargements# in such demapped air space and for modification of #bulk# regulations, that the location and distribution of new #bulk# shall result in a good site plan in relation to the existing #buildings# on-site and in the area; and
- (b) for modification of off-street loading requirements, when such non-profit institution includes more than one #building# on two or more #zoning lots#, the Commission may determine the required number of loading berths as if such non-profit institution were located on a single #zoning lot#, and may permit such loading berths to be located anywhere within such institution without regard for #zoning# #lot lines#, provided that such loading berths shall be:
- (1) adequate to serve the requirements of the institution;
  - (2) accessible to all the #uses# in such institution without the need to cross any #street# at grade; and
  - (3) located so as not to adversely affect the movement of pedestrians or vehicles on the #streets# within or surrounding such institution.

The #curb level# of a #zoning lot# of which the demapped air space is a part shall not be affected by the closing and demapping of air space above such #street#. However, the Commission may establish an appropriate level or levels instead of #curb level# as the reference plane for the applicable regulations relating to #open space#, #yards#, level of #yards#, equivalent #rear yards#, #rear yard# setback, minimum distance between #buildings#, and the front height and setback.

The Commission may impose additional conditions and safeguards, consistent with the requirements set forth in the 1973 Agreement, to improve the quality of the #development# and minimize adverse effects on the character of the surrounding area.

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## 74-69 - Seaplane Bases

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LAST AMENDED  
2/2/2011

In all districts, the City Planning Commission may permit seaplane bases provided that the following findings are made:

- (a) that such #use# and the take-off and landing operations it serves are so located as not to impair the essential character or future #use# or #development# of the surrounding area; and
- (b) that such #use# is so located as to draw a minimum of vehicular traffic to and through local #streets# in residential areas.

The Commission shall refer the application to the Federal Aviation Administration for the report of such agency as to whether the seaplane base is either an integral part of, or will not interfere with, the general plan of airports for New York City and the surrounding metropolitan region.

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

The Commission shall require the provision of adequate #accessory# off-street parking spaces necessary to prevent the creation of traffic congestion caused by the curb parking of vehicles generated by such #use# and shall determine the required spaces in accordance with the purposes established in this Resolution.

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## 74-70 - NON-PROFIT HOSPITAL STAFF DWELLINGS

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LAST AMENDED  
12/19/2017

The City Planning Commission may permit #non-profit hospital staff dwellings# in accordance with the conditions of paragraph (a) of this Section, provided that the findings of paragraph (b) are met.

- (a) The Commission may permit:
- (1) in all #Residence Districts#, or in C1, C2, C3, C4, C5, C6 or C7 Districts, #non-profit hospital staff dwellings# located on a #zoning lot#, no portion of which is located more than 1,500 feet from the non-profit or voluntary hospital and related facilities; or
  - (2) in C4-2 Districts without a letter suffix, in Community District 11 in the Borough of the Bronx, #non-profit hospital staff dwellings# on #zoning lots# located not more than 1,500 feet from the non-profit or voluntary hospital and related facilities.
- (b) To permit such #non-profit hospital staff dwellings#, the Commission shall find:
- (1) that the #bulk# of such #non-profit hospital staff dwelling# and the density of population housed on the site will not impair the essential character or the future use or development of the

surrounding area; and

- (2) that the number of #accessory# off-street parking spaces provided for such #use# will be sufficient to prevent undue congestion of #streets# by such #use#.

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

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## 74-71 - Landmark Preservation

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LAST AMENDED  
11/25/1997

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### 74-711 - Landmark preservation in all districts

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LAST AMENDED  
2/2/2011

In all districts, for #zoning lots# containing a landmark designated by the Landmarks Preservation Commission, or for #zoning lots# with existing #buildings# located within Historic Districts designated by the Landmarks Preservation Commission, the City Planning Commission may permit modification of the #use# and #bulk# regulations, except #floor area ratio# regulations, provided that:

- (a) The following conditions are met:
  - (1) any application pursuant to this Section shall include a report from the Landmarks Preservation Commission stating that a program has been established for continuing maintenance that will result in the preservation of the subject #building# or #buildings#, and that such #use# or #bulk# modifications, or restorative work required under the continuing maintenance program, contributes to a preservation purpose;
  - (2) any application pursuant to this Section shall include a Certificate of Appropriateness, other permit, or report from the Landmarks Preservation Commission stating that such #bulk# modifications relate harmoniously to the subject landmark #building# or #buildings# in the Historic District, as applicable; and
  - (3) the maximum number of #dwelling units# shall be as set forth in Section [15-111](#) (Number of permitted dwelling units).
- (b) In order to grant a special permit, the City Planning Commission shall find that:
  - (1) such #bulk# modifications shall have minimal adverse effects on the structures or #open space# in the vicinity in terms of scale, location and access to light and air; and
  - (2) such #use# modifications shall have minimal adverse effects on the conforming #uses# within the #building# and in the surrounding area.

The Commission may prescribe appropriate additional conditions and safeguards which will enhance the character of the #development# and #buildings# on the #zoning lot#.

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## 74-712 - Developments in Historic Districts

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LAST AMENDED  
1/6/2016

Within Historic Districts designated by the Landmarks Preservation Commission, the City Planning Commission may grant a special permit, in accordance with the following provisions:

- (a) In M1-5B Districts, on a #zoning lot# that, as of December 15, 2003, is vacant, is #land with minor improvements#, or has not more than 40 percent of the #lot area# occupied by existing #buildings#, the Commission may modify #use# regulations to permit #residential# #development# and, below the floor level of the second #story# of any #development#, #uses# permitted under Section [32-15](#) (Use Group 6), provided:
  - (1) the #use# modifications shall meet the following conditions, that:
    - (i) #residential# #development# complies with the requirements of Sections [23-47](#) (Minimum Required Rear Yards) and [23-86](#) (Minimum Distance Between Legally Required Windows and Walls or Lot Lines) pertaining to R8 Districts;
    - (ii) total #floor area ratio# on the #zoning lot# shall be limited to 5.0;
    - (iii) the minimum #floor area# of each #dwelling unit# permitted by this Section shall be 1,200 square feet;
    - (iv) all #signs# for #residential# or #commercial# #uses# permitted by this Section shall conform to the applicable regulations of Section [32-60](#) (SIGN REGULATIONS) pertaining to C2 Districts; and
    - (v) eating and drinking establishments of any size, as set forth in Use Groups 6A and 12A, are not permitted; and
  - (2) the Commission shall find that such #use# modifications:
    - (i) have minimal adverse effects on the conforming #uses# in the surrounding area;
    - (ii) are compatible with the character of the surrounding area; and
    - (iii) for modifications that permit #residential use#, result in a #development# that is compatible with the scale of the surrounding area.
- (b) In all districts, the Commission may modify #bulk# regulations, except #floor area ratio# regulations, for any #development# on a #zoning lot# that is vacant or is #land with minor improvements#, and in M1-5B Districts, the Commission may make such modifications for #zoning lots# where not more than 40 percent of the #lot area# is occupied by existing #buildings# as of December 15, 2003, provided the Commission finds that such #bulk# modifications:
  - (1) shall not adversely affect structures or #open space# in the vicinity in terms of scale, location and access to light and air; and
  - (2) relate harmoniously to #buildings# in the Historic District as evidenced by a Certificate of Appropriateness or other permit from the Landmarks Preservation Commission.

The City Planning Commission may prescribe appropriate additional conditions and safeguards in order to enhance the character of the #development# and to minimize adverse effects on the character of the surrounding area.

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## 74-72 - Bulk Modification

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LAST AMENDED

## 74-721 - Height and setback and yard regulations

LAST AMENDED  
8/8/2018

- (a) In C4-7, C5-2, C5-3, C5-4, C6-1A, C6-4, C6-5, C6-6, C6-7 or M1-6 Districts, the City Planning Commission may permit modification of the height and setback regulations, including tower coverage controls, for #developments# or #enlargements# located on a #zoning lot# having a minimum #lot area# of 40,000 square feet or occupying an entire #block#.

In C5-3, C6-6 and C6-7 Districts on such #zoning lots#, and in C6-4 Districts as set forth in paragraph (e) of this Section, the Commission also may modify #yard# and court regulations, and regulations governing the minimum required distance between #buildings# and/or the minimum required distance between #legally required windows# and walls or #lot lines#, provided that the Commission finds 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, adjacent #streets# and surrounding development; and
- (3) provide adequate light and air for #buildings# on the #zoning lot# and neither impair access to light and air to #legally required windows# in adjacent #buildings# nor adversely affect adjacent #zoning lots# by unduly restricting access to light and air to surrounding #streets# and properties.

As a condition of this special permit, if any open area extending along a #side lot line# is provided at any level, such open area shall be at least eight feet in width.

- (b) In a C6-4 District, the Commission may modify the supplementary #use# regulations of Section [32-422](#) (Location of floors occupied by commercial uses) for #developments# or #enlargements# on #zoning lots# occupying an entire #block# with a base #commercial# #floor area ratio# of 10.0, provided the following conditions are met:

- (1) that the non-#residential uses# are located in a portion of a #mixed building# that has separate access to the #street# with no openings of any kind to the #residential# portion of the #building# at any #story#; and
- (2) that the non-#residential uses# are not located above the lowest #story# containing #dwelling units# unless the #residential# and non-#residential# portions are separated in accordance with the provisions of Section [23-82](#) (Building Walls Regulated by Minimum Spacing Requirements).

- (c) In C5-3, C6-6 and C6-7 Districts, the Commission may modify height and setback and #yard# regulations, including tower coverage controls for #developments# or #enlargements# located on a #zoning lot# having an area less than 40,000 square feet, that occupies an entire #block# front on a #wide street#, subject to the following conditions:

- (1) where #buildings# or portions thereof penetrate the established #sky exposure plane#, the aggregate area occupied by such #buildings# or portions thereof at such elevation shall not exceed:
  - (i) 55 percent of the area of such #zoning lot#; or
  - (ii) an equivalent of 55 percent of the aggregate area of such #zoning lot# and any adjoining #zoning lots# with a common #lot line# for at least 90 feet with negative easements limiting height of existing and future #developments# on the adjoining #zoning lots# by recorded deed or other written instruments;
- (2) that the #development# or #enlargement# includes on-site amenities, such as #arcades#, #through block arcades# or #covered pedestrian spaces# where the size and dimensions of such spaces are substantially greater than the required minimum standards, and includes skylights or other provisions for additional access of direct natural light so as to provide for an increased penetration of light and air therein at the #street# level of the #development# or #enlargement#, or a transit station improvement that results in a direct major connection to a subway station.
- (3) In lieu of condition (c)(2), the #development# or #enlargement# may provide, in the same or an adjoining #block# of such #development# or #enlargement#, compensatory "off-site public open space." For the purposes of this paragraph, (c)(3), the term "adjoining block" shall mean a #block# that is contiguous to the #block# containing the #development# or #enlargement# but for its separation by a #street# or #street# intersection. The area of such off-site public open space shall be at least 4,000 square feet, or 15 percent of the #lot area# of a #zoning lot# containing the #development# or #enlargement#, whichever is more, and a width of at least 40 feet at any point.

Such public open areas shall have a southern exposure, and adjoin a public sidewalk and be #developed# pursuant to the provisions of Section [37-70](#) (PUBLIC PLAZAS). A plan for the development and maintenance of such off-site public space shall be approved by the Commission. The off-site public area shall be kept open to the general public in accordance with a time schedule specified by the Commission. In no event shall such off-site public open space be eligible for #floor area# or bonus computation in connection with this or any other #development# or #enlargement#.

For such #developments# or #enlargements#, the Commission may also modify the applicable regulations of Sections [32-51](#) (Limitations on Business Entrances, Show Windows or Signs) and [36-683](#) (Restrictions on location of berths near Residence Districts) where adjoining frontage within a distance of 75 feet on the same side of the #street# is occupied by a #community facility# or ground floor #commercial# #use#, provided that such modification is part of an overall design for #show windows#, signage and entrances or off-street loading berths developed in conjunction with a public amenity such as a #public plaza#, #through block arcade# or #covered pedestrian space#, and will not alter the essential character of the immediate neighborhood.

In the case of existing #buildings# containing #residences# to remain temporarily on such #zoning lot#, the provisions of Sections [23-70](#) (MINIMUM REQUIRED DISTANCE BETWEEN TWO OR MORE BUILDINGS ON A SINGLE ZONING LOT) and [23-80](#) (COURT REGULATIONS, MINIMUM DISTANCE BETWEEN WINDOWS AND WALLS OR LOT LINES AND OPEN AREA REQUIREMENTS) may be modified provided that each and every one of the following conditions are met:

- (i) that such existing #buildings# with unexpired leasehold interests are located upon such #zoning lot#;
- (ii) that the portions of the #zoning lot# where such existing #buildings# are located and are to be demolished shall be redeveloped according to the approved site plan;
- (iii) that no temporary or final certificate of occupancy shall be issued for that portion of #floor area# in the #development# or #enlargement# equal to twice the #floor area# in the temporary existing #buildings# until such #buildings# are vacated, demolished and their sites are redeveloped in accordance with the approved project plan, except that where the Commission shall have determined that the applicant for a special permit has made an offer to purchase the leasehold interests from the lessees at a fair market value of the remainder of the lease term, the Commission may decrease the amount of #floor area# for which no certificate of occupancy may be issued; and
- (iv) that the #development# or #enlargement# conform with all the applicable laws relating to construction, operation and maintenance.

The owner of the #zoning lot# shall have prominently displayed thereon a sign stating the date by which the #buildings# are to be demolished.

- (4) As a further condition for the issuance of a permit under this paragraph (c), the owner of the #zoning lot# upon which #developments# or #enlargements# are to take place, must post a bond or other security payable to the City of New York and approved by the Corporation Counsel as to form, sufficient in amount as determined by the Commission to cover the cost of demolishing the existing #buildings# should the owner fail to so demolish within the prescribed time set forth in the approved project plan, and ensure that all #floor area# which is to be vacant in the #development# shall remain unfinished and vacant.

The bonds or other securities shall be payable to the City of New York if any of the above conditions are violated.

The Commission must find, with each grant for a special permit under this paragraph, (c), that the #development# or #enlargement#:

- (i) shall result in improved circulation; and
- (ii) would eliminate the undesirable pre-emption of ground level space by private #buildings or other structures#.

In making these findings, the Commission may consider the provision of improved connections to rapid transit facilities, where applicable.

The site plan accompanying each application for a grant of special permit under this paragraph (c), shall include a schedule indicating the timetable of demolition of all existing #buildings# and the schedule of #development# or #enlargement# and other improvements on the #zoning lot#.

In addition to the conditions in paragraphs (c)(1), (c)(2), (c)(3) and (c)(4) of this Section, the Commission shall find that the modification of height and setback will provide a better distribution of #bulk# on the #zoning lot# and will not adversely affect other adjacent #zoning lots# by unduly restricting access to light and air to surrounding public spaces, #streets# and properties.

- (d) Notwithstanding any other provisions of the Zoning Resolution, where a #development# shares a #lot line# with a landmark #building# site for an aggregate distance of at least 90 feet, or contains a historically significant #streets# that has been demapped and an archeologically significant site, both of which have been identified by the Landmarks Preservation Commission, the Commission may permit modification of the height and setback and #yard# regulations regardless of the lot size, provided that the following findings are made:
  - (1) there is a harmonious architectural relationship between the landmark and the new structure, and such relationship is approved by the Landmarks Preservation Commission or, in the case of a #development# which contains a historically significant #street# that has been demapped and an archeologically significant site, there is a visual recognition of the location of the demapped #street# and of the archeologically significant site created by a design treatment that has been approved by both the Landmarks Preservation Commission and the City Planning Commission and, if such #development# is located within 200 feet of a historic district, there is a harmonious relationship between the proposed #development# and the historic district; and
  - (2) pedestrian amenities are contained in the new structure including, where appropriate, retail stores and substantial pedestrian space at the principal levels of circulation, such as wider sidewalks, #arcades#, #covered pedestrian space#, subsurface concourses and convenient subway connections.
- (e) The City Planning Commission may also permit modification of all #bulk# regulations as set forth in paragraph (a) of this Section on #zoning lots# with a minimum #lot area# of 30,000 square feet, where such #zoning lot# is located in a C6-4 District in Manhattan Community District 3, has frontage on a #wide street# and existed on August 8, 2018.

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### 74-73 - Sewage Disposal Plants and Pumping Stations

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LAST AMENDED  
7/23/1970

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#### 74-731 - Private sewage disposal plants

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LAST AMENDED  
2/2/2011

In all #Residence Districts#, #Commercial Districts# and M1 and M2 Districts, the City Planning Commission may permit sewage disposal plants provided that such #use# will serve the commercial or residential area within which, or adjacent to which, it is to be located; that in the case of a residential area, such area contains more than 50 #dwelling units#; and that there are serious difficulties in locating it in a district where it is permitted as-of-right from which it could serve the residential area or commercial area. In addition, the Commission shall refer such application to the Department of Health and the Department of Environmental Protection for a report.

The Commission may prescribe appropriate conditions or safeguards to minimize adverse effects on the character of the surrounding area including safety devices and the concealment of such #use# with fences, buffer zones, barriers or other screening devices, and landscaping.

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#### 74-732 - Private sewage pumping stations and sewage disposal plants

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LAST AMENDED  
2/2/2011

In all #Residence Districts#, the City Planning Commission may permit sanitary or storm water sewage pumping stations and sewage disposal plants, provided that such use will serve a #development# which contains more than 15 #dwelling units#; and that there are serious difficulties in locating it in a district where it is permitted as-of-right from which it could serve the residential area. In addition, the Commission shall refer such application to the Department of Health and the Department of Environmental Resources for a report. The Commission may review the scope and impact of the proposal on public facilities and may, in addition, prescribe appropriate conditions or safeguards without dictating the architectural design of individual #buildings# in order to minimize adverse effects on the surrounding area.

As a condition of granting a special permit for a sewage pumping station or a sewage disposal plant, the Commission shall find:

- (a) in the case of sewage pumping stations, the sewers and treatment plants to which the flow is to be pumped will be adequate to accommodate anticipated future development in the area to be served by these facilities;
- (b) in the case of sewage disposal plants serving a residential area, the related #development# is arranged in such a way as best to serve active and passive recreation needs; protect and preserve scenic assets and natural features such as trees, streams and topographic features; and provide suitable variations in the siting of #buildings# to achieve these objectives; and
- (c) in the case of sewage disposal plants, the proposed plant will be adequate for anticipated development in the area to be served; or
- (d) in all cases, the proposal promotes and protects the public health, safety and general welfare.

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#### 74-733 - Municipal sewage disposal plants

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LAST AMENDED  
2/2/2011

In all #Residence Districts#, #Commercial Districts# and M1 and M2 Districts, the City Planning Commission may permit municipal sewage disposal plants, provided that there are serious difficulties in locating it in a district where it is permitted as-of-right. The Commission may prescribe appropriate conditions or safeguards to minimize adverse effects on the character of the surrounding area including

safety devices and the concealment of such #use# with fences, buffer zones, barriers or other screening devices and landscaping.

As a condition of granting a special permit for a municipal sewage disposal plant, the Commission shall find:

- (a) the proposed plant will be adequate for anticipated development in the area to be served; and
- (b) that the proposal promotes and protects the public health, safety and general welfare.

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#### **74-734 - Municipal sewage pumping stations**

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LAST AMENDED  
2/2/2011

In all #Residence Districts#, the City Planning Commission may permit municipal sewage pumping stations provided that there are serious difficulties in locating it in a district where it is permitted as-of-right. The Commission may prescribe appropriate conditions or safeguards to minimize adverse effects on the character of the surrounding area including safety devices and the concealment of such #use# with fences, buffer zones, barriers or other screening devices and landscaping.

As a condition of granting a special permit for a municipal sewage pumping station, the Commission shall find:

- (a) that the proposal promotes and protects the public health, safety and general welfare; and
- (b) the sewers and treatment plants to which the flow is to be pumped will be adequate to accommodate anticipated future development in the area to be served by these facilities.

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#### **74-74 - Large-scale General Development**

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LAST AMENDED  
2/2/2011

For #large-scale general developments# involving several #zoning lots# but planned as a unit, the district regulations may impose unnecessary rigidities and thereby prevent achievement of the best possible site plan within the overall density and #bulk# controls. The regulations of this Section are designed to allow greater flexibility for the purpose of securing better site planning, while safeguarding the present or future use and development of the surrounding area.

No portion of a #large-scale general development# shall contain:

- (a) any #use# not permitted by the applicable district regulations for such portion, except as otherwise provided in Section [74-744](#) (Modification of use regulations). When an existing #building# in a #large-scale general development# is occupied by a #non-conforming use#, any #enlargement# of such existing #building# shall be subject to the requirements set forth in Section [52-00](#) (DEFINITIONS AND GENERAL PROVISIONS);
- (b) any #zoning lot#, or portion thereof, that is part of a #large-scale residential development# or #large-scale community facility development#.

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#### **74-741 - Requirements for application**

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LAST AMENDED  
8/13/2015

An application to the City Planning Commission for the grant of a special permit pursuant to Section [74-74](#) for a #large-scale general development# shall include a site plan showing the boundaries of the #large-scale general development# and the proposed location and #use# of all #buildings or other structures# on each #zoning lot# comprising the #large-scale general development#.

However, for applications proceeding pursuant to the ownership provisions of paragraph (c) of Section [74-742](#), such site plan need only show the applicable portion of the #large-scale general development# as set forth in paragraph (e)(1) or (e)(2) of Section [74-742](#).

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#### **74-742 - Ownership**

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LAST AMENDED  
12/15/2021

Except as otherwise provided in this Section, any #large-scale general development# for which application is made for a special permit in accordance with the provisions of Section [74-74](#) (Large-scale General Development) shall be on a tract of land which at the time of application is all under the control of the applicant(s) as the owner(s) or holder(s) of a written option to purchase. No special permit shall be granted unless the applicant(s) acquired actual ownership (single fee ownership or alternate ownership arrangements according to the #zoning lot# definition in Section [12-10](#) (DEFINITIONS)) for all #zoning lots# comprising the #large-scale general development# of, or executed a binding sales contract for, all of the property comprising such tract.

When a #large-scale general development# is located within a designated urban renewal area, the City's urban renewal agency, or a person authorized by such agency, may apply for and be granted a special permit under the provisions of Section [74-74](#) even though such #large-scale general development# does not meet the ownership requirements set forth elsewhere in this Section. All parcels comprising such #large-scale general development# shall be within the designated urban renewal area and subject to the urban renewal controls set forth in the approved urban renewal plan.

A special permit may be applied for and granted under the provisions of Section [74-74](#), even though such #large-scale general development# does not meet the ownership requirements set forth elsewhere in this Section, when the site of such #large-scale general development# is:

- (a) to be #developed# or #enlarged# through assemblage by any other governmental agency, or its agent, having the power of condemnation; or
- (b) owned by the Federal government and is within Brooklyn Community District 2; or
- (c) partially under City ownership, within the former Washington Square Southeast Urban Renewal Area, within Community District 2 in the Borough of Manhattan, provided that the exception to the ownership requirements set forth herein shall apply only to tracts of land in City ownership; or
- (d) partially under State or City ownership, or may include a tract of land under private ownership that is located within the bed of 26th Avenue between 1st Street and the bulkhead line within the Halletts Point Peninsula, in the area bounded by 8th Street and Vernon Boulevard on the east, the East River on the west and south, and the north side of 26th Avenue on the north, in Community District 1 in the Borough of Queens, provided that the exception to the ownership requirements set forth herein shall apply only to:
  - (1) tracts of land in State or City ownership; or
  - (2) a tract of land in private ownership located within the bed of 26th Avenue, between 1st Street and the bulkhead line;
- (e) within Manhattan Community District 2, where the City Planning Commission has approved a special permit under Section [74-74](#) for a #large-scale general development# located partially within a

C2-7 District, and a portion of such #large-scale general development# is subsequently mapped as a park and transferred to City ownership, then the consent or authorization of any owner or party in interest to:

- (1) such #public park# shall not be required for any application for a modification to the special permit or associated restrictive declaration relating only to property within the #large-scale general development# other than the #public park#; and
  - (2) property other than the #public park# shall not be required for any application for a modification to the special permit or associated restrictive declaration relating only to the #public park#; or
- (f) partially under State or City ownership, and is located within the boundaries of Community District 1 in the Borough of Brooklyn, on a #waterfront zoning lot# located within a C6-2 District that is mapped within a #Mandatory Inclusionary Housing area#, provided that the exception to the ownership requirements set forth herein shall apply only to tracts of land in State or City ownership.

However, the consent or authorization of the owners and any party in interest to the other property shall be required if the proposed modification would impose an additional obligation or increase the degree of an obligation existing as of the date of the application for the modification on any such owner or any such party in interest.

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## 74-743 - Special provisions for bulk modification

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LAST AMENDED  
8/13/2015

- (a) For a #large-scale general development#, the City Planning Commission may permit:
- (1) distribution of total allowable #floor area#, #rooming units#, #dwelling units#, #lot coverage# and total required #open space# under the applicable district regulations within a #large-scale general development# without regard for #zoning lot lines# or district boundaries, subject to the following limitations:
    - (i) no distribution of #bulk# across the boundary of two districts shall be permitted for a #use# utilizing such #bulk# unless such #use# is permitted in both districts;
    - (ii) when a #large-scale general development# is located partially in a #Residence District# or in a C1, C2, C3 or C4-1 District and partially in other #Commercial# or #Manufacturing Districts#, no transfer of #commercial# #floor area# to a #Residence District# or to a C1, C2, C3 or C4-1 District from other districts shall be permitted, except that for a #large-scale general development# located partially or wholly within the former Seward Park Extension Urban Renewal Area, a transfer of #commercial# #floor area# from a C6 District to a C2 District may be permitted;
  - (2) location of #buildings# without regard for the applicable #yard#, #court#, distance between #buildings#, or height and setback regulations;
  - (3) variation in the location of primary business entrances and #show windows# along frontages adjacent to #zoning lots# outside the #large-scale general development# without regard to regulations applicable near #Residence District# boundaries;
  - (4) the maximum #floor area ratio# permitted pursuant to Section [23-151](#) (Basic regulations for R6 through R9 Districts) for the applicable district without regard for #height factor# or #open space ratio# requirements, provided that the #large-scale general development# is located partially in a C6-1, C6-2 or C6-3 District within the boundaries of Community Districts 2 or 7 in Manhattan or located within a C4-4 District within the boundaries of Queens Community District 7 and that a minimum of 50 percent of the required #open space# is provided within the #large-scale general development#. Required #open space# for the purposes of this paragraph (a)(4) shall be calculated by utilizing the smallest #open space ratio# at the maximum #floor area ratio#, pursuant to Section [23-151](#) for the applicable district;
  - (5) in an #Inclusionary Housing designated area# in a C4-6 or C5 District:
    - (i) a portion of the #lot area# that contains a wholly #commercial building# to be excluded from the calculation of #floor area# for any other #buildings# on the remainder of the #zoning lot#; or
    - (ii) #community facility# #floor area# located above the ground floor to be excluded from the calculation of the amount of #affordable housing# required pursuant to Section [23-95](#);
  - (6) modification of the requirements of Section [23-86](#) (Minimum Distance Between Legally Required Windows and Walls or Lot Lines) for #developments# or #enlargements#, where:
    - (i) the required minimum distance as set forth in Section [23-86](#) is provided between the #legally required window# in the #development# or #enlargement# and a wall or #lot line# on an #abutting# property; and
    - (ii) the required minimum distance is provided by a light and air easement acceptable to the Department of City Planning and recorded in the County Clerk's office in the county in which such tracts of land are located;
  - (7) modification of the definition of #outer court# in Section [12-10](#) (DEFINITIONS) and the provisions of Section [23-84](#) (Outer Court Regulations) to include any open area that is bounded on all sides but one by #building# walls and is not otherwise a #yard# or an #inner court#, provided that:
    - (i) such modifications are permitted only for #large-scale general developments#, previously approved by the Commission, in a C4-7 District within the boundaries of Manhattan Community District 7; and
    - (ii) the minimum distance between a #legally required window# facing onto such #outer court# and a #building# wall shall be 30 feet, measured in a horizontal plane at the sill level of, and perpendicular to, such window for the full width of the rough window opening;

- (8) in an #Inclusionary Housing designated area# in a C4-7 District within the boundaries of Manhattan Community District 7, for the purpose of applying the Inclusionary Housing Program within such #Inclusionary Housing designated area#, as set forth in a restrictive declaration:
- (i) modification of the base and maximum #floor area ratios# specified in Section [23-154](#) (Inclusionary Housing), not to exceed the maximum #floor area ratios# permitted by the underlying district, based on a proportionality between #affordable floor area#, as defined in Section [23-911](#), and #residential# #floor area# in #buildings# containing multiple #uses#; and
  - (ii) modification of the requirements regarding distribution of #affordable housing units#, as defined in Section [23-911](#), specified in paragraph (b) of Section [23-96](#) (Requirements for Generating Sites or MIH Sites);
- (9) within the boundaries of Community District 3 in the Borough of the Bronx, portions of any #building#, at any level, that contain permitted or required #accessory# off-street parking spaces, to be excluded from the calculation of #lot coverage#;
- (10) for a #large-scale general development# located partially or wholly within the former Seward Park Extension Urban Renewal Area, waiver of the planting requirements of Section [23-892](#) (In R6 through R10 Districts), provided the area between the #street line# and the #street walls# of the #building# and their prolongations is to be improved as a publicly accessible widened sidewalk;
- (11) wholly within a C1-9 District entirely within the boundaries of Community District 8 in Manhattan, for a predominantly #community facility# #development#, a #floor area# bonus not to exceed 20 percent of the maximum #floor area ratio# permitted by the underlying district regulations where, in connection with such #development#, an improvement to a #public park# located within the same Community District and within a one mile radius of the proposed #development# is provided in accordance with the provisions of this Section.
- (i) A request for such bonus #floor area# shall be accompanied by:
    - (a) a site plan for a #public park# improvement, transmitted by the Commissioner of Parks and Recreation, sufficient in detail and scope with respect to the work necessary to complete such #public park# improvement, to enable the City Planning Commission to determine the appropriate amount of bonus #floor area# to be granted to the #development#; and
    - (b) a letter from the Commissioner of Parks and Recreation stating:
      - (i) the selection of the #public park# for the #public park# improvement has been informed by community input in the form of consultation or an existing plan;
      - (ii) such #public park# improvement provides an appropriate amenity for the surrounding area; and
      - (iii) that, absent funding to be provided by the applicant, such #public park# improvement is unlikely to be made in the foreseeable future.
  - (ii) Prior to a determination as to whether to grant the special permit, the City Planning Commission shall have received from the Commissioner of Parks and Recreation:
    - (a) any revisions to the site plan for the #public park# improvement or a statement that the site plan provided in the application is unchanged; and
    - (b) a letter that shall include:
      - (i) cost estimates for the #public park# improvement; and
      - (ii) a statement that the funding to be provided by the applicant, in combination with any other available funding, is adequate for completion of the necessary infrastructure, landscape and other work necessary to complete the #public park# improvement;
- (12) within the boundaries of Community District 1 in the Borough of Queens, in the area generally north of 30th Road and west of 8th Street, within the Halletts Point Peninsula, the #floor area# distribution from a #zoning lot# containing existing public housing #buildings#, provided that upon approval of a #large-scale general development# there exists unused #floor area# on a separate parcel of land with existing light industrial #buildings# in an amount equivalent to, or in excess of, the #floor area# approved for distribution and further provided:

- (i) such parcel shall be made part of such #zoning lot# upon approval of such #large-scale general development#, pursuant to the definition of #zoning lot# in Section [12-10](#), paragraph (d); and
  - (ii) the existing light industrial #buildings# on the separate parcel of land are demolished; or
- (13) within the boundaries of Community District 1 in the Borough of Brooklyn, on a #waterfront zoning lot# located within a C6-2 District that is mapped within a #Mandatory Inclusionary Housing area#, portions of the land, #piers# or #platforms# projecting seaward of the bulkhead line and existing on December 15, 2021, may be replaced or reconstructed with #new piers# or #new platforms#, as follows:
- (i) any such existing land projecting seaward of the bulkhead line may be replaced or reconstructed with #new platforms# and such #new platforms# may be included as part of the #upland lot#. In no event shall the #lot area# generated by such #new platforms# exceed the #lot area# of the land projecting seaward of the bulkhead line, as it existed on December 15, 2021;
  - (ii) any other such #new piers# or #new platforms# may be considered #lot area# for the purposes of determining allowable #floor area# or number of #dwelling units#, or to satisfy any other #bulk# regulations, in accordance with the provisions of paragraphs (b) and (c) of Section [62-31](#) (Bulk Computations on Waterfront Zoning Lots). In no event shall the #floor area# generated by such #new piers# or #new platforms# exceed the #floor area# generated by #piers# or #platforms# projecting seaward of the bulkhead line, as they existed on December 15, 2021; and
  - (iii) any #new piers# or #new platforms# that are subject to the provisions of this paragraph (a)(13) need not meet the requirements of Sections [62-242](#) (Uses on new piers and platforms), [62-54](#) (Requirements for Public Access on Piers) or [62-63](#) (Design Requirements for Public Access on Piers and Floating Structures), inclusive.
- (b) In order to grant a special permit pursuant to this Section for any #large-scale general development#, the Commission shall find that:
- (1) the distribution of #floor area#, #open space#, #dwelling units#, #rooming units# and the location of #buildings#, primary business entrances and #show windows# will result in a better site plan and a better relationship among #buildings# and open areas to adjacent #streets#, surrounding development, adjacent open areas and shorelines than would be possible without such distribution and will thus benefit both the occupants of the #large-scale general development#, the neighborhood and the City as a whole;
  - (2) the distribution of #floor area# and location of #buildings# will not unduly increase the #bulk# of #buildings# in any one #block# or unduly obstruct access of light and air to the detriment of the occupants or users of #buildings# in the #block# or nearby #blocks# or of people using the public #streets#;
  - (3) where a #zoning lot# of a #large-scale general development# does not occupy a frontage on a mapped #street#, appropriate access to a mapped #street# is provided;
  - (4) considering the size of the proposed #large-scale general development#, the #streets# providing access to such #large-scale general development# will be adequate to handle traffic resulting therefrom;
  - (5) when the Commission has determined that the #large-scale general development# requires significant addition to existing public facilities serving the area, the applicant has submitted to the Commission a plan and timetable to provide such required additional facilities. Proposed facilities that are incorporated into the City's capital budget may be included as part of such plan and timetable;
  - (6) where the Commission permits the maximum #floor area ratio# in accordance with the provisions of paragraph (a)(4) of this Section, the #open space# provided is of sufficient size to serve the residents of new or #enlarged# #buildings#. Such #open space# shall be accessible to and usable by all residents of such new or #enlarged# #buildings#, have appropriate access, circulation, seating, lighting and paving, and be substantially landscaped. Furthermore, the site plan of such #large-scale general development# shall include superior landscaping for #open space# of the new or #enlarged# #buildings#;
  - (7) where the Commission permits the exclusion of #lot area# or #floor area# in accordance with the provisions of paragraph (a)(5) of this Section or modification of the base and maximum #floor area ratios# or requirements regarding distribution of #affordable housing units# in accordance with paragraph (a)(8) of this Section, such modification will facilitate a desirable mix of #uses# in the #large-scale general development# and a plan consistent with the objectives of the Inclusionary Housing Program and those of Section [74-74](#) (Large-scale General Development) with respect to better site planning;
  - (8) where the Commission permits portions of #buildings# containing #accessory# parking spaces to be excluded from the calculation of #lot coverage# in accordance with the provisions of paragraph (a)(9) of this Section, the exclusion of #lot coverage# will result in a better site plan and a better relationship among #buildings# and open areas than would be possible without such exclusion and therefore will benefit the residents of the #large-scale general development#;
  - (9) where the Commission permits a #floor area# bonus for a #public park# improvement in accordance with the provisions of paragraph (a)(11) of this Section:
    - (i) the amount of such bonus #floor area# is appropriate in relation to the size and quality of the proposed #public park# improvement; and
    - (ii) such bonus #floor area# will not unduly increase the #bulk# of #buildings# on the #zoning lot# or unduly obstruct access of light and air to the detriment of the occupants or users of #buildings# on the #block# or nearby #blocks# or of people using the public #streets#.

Grant of a #floor area# bonus for a #public park# improvement in accordance with the provisions of paragraph (a)(11) of this Section shall be conditioned upon adequate assurances for provision of the funding identified by the Commissioner of Parks and Recreation in a letter pursuant to paragraph (a)(11)(ii) of this Section as necessary for completion of the necessary

infrastructure, landscape and other work for the #public park# improvement. The Commissioner of Buildings shall not issue a building permit for the #large-scale general development# unless the Commissioner of Parks and Recreation shall have certified that the funding has been made or secured in a manner acceptable to such Commissioner;

- (10) a declaration with regard to ownership requirements in paragraph (b) of the #large-scale general development# definition in Section [12-10](#) (DEFINITIONS) has been filed with the Commission;
- (11) where the Commission permits #floor area# distribution from a #zoning lot# containing existing light industrial #buildings# to be demolished in accordance with the provisions of paragraph (a)(12) of this Section, such #floor area# distribution shall contribute to better site planning of the #waterfront public access area# and shall facilitate the #development# of affordable housing units within a #large-scale general development#; and
- (12) where #new piers# or #new platforms# are constructed, replaced or reconstructed in accordance with the provisions of paragraph (a)(13) of this Section, such #new piers# and #new platforms# are an integral part of such #large-scale general development#, result in a superior site plan and form an appropriate relationship with adjacent #waterfront public access areas# and #shoreslines#, and provide significant public access to or within the #seaward lot# portion of the #waterfront zoning lot#.

Within Manhattan Community District 2, within the former Washington Square Southeast Urban Renewal Area, where the Commission has approved a #large-scale general development# and a #lot line# of such #large-scale general development# coincides with the boundary of a mapped #public park#, such #lot line# shall be considered to be a #street line# of a #wide street# for the purposes of applying all #use# and #bulk# regulations of this Resolution.

In addition, within Manhattan Community District 2, where the Commission has approved a #large-scale general development# located partially within a C2-7 District, if any #open space# approved pursuant to paragraph (a)(4) of Section [74-743](#) is subsequently mapped as a park and transferred to City ownership, the #open space# requirement approved for such #large-scale general development# pursuant to paragraph (a)(4) of Section [74-743](#) shall be reduced by the area of such #public park#.

Within Community District 1 in the Borough of Queens, the Commission may prescribe additional conditions to ensure that the purpose of the Inclusionary Housing program as set forth in Section [23-92](#) (General Provisions) is achieved in a #large-scale general development#. The Commission may establish procedures resulting in limiting the amount of #affordable floor area# utilizing #public funding# that may count toward satisfying the #affordable floor area# required in paragraph (c)(2) of Section [23-154](#). Any such procedures established by the Commission shall be set forth in the restrictive declaration required in connection with the grant of a special permit for such #large-scale general development#.

For a phased construction program of a multi-#building# complex, the Commission may, at the time of granting a special permit, require additional information, including but not limited to a proposed time schedule for carrying out the proposed #large-scale general development#, a phasing plan showing the distribution of #bulk# and #open space# and, in the case of a site plan providing for common #open space#, common open areas or common parking areas, a maintenance plan for such space or areas and surety for continued availability of such space or areas to the people they are intended to serve.

The Commission may prescribe additional conditions and safeguards to improve the quality of the #large-scale general development# and to minimize adverse effects on the character of the surrounding area.

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## 74-744 - Modification of use regulations

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LAST AMENDED  
10/11/2012

(a) #Use# modifications

(1) Waterfront and related #commercial# #uses#

In a C4 District, the City Planning Commission may modify applicable district regulations to allow certain boating and related #uses# listed in Use Group 14A, not otherwise allowed in such district, provided the Commission shall find that:

- (i) the #uses# are appropriate for the location and blend harmoniously with the rest of the #large-scale general development#; and
- (ii) the #streets# providing access to such #uses# will be adequate to handle the traffic generated thereby.

(2) Automotive sales and service #uses#

For #large-scale general developments#, previously approved by the Commission, in a C4-7 District within the boundaries of Manhattan Community District 7, Commission may modify applicable district regulations to allow automotive sales and service establishments that include repair services and preparation for delivery, provided the Commission shall find that:

- (i) the portion of the establishment used for the servicing and preparation of automobiles is located entirely in a #cellar# level and below grade or established #curb level#, and the ground floor level of such establishment is used only for showrooms and sales;
- (ii) sufficient indoor space for storage of vehicles for sale or service has been provided; and
- (iii) such #use# will not create or contribute to serious traffic congestion and will not unduly inhibit surface traffic or adversely affect pedestrian movement.

(3) Retail establishments

For a #large-scale general development# located partially or wholly within the former Seward Park Extension Urban Renewal Area, the Commission may modify applicable district regulations to allow Use Groups 10, 11A and 12A, except for arenas or auditoriums, skating rinks, public auction rooms, trade expositions and stadiums, provided the Commission finds that:

- (i) such #uses# will not impair the character of future #uses# or development of the surrounding area; and
- (ii) the #streets# providing access to such #uses# will be adequate to handle the traffic generated thereby.

(b) Location of #commercial# #uses#

For any #large-scale general development#, the Commission may permit #residential# and non-#residential uses# to be arranged within a #building# without regard for the regulations set forth in Section [32-42](#) (Location Within Buildings), provided the Commission shall find that:

- (1) the #commercial# #uses# are located in a portion of the #mixed building# that has separate access to the outside with no opening of any kind to the #residential# portion of the #building# at any #story#;

- (2) the #commercial# #uses# are not located directly over any #story# containing #dwelling units#; and
  - (3) the modifications shall not have any adverse effect on the #uses# located within the #building#.
- (c) Modifications of #sign# regulations
- (1) In all #Commercial# or #Manufacturing Districts#, the Commission may, for #developments# or #enlargements# subject to the provisions of paragraphs (a)(1), (a)(2) or (a)(3) of Section [74-743](#) (Special provisions for bulk modification), permit the modification of the applicable provisions of Sections [32-64](#) (Surface Area and Illumination Provisions), [32-65](#) (Permitted Projection or Height of Signs), [32-66](#) (Additional Regulations for Signs Near Certain Parks and Designated Arterial Highways), [42-53](#) (Surface Area and Illumination Provisions), [42-54](#) (Permitted Projection or Height of Signs), [42-55](#) (Additional Regulations for Signs Near Certain Parks and Designated Arterial Highways) and the limitations on the location of #signs# in Sections [32-51](#) and [42-44](#) (Limitations on Business Entrances, Show Windows or Signs), provided the Commission finds that such modification will result in a better site plan.
  - (2) For a #large-scale general development# located partially or wholly within the former Seward Park Extension Urban Renewal Area, the Commission, by authorization, may make the #sign# regulations of a C6-1 District applicable to those portions of such #large-scale general development# within a C2 District, and in addition, may modify the provisions of Section [32-68](#) (Permitted Signs on Residential or Mixed Buildings) to allow #signs# #accessory# to non-#residential uses# above the level of the finished floor of the third #story#, provided such #signs# do not exceed a height of 40 feet above #curb level#. In order to grant such authorizations, the Commission shall find that such modifications are consistent with the amount, type and location of #commercial# #uses# that the Commission finds appropriate within such #large-scale general development#.

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

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## 74-745 - Modifications of parking and loading regulations

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LAST AMENDED  
11/22/2022

For a #large-scale general development# the City Planning Commission may permit:

(a) Modification of location requirements

When a #large-scale general development# includes two or more #zoning lots#, the Commission may permit required or permitted #accessory# off-street parking spaces, bicycle parking spaces or loading berths to be located anywhere within a #large-scale general development# without regard for #zoning lot# #lines#, provided that the Commission shall find:

- (1) such off-street parking spaces, bicycle parking spaces and loading berths will be conveniently located in relation to the #use# to which such spaces or berths are #accessory#;
- (2) such location of off-street parking spaces, bicycle parking spaces and loading berths will result in a better site plan; and
- (3) such location of off-street parking spaces, bicycle parking spaces and loading berths will not unduly increase the number of spaces in any single #block#, draw excessive traffic through local #streets#, or otherwise adversely affect traffic conditions in the surrounding area.

Whenever required off-street parking spaces, bicycle parking spaces and loading berths are permitted to be located without regard for #zoning# #lot lines# in accordance with the provisions of this Section, the number of spaces required for each #building# shall be kept available for such #building# throughout its life.

(b) Waiver or reduction of loading berth requirements

For #zoning lots# in a #large-scale general development#, located either within a #Special Mixed Use District# in Community District 2 in the Borough of The Bronx, or within a waterfront area pursuant to paragraph (b) of Section [62-132](#), in Community District 1 in the Borough of Brooklyn, where such #zoning lots# in the waterfront area contain one or more retail or service #uses# listed in Use Group 6A, 6C, 7B, 8B, 9A, 10A, 12B, 14A or 16A, and where no single such establishment in the waterfront area exceeds 8,500 square feet in #floor area#, or for #zoning lots# located in #large-scale general developments# within #Special Mixed Use District# 24 in Community District 1 in the Borough of Queens, the Commission may waive or reduce the number of required loading berths, provided that:

- (1) curbside deliveries will not create or contribute to serious traffic congestion or unduly inhibit vehicular or pedestrian movement and will not interfere with the efficient functioning of nearby #uses#;
- (2) an efficient goods receiving system will be implemented within the #commercial# establishment to expedite the movement of goods from the curb to areas within the establishment;
- (3) such modification allows for a better relationship between the #street walls# of the #building# containing such establishment and the adjacent sidewalk and surrounding area; and
- (4) such modification will not impair or adversely affect the development of the surrounding area.

(c) Reduction of parking requirements

For #buildings# on #zoning lots# in a #large-scale general development#, within R7-2 Districts in Community District 1 in the Borough of the Bronx, that contain an #affordable independent residence for seniors#, the Commission may waive or reduce the number of required #accessory# off-street parking spaces, including any spaces previously required for an existing #building#, provided that the Commission finds that:

- (1) the anticipated automobile ownership patterns for residents of such #affordable independent residence for seniors# are minimal and that such waiver or reduction is warranted;

(2) such waiver or reduction of parking spaces will not have undue adverse impacts on the residents, businesses or community facilities in the surrounding area; and

(3) such waiver or reduction of parking spaces will result in a better site plan with better quality open areas.

In determining the amount of parking spaces to waive or reduce, the Commission may take into account current automobile ownership patterns for an existing #affordable independent residence for seniors# on the #zoning lot#, as applicable.

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

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## 74-746 - Special provisions for development or enlargement over streets

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LAST AMENDED

2/2/2011

Within a #large-scale general development#, when the volume above a #street#, or portion thereof, has been eliminated, discontinued and closed, the City Planning Commission may permit such volume to be considered part of an adjoining #zoning lot# and may allow, within such volume, a #development# or #enlargement# that is part of a #building# or #buildings# in the #large-scale general development#. In no event shall such volume contribute to the amount of #lot area# counted for the purposes of qualifying as a #large-scale general development# or generating any #floor area#.

(a) The following conditions must be met for the #development# or #enlargement# to be permitted in such volume:

- (1) a satisfactory ventilation plan consistent with the requirements of New York City's Departments of Transportation and Environmental Protection is provided for the #street# below the volume;
- (2) an illumination of at least five foot candles at the #curb level# is provided for the #street# below the volume; and

(b) In order to grant the special permit, the Commission shall find that the #development# or #enlargement# in such volume:

- (1) is functionally necessary or will improve the internal circulation within the #large-scale general development#, or will improve vehicular or pedestrian circulation on adjacent #streets#;
- (2) will not adversely impact the continued use of the #street#;
- (3) will not have an adverse impact on the essential character or future use or development of the adjacent area; and
- (4) will not unduly obstruct any significant scenic view.

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

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## 74-747 - Previously granted special permits

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LAST AMENDED

2/2/2011

Any #development# or #enlargement# granted a special permit by the City Planning Commission under previous Section [74-74](#) (Commercial Development Extending into More than One Block) prior to February 22, 1990, may be started or continued pursuant to that special permit.

The Commission may administratively, upon application, allow modifications of the special permit granted under previous Section [74-74](#) (Commercial Development Extending into More than One Block) before February 22, 1990.

In no event may the Commission grant a modification of a special permit approved prior to February 22, 1990, that would require additional #bulk# distribution among #zoning lots# or modification of the height and #lot coverage# limitations previously established. Any modifications exceeding the limitations set forth herein shall be subject to the provisions of the new Section [74-74](#) (Large-scale General Development).

No existing #publicly accessible open area# or other public amenity for which a #floor area# bonus or any increase in tower coverage above 40 percent of the #lot area# of the #zoning lot# has been received under previous Section [74-74](#) (Commercial Development Extending into More than One Block) prior to February 22, 1990, shall be eliminated or reduced in size except by special permit of the Commission pursuant to a finding that a proposed change will provide a greater public benefit in the light of the public amenity's purpose.

Any #sign# shown on a site plan incorporated as part of a special permit of the Commission under the provisions of Section [74-74](#) (Large-scale General Development) prior to February 27, 2001, may be erected and maintained in accordance with such special permit.

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## 74-75 - Educational Construction Fund Projects

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LAST AMENDED

8/24/2017

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### 74-751 - Educational Construction Fund in certain districts

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LAST AMENDED<sup>9/26/2018</sup>

In R5, R6, R7, R8, R9 or R10 Districts, in C1 or C2 Districts mapped within such #Residence Districts#, or in C1-6, C1-7, C1-8, C1-9, C2-6, C2-7, C2-8, C4, C5, C6 or C7 Districts, for combined #school# and #residences# including air rights over #schools# built on a #zoning lot# owned by the New York City Educational Construction Fund, the City Planning Commission may permit utilization of air rights; modify the requirements that open area be accessible to and usable by all persons occupying a #dwelling unit# or #rooming unit# on the #zoning lot# in order to qualify as #open space#; permit ownership, control of access and maintenance of portions of the #open space# to be vested in the New York City Educational Construction Fund or City agency successor in title; permit modification of #yard# regulations and height and setback regulations; permit the distribution of #lot coverage# without regard for #zoning# #lot lines# for a #zoning lot# containing the Co-op Tech High School in Manhattan Community District 11; authorize the total #floor area#, #open space#, #dwelling units# or #rooming units# permitted by the applicable district regulations on such site to be distributed without regard for district boundaries; and authorize an increase of 25 percent in the number of #dwelling units# or #rooming units# permissible under the applicable district regulations. For the purposes of this Section, a #zoning lot# owned by the New York City Educational Construction Fund may also include a tract of land under single fee ownership or alternate ownership arrangements according to the #zoning lot# definition in Section [12-10](#), when such tract of land includes a parcel which was the site of a public school listed in the following table.

School	Community District
P.S. 151	CD 8, Manhattan

The total number of #dwelling units# or #rooming units# and #residential# #floor area# shall not exceed that permissible for a #residential# #building# on the same #zoning lot#.

The distribution of #bulk# on the #zoning lot# shall permit adequate access of light and air to the surrounding #streets# and properties.

As further conditions for such modifications:

- (a) the #school# and the #residence# shall be #developed# as a unit in accordance with a plan approved by the Commission;
- (b) at least 25 percent of the total #open space# required by the applicable district regulations, or such greater percentage as may be determined by the Commission to be the appropriate minimum percentage, shall be accessible exclusively to the occupants of such #residence# and under the direct control of its management;
- (c) notwithstanding the provisions of Section 23-12 (Permitted Obstructions in Open Space), none of the required #open space# shall include driveways, private streets, open #accessory# off-street parking spaces or open #accessory# off-street loading berths; and
- (d) the Commission shall find that:
  - (1) a substantial portion of the #open space# which is not accessible exclusively to the occupants of such #residence# will be accessible and usable by them on satisfactory terms part-time;
  - (2) playgrounds, if any, provided in conjunction with the #school# will be so designed and sited in relation to the #residence# as to minimize any adverse effects of noise; and
  - (3) all #open space# will be arranged in such a way as to minimize friction among those using #open space# of the #buildings or other structures# on the #zoning lot#.

The Commission shall give due consideration to the landscape design of the #open space# areas. The Commission shall also give due consideration to the relationship of the #development# to the #open space# needs of the surrounding area and may require the provision of a greater amount of total #open space# than the minimum amount required by the applicable district regulation where appropriate for the purpose of achieving the #open space# objectives of the #Residence District# regulations.

The Commission may prescribe other appropriate conditions and safeguards to enhance the character of the surrounding area.

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#### 74-752 - Educational Construction Fund projects in certain areas

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LAST AMENDED 9/26/2018

In C6-9 Districts within the #Special Downtown Brooklyn District#, for #developments#, #enlargements# or #conversions# that include one or more #schools# on a tract of land owned by the New York City Educational Construction Fund, the City Planning Commission may permit the modifications set forth in paragraph (a) of this Section. For the purposes of this Section, a tract of land owned by the New York City Educational Construction Fund may also include a tract of land under single fee ownership or alternate ownership arrangements according to the #zoning lot# definition in Section 12-10, when such tract of land includes a parcel which was the site of a public school.

(a) Modifications

The Commission may modify:

- (a) applicable ground floor #use# regulations;
- (a) in a #Mandatory Inclusionary Housing area#, the affordable housing requirements of paragraph (d) of Section 23-154 (Inclusionary Housing);
- (a) other #bulk# regulations, except that the maximum permitted #floor area ratio# may not be increased; and
- (a) #accessory# off-street parking and loading berth requirements.

(b) Findings

To grant a special permit pursuant to this Section, the Commission shall find that:

- (1) such modifications will facilitate the construction of one or more #schools# on the #zoning lot#;
- (2) such ground floor #use# modifications will improve the layout and design of the #school# or #schools#, shall not have an adverse effect on the #uses# located within any portion of the #zoning lot# and will not impair the essential character of the surrounding area;
- (3) such modifications to the affordable housing requirements in a #Mandatory Inclusionary Housing area# will facilitate significant public infrastructure or public facilities, including one or more #schools#, addressing needs that are not created by the proposed #development#, #enlargement# or #conversion#;
- (4) such #bulk# modifications will result in a better site plan for the #school# or #schools# and will have minimal adverse effects on the surrounding area;
- (5) such parking and loading modifications will improve the layout and design of the school and will not create serious traffic congestion or unduly inhibit vehicular or pedestrian movement and will not impair or adversely affect the development of the surrounding area.

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

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#### 74-76 - Plazas

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LAST AMENDED  
6/21/1973

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#### 74-761 - Elimination or reduction in size of bonused public amenities

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LAST AMENDED  
10/17/2007

In all districts, the City Planning Commission may, by special permit, allow the elimination or reduction in size of any existing #publicly accessible open area#, #arcade# or other public amenity, open or

enclosed, for which a #floor area# bonus has been utilized, provided that such reduction or elimination shall not create a #floor area# #non-compliance# on the #zoning lot#.

In granting such special permit, the Commission shall find that:

- (a) such elimination or reduction is adequately compensated by the substitution of another public amenity or improvement on the #zoning lot# that shall provide equal or increased public benefit; and
- (b) for #publicly accessible open areas# any remaining bonused open area will comply to the maximum extent feasible with the standards of #public plazas# as set forth in Section [37-70](#).

However, the Commission may waive the provisions of paragraph (b) of this Section if it finds that such standards for #public plazas# would compromise the design integrity of the #publicly accessible open area# or would result in the loss of significant design elements or character that are integral components of the #publicly accessible open area's# design.

The Commission may prescribe additional conditions to enhance the relationship of public open areas, #buildings# or other amenities on the #zoning lot#, to the surrounding areas.

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## 74-77 - Artists' Centers

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LAST AMENDED  
8/12/1969

In C6-1, C6-2, C6-3 or C6-4 Districts, for alterations or additions to existing #buildings#, to be occupied as living and working quarters by #artists# engaged in the visual or performing arts, with or without related community studio space, the City Planning Commission may permit #residential# and non-#residential uses# to be arranged within the #building# without regard for the regulations set forth in Section [32-42](#) (Location Within Buildings). For alterations of such #buildings# but not for additions, the Commission may permit modifications of the regulations set forth in Sections [23-81](#) to [23-87](#), inclusive, relating to Court Regulations and Minimum Distance between Windows or Walls or Lot Lines and may permit modification of the requirements set forth in Sections [23-40](#) to [23-47](#), inclusive, relating to #rear# and #side yard# regulations.

As a condition precedent to the grant of such special permit, the Commission shall make the following findings:

- (a) that the location, design and construction of such #building# particularly suit it to use as an #artists' center#, and that full realization of these advantages requires modification of the regulations controlling arrangement of #residential# and non-#residential uses# within the #building#, or modification of the #court# regulations or the required distance between #legally required windows# and existing walls or #lot lines#, or modification of the #rear# and #side yard# requirements; and
- (b) that an organization has been established for assuring that the #dwelling units# will be occupied by persons who qualify as #artists#.

For the purposes of this Section, non-#commercial# studio space for use in common by artists residing in the #building# may be classified as a #community facility use#.

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## 74-78 - Conversions of Non-residential Floor Area

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LAST AMENDED  
2/2/2011

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### 74-781 - Modifications by special permit of the City Planning Commission of uses in M1-5B Districts

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LAST AMENDED  
2/2/2011

In M1-5B Districts, the City Planning Commission may, after public notice and hearing and subject to Board of Estimate approval, permit modification of Section [42-14](#), paragraphs D.(1)(c), D.(1)(d), D.(2)(a) or D.(2)(b), provided that the Commission finds that the owner of the space, or a predecessor in title, has made a good faith effort to rent such space to a mandated #use# at fair market rentals. Such efforts shall include but not be limited to: advertising in local and citywide press, listing the space with brokers and informing local and citywide industry groups. Such efforts shall have been actively pursued for a period of no less than six months for #buildings# under 3,600 square feet and one year for #buildings# over 3,600 square feet, prior to the date of the application for a special permit.

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### 74-782 - Residential conversion in C6-1G, C6-2G, C6-2M, C6-4M, M1-5B, M1-5M and M1-6M Districts

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LAST AMENDED  
2/2/2011

In C6-1G, C6-2G, C6-2M, C6-4M, M1-5M and M1-6M Districts, the City Planning Commission may permit modification of the requirements of Sections [15-021](#), paragraph (e), or [15-21](#), and in M1-5B Districts, the Commission may permit modification of the requirements of Section [42-14](#), paragraph D.(1)(b), provided that the Commission finds that:

- (a) the #conversion# will not harm the industrial sector of the City's economy;
- (b) the applicant for the special permit or a predecessor in title, has made a good faith effort to rent such space to a mandated #use# at fair market rentals. Such effort shall have been actively pursued for a minimum of one year immediately preceding the application. A good faith effort shall include, but not be limited to, advertising in local and citywide press, listing the space with brokers doing business in the industrial real estate market and informing local and citywide industry groups. The applicant shall provide records showing the specific efforts to rent such space;
- (c) there is sufficient alternative space to meet the needs of #commercial# and #manufacturing uses# in the area. The vacancy rate for industrial space in the area shall be one evidentiary element to prove the availability of alternative space;
- (d) City, State and Federal economic development programs, to the extent applicable, had been explored and found not suitable;
- (e) the #commercial# and industrial tenants were given the opportunity by the applicant, or predecessor in title, to remain in the spaces at fair market rentals, and the property owner or predecessor in title did not cause the vacating of the space for the additional #conversion#;
- (f) the neighborhood in which the #conversion# is taking place will not be excessively burdened by increased residential activity; and
- (g) all #dwelling units# or #joint living-work quarters for artists# permitted by this special permit meet the standards of the applicable district for such units or quarters.

If the Commission determines that #floor area# in the #building#, or portion thereof, was occupied as #dwelling units# or #joint living-work quarters for artists# on September 1, 1980, findings (b), (c), (d) and (e) of this Section shall not be required for the grant of a special permit for such #floor area#, provided that a complete application to prove occupancy as a #dwelling unit# or #joint living-work quarters for artists# is submitted to Commission by the owner of the #building# or the occupant of a #dwelling unit# or #joint living-work quarters for artists# in such #buildings# not later than June 21, 1983. In addition, the Commission must find that there is no substantial evidence that the landlord forced #commercial# or #manufacturing# tenants to vacate such #floor area# through harassment, non-renewal of leases or the charging of rents in excess of the then fair market value. Notwithstanding anything to the contrary above, the Commission shall not grant or deny a special permit pursuant to the provisions of this Section unless an application for such special permit has been submitted by the owner of the #building#.

The Commission shall request a report from the Office of Economic Development regarding information useful in making findings (a), (b), (c), (d) and (e) of this Section. Said report is to be provided within

30 days of the Commission's request.

In granting the special permit under this Section, the Commission shall require the preservation of the maximum amount of #floor area# for #commercial# or #manufacturing uses# that the Commission deems feasible.

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## 74-79 - Transfer of Development Rights From Landmark Sites

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LAST AMENDED  
2/2/2011

In all districts except R1, R2, R3, R4 or R5 Districts or C1 or C2 Districts mapped within such districts, for #developments# or #enlargements#, the City Planning Commission may permit development rights to be transferred to adjacent lots from lots occupied by landmark #buildings# or other structures#, may permit the maximum permitted #floor area# on such adjacent lot to be increased on the basis of such transfer of development rights, may permit, in the case of #developments# or #enlargements# containing #residences#, the minimum required #open space# or the density requirements to be reduced on the basis of such transfer of development rights, may permit variations in the front height and setback regulations and the regulations governing the size of required loading berths, and minor variations in #public plaza#, #arcade# and #yard# regulations, for the purpose of providing a harmonious architectural relationship between the #development# or #enlargement# and the landmark #building# or other structure#.

Where a #zoning lot# occupied by a landmark #building# or other structure# is located in a #Residence District#, the Commission may modify the applicable regulation of primary business entrances, #show windows#, #signs# and entrances and exits to #accessory# off-street loading berths on the "adjacent lot" in a #Commercial District# provided that such modifications will not adversely affect the harmonious relationship between the #building# on the "adjacent lot" and landmark #building# or other structure#.

For the purposes of this Section, the term "adjacent lot" shall mean a lot that is contiguous to the lot occupied by the landmark #building# or other structure# or one that is across a #street# and opposite the lot occupied by the landmark #building# or other structure#, or, in the case of a #corner lot#, one that fronts on the same #street# intersection as the lot occupied by the landmark #building# or other structure#. It shall also mean, in the case of lots located in C5-3, C5-5, C6-6, C6-7 or C6-9 Districts, a lot contiguous or one that is across a #street# and opposite to another lot or lots that except for the intervention of #streets# or #street# intersections, form a series extending to the lot occupied by the landmark #building# or other structure#. All such lots shall be in the same ownership (fee ownership or ownership as defined under #zoning lot# in Section 12-10).

A "landmark #building# or other structure#" shall include any structure designated as a landmark by the Landmarks Preservation Commission and the Board of Estimate pursuant to Chapter 8-A of the New York City Charter and Chapter 8-A of the New York City Administrative Code, but shall not include those portions of #zoning lots# used for cemetery purposes, statues, monuments and bridges. No transfer of development rights is permitted pursuant to this Section from those portions of #zoning lots# used for cemetery purposes, any structures within historic districts, statues, monuments or bridges.

The grant of any special permit authorizing the transfer and use of such development rights shall be in accordance with all the regulations set forth in Sections 74-791 (Requirements for application), 74-792 (Conditions and limitations) and 74-793 (Transfer instruments and notice of restrictions).

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## 74-791 - Requirements for application

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LAST AMENDED  
2/2/2011

An application to the City Planning Commission for a grant of a special permit to allow a transfer of development rights and construction based thereon shall be made by the owners of the respective #zoning lots# and shall include: a site plan of the landmark lot and the adjacent lot, including plans for all #developments# or #enlargements# on the adjacent lot; a program for the continuing maintenance of the landmark; and such other information as may be required by the City Planning Commission. The application shall be accompanied by a report from the Landmarks Preservation Commission.

A separate application shall be filed for each independent "adjacent lot" to which development rights are being transferred under this Section.

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## 74-792 - Conditions and limitations

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LAST AMENDED  
2/2/2011

- (a) For the purposes of this Section, except in C5-3, C5-5, C6-6, C6-7 or C6-9 Districts, the basic maximum allowable #floor area# for a #zoning lot# occupied by a landmark shall be the maximum #floor area# allowed by the applicable district regulations on maximum #floor area ratio# or minimum required #open space ratio# and shall not include any additional #floor area# allowed for #public plazas#, #arcades# or any other form of bonus whether by right or special permit.
- (b) The maximum amount of #floor area# that may be transferred from any #zoning lot# occupied by a landmark #building# shall be computed in the following manner:
  - (1) the maximum allowable #floor area# that could be built for #buildings# other than #community facility buildings# under existing district regulations on the same #zoning lot# if it were undeveloped;
  - (2) less the total #floor area# of all #buildings# on the landmark lot;
  - (3) the figure computed from paragraphs (a) and (b) of this Section, inclusive, shall be the maximum amount that may be transferred to any one or number of adjacent lots; and
  - (4) unutilized #floor area# may be transferred from one or any number of #zoning lots# occupied by a landmark #building# to one or any number of #zoning lots# adjacent to the landmark lot so as to increase the basic maximum allowable #floor area# that may be utilized on such adjacent #zoning lots#. For each such adjacent #zoning lot#, the increase in #floor area# allowed under the provisions of this Section shall in no event exceed the basic maximum #floor area# allowable on such adjacent #zoning lot# by more than 20 percent.
- (c) When adjacent lots are located in C5-3, C5-5, C6-6, C6-7 or C6-9 Districts and are to be #developed# or #enlarged# with #commercial buildings#, the following conditions and limitations shall apply:
  - (1) the maximum amount of #floor area# that may be transferred from any #zoning lot# occupied by a landmark #building# shall be the maximum #floor area# allowed by Section 33-12 for #commercial buildings# on said landmark #zoning lot#, as if it were undeveloped, less the total #floor area# of all existing #buildings# on the landmark #zoning lot#;
  - (2) for each such adjacent #zoning lot#, the increase in #floor area# allowed by the transfer pursuant to this Section shall be over and above the maximum #floor area# allowed by the applicable district regulations; and
  - (3) the City Planning Commission may require, where appropriate, that the design of the #development# or #enlargement# include provisions for public amenities such as, but not limited to, open public spaces, subsurface pedestrian passageways leading to public transportation facilities, #public plazas# and #arcades#.
- (d) In any and all districts, the transfer once completed shall irrevocably reduce the amount of #floor area# that can be utilized upon the lot occupied by a landmark by the amount of #floor area# transferred. In the event that the landmark's designation is removed or if the landmark #building# is destroyed, or if for any reason the landmark #building# is #enlarged# or the landmark lot is redeveloped, the lot occupied by a landmark can only be #developed# or #enlarged# up to the amount of permitted #floor area# as reduced by the transfer.
- (e) As a condition of permitting such transfers of development rights, the Commission shall make the following findings:

- (1) that the permitted transfer of #floor area# or variations in the front height and setback regulations will not unduly increase the #bulk# of any #development# or #enlargement#, density of population or intensity of use in any #block# to the detriment of the occupants of #buildings# on the #block# or nearby #blocks#, and that any disadvantages to the surrounding area caused by reduced access of light and air will be more than offset by the advantages of the landmark's preservation to the local community and the City as a whole;
- (2) that the program for continuing maintenance will result in the preservation of the landmark; and
- (3) that in the case of landmark sites owned by the City, State or Federal Government, transfer of development rights shall be contingent upon provision by the applicant of a major improvement of the public pedestrian circulation or transportation system in the area.

The Commission shall give due consideration to the relationship between the landmark #building# and any #buildings# #developed# or #enlarged# on the adjacent lot regarding materials, design, scale and location of #bulk#.

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

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## **74-793 - Transfer instruments and notice of restrictions**

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LAST AMENDED  
2/2/2011

The owners of the landmark lot and the adjacent lot shall submit to the City Planning Commission a copy of the transfer instrument legally sufficient in both form and content to effect such a transfer. Notice of the restrictions upon further #development# or #enlargement# on the lot occupied by the landmark and the adjacent lot shall be filed by the owners of the respective lots in the place and county designated by law for the filing by the owners of the respective lots in the place and county designated by law for the filing of deeds and restrictions on real property, a certified copy of which shall be submitted to the Commission.

Both the instrument of transfer and the notice of restrictions shall specify the total amount of #floor area# to be transferred, and shall specify, by lot and #block# numbers, the lots from which and the lots to which, such transfer is made.

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## **74-80 - TRANSIENT HOTELS**

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LAST AMENDED  
9/21/2011

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### **74-801 - In R10H Districts**

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LAST AMENDED  
9/21/2011

In R10H Districts, the City Planning Commission may permit #transient hotels#. Where a #building# in existence on December 15, 1961, is located on a #zoning lot#, a substantial portion of which is located in an R10H District and the remainder in a #Commercial District#, the Commission may also permit the #conversion# of specified #floor area# within such #building# from #residential use# to #transient hotel# #use# without regard to the #floor area#, supplementary #use# or density regulations otherwise applicable in the #Commercial District#. The Commission may also allow any subsequent #conversion# of such specified #floor area# to and from #residential# or #transient hotel# #use# to occur without further Commission approval, subject to the conditions of the special permit.

As a condition precedent to the granting of such #use# or #bulk# modifications, the Commission shall find that such modifications will not impair the essential character of the #Residence District#.

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

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### **74-802 - Transient hotels within Commercial Districts**

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LAST AMENDED  
9/21/2011

In C1 Districts, except C1-1, C1-2, C1-3 and C1-4 Districts; in C2 Districts, except C2-1, C2-2, C2-3 and C2-4 Districts where #transient hotels# are not permitted pursuant to Section 32-14 (Use Group 5); in C4, C5, C6 and C8 Districts; in M1 Districts paired with a #Residence District#; and in M1-6D Districts, #transient hotels#, as listed in Section 32-14 (Use Group 5), and #motels#, #tourist cabins# or #boatels#, as listed in Section 32-16 (Use Group 7A), shall be permitted only by special permit of the City Planning Commission. In order to grant such special permit, the Commission shall find that:

- (a) the site plan incorporates elements that address any potential conflicts between the proposed #use# and adjacent #uses#, such as the location of the proposed access to the #building# and to service areas for refuse and laundry, and the #building's# orientation and landscaping;
- (b) such #use# will not cause undue vehicular or pedestrian congestion on local #streets# or unduly inhibit vehicular or pedestrian movement or loading operations; and
- (c) such #use# will not impair the future use or development of the surrounding area.

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

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### **74-803 - Transient hotels within M1 Districts**

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LAST AMENDED 12/20/2018

In M1 Districts, pursuant to Section 42-111 (Special provisions for hotels in M1 Districts), #transient hotels#, as listed in Section 32-14 (Use Group 5), and #motels#, #tourist cabins# or #boatels#, as listed in Section 32-16 (Use Group 7A), shall be permitted only by special permit of the City Planning Commission. In order to grant such special permit, the Commission shall find that:

- (a) the site plan incorporates elements that address any potential conflicts between the proposed #use# and adjacent #uses#, such as the location of the proposed access to the #building# and to service areas for refuse and laundry, and the #building's# orientation and landscaping;
- (b) the site plan demonstrates that the proposed #street wall# location and the design and landscaping of any area of the #zoning lot# between the #street line# and all #street walls# of the #building# and their prolongations will result in a site design that does not impair the character of the existing streetscape;
- (c) such #use# will not cause undue vehicular or pedestrian congestion on local #streets# or unduly inhibit vehicular or pedestrian movement or loading operations; and
- (d) such #use# will not impair the essential character including, but not limited to, existing industrial businesses, or future use or development of the surrounding area.

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

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## 74-81 - Affordable Independent Residences for Seniors

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LAST AMENDED  
8/20/1970

The related #accessory# social and welfare facilities minimum requirement, as set forth in Section [12-10](#) (DEFINITIONS - Affordable Independent Residences for Seniors) may be reduced or waived in any #affordable independent residence for seniors# as to which the City Planning Commission makes the following findings:

- (a) the proposed #affordable independent residence for seniors# is an addition to or #enlargement# or expansion of an existing #affordable independent residences for seniors# and is located on a #zoning lot# no portion of which is more than 1,500 feet from the existing #affordable independent residence for seniors#;
- (b) both #affordable independent residences for seniors# will be owned, operated and maintained by the same sponsoring organization;
- (c) the existing #affordable independent residence for seniors# contains related social and welfare facilities which will be used to adequately and conveniently service tenants of both the existing and proposed #affordable independent residence for seniors#

The Commission may prescribe appropriate conditions and safeguards to enhance the character and purposes of the project.

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## 74-82 - Through Block Arcades

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LAST AMENDED  
2/2/2011

In C4-7, C5-2, C5-3, C5-4, C5-5 and C6 Districts, the City Planning Commission may permit #through block arcades# to be located in #commercial buildings# or #mixed buildings#. For each square foot of #through block arcade# located in C4-7, C5-2, C5-4, C6-1, C6-2, C6-3, C6-4, C6-5 and C6-8 Districts, a bonus of three feet of #floor area# may be permitted and for each square foot of #through block arcade# located in C5-3, C5-5, C6-1A, C6-6, C6-7 and C6-9 Districts, a bonus of six feet of #floor area# may be permitted. #Through block arcades# may be located on a #zoning lot# in conjunction with a #publicly accessible open area# or an #arcade# but in no event shall the total #floor area# permitted on that #zoning lot# exceed the amount set forth in Section [33-12](#) (Maximum Floor Area Ratio) by more than 20 percent.

In the districts with an equivalent #residential# #floor area ratio# of 10, any #floor area# bonus earned by providing a #through block arcade# may be applied to increase the #residential# #floor area# of a #mixed building# provided the maximum #floor area ratio# for the #residential# portion does not exceed 12.0.

Each application for a #through block arcade# must meet the following criteria:

- (1) result in substantial improvement of pedestrian circulation; and
- (2) provide appropriate secondary #commercial# frontage along the #through block arcade# such as small shops and restaurants.

Bridges, mezzanines and balconies which add interest and function to the #arcade# without unduly obstructing its light and air may be incorporated in the proposal.

Lighting, paving, #signs# and plantings shall be specified in the application.

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

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## 74-83 - Public Service Establishments

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LAST AMENDED  
10/17/2019

### 74-831 - Court houses

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LAST AMENDED  
10/17/2019

In all #Commercial Districts#, the City Planning Commission may permit modifications of the applicable #bulk# regulations so as to allow the same #bulk# regulations as would apply for a #community facility building# in the applicable #Commercial District# and may permit modifications of the applicable regulations in Sections [33-26](#) to [33-30](#), inclusive, relating to Yard Regulations or Sections [33-41](#) to [33-45](#), inclusive, relating to Height and Setback Regulations. The Commission shall find that because of site limitations such modifications are necessary for the proper design and operation of the court house.

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

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### 74-832 - Borough-based jail system

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LAST AMENDED  
10/17/2019

For #zoning lots# that are the subject of a site selection for a borough-based jail system pursuant to application C 190333 PSY, the City Planning Commission may, by special permit, allow modifications to the applicable regulations governing #uses#, #bulk#, including permitted #floor area ratio#, the permitted capacities of #accessory# off-street parking facilities and #public parking garages#, and off-street loading regulations, to facilitate construction of the proposed facilities. In order to grant such special permit, the Commission shall find that:

- (a) any #use# modifications will support the operation of the facility and will be compatible with the essential character of the surrounding area;
- (b) ground floor #uses# will be located in a manner that is inviting to the public and will integrate the facility within the surrounding community;
- (c) any increase in permitted #floor area ratio# will facilitate the development of the facility;
- (d) any #bulk# modifications will improve the interior layout and functionality of the facility;
- (e) such #bulk# modifications, including any increase in permitted #floor area ratio#, will have minimal adverse effects on access to light and air for buildings and open spaces in the surrounding area;
- (f) any modifications to the provisions of #accessory# off-street parking and loading regulations will not create serious traffic congestion or unduly inhibit vehicular or pedestrian movement and will not impair or adversely affect the development of the surrounding area; and
- (g) any modifications to the permitted capacity of #public parking garages#:

- (1) will not create serious traffic congestion or unduly inhibit vehicular or pedestrian movement and will not impair or adversely affect the development of the surrounding area; and
- (2) will provide adequate reservoir space at the vehicular entrances to accommodate automobiles equivalent in number to 20 percent of the total number of spaces up to 50 spaces, and five percent of any spaces in excess of 200, but in no event shall such reservoir space be required for more than 50 automobiles.

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

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## 74-84 - Developments With Existing Buildings

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LAST AMENDED  
5/22/1969

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### 74-841 - Development in certain Commercial Districts

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LAST AMENDED  
10/14/1971

In C5-2, C5-3, C5-4, C5-5, C6-4, C6-5, C6-6, C6-7, C6-8 or C6-9 Districts, the City Planning Commission may permit a #zoning lot# having a minimum area of 40,000 square feet or occupying an entire #block# to be #developed# to its maximum allowable #bulk# under applicable district regulations and any existing #buildings# to remain temporarily on that lot and may permit the #floor area# of any existing #buildings# to be excluded from computations determining such maximum allowable #floor area#, provided that each and every one of the following conditions are met:

- (a) that existing #buildings# with unexpired leasehold interests are located upon such #zoning lot#;
- (b) that all leases within the existing #buildings# must terminate within five years after the issuance of a special permit under this Section, and that no new leases or any lease renewals shall be entered into on any existing #buildings# or portion of such existing #buildings#;
- (c) that the total #floor area# of all such existing #buildings# on the #zoning lot# is not greater than 20 percent of the maximum allowable #floor area# for that #zoning lot#;
- (d) that demolition of all such existing #buildings# must commence within five years after the issuance of the special permit under this Section;
- (e) that the portions of the #zoning lot# where existing #buildings# are located and are to be demolished shall be redeveloped according to the approved site plan; and
- (f) that, until such time as demolition of all such existing #buildings# and completion of the approved site plans, #floor area# equal in amount to that which was located in such existing #buildings#, must be left unfinished and vacant in the new #development#; and a temporary certificate of occupancy, for the vacant space, shall remain in effect until all conditions in the special permit are satisfied.

The owner of the #zoning lot# shall submit a copy of all leases on any #building# or portion of any #building# on the #zoning lot# together with an opinion of counsel that the leases will terminate within five years.

All leases of such existing #buildings# or portions of #buildings# shall submit affidavits attesting to the expiration date of their leases together with an opinion of counsel that the lease will expire within five years.

The owner of the #zoning lot# shall have prominently displayed on the front of all existing #buildings# a sign stating the date that the #building# is to be demolished.

As a further condition for the issuance of a permit under this Section, the owner of the #zoning lot#, upon which new #development# is to take place, must post a bond or other security payable to the City of New York and approved by the Corporation Counsel sufficient in amount to:

- (1) cover the cost of demolishing the existing #buildings# should the owner fail to so demolish within the prescribed time;
- (2) ensure that all #floor area# which is to be vacant in the new #development# shall remain unfinished and vacant; and
- (3) ensure that no new leases or lease renewals are entered into on any portion of any of the existing #buildings#.

The bonds or other securities shall be payable to The City of New York if any of the above conditions are violated.

The Commission must find, with each grant for a special permit under this Section, that the #development# shall result in improved circulation and would eliminate the undesirable preemption of ground level space by private #buildings# or other structures#. In making this finding, the Commission may consider the provision of improved connections to rapid transit facilities, where applicable.

The site plan accompanying each application for a grant of special permit under this Section shall include a schedule indicating the timetable of demolition of all existing #buildings# and the schedule of new #development# and other improvements on the #zoning lot#.

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### 74-842 - Staged development of public or publicly assisted housing projects

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LAST AMENDED  
10/14/1971

In all #Residence Districts# except R9 and R10 Districts, in C1 or C2 Districts mapped within all such #Residence Districts# except R9 and R10 Districts, or in C1-6, C1-7 or C2-6 Districts, for a staged #development# of public, or publicly assisted housing projects, the City Planning Commission may permit any existing occupied #building# to remain temporarily on a #zoning lot#, and may authorize the applicable #bulk# regulations of the underlying districts to apply to the entire #zoning lot# without regard to the existence of such temporary #building# if the following conditions are met:

- (a) that the entire #zoning lot# of such #development# is owned by the applicant;
- (b) that the development plan for the project, showing compliance with all provisions of this Resolution, has been approved by the Board of Estimate, or will be subject to Board of Estimate approval in conjunction with the application for a special permit under this Section;
- (c) that the number of existing #dwelling units# temporarily retained on a #zoning lot# are no more than the number of new #dwelling units# approved for construction on such #zoning lot#;
- (d) that no final certificate of occupancy shall be issued by the Department of Buildings for the new construction until all pre-existing #buildings# except those #buildings# which are to be retained in accordance with the approved development plan are vacated, demolished and their sites are redeveloped in accordance with the approved project plan;
- (e) that the #use# of this staged #development# process, rather than a method of #development# requiring compliance with this Resolution, is necessary to expedite the construction of new housing and to alleviate the City's relocation housing problems; and
- (f) that the final #development# complies with all the applicable regulations of the underlying districts of the Zoning Regulation.

The site plan accompanying each application for a grant of special permit under this Section shall include a schedule indicating the timetable of demolition of all existing #buildings# and the schedule of new

#development# and other improvements on the #zoning lot#.

The Commission may prescribe appropriate conditions and safeguards to minimize any adverse effects on the character of the #block# and of the surrounding area resulting from the temporary non-conformity with the Resolution permitted pursuant to this Section.

#### 74-843 - Preservation of existing buildings within certain developments containing open areas

LAST AMENDED  
2/2/2011

In R10 Districts, in C1 or C2 Districts mapped within such #Residence Districts#, or in C1-9 or C2-8 Districts, for any #development# on a #zoning lot# which was all within single ownership on or before May 31, 1973, which contained a portion of its #zoning lot# mapped within an R8 District on or before May 31, 1973, which is located within the boundaries of Community Board 8 in the Borough of Manhattan, and which preserves and maintains existing on-site #residential buildings#, the City Planning Commission may grant, upon application resulting from joint efforts of a developer and on-site tenants, and after Community Board 8 has reviewed the architectural plans, a #floor area# bonus for public open area and relocation housing as set forth in this Section, and modify height and setback, #yards#, #courts# and distance between #buildings# regulations. The provisions of this Section shall not apply in any special purpose district, unless permitted by such special purpose district.

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

- (a) that the retention of existing #residential buildings# is essential to preserve the character of the neighborhood;
- (b) that the existing #residential buildings# are suitable for rehabilitation;
- (c) that no #residential# or #community facility building# existing prior to May 31, 1973, be demolished or residential tenants evicted, on a #narrow street#, if 50 percent or more of the #floor area# of such #building# is located beyond 125 feet from a #street# intersection;
- (d) that the relocation practices followed by the developer on the entire #zoning lot# satisfy applicable governmental standards;
- (e) that existing #buildings# or portions thereof contain #dwelling units# which will be available on a priority basis for occupancy by on-site tenants displaced by new construction or by rehabilitation after December 31, 1970, in accordance with an approved relocation, rehabilitation and continued maintenance program;
- (f) that any outstanding eviction notices have been withdrawn;
- (g) that on-site tenants have not been subject to harassment by intent or otherwise or where harassment has occurred, it has ceased as of the date of the application for the special permit hereunder;
- (h) that the #dwelling units# that are reserved for such relocation housing shall comply with an approved rent schedule;
- (i) that an agreement between the tenants and developers on the relocation plan has been reached which is satisfactory to two-thirds of the tenants on-site on the date of application for special permit hereunder;
- (j) that the #development# provides a minimum of 30 percent of the #lot area# of the #zoning lot# as public open area at #curb level#. Where site conditions preclude open area at #curb level#, such open area shall not at any point be more than five feet above nor more than eight feet below #curb level# of the #street# providing primary access to such area. The public open area shall be preferably on the southerly side of the lot unobstructed from its lowest level to the sky except as set forth in this Section, and directly accessible to the public from an adjoining #street#. Access to such public open area shall be clearly visible from the #street#. The said area shall contain lighting, landscaping, planting, pedestrian ways and sitting areas and be maintained in accordance with reasonable standards. #Building# columns or similar elements may be permitted but the aggregate area of such elements may not exceed two percent of the total public open area. Driveways, off-street parking spaces and loading berths and balconies are not permitted within the public open area:
  - (1) for a #development# within 600 feet of a #public park# or playground having a minimum area of one acre, the minimum dimension of the public open area shall be at least 30 feet; access to such public area shall be at least 25 feet wide at the #street line# and the clear width of the walkway for pedestrian traffic shall not be less than 20 feet. The public open area may include covered or arcaded areas, total area of which shall not exceed 20 percent of the required public open area. Such arcaded or covered areas shall have an average clear height of not less than 20 feet and a minimum clear height of 12 feet.
  - (2) for all other #development# pursuant to this Section, the minimum dimension of such public open area shall be 45 feet and have a minimum area of 4,500 square feet. The #development# shall also provide an #arcade# which #abuts# the #street line# along the short dimension of the #block# and extends along the full length of the #building# on such frontage. Such #arcades# and required setback areas which abut the #street line# along the short dimension of the #block# shall be included in meeting the 30 percent public open area requirements of this Section.
- (k) that the finish of exterior walls of the existing #building# fronting on such public open area is compatible with the #development# and the public open area;
- (l) that a roof area of #development# shall be landscaped for use by #residential# tenants and shall:
  - (1) be restricted to occupants of the #residential# portion and their guests for whom no admission or membership fees are charged;
  - (2) be directly accessible from a lobby or other public area served by the residential elevators;
  - (3) be landscaped, including trees or shrubbery, except where covered or developed with recreational facilities and seating areas; and
  - (4) contain not less than 2,500 square feet of continuous area open to the sky on a single level with a minimum dimension of not less than 40 feet.
- (m) that the total #development# will result in satisfactory site planning and satisfactory urban design relationships of #buildings# to adjacent #streets# and surrounding developments;
- (n) that the #development# will not have a negative environmental impact on the neighborhood or change the character of the neighborhood.
- (o) that the basic #floor area ratio# for the #zoning lot# may be increased from 10.0 to 12.0 for complying with the provisions of this Section.

In determining the precise extent of the increase in the basic #floor area ratio# on a #zoning lot# from 10.0 to 12.0, the Commission shall, after consultation with Manhattan Community Board 8, balance the economic benefit received by the builder after deducting the cost of the following:

- (1) the number of tenants relocated on and off site;
- (2) the number of units and cost of on-site renovation; and
- (3) the extent and period of years for which rent subsidies are provided over and above those required as relocation benefits under applicable governmental standards.

In no event shall a new #building# exceed 32 #stories# excluding the #basement# level.

No final certificate of occupancy shall be issued by the Department of Buildings for the new construction until the total #development# complies with the approved rehabilitation and relocation program.

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

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## 74-844 - Preservation of community facility uses within certain developments containing public open areas

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LAST AMENDED  
2/2/2011

For any #development# on a #zoning lot# a portion of which, exceeding 50 percent, is located in an R9 District, in a C1 or C2 District mapped within an R9 District or in a C1-8 or C2-7 District, and the remaining portion of which is located in an R8 District, and which provides a new #community facility building# for an institution existing on the #zoning lot# prior to the #development# and which includes an open area for public use, the City Planning Commission may allow the zoning district regulations applicable to the #zoning lot# including, but not limited to, #bulk# and parking to be changed as set forth in this Section and may modify #yard#, height and setback, density and distance between #buildings# regulations in accordance with the provisions of this Section.

As a condition for granting a special permit for such #development#, the Commission shall find that:

- (a) the provision of the new #community facility building# will result in the reinforcement or preservation of an existing church or house of worship, community center, #school#, library, museum, college or university which is essential to the character of the neighborhood and that such #community facility building# will be used only as a #community facility building#;
- (b) such #community facility building# is free-standing and independent of any new #residential building# and contains floor space of at least 10,000 square feet and shall be located entirely on the R8 portion of the #zoning lot#; the height of the #community facility building# shall not exceed the greater of:
  - (1) a height of 20 feet greater than that of the nearest existing #building# in the adjacent R8 District; or
  - (2) 40 feet;
- (c) the arrangement has been made for continuing maintenance of the #community facility building#;
- (d) the #development# provides a minimum of 25 percent of the #lot area# of the #zoning lot# as public open area at #curb level#. Where site conditions preclude open area at #curb level#, such open area shall at no point be more than three feet below #curb level# or six feet above #curb level# of the #street# providing primary access to such area. The public open area shall be unobstructed from its lowest level to the sky except as set forth in this Section, directly accessible to the public from an adjoining #street# and, if feasible, be located on the southerly side of the #zoning lot#. Entrance to such public open area shall be clearly visible from the #street#. The said area shall be developed with lighting, landscaping including planting of shrubs and trees, pedestrian ways and seating areas in accordance with plans approved by the Commission and shall be maintained in accordance with a maintenance program approved by the Commission. #Building# columns or similar elements may be permitted, but the aggregate area of such elements may not exceed two percent of the total public area. Driveways, off-street parking spaces and loading berths are not permitted within the public open area.

A portion of the open area shall be developed as a park area concentrated in one location and having a minimum dimension of 45 feet and a minimum area of 4,500 square feet. The park area shall be accessible to the public from 9:00 a.m. to 9:00 p.m. each day from May 1 to September 30 and from 9:00 a.m. to 6:00 p.m. each day from October 1 to April 30, and such hours shall be posted on a #sign# that is plainly visible from the sidewalk adjoining the principal entrance to the park. In addition to the 4,500 square feet of park area, in meeting the 25 percent public open area requirements of this Section, the #development# may provide a non-bonusable #public plaza#, #arcade# or sidewalk continuation area; and

- (e) any #bulk# modifications granted will result in satisfactory site planning and satisfactory urban design relationships of #buildings# within the #development# to adjacent #streets# and surrounding #developments#.

The Commission may prescribe additional conditions and safeguards to minimize adverse effects on the character of the surrounding area. The #zoning lot# containing such #development# shall be subject to all the regulations applicable to a C1-9 District subject to the provisions of any special purpose district within which the #zoning lot# is located, except that the maximum permitted #floor area ratio# shall be 11.0. The #floor area# bonus provision for #public plazas# or #arcades# shall not apply. The #accessory# off-street parking requirements of Section 36-33 shall be 20 percent.

At any level at which a #building# within the #development# penetrates an established #sky exposure plane#, such #building# shall not, in the aggregate, occupy more than 45 percent of the #lot area# of the #zoning lot#.

Notwithstanding any other provision of the Zoning Resolution, the #community facility# portion of the #development# may be conveyed by deed, lease or otherwise to the institution operating the #community facility building# and, for the purposes of this #development#, such conveyance shall be deemed not to alter the single #zoning lot# status of the #zoning lot# containing the total #development# authorized under this Section. In no event shall the #floor area# of the total #development#, including the #community facility# portion, exceed a #floor area ratio# of 11.0.

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## 74-85 - Special Height and Setback Regulations

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LAST AMENDED  
8/14/1987

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### 74-851 - Height and setback regulations for certain buildings containing residences

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LAST AMENDED  
2/2/2011

In R8, R9 and R10 Districts, and in C1-7, C1-8, C1-9, C2-7 and C2-8 Districts, the City Planning Commission may permit modifications of height and setback regulations for #developments# or #enlargements# containing #residences#, provided the following findings are made:

- (a) that the resulting site plan affords better placement of the #buildings# on the #zoning lot# with improved arrangement of #open space# and improved access of light and air for the #dwelling units#; and
- (b) that the site is adjacent to or opposite a permanent space comprising an area of at least three acres such as a park, public place, waterfront, wharf property, wharves or docks, and that the resulting placement of the #buildings# will not unduly obstruct access of light and air in the #street# or on adjacent #zoning lots#.

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

However, the provisions of this Section shall not apply to #Quality Housing buildings#.

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### 74-852 - Height and setback regulations for zoning lots divided by district boundaries

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LAST AMENDED  
2/2/2011

For a #zoning lot# divided by a boundary between an R8 District, or a #Commercial District# permitting an equivalent #residential# #floor area ratio#, and an R10 District, or a #Commercial District# permitting an equivalent #residential# #floor area ratio#, the City Planning Commission may permit modifications of the height and setback regulations for that portion of a #development# which fronts on a

#wide street# and is located in the R8 or equivalent District, provided it finds that such modification will not unduly obstruct access of light and air to surrounding #streets# and properties.

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

### 74-86 - Accessory Outdoor Swimming Pools for Residences

LAST AMENDED  
2/2/2011

The City Planning Commission may permit, as #accessory# to a #use# in Use Group 2 other than a #single-family# or #two-family residence#, an outdoor swimming pool to be located not less than 50 feet from any #lot line#, provided that such pool is so located as not to impair the essential character of the residential neighborhood.

The Commission may require that the pool be appropriately screened from other areas on the same or adjacent #zoning lots#. In special circumstances where the Commission finds that the design operates as a suitable buffer or the conditions of topography so warrant, the minimum distance of 50 feet may be reduced or waived.

The Commission shall in each case give due consideration to the effect of such location on the adjacent #residences# and the #street# and may impose appropriate conditions and safeguards.

### 74-87 - Covered Pedestrian Space

LAST AMENDED  
6/12/1996

C4-7 C5-2 C5-3 C5-4 C5-5 C6-4 C6-5 C6-6 C6-7 C6-8 C6-9

In the districts indicated, the City Planning Commission may permit #floor area# bonuses for #covered pedestrian space# in accordance with the provisions of Sections 74-871 through 74-873, inclusive.

### 74-871 - Floor area bonus for covered pedestrian space

LAST AMENDED  
2/2/2011

For the #development# or #enlargement# of a #commercial#, #community facility# or #mixed building#, for each square foot of #covered pedestrian space# provided on a #zoning lot#, the total #floor area# permitted on that #zoning lot# under the provisions of Section 33-12 (Maximum Floor Area Ratio) may be increased as set forth in the following table:

PERMITTED ADDITIONAL FLOOR AREA PER SQUARE FOOT OF COVERED PEDESTRIAN SPACE

District	Basic (in square feet)	Maximum (in square feet)
C5-3 C5-5 C6-6 C6-7 C6-9	11	14
C4-7 C5-2 C5-4 C6-4 C6-5 C6-8	8	11

In no event shall the resulting #floor area ratio# exceed the amount set forth in Section 33-12 by more than 20 percent. Any #floor area# bonus earned by providing a #covered pedestrian space# may be applied to increase the #residential# #floor area# of a #mixed building#, provided the maximum #floor area ratio# for the #residential# portion does not exceed 12.0.

Any portion of the #covered pedestrian space# that is within 10 feet of a #street line# or #lot line# and that is extended along such #street line# or #lot line# on either side of an entrance to it from an adjoining #street#, #arcade#, #publicly accessible open area#, #court#, #yard# or other #covered pedestrian space#, may receive only that #floor area# bonus accorded to an #arcade#.

The basic #floor area# bonus may be increased by providing one or more of the following additional amenities:

- (a) An escalator, providing pedestrian access from sidewalk level to any floor level containing #uses# specified in paragraph (c) of Section 74-872 (Design requirements for covered pedestrian spaces). Such escalator may be either within or directly accessible from the #covered pedestrian space#. The basic #floor area# bonus may be increased by 1.5 square feet per square foot of #covered pedestrian space# for each floor level connected by such escalator. However, the #floor area# bonus earned for the total #covered pedestrian space# by providing such escalator shall not exceed the allowable maximum set forth in the table.
- (b) Where the height over at least one-third of the #covered pedestrian space# in one location is increased by more than one #story# of the #building# above the required height, the basic #floor area# bonus for that portion may be increased by 1.5 square feet per square foot of such raised portion for each such #story#. However, the #floor area# bonus earned for the total #covered pedestrian space# by providing such additional height shall not exceed the allowable maximum set forth in the table.
- (c) Where direct access from the #covered pedestrian space# to a subway station mezzanine or concourse is provided and such connection is major, necessary, and kept open to the general public for the same hours as the #covered pedestrian space# or as specified by the Commission, an additional bonus of two square feet of #floor area# per square foot of #covered pedestrian space# may be permitted over the amount specified in the table.

### 74-872 - Design requirements for covered pedestrian spaces

LAST AMENDED  
12/19/2019

In order to qualify for a #floor area# bonus, a #covered pedestrian space# shall be directly accessible to the public from the adjoining #street#, #arcade#, #through block arcade#, #publicly accessible open area#, #court#, #yard#, #pedestrian mall# or other #covered pedestrian space# which is a part of the public pedestrian circulation system, and shall:

- (a) have an area of at least 3,000 square feet and a minimum width, at any point, of 20 feet. For spaces between 100 feet and 150 feet in length, the minimum width shall be 25 feet. For spaces longer than 150 feet, the average width shall be at least 30 feet;
- (b) have a height of at least 30 feet;
- (c) have appropriate #uses# permitted in the district, such as, but not limited to, small stores and cafes, occupying the maximum feasible frontage along those bounding walls of the #covered pedestrian space# which do not abut #lot lines# or #street lines#. At least 50 percent of such frontage shall be comprised of individual #uses#, each of which has a frontage not exceeding 25 feet, and the frontage

of any other single #use# may not exceed 40 feet. In no event may banks, loan offices, insurance offices or similar office type #uses# occupy any portion of the frontage of the #covered pedestrian space#. Access to other #uses# within a #building# may be provided from the #covered pedestrian space# if such #uses# are not located at the same #story# as the pedestrian space;

- (d) be adequately illuminated, utilizing natural daylight wherever possible; and
- (e) be suitably maintained and kept open to the public between 7:00 a.m. and 12 midnight or on a schedule suitable to meet the public need.

Obstructions such as awnings, canopies, pedestrian bridges, escalators, stairs, balconies or other architectural elements above the floor level of the #covered pedestrian space# are prohibited unless it can be clearly demonstrated that they will enhance design or pedestrian circulation. In any event, horizontal projection of balconies into any #covered pedestrian space# shall not exceed five feet.

Planting, landscaping, ornamental fountains, statuary, outdoor furniture, kiosks, works of art, light wells and other features may be permitted in a portion of the pedestrian space, but not to the extent of impeding pedestrian movement.

Columns or similar elements may be permitted within a #covered pedestrian space#, but the aggregate area of such elements may not exceed two percent of the total pedestrian space. The clear span along the main path of pedestrian traffic shall not be less than the figure indicated for minimum dimensions of pedestrian space in paragraph (a) of this Section. However, when two or more pedestrian paths are provided, the minimum clear span widths of such paths may be reduced by five feet.

Where multiple access to the #covered pedestrian space# is provided from an #arcade#, the minimum clear spacing between columns at the face of the #building# may be reduced to 18 feet, provided the height of the #arcade# is not less than 30 feet.

A portion of the #covered pedestrian space# shall be public sitting areas with appropriate facilities such as cafes or other public seating arrangements.

Entrances to lobbies may be permitted along the boundary of a #covered pedestrian space#. The #floor area# of an entrance lobby shall not be considered as part of the #covered pedestrian space#. Where a #zoning lot# is bounded by more than one #street#, or by the combination of #streets#, #publicly accessible open areas# or other public rights-of-way, the #covered pedestrian space# will provide a connection between at least two such areas.

Where the space is heated or air-conditioned, the standards for heating, ventilating and air-conditioning shall be at least equal to that of the lobby.

For the purpose of ensuring prominent public attention to the #covered pedestrian space#, the openings at the face of the #building# for entrances to the #covered pedestrian space# shall be at least 20 feet wide, 30 feet high and unobstructed for a depth of 30 feet, except, where the #covered pedestrian space# is air-conditioned, the openings at the entrances may be partially enclosed. Such enclosure at the entrances shall be transparent in nature, commence at a height not less than eight feet above the floor level at the entrances, and be set back from the face of the #building# at least 12 feet. Air curtains are permitted but shall be located at a height not less than eight feet. Such entrances are permitted to be fully enclosed only for that portion of the year between October 15 and April 15, provided, however, that such space is readily accessible to the public between 7:00 a.m. and 12 midnight or on a schedule suitable to meet the public need.

An information plaque shall be provided that contains a public space symbol and required text that matches the dimensions and graphic standards provided in the Privately Owned Public Space Signage file from the Required Signage Symbols on the Department of City Planning website. Such symbol and required text shall include the phrase "Open To Public" and shall be provided with a highly contrasting background, in a format that ensures legibility. Additional requirements and review procedures for privately owned public space signage systems are specified in Title 62, Chapter 11, of the Rules of the City of New York.

When a #through block arcade# provides public access to a #covered pedestrian space#, the opening at the point shall be at least 30 feet wide and 30 feet high. The two openings at the face of the #building# to the #through block arcade# shall be at least 20 feet wide and 30 feet high for a depth of 30 feet and shall be unobstructed except for stairs, ramps and escalators. If such space is air-conditioned, only one opening at the face of the #building# need comply with the partial enclosure requirements of the preceding paragraph.

A #covered pedestrian space# located at 12 feet or more below the sidewalk level shall provide direct subway or below grade pedestrian concourse access. For such #covered pedestrian spaces#, the entrance openings at the sidewalk level may be less than 30 feet in height, but not less than 15 feet, provided the entrance opening is unenclosed for its full height and is extended along the face of the #building# for the entire width of the #covered pedestrian space#.

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## 74-873 - Findings for covered pedestrian spaces

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LAST AMENDED  
2/2/2011

As a condition for permitting such bonus #floor area#, the City Planning Commission shall find that:

- (a) the proposed #covered pedestrian space# will have a useful role in meeting existing needs for sheltered space for the comfort and convenience of the general public;
- (b) the proposed #covered pedestrian space# is located at or close to the principal level of pedestrian circulation in adjacent areas, with prominent and obvious public entrances;
- (c) the public character of the proposed #covered pedestrian space# shall be obvious from the outside of the #building#;
- (d) appropriate #commercial# #uses# including, but not limited to, small stores and cafes fronting on the #covered pedestrian space# are provided;
- (e) the distribution of the #bulk# on the #zoning lot# permits satisfactory access of light and air to surrounding #streets# and properties; and
- (f) the proposed connection to an underground subway station from a #covered pedestrian space# is necessary to ease pedestrian movement and sidewalk congestion in the area and the construction cost of the proposed amenity is substantial enough to justify the granting of additional #floor area ratio# bonus.

The Commission may permit modification of the entrance requirements for #covered pedestrian spaces#, provided that the Commission finds that the entrance is so designed as to ensure prominent public notice and promote public pedestrian circulation through such space.

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## 74-88 - Modification of Height and Setback and Street Wall Regulations

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LAST AMENDED  
2/2/2011

Upon application, the City Planning Commission may permit the modification of height and setback and #street wall# regulations of Section [23-651](#) (Tower-on-a-base) and paragraph (a) of Section [35-64](#) (Special Tower Regulations for Mixed Buildings), except for the permitted tower coverage or the required #floor area# distribution below a height of 150 feet, and may permit modification of the requirements of paragraph (a)(1)(ii) of Section [24-54](#) (Tower Regulations), provided the Commission makes the following findings:

- (a) that such modification will enhance the contextual relationship of the #development# or #enlargement# to nearby #buildings# and improve the overall scale, site design and architectural harmony among #buildings# in the neighborhood; and
- (b) that such modification will not unduly obstruct access of light and air to the detriment of the occupants or users of the #buildings# in the #block# or nearby #blocks# or of people using the public #streets#.

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

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## 74-89 - Bulk Modifications for Telephone Exchanges or Other Communication Equipment Structures

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LAST AMENDED  
2/2/2011

In C1 and C2 Districts when mapped in R6, R7, R8, R9 and R10 Districts, and in C1-6, C1-7, C1-8, C1-9, C2-6, C2-7, C2-8, C4-2, C4-3, C4-4, C4-5, C4-6, C5-1, C6-1, C6-2, C6-3, C7, C8-2, C8-3, C8-4, M1-2, M1-3, M1-4, M1-5, M2 and M3 Districts, the City Planning Commission may permit modification of the #bulk# regulations for telephone exchanges or other communications equipment structures not existing on December 15, 1961, provided that the #zoning lot# has a minimum area of 40,000 square feet, a #floor area ratio# of no greater than 10.0 and that the following findings are made:

- (a) that the growth of the utility service demand to be served by the facility requires the construction of a #building or other structure# that would exceed the allowable #bulk# permitted by the district regulations;
- (b) that provisions of new or additional facilities at other locations would cause substantial duplication of plant and facilities;
- (c) that the proposal is the minimum modification necessary to permit the additional facilities needed to serve the demand;
- (d) that the design of the facility will not adversely affect the character of the neighborhood;
- (e) that the existing #street# and public transportation system will not be adversely affected; and
- (f) that, where appropriate and feasible in the judgment of the Commission, the applicant provides a public amenity for the benefit of the affected community.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area and shall require that the certificate of occupancy shall be limited to such #use#.

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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#.

74-962 - Application requirements

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.

74-963 - Permitted floor area increase

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):

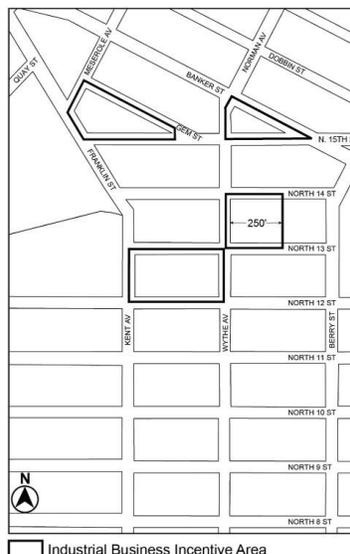
- (1) a description of each establishment including the North American Industry Classification System (NAICS) code and number of employees;
- (2) the total amount of #required industrial use# #floor area# that is vacant, as applicable;
- (3) the average annual rent for the portions of the #building#, 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.

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

LAST AMENDED  
12/9/2021

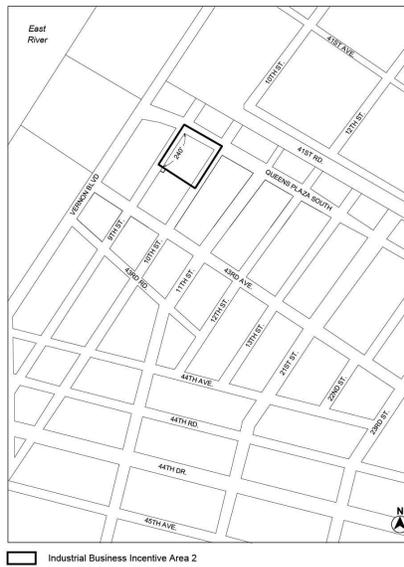
Map 1: Brooklyn



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.



## Zoning Resolution

THE CITY OF NEW YORK

Eric Adams, Mayor

CITY PLANNING COMMISSION

Daniel R. Garodnick, Chair

# Chapter 6 - Location of District Boundaries

File generated by <https://zr.planning.nyc.gov> on 3/22/2024

# Chapter 6 - Location of District Boundaries

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## 76-00 - MEASUREMENT OF DISTANCES

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LAST AMENDED  
12/15/1961

### 76-01 - Method of Measurement

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LAST AMENDED  
12/15/1961

Except as otherwise specifically provided, all prescribed distances shall be measured in a straight line, not necessarily coinciding with a #street line#.

## 76-10 - DISTRICT BOUNDARIES ON THE ZONING MAPS

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LAST AMENDED  
12/15/1961

### 76-11 - General Provisions

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LAST AMENDED  
12/15/1961

The district boundaries on the #zoning maps# shall be interpreted in accordance with the provisions set forth in Sections [76-12](#) (Area Enclosed by District Boundary Line), [76-13](#) (Location of Boundary Line) and [76-14](#) (Additional Rules of Construction).

### 76-12 - Area Enclosed by District Boundary Line

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LAST AMENDED  
12/15/1961

An area enclosed by a district boundary line shall be in the district designated therein.

### 76-13 - Location of Boundary Line

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LAST AMENDED  
12/15/1961

The precise location of a boundary line is to be interpreted in accordance with the provisions set forth in this Section.

### 76-131 - Boundary line parallel to the short dimension of block

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LAST AMENDED  
12/15/1961

In cases where a boundary line extends parallel to the short dimension of the #block# and no dimensions are shown, such boundary line shall be considered to be located:

- (a) in the case of C1-1, C4-1, C4-2 or C4-4 Districts, 200 feet from the nearest #street# within the district;
- (b) in the case of C1-2, C1-3, C2-1, C2-2, C2-3, C4-3 or C7 Districts, 150 feet from the nearest #street# within the district;  
and
- (c) in the case of all other districts, 100 feet from the nearest #street# within the district.

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### **76-132 - Boundary line parallel to the long dimension of block between parallel streets**

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LAST AMENDED  
12/15/1961

In case of parallel #streets#, where a boundary line extends parallel to the long dimension of the #block# and no dimension is shown, such boundary line shall be considered to coincide with the center line of the #block#.

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### **76-133 - Boundary line parallel to the long dimension of block between streets which are not parallel**

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LAST AMENDED  
12/15/1961

In case of #streets# which are not parallel, where a boundary line extends parallel to the long dimension of the #block# and no dimension is shown, such boundary line shall be considered as the bisector of the angle formed by prolonging the #street lines# to an intersection.

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### **76-14 - Additional Rules of Construction**

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LAST AMENDED  
12/15/1961

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### **76-141 - When distance from street line shown**

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LAST AMENDED  
2/26/1967

In cases where the boundary line is shown by a dimension as being located a specific distance from a #street line#, this distance shall be considered to be measured from the nearest #street line# of the #street# from which dimensioned.

In cases where a #Limited Height District# boundary line appears to be identical or approximately identical with the boundary line of another district whose location is shown by a dimension, the boundary line of the #Limited Height District# shall be considered to be identical with the boundary line of the other district.

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### **76-142 - Boundary line within street**

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LAST AMENDED  
6/11/1974

In cases where the boundary line is given a position within a #street#, it shall be considered to be in the center of the #street#.

In cases where a C1 or C2 District is mapped within a #Residence District# and such C1 or C2 District abuts a #street line#, the

boundary line along such abutting portion shall be deemed to be located in the center of the abutting #street#.

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### **76-143 - Boundary line oblique to streets**

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LAST AMENDED

12/15/1961

In cases where a boundary line is shown having a position oblique to the #streets# bounding the #block# in which it is located, it shall (unless otherwise fixed) be considered to be the bisector of the angle formed by the intersection of lines 100 feet from and parallel to each of said bounding #streets#, this distance being measured at right angles to said #street lines#.

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### **76-144 - Boundary line adjoining a railroad**

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LAST AMENDED

12/15/1961

In cases where a boundary line is shown as adjoining a railroad, it shall (unless otherwise fixed) be considered to coincide with the boundary line of the railroad right-of-way.

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### **76-145 - Boundary line coinciding with parks, cemeteries or navigable waters**

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LAST AMENDED

12/15/1961

In cases of parks, cemeteries, or navigable waters, the boundary line shall (unless otherwise fixed) be considered to coincide with the boundary line of the park or the cemetery or the pierhead line, except that in cases where no pierhead line has been established, the shore line shall control.

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### **76-146 - Islands**

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LAST AMENDED

12/15/1961

Any island, or portion thereof, outside of the shore or pierhead lines, that is not a #public park# shall, unless otherwise designated or determined by the City Planning Commission, be considered to be in an R3-2 District.

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### **76-147 - Park boundary line**

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LAST AMENDED

12/15/1961

The boundary line of a #public park# shall be considered a district boundary line.

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### **76-148 - Scenic View District boundary line**

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LAST AMENDED

10/24/1974

The boundary lines of #Special Scenic View Districts# are set forth in Section [102-60](#) (SPECIAL SCENIC VIEW DISTRICTS SPECIFIED).



## Zoning Resolution

THE CITY OF NEW YORK

Eric Adams, Mayor

CITY PLANNING COMMISSION

Daniel R. Garodnick, Chair

# **Chapter 7 - Special Provisions for Zoning Lots Divided by District Boundaries**

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# Chapter 7 - Special Provisions for Zoning Lots Divided by District Boundaries

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## 77-00 - GENERAL PROVISIONS

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LAST AMENDED  
8/14/1987

### 77-01 - Applicability of This Chapter

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LAST AMENDED  
12/15/1961

Whenever any #zoning lot# is located in two or more districts in which different #uses# are permitted, or in which different #use#, #bulk#, #accessory# off-street parking and loading, or other regulations apply, the provisions of this Chapter shall apply.

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### 77-02 - Zoning Lots not Existing Prior to Effective Date or Amendment of Resolution

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LAST AMENDED  
2/2/2011

Whenever a #zoning lot# is divided by a boundary between two or more districts and such #zoning lot# did not exist on December 15, 1961, or any applicable subsequent amendment thereto, each portion of such #zoning lot# shall be regulated by all the provisions applicable to the district in which such portion of the #zoning lot# is located. However, the provisions of paragraph (a) of Section [77-22](#) (Floor Area Ratio) and Section [77-40](#) (SUPPLEMENTAL REGULATIONS) shall apply to #zoning lots# created at any time where different #bulk# regulations apply to different portions of such #zoning lot#.

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### 77-03 - Zoning Lots Existing Prior to Effective Date or Amendment of Resolution

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LAST AMENDED  
12/15/1961

Whenever a #zoning lot# is divided by a boundary between two or more districts and such #zoning lot# existed on December 15, 1961, or any applicable subsequent amendment thereto, the provisions of this Resolution may be applied to such #zoning lot# as set forth in subsequent Sections of this Chapter. Except as specifically provided in this Chapter, each portion of such #zoning lot# shall be regulated by all the provisions applicable to the district in which such portion of the #zoning lot# is located.

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## 77-10 - USE REGULATIONS

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LAST AMENDED  
12/15/1961

### 77-11 - Conditions for Application of Use Regulations to Entire Zoning Lot

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LAST AMENDED  
6/29/1989

Whenever a #zoning lot# existing on December 15, 1961, or on any applicable subsequent amendment thereto, is divided by a boundary between districts in which different #uses# are permitted, the #use# regulations applicable to the district in which more than 50 percent of the #lot area# of the #zoning lot# is located may apply to the entire #zoning lot#, provided that the

greatest distance from the mapped district boundary to any #lot line# of such #zoning lot# in the district in which less than 50 percent of its area is located does not exceed 25 feet. Such distance shall be measured perpendicular to the mapped district boundary.

Whenever the #use# regulations are so applied, the district boundary may be assumed to be relocated accordingly, and the #bulk#, off-street parking and loading, and all other regulations applying to such expanded district shall apply to the entire #zoning lot#. However, when the #zoning lot# is divided by a district boundary between a district limited to #single-# or #two-family residences# and a district permitting multiple dwellings, the #use# and #bulk# regulations of an R3-2 District shall apply in the R1, R2, R3A, R3X or R3-1 portion, and the #use# and #bulk# regulations of an R4 District shall apply in the R2X, R4A, R4-1 or R4B portion.

Except as specifically provided by the provisions of a special purpose district, the provisions of this Section shall apply to #zoning lots# which are divided by a special purpose district boundary line.

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## **77-12 - Application of Use Regulations Under All Other Conditions**

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LAST AMENDED  
6/25/1964

Whenever a #zoning lot# is divided by a boundary between districts in which different #uses# are permitted and the provisions of Section [77-11](#) (Conditions for Application of Use Regulations to Entire Zoning Lot) do not apply, the applicable #use# regulations for each district shall apply to that portion of the #zoning lot# located within such district, except as provided in Section [73-42](#) (Enlargement of Uses Across District Boundaries) or [73-52](#) (Modifications for Zoning Lots Divided by District Boundaries).

The regulations governing #use# are set forth in Article II, Chapter 2; Article III, Chapter 2; and Article IV, Chapter 2.

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## **77-20 - BULK REGULATIONS**

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LAST AMENDED  
12/15/1961

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## **77-21 - General Provisions**

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LAST AMENDED  
9/27/1962

Whenever a #zoning lot# existing on December 15, 1961, or on any applicable subsequent amendment thereto, is divided by a boundary between districts with different #bulk# regulations, and the provisions of Sections [77-11](#) (Conditions for Application of Use Regulations to Entire Zoning Lot) or [77-211](#) (Conditions for application of bulk regulations to entire zoning lot) do not apply, the #bulk# regulations may apply as set forth in Sections [77-22](#) to [77-29](#), inclusive, relating to Bulk Regulations.

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## **77-211 - Conditions for application of bulk regulations to entire zoning lot**

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LAST AMENDED  
12/5/1990

Whenever a #zoning lot# existing on December 15, 1961, or on any applicable subsequent amendment thereto, is divided by a boundary between:

- (a) two #Residence Districts# limited to #single-# or #single-# and #two-family residences#; or
- (b) two #Commercial Districts# or two #Manufacturing Districts# in which the same #uses# are permitted but different #bulk# regulations apply;

the #bulk# regulations applicable to the district in which more than 50 percent of the #lot area# of the #zoning lot# is located may apply to the entire #zoning lot#, provided that the greatest distance from the mapped district boundary to any #lot line# of such #zoning lot# in the district in which less than 50 percent of its area is located does not exceed 25 feet. Such distance shall be measured perpendicular to the mapped district boundary.

Whenever the #bulk# regulations are so applied, the district boundary may be assumed to be relocated accordingly, and the off-street parking and loading and all other regulations applying to such expanded district shall apply to the entire #zoning lot#.

Except as specifically provided by the provisions of a Special Purpose District, the provisions of this Section shall apply to #zoning lots# that are divided by a Special Purpose District boundary line.

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## **77-22 - Floor Area Ratio**

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LAST AMENDED  
2/2/2011

The maximum #floor area ratio# permitted on each portion of such #zoning lot# for the applicable type of #building# or #buildings# on such #zoning lot# shall be determined under the applicable regulations of Articles II, III and IV.

Each such #floor area ratio# shall be multiplied by the percentage of the #zoning lot# to which such #floor area ratio# applies. The sum of the products thus obtained shall be the adjusted maximum #floor area ratio# applicable to such #zoning lot#.

In applying this provision, the #floor area# bonus permitted for #publicly accessible open areas# or #arcades#, under the applicable regulations of this Resolution, shall apply only to such #publicly accessible open areas#, #arcades# or portions thereof, as are located in a district in which such bonus is granted.

When a #zoning lot# (with a #height factor# greater than 21) does not have a specified maximum #floor area ratio#, for the purpose of computing the adjusted maximum #floor area ratio#, the #floor area ratio# of such #zoning lot# shall be deemed to be that which can be achieved at the minimum required #open space ratio# for such #zoning lot#.

The #floor area# resulting from application of the adjusted maximum #floor area ratio# may be located anywhere on the #zoning lot#, subject to all other regulations of this Resolution, and provided that the #floor area ratio# for any portion of the #zoning lot# within one district shall not exceed the maximum #floor area ratio#, by #height factor#, if applicable, specified for that district, or the adjusted maximum #floor area ratio# for the #zoning lot#, whichever is greater, except as follows:

- (a) In R3-2 Districts, R4 Districts, except R4A, R4-1 and R4B Districts, R5 Districts, and equivalent #Commercial Districts#, and for #Quality Housing buildings# in R6, R7 and R8 Districts and equivalent #Commercial Districts# outside the #Manhattan Core#, the #residential# #floor area ratio# of that portion of the #zoning lot# fronting on and within 100 feet of a #wide street# and permitting the greater maximum permitted #residential# #floor area ratio# may exceed the maximum permitted #residential# #floor area ratio# for the portion of the #zoning lot# by up to 20 percent, provided that the maximum #residential# #floor area ratio# for the #zoning lot# does not exceed the adjusted maximum #residential# #floor area ratio# applicable to such #zoning lot#.
  - (b) For portions of #zoning lots# within an R2X, R3-1, R3A, R3X, R4-1, R4A or R4B District not subject to the provisions of Section [77-11](#) (Conditions for Application of Use Regulations to Entire Zoning Lot), the #floor area ratio# for such portion of the #zoning lot# shall not exceed the maximum #floor area ratio# specified for that district.
-

## 77-23 - Open Space Ratio

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LAST AMENDED

2/2/2011

The #open space# required for such #zoning lot# shall be computed separately for each portion of the #zoning lot# under the applicable regulations of the underlying districts. The total #open space# provided on the #zoning lot# shall not be less than the sum of such required #open space# so computed.

For portions of the #zoning lot# located in districts that have required #open space ratios#, the required #open space# for each such portion is computed by multiplying the #lot area# of that portion, by the maximum #floor area ratio# permitted for the applicable type of #building# or #buildings#, by the minimum #open space ratio# required at that #floor area ratio#, divided by 100.

For portions of the #zoning lot# located in other districts that do not have required #open space ratios# but do have required #open space#, the required #open space# for each such portion is computed by multiplying the #lot area# of that portion, by the minimum percentage of #open space# required, divided by 100.

For portions of the #zoning lot# located in districts that do not have a required #open space ratio# or required #open space#, no #open space# shall be required but any required #yards#, or #publicly accessible open area# provided, for which a #floor area# or #lot area# bonus is taken, shall be in addition to the amount of #open space# required on the remaining portion of the #zoning lot#. No open area may be counted twice in fulfilling these requirements.

The required #open space# may be located anywhere on the #zoning lot# subject to all other regulations of this Resolution and provided that the #open space ratio# for any portion of the #zoning lot# within one district shall not be less than 60 percent of the required #open space ratio# for that district.

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## 77-24 - Lot Coverage

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LAST AMENDED

2/2/2011

The maximum percent of #lot coverage# permitted on each portion of a #zoning lot# shall be determined under the applicable regulations of Article II, Chapters 3 and 4.

Each such maximum percent of #lot coverage# shall be multiplied by the #lot area# of the portion of the #zoning lot# to which such percent of #lot coverage# applies. The sum of the areas of #lot coverage# thus obtained shall be the maximum area of #lot coverage# for the #zoning lot#. Such maximum area of #lot coverage#, divided by the #lot area# of the #zoning lot#, shall be the adjusted maximum percent of #lot coverage# for the #zoning lot#.

A #building# whose #lot coverage# does not exceed the adjusted maximum percentage of #lot coverage# may be located anywhere on such #zoning lot# or portion of such #zoning lot#, subject to all other regulations of this Resolution, and provided that the percentage of #lot coverage# for any portion of the #zoning lot# within one district shall not exceed the maximum percentage of #lot coverage# specified for that district, or the adjusted maximum percentage of #lot coverage# for the #zoning lot#, whichever is greater.

If a #zoning lot# divided by a boundary between two or more districts is partly a #corner lot# and partly an #interior lot# or #through lot#, separate adjusted maximum percentages of #lot coverage# shall be computed for such #corner lot# and for such #interior lot# or #through lot# and applied separately to such #corner lot# and to such #interior lot# or #through lot#, as though each were a separate #zoning lot#. The provisions of this paragraph shall not apply to #zoning lots# located on #waterfront blocks#.

If a #zoning lot# is partly in a district in which there is no maximum permitted percentage of #lot coverage# for the #use#, the provisions of this Section shall apply to such portions of the #zoning lot# as are in a district with a maximum #lot coverage# requirement.

In R2X, R3, R4 or R5 Districts for #residential# portions of #buildings#, each portion of the #zoning lot# shall be governed by the #lot coverage# regulations specified for the district in which it is located as set forth in Article II, Chapter 3.

Wherever a #zoning lot# is divided by a district boundary in which one portion of the #zoning lot# is located in a district having a #lot coverage# requirement and the other portion is located in a district having an #open space ratio# requirement, the required #open space# for the portion having the #open space ratio# requirement shall be computed in accordance with Section [77-23](#) (Open Space Ratio). The inverse of such required #open space# shall be the maximum #lot coverage# permitted on that portion of the #zoning lot#, and may be located anywhere on the #zoning lot# subject to all other regulations of this Resolution.

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## **77-25 - Density Requirements**

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LAST AMENDED  
2/2/2011

Whenever a #zoning lot# is divided by a boundary between districts with different density requirements, the maximum number of #dwelling units# or #rooming units# permitted on the #zoning lot# shall equal the sum of the maximum number of #dwelling units# or #rooming units# permitted for each portion of the #zoning lot# in accordance with the applicable district regulations. Such #dwelling units# or #rooming units# may be located wherever a #building# is permitted on the #zoning lot#. However, for portions of #zoning lots# in R1, R2, R3-1, R3A, R3X, R4-1, R4A, R4B or R5A Districts, no more than one or two #dwelling units# may be provided, as applicable.

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## **77-26 - Minimum Lot Area and Lot Width Requirements for Residences**

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LAST AMENDED  
2/2/2011

The minimum #lot area# and #lot width# regulation applying to the district with the more restrictive regulations shall apply to the entire #zoning lot#.

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## **77-27 - Yard Regulations**

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LAST AMENDED  
2/2/2011

Each portion of the #zoning lot# shall be governed by the #yard# regulations specified for the district in which it is located.

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## **77-28 - Height and Setback Regulations**

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LAST AMENDED  
2/2/2011

For #zoning lots# divided by district boundaries in which all applicable height and setback regulations include the use of #sky exposure planes#, the height and setback regulations of each #street# frontage of the #zoning lot# shall be determined by multiplying the quantitative requirements set forth in the regulations of the Chapters, which are applicable to each portion of such #street# frontage, by the percentage of such #street# frontage to which such regulations apply. The sum of the products obtained shall be the controlling requirements for the #zoning lot#.

In determining the percentage of such #street# frontage, the percentage shall be based on the total frontage of the #zoning lot# along such #street#.

However, if any portion of such #zoning lot# is located within a #Limited Height District#, the provisions of Sections [23-691](#), [24-591](#), [33-491](#) or [43-49](#) (Limited Height Districts) shall apply to such portion of the #zoning lot#.

For all other #zoning lots#, each portion of such #zoning lot# shall be regulated by the height and setback provisions applicable to the district in which such portion of the #zoning lot# is located.

In R2X, R3, R4 or R5 Districts, for #residential# portions of #buildings#, each portion of the #zoning lot# shall be governed by the height and setback regulations specified for the district in which it is located, as set forth in Article II, Chapter 3.

For the purposes of defining a #building# envelope pursuant to

paragraph (b) of Section [23-631](#) (General provisions), apex points may be located on a zoning district boundary which divides a #building#.

Furthermore, if any portion of a #zoning lot# is located in an R2X, R3, R4, R4-1 or R4A District, the height and setback regulations specified for such district may apply to the entire #zoning lot# provided that such district comprises more than 50 percent of such #zoning lot#, and the greatest distance from the mapped district boundary to any #lot line# of such #zoning lot# in the district in which less than 50 percent of its area is located does not exceed 25 feet. Such distance shall be measured perpendicular to the mapped district boundary.

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## **77-29 - Tower Regulations**

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LAST AMENDED  
2/2/2011

If 50 percent or more of a #zoning lot# is located within a district to which the provisions of Sections [23-65](#), [24-54](#), [33-45](#) or [43-45](#) (Tower Regulations) apply, and the remaining portion of the #zoning lot# is within a district to which such provisions do not apply, any #building# or portion thereof which, in the aggregate, occupies not more than 40 percent or, on small lots, the percentage set forth in Sections [23-65](#), [24-54](#), [33-454](#) or [43-451](#) (Towers on small lots) of the #lot area# of the entire #zoning lot# (which #building# or portion thereof is hereinafter referred to as a tower) may penetrate any applicable established #sky exposure plane#, provided that such tower shall comply with the applicable setback requirements or restrictions on aggregate area that may be occupied within 50 feet of a #narrow street# or 40 feet of a #wide street#, as set forth in Sections [23-65](#), [24-54](#), [33-45](#) or [43-45](#).

If 50 percent or more of a #zoning lot# is located in a district in which the provisions of Sections [33-455](#) (Alternate regulations for towers on lots bounded by two or more streets), [33-456](#) (Alternate setback regulations on lots bounded by two or more streets) or [33-457](#) (Tower setbacks on narrow blocks) apply, and the remaining portion of the #zoning lot# is within a district in which such provisions do not apply, any #building# or any tower that occupies not more than the applicable percent of the #lot area# of a #zoning lot# as set forth in Section [33-455](#) or [33-456](#) and which complies with the applicable setback requirements as set forth in Sections [33-455](#), [33-456](#) or [33-457](#), may penetrate any applicable established #sky exposure plane#.

Subject to the requirements set forth hereinbefore and those specified in Sections [77-22](#) (Floor Area Ratio) and [77-23](#) (Open Space Ratio), such tower may be located anywhere on such #zoning lot#.

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## **77-30 - OFF-STREET PARKING AND LOADING REGULATIONS**

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LAST AMENDED  
12/15/1961

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## **77-31 - General Provisions**

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LAST AMENDED  
12/15/1961

Whenever a #zoning lot# existing on December 15, 1961, or on any applicable subsequent amendment thereto, is divided by a boundary between districts with different off-street parking or loading regulations, and the provisions of Section [77-11](#) (Conditions for Application of Use Regulations to Entire Zoning Lot) do not apply, the off-street parking and loading regulations may apply as set forth in this Chapter.

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## **77-32 - Districts of Same General Use Class**

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LAST AMENDED  
12/15/1961

When such boundary is between two #Residence Districts# or two #Commercial Districts# or two #Manufacturing Districts#, the provisions of this Section shall apply.

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## **77-321 - Provisions governing off-street parking for residences**

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LAST AMENDED  
2/2/2011

The percentage requirements for #accessory# off-street parking for #residences# applicable to each portion of the #zoning lot# shall be multiplied by the percentage of the total #lot area# of the #zoning lot# to which each such requirement applies. The sum of the products obtained shall be the percentage requirement applicable to #residences# on such #zoning lot#. Such off-street parking spaces may be located anywhere on the #zoning lot# without regard to district boundaries, provided that such spaces shall conform to all the other applicable provisions of this Resolution.

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## **77-322 - Provisions governing off-street parking for non-residential uses**

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LAST AMENDED  
2/2/2011

For non-#residential uses#, the requirements for #accessory# off-street parking or loading of that district in which more than 50 percent of the total area of the #zoning lot# is located, shall apply to the entire #zoning lot#. The parking spaces or loading berths may be located anywhere on the #zoning lot# without regard to district boundaries, provided that such spaces or berths shall conform to all other applicable regulations of this Resolution.

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## **77-33 - Districts of Different General Use Class**

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LAST AMENDED  
12/15/1961

When such boundary is between a #Residence District# and a #Commercial District#, or between a #Commercial District# and a #Manufacturing District#, or between a #Residence District# and a #Manufacturing District#, the provisions of this Section shall apply.

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## **77-331 - Use permitted in both districts**

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LAST AMENDED  
12/15/1961

For any #use# which is permitted in both such districts, the applicable requirements for #accessory# off-street parking and loading of that district in which more than 50 percent of the #zoning lot# is located shall apply to the entire #zoning lot#. The parking spaces or loading berths may be located anywhere on the #zoning lot# without regard to district boundaries, provided that such spaces or berths shall conform to all other applicable regulations of this Resolution.

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## **77-332 - Use not permitted in both districts**

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LAST AMENDED  
12/15/1961

For any #use# which is permitted in one such district but not in the other, the applicable district requirements for #accessory# off-street parking and loading shall be satisfied entirely within the district within which such #use# is permitted, provided, however, that:

- (a) the required parking spaces for #residential# or #community facility# #uses#, or the loading berths for #community facility# #uses#, may be located on that portion of the #zoning lot# which is in a C8 or #Manufacturing District#;
- (b) the required parking spaces or loading berths for any #commercial# #use# may be located on that portion of the #zoning lot# which is in a #Manufacturing District#;
- (c) the required parking spaces or loading berths for #manufacturing# #uses# may be located on that portion of the #zoning lot# which is in a C8 District; and

provided, further, that such spaces or berths shall conform to all other applicable regulations of this Resolution.

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## **77-40 - SUPPLEMENTAL REGULATIONS**

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LAST AMENDED  
4/30/2008

For #buildings# #developed# or #enlarged# on #zoning lots# in which a district boundary divides the #building# such that the Quality Housing Program applies in one portion of the #building# but not the other, the following Sections of Article II, Chapter 8, shall apply to the entire #building# or #zoning lot#, as applicable:

Section [28-10](#) (BUILDING INTERIOR)

Section [28-20](#) (RECREATION SPACE AND PLANTING AREAS)

Section [28-30](#) (SAFETY AND SECURITY)

Section [28-40](#) (PARKING FOR QUALITY HOUSING).

Where each zoning district has a different recreation space requirement, and/or density of #dwelling units# per corridor standard, the following rule shall apply:

To arrive at one standard for the #building#, each standard shall be multiplied by the percentage of the #zoning lot# to which such standard applies. The sum of the products thus obtained shall be the adjusted standard applicable to the #building#. For any portion of the #zoning lot# in an R3-2, R4 (except R4-1, R4A or R4B), or R5 District, the R6B District standards shall apply.



## Zoning Resolution

THE CITY OF NEW YORK

Eric Adams, Mayor

CITY PLANNING COMMISSION

Daniel R. Garodnick, Chair

# **Chapter 8 - Special Regulations Applying to Large-Scale Residential Developments**

File generated by <https://zr.planning.nyc.gov> on 3/22/2024

# Chapter 8 - Special Regulations Applying to Large-Scale Residential Developments

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## 78-00 - GENERAL PURPOSES, DEFINITIONS AND GENERAL PROVISIONS

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LAST AMENDED  
8/18/1977

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### 78-01 - General Purposes

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LAST AMENDED  
8/24/1967

The regulations set forth in this Chapter are designed to deal with certain types of problems which arise only in connection with large-scale residential developments and to promote and facilitate better site planning and community planning through modified application of the district regulations in such developments.

For large-scale residential developments involving several zoning lots but planned as a unit, the district regulations may impose unnecessary rigidities and thereby prevent achievement of the best possible site plan within the overall density and bulk controls. For such developments, the regulations of this Chapter are designed to allow greater flexibility for the purpose of securing better site planning for development of vacant land and to provide incentives toward that end while safeguarding the present or future use and development of surrounding areas and, specifically, to achieve more efficient use of increasingly scarce land within the framework of the overall bulk controls, to enable open space in large-scale residential developments to be arranged in such a way as best to serve active and passive recreation needs of the residents, to protect and preserve scenic assets and natural features such as trees, streams and topographic features, to foster a more stable community by providing for a population of balanced family sizes, to encourage harmonious designs incorporating a variety of building types and variations in the siting of buildings, and thus to promote and protect public health, safety and general welfare.

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### 78-02 - Definitions

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LAST AMENDED  
2/2/2011

Words in italics are defined in Section [12-10](#) or, if applicable exclusively to this Chapter, in this Section.

#### Floor area

For the purposes of this Chapter, in R3, R4 or R5 Districts, #floor area# shall be as defined in Section [12-10](#), except that:

- (a) #floor area# shall not include up to 200 square feet of floor space located in any #story# used for required #accessory# off-street parking spaces within individual garages; and
  - (b) within the definition of #floor area# in Section [12-10](#), listed under “#floor area# includes,” paragraph (i)(3) shall not apply, and listed under “#floor area# of a #building# shall not include,” paragraph (6)(ii), shall not apply.
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### 78-03 - Applicability of This Chapter

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LAST AMENDED  
2/27/2020

#Large-scale residential developments# are governed by all the #use# #bulk# off-street parking and loading, and other

#Large-scale residential developments# are governed by all the #use#, #bulk#, on-street parking and loading, and other applicable regulations of this Resolution, except for such special provisions as are specifically set forth in this Chapter and apply only to such #large-scale residential developments#.

Any #large-scale residential development# having a total of at least 500 #dwelling units# shall be subject to the provisions of Section [78-11](#) (General Provisions), relating to Provision of Public Facilities in Connection with Large-Scale Residential Developments.

#Large-scale residential developments# within the #waterfront area# shall be subject to the provisions of Section [62-132](#) (Applicability of Article VII, Chapters 4, 8 and 9).

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## **78-04 - Powers of the City Planning Commission**

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LAST AMENDED

8/24/1967

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### **78-041 - Authorization by Commission**

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LAST AMENDED

8/24/1967

For any #large-scale residential development# for which proposed modifications of the applicable district regulations are limited to those which may be granted in accordance with the provisions of Sections [78-21](#) to [78-23](#), inclusive, relating to Use Regulations, Sections [78-311](#) and [78-313](#) relating to Bulk Regulations, Section [78-41](#) (Location of Accessory Parking Spaces), or Sections [78-51](#) to [78-53](#), inclusive, relating to Subdivision of Large-Scale Residential Developments, the City Planning Commission may grant such modifications in accordance with the provisions of such specified Sections and may prescribe appropriate conditions and safeguards thereon.

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### **78-042 - Special permits**

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LAST AMENDED

12/18/1969

For #large-scale residential developments# for which proposed modifications of the applicable district regulations include those which may be granted only in accordance with the provisions of Sections [78-312](#) to [78-33](#), inclusive, relating to Bulk Regulations, or Section [78-42](#) (Parking Regulations for Commercial and Community Facility Uses), the City Planning Commission may grant special permits for such modifications in accordance with the applicable provisions of such specified Sections and other sections of this Chapter and may prescribe appropriate conditions and safeguards thereon.

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### **78-043 - Requirements for findings**

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LAST AMENDED

2/2/2011

The requirements for findings as set forth in this Chapter shall constitute a condition precedent to the grant of any such modification by special permit or otherwise. The decision or determination of the City Planning Commission shall set forth each required finding in each grant of modifications for a #large-scale residential development#. Each finding shall be supported by substantial evidence or data considered by the Commission in reaching its final decision.

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### **78-044 - Contractual agreements**

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LAST AMENDED  
8/24/1967

The City of New York may enter into contractual agreements with the applicant as may be required to assure compliance with the terms and conditions of the modifications granted under the provisions of this Chapter.

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## 78-05 - Requirements for Applications

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LAST AMENDED  
2/2/2011

An application to the City Planning Commission for an authorization or special permit respecting any #large-scale residential development# shall include a site plan and related schedules showing the location and proposed #use# of all #buildings or other structures# on the site, the location of existing natural features such as important trees or clusters of trees, streams or rock formations, and all information necessary to indicate the authorizations requested and their justification.

The Commission shall require, where relevant, a time schedule for carrying out the proposed #large-scale residential development#, a financial plan, a subdivision plan and, in the case of a site plan providing for common #open space# or common parking areas, a maintenance plan for such space or areas and surety for continued availability of such space or areas to the people they are intended to serve.

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## 78-06 - Ownership

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LAST AMENDED  
12/6/2023

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- (a) Except as otherwise provided in this Section, any #large-scale residential development# for which application is made for an authorization or special permit or modification thereto, in accordance with the provisions of this Chapter, shall be on a tract of land that at the time of application is all under the control of the applicant(s) as the owner(s) or holder(s) of a written option to purchase. Except as otherwise provided in this Section, no authorization or special permit or modification thereto, shall be granted for such #large-scale residential development# unless the applicant(s) acquired actual ownership (single fee ownership or alternate ownership arrangements according to the #zoning lot# definition in Section [12-10](#) for all #zoning lots# comprising the #large-scale residential development#) of, or executed a binding sales contract for, all of the property comprising such tract.
  - (b) Notwithstanding the provisions of paragraph (a) of this Section, the following actions shall be permitted:
    - (1) When a #large-scale residential development# is part or all of a designated urban renewal project, the City's urban renewal agency, or a person authorized by such agency, may make application for and may be granted authorizations or special permits under the provisions of this Chapter, even though such #large-scale residential development# does not meet the ownership requirements set forth in paragraph (a) of this Section. All parcels comprising such #large-scale residential development# shall be within the designated urban renewal area and subject to the urban renewal controls set forth in the approved urban renewal plan.
    - (2) In the event that the urban renewal plan has expired, the owner(s) of a vacant parcel(s) within such #large-scale residential development#, if located in a former urban renewal area listed in this paragraph, (b)(2), may make application for and may be granted modifications of authorizations or special permits previously granted under

the provisions of this Chapter with respect to such parcel(s), subject to the conditions of paragraph (b)(5) of this Section.

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Borough	Community District	Former Urban Renewal Area (URA)
Manhattan	7	West Side URA

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- (3) The owner(s) of a developed parcel(s) within a #large-scale residential development# located in a former urban renewal area listed in paragraph (b)(2), where at least 50 percent of such parcel(s) is located within a C1-9 or C2-8 District, may make application for, and may be granted, modifications of authorizations or special permits previously granted under the provisions of this Chapter, in order to utilize available #floor area# for #commercial# or #community facility# #uses#, subject to the conditions of paragraph (b)(5) of this Section and provided further that:
- (i) no #residential use# existing prior to July 23, 2008, located above the level of the ground floor may be changed to a non-#residential use#;
  - (ii) the #enlarged# portion of the #building# shall be restricted to #community facility# #uses# and #commercial# #uses# listed in Use Groups 6A and 6C, provided that any ground floor #community facility# #use#, and any bank or loan office shall occupy not more than 25 feet of the #wide street# frontage, measured to a depth of 30 feet from the #wide# #street line#, and no #community facility# #use# shall be permitted above the level of the second #story# ceiling;
  - (iii) any #enlargement# fronting upon Columbus or Amsterdam Avenue shall contain a number of establishments, such that the entire #block# front on Columbus or Amsterdam Avenue shall contain no fewer than three establishments, each with a separate entrance on Columbus or Amsterdam Avenue. The Columbus or Amsterdam Avenue frontage of any one such establishment shall not exceed 100 feet;
  - (iv) the ground floor #street wall# of an #enlargement# located within C1-9 or C2-8 Districts shall be glazed with transparent materials which may include #show windows#, glazed transoms or glazed portions of doors. Such glazed area shall occupy at least 70 percent of the area of each such ground floor #street wall#, measured to a height of 12 feet above the level of the adjoining sidewalk or public access area;
  - (v) required #open space# with appropriate circulation, seating, lighting and plantings shall be accessible and usable by all residents of the #large-scale residential development#;
  - (vi) a plan, including elevations, shall be submitted showing the proposed #building(s)# and modification, and #open space#; and
  - (vii) the #enlargement# enhances the streetscape and the design promotes a harmonious relationship with the existing #buildings# and contiguous #blocks# within the #large-scale residential development#.

In addition, any significant adverse impacts resulting from a #development# or #enlargement# pursuant to such modifications, considered in combination with #developments# or #enlargements# within the former urban renewal area listed in paragraph (b)(2), previously the subject of modifications under this paragraph, (b)(3), shall have been avoided or minimized to the maximum extent practicable by incorporating as conditions to the

modification those mitigative measures that have been identified as practicable.

The provisions of paragraphs (b)(3)(ii) and (b)(3)(iii) shall not apply to #enlargements# of #community facility# #uses# and bank or loan offices existing prior to July 23, 2008, provided that such #enlargement# does not increase existing #street# frontage on Columbus or Amsterdam Avenues by more than 10 feet.

An application filed pursuant to this paragraph, (b)(3), shall be referred to the affected Community Board, and the City Planning Commission shall not grant any modification of an authorization or special permit pursuant thereto prior to 45 days after such referral.

- (4) For any #large-scale residential development# located in the Community District(s) listed in this paragraph, (b)(4), the owner(s) of a vacant parcel(s) may make application for and may be granted modifications of authorizations or special permits previously granted under the provisions of this Chapter with respect to such parcel(s), subject to the conditions of paragraph (b)(5).

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Borough	Community District
Queens	7

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- (5) Modifications of authorizations or special permits previously granted under the provisions of this Chapter, as permitted in paragraphs (b)(2), (b)(3) and (b)(4) of this Section, shall not:
- (i) result in the distribution of #floor area# from any #zoning lot# not coextensive with or included within such parcel(s); or
  - (ii) increase the total allowable #floor area# on any #zoning lot# included within such parcel(s) beyond that amount permitted by the applicable district regulations.

Such modifications may include the withdrawal of such parcel(s) from the boundaries of the #large-scale residential development#, provided that such modification would not create a #non-compliance# within the #large-scale residential development#.

- (6) When a #large-scale residential development# is to be #developed# or #enlarged# through assemblage by any other governmental agency, other than the City's urban renewal agency, or its agent, having the power of condemnation, authorizations or special permits may be applied for and may be granted under the provisions of this Chapter, even though such #large-scale residential development# does not meet the ownership requirements set forth elsewhere in this Section.
- (7) In the event that the urban renewal plan has expired, the owner(s) of a parcel(s) of land previously used as open space for a term of years that has expired within such #large scale residential development#, if located in a former urban renewal area listed in this paragraph, (b)(7), may make application for and be granted modifications of authorizations or special permits previously granted under the provisions of this Chapter, where such modifications do not seek the distribution of #floor area# from any #zoning lot# not included within such parcel(s), for a #development# that includes a #building# and public open space permitted by the applicable district regulations. Such modifications shall result in a site plan that includes a #building# and public open

space that are appropriately located and oriented with respect to other uses in the surrounding area.

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Borough	Community District	Former Urban Renewal Area (URA)
Manhattan	8	Ruppert Brewery URA

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## **78-07 - 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.

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## **78-10 - PROVISION OF PUBLIC FACILITIES IN CONNECTION WITH LARGE-SCALE RESIDENTIAL DEVELOPMENT**

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LAST AMENDED  
8/24/1967

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## **78-11 - General Provisions**

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LAST AMENDED  
8/24/1967

The following regulations apply to all #large-scale residential developments# with a total of at least 500 #dwelling units#, except duly authorized urban renewal projects, as a condition precedent to the issuance of a building permit.

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## **78-111 - Public facilities report**

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LAST AMENDED  
2/2/2011

Within one month after a request from the Chairperson of the City Planning Commission, the Department of City Planning shall make a report, based upon information from the Department of Education and other appropriate City Departments, on the anticipated effect of the proposed #large-scale residential development# on the existing capacity of public #schools# or other public facilities serving the area in which the proposed #large-scale residential development# is to be located.

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## **78-112 - If no additional public facilities needed**

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LAST AMENDED  
2/2/2011

If the Department of City Planning reports that the proposed #large-scale residential development# will not require any significant addition to the public facilities serving the neighborhood, then the requirements of this Section shall be considered to be satisfied.

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## 78-113 - If additional public facilities needed

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LAST AMENDED  
2/2/2011

If the Department of City Planning reports that the proposed #large-scale residential development# can be expected to create a need for one or more new public facilities in the neighborhood, the City Planning Commission may, in its discretion, recommend that a site for one or more such facilities should be reserved within the site of such proposed #large-scale residential development#. If the Commission does so recommend, the issuance of a building permit shall be withheld for a period not to exceed three months. In such a case, the requirements of this Section shall be considered to be satisfied:

- (a) if, within a period of less than three months, the developer and the appropriate City officials have agreed on the reservation of such a site or sites, or official proceedings have been initiated to authorize acquisition of such a site or sites, or if necessary to amend the capital budget to include the project as a prerequisite to site acquisition; or
- (b) in any event, at the expiration of the above-mentioned period of three months.

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## 78-20 - USE REGULATIONS

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LAST AMENDED  
8/24/1967

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### 78-21 - Permitted Uses

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LAST AMENDED  
1/22/1970

A #large-scale residential development# may include within its area any #residential uses#, #commercial # #uses# or #community facility# #uses# permitted in the district or districts in which it is located. The #commercial # #uses# in these #Commercial Districts# shall be restricted to #uses# permitted in C1, C2 or C4 Districts.

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### 78-22 - Accessory Uses in Large-Scale Residential Developments

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LAST AMENDED  
12/6/2023

A #large-scale residential development# in a #Residence District# may contain as #accessory # #uses#, any #commercial# #uses# listed in Use Group 6A which in the aggregate occupy not more than two percent of the total #floor area# in the #large-scale residential development#, and of which no single establishment occupies more than 15,000 square feet of #floor area#, provided that upon a review of the site plan, the City Planning Commission finds that such #commercial# #uses#:

- (a) will be primarily for the use of the residents of the #large-scale residential development# and will provide more

convenient shopping for such residents;

- (b) are so located as to minimize interference with #residential# or recreational areas within the #large-scale residential development# and to avoid creation of traffic congestion or other objectionable influences affecting #residences# outside the #large-scale residential development#;
- (c) comply with all the applicable #bulk# and off-street parking and loading regulations for such #accessory # #commercial# #uses#, as set forth in Article II, Chapters 3 and 5; and
- (d) conform to those provisions of the following Sections which are applicable to #commercial # #uses# in C1 Districts:

Section [32-41](#) (Enclosure Within Buildings)

Section [32-42](#) (Location Within Buildings)

Sections [32-61](#) to [32-68](#), inclusive, relating to Sign Regulations.

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## **78-23 - Other Accessory Uses**

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LAST AMENDED

4/30/1981

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## **78-231 - Accessory swimming pools**

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LAST AMENDED

2/2/2011

Swimming pools may be authorized by the City Planning Commission as #accessory # #uses# even though not located on the same #zoning lots# as the principal #uses# to which they are related, provided that:

- (a) any such swimming pool is located in a common #open space# area and as a part of such area meets all the requirements set forth in Section [78-52](#) (Common Open Space);
- (b) the use of such swimming pool is restricted to the residents of the #large-scale residential development# or portion thereof served by such common #open space#, and their guests;
- (c) the edge of such swimming pool is located not less than 50 feet from any #lot line# on the periphery of the #large-scale residential development#, and is suitably screened from other areas on the same or adjacent #zoning lots#; and
- (d) such swimming pool complies in all other respects with the definition of #accessory # #use# as set forth in Section [12-10](#) (DEFINITIONS).

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## **78-232 - Accessory sewage disposal plants**

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LAST AMENDED

4/30/1981

In Staten Island, sewage disposal plants to serve not more than 50 #dwelling units# may be authorized by the City Planning Commission as #accessory# #uses# to be located anywhere within a #large-scale residential development# without regard for #zoning lot lines#, provided the Commission finds that:

- (a) the sewage disposal plant is located not closer than 100 feet from any #residential use#;

- (b) the #large-scale residential development# is arranged so as to best serve the active and passive recreation needs of the #residential development#, protect and serve scenic assets and natural features and provide suitable variations in the siting of #buildings#;
- (c) the sewage disposal plant is adequately landscaped and buffered from all #residential uses# on the same or adjacent #zoning lots#; and
- (d) the proposal promotes and protects the public health, safety and general welfare.

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## **78-24 - Special Permits**

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LAST AMENDED  
2/2/2011

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### **78-241 - Waterfront and related commercial uses**

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LAST AMENDED  
2/2/2011

For any #large-scale residential development# in a C4 District, the City Planning Commission may, by special permit, modify applicable district regulations to allow #uses# listed in Use Group 14A, not otherwise allowed in such district, provided that:

- (a) the #uses# are appropriate for the location and blend harmoniously with the rest of the #large-scale residential development#; and
- (b) the #streets# providing access to such #uses# will be adequate to handle the traffic generated thereby.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the #large-scale residential development#.

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### **78-242 - Location of commercial uses**

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LAST AMENDED  
2/2/2011

For any #large-scale residential development#, the City Planning Commission, by special permit, may allow #residential# and non-#residential uses# to be arranged within a #building# without regard for the regulations set forth in Section [32-42](#) (Location Within Buildings) when terracing is required because of unusual topographic conditions in a #large-scale residential development# having a minimum area of 20 acres.

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## **78-30 - BULK REGULATIONS**

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LAST AMENDED  
8/24/1967

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### **78-31 - Location of Buildings, Distribution of Bulk and Open Space and Modification of Height and Setbacks**

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LAST AMENDED  
2/2/2011

(a) General provisions

For the purposes of this Section, the term "periphery" shall mean any #street line# bounding a #large-scale residential development# or any #lot line# abutting a #zoning lot# that is not part of the #large-scale residential development#. The term "wholly within" shall therefore mean any area of the #large-scale residential development# which is not within the area designated as "periphery." However, in R3-2 Districts, R4 Districts except R4-1, R4A and R4B Districts, or R5 Districts except R5B Districts, the "periphery" shall also include all portions of a #large-scale residential development# within 100 feet of a peripheral #street line# or within 30 feet of any other peripheral #lot line#, except for portions directly opposite:

- (1) an area of at least 1.5 acres in a #Residence District# that is either vacant or #land with minor improvements#; or
- (2) a #large-scale residential development# #developed# pursuant to the provisions of paragraph (b) of this Section; or
- (3) a #Commercial# or a #Manufacturing District#.

All #buildings or other structures# in the periphery of a #large-scale residential development# shall comply with the height and setback regulations of Article II, Chapter 3, except as otherwise provided in this Section.

Special provisions applying to #large-scale residential developments# in R3, R4 or R5 Districts are set forth in paragraphs (b) and (c) of this Section. The provisions of paragraph (b) shall apply to any #large-scale residential development# in R3-2 Districts, R4 Districts except R4-1, R4A and R4B Districts, or R5 Districts except R5B Districts. The provisions of paragraph (c) shall apply only to #large-scale residential developments# in all R3, R4 or R5 Districts that utilize the bonus provisions of Section [78-32](#) through [78-35](#), inclusive.

(b) Alternate height and setback regulations for certain districts

In R3-2 Districts, R4 Districts except R4-1, R4A and R4B Districts, or R5 Districts except R5B Districts, #buildings or other structures#, or portions thereof, "wholly within" a #large-scale residential development# may use the alternate height and setback regulations set forth in paragraphs (b)(1) through (b)(3) of this Section.

- (1) In R3-2 Districts, the height and setback regulations applicable to R4 Districts, except R4A and R4B Districts, may be used.
- (2) In R4 Districts, no portion of any #building or other structure#, including the apex of a roof, shall penetrate a plane 35 feet in height above the #base plane#.
- (3) In R5 Districts, no portion of any #building or other structure#, including the apex of a pitched roof, shall penetrate a plane 40 feet in height above the #base plane#.

(c) Alternate #floor area# and #open space# regulations in R3, R4 or R5 Districts

In #large-scale residential developments# that utilize the bonus provisions of this Chapter, the #floor area ratio# and the #open space ratio# controls set forth in the following table shall apply in lieu of the #floor area ratio# and #lot coverage# controls of Article II, Chapter 3.

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District	#Open Space Ratio#	#Floor Area Ratio#
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R3	150	.50*
R4	80	.75*
R5	40	1.25

\* The #floor area ratio# in the table may be increased by up to 20 percent provided that any such increase in #floor area# is located under a sloping roof which rises at least three and one-half inches in vertical distance per each foot of horizontal distance and the structural headroom of such #floor area# is between five and eight feet. Any such additional #floor area# under a sloped roof shall not be used to compute the #open space ratio#

- (d) Authorizations may be granted for #buildings# to be located, #bulk# and #open space# distributed, and height and setback modified, in accordance with the provisions of this Section.
- (e) In R9, R10, C1-8, C1-9, C2-7 or C2-8 Districts, or in C1 or C2 Districts mapped within R9 or R10 Districts, #floor area# bonuses for #public plazas# or #arcades# permitted in accordance with the applicable district regulations shall apply only to a #development# or #enlargement# with 25 percent or less of the total #floor area# of the #building# in #residential use#.
- (f) Alternate window to #lot line# regulations for a #zoning lot# directly adjoining a #public park#

In R7-1 and R8 Districts within a #large-scale residential development# in Community District 6 in the Borough of the Bronx, the required minimum distance between a #legally required window# and a #lot line#, as set forth in Section [23-86](#) (Minimum Distance Between Legally Required Windows and Walls or Lot Lines), inclusive, shall not apply where a #legally required window# is fronting upon a #public park# with an area of at least one-half acre.

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## 78-311 - Authorizations by the City Planning Commission

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LAST AMENDED  
2/2/2011

When a #large-scale residential development# includes, or will include after subdivision, two or more #zoning lots#, the City Planning Commission may authorize:

- (a) the total #floor area#, #lot coverage#, #dwelling units# or #rooming units# permitted by the applicable district regulations for all #zoning lots# within the #large-scale residential development# to be distributed without regard for #zoning# #lot lines#;
- (b) the total #open space# required by the applicable district regulations for all #zoning lots# within the #large-scale residential development# to be distributed without regard for #zoning# #lot lines#, except that where subdivision is authorized in accordance with the provisions of Section [78-51](#) (General Provisions), the Commission, in authorizing such distribution may allow reductions in the minimum required #open space# on individual #zoning lots# only where adequate provision is made for common #open space# to serve such lots.

If the required #open space# on the roof of a #community facility building# has an equivalent access arrangement acceptable to the Commission, it may authorize modification of requirements set forth in paragraph (b) of the #open space# definition in Section [12-10](#);

- (c) for #zoning lots# adequately served by common #open space#, the minimum required #lot area# as set forth in Section [23-32](#) (Minimum Lot Area or Lot Width for Residences) to be reduced, provided that any #residence# for which the minimum required #lot area# is so reduced shall be separated from all other #buildings# on the same or adjacent #zoning lots# by a distance consistent with the provisions of Section [23-71](#) (Minimum Distance Between Buildings on a Single Zoning Lot), or in cases where at least one of the #buildings# is a one-family or two-family #detached# or #semi-detached# house, rowhouse, or series of rowhouses, by a lesser distance to be determined by the Commission;
- (d) the location of #buildings# without regard for #yard# regulations which would otherwise apply along portions of #streets# or #lot lines# “wholly within” the #large-scale residential development# provided that any #building# for which required #rear# or #side yards# are reduced shall be separated from all other #buildings# with which it does not share a party wall, on the same or adjacent #zoning lots#, by a distance consistent with the provisions of Section [23-71](#) or, in cases where at least one of the #buildings# is a single-family or two-family #detached# or #semi-detached# house, rowhouse or series of rowhouses, by a lesser distance to be determined by the Commission, where the location of the #buildings# will not be detrimental to the privacy of the occupants of the #buildings# on the #block#;
- (e) the location of #buildings# without regard for the height and setback regulations which would otherwise apply along portions of #streets# “wholly within” the #large-scale residential development# or along #side# or #rear lot lines# #abutting# other #zoning lots# within the #large-scale residential development#, provided that any #building# for which required rear or side setbacks are reduced shall be separated from all other #buildings# with which it does not share a party wall, on the same or adjacent #zoning lots#, by a distance consistent with the provisions of Section [23-71](#);
- (f) the location of primary business entrances, #show windows# or #signs# along frontages which are adjacent only to other #zoning lots# within the #large-scale residential development#, without regard to restrictions applicable near #Residence District# boundaries, for the purpose of achieving better site planning and community planning;
- (g) special directional #signs# and their location and design within a #large-scale residential development# comprising an area of at least five acres provided that their construction would result in better pedestrian and vehicular circulation. The Commission shall in each case give due consideration to the effect of such #signs# on the surrounding residential area and may impose appropriate conditions and safeguards;
- (h) the location of #buildings# on a single #zoning lot# without regard for spacing between #buildings#, provided that the resultant spacing will not be reduced beyond an amount considered appropriate by the Commission and in no case by more than 15 percent of that required by Section [23-71](#).

For that portion of a #large-scale residential development# located in an R6 District, the Commission may authorize the permitted #floor area ratio# and required #open space ratio# to be determined on the basis of a #height factor# which is different than the actual #height factor# of such portion of the #large-scale residential development#, for the purpose of achieving better site planning and community planning.

When subdivision is authorized in accordance with the provisions of Section [78-51](#) and satisfactory provision is made for common #open space#, the Commission may consider such common #open space# in determining to what extent, if any, modifications of the #yard# regulations are justified.

For any #large-scale residential development#, the City Planning Commission may, upon application, authorize in R3, R4 and R5 Districts, modifications of the height and setback regulations set forth in Section [23-631](#) and paragraph (b) of Section [78-31](#) for #buildings# “wholly within” the #large-scale residential development# for the purposes of introducing variety or preserving natural features or view corridors.

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## **78-312 - Special permits by the City Planning Commission**

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For any #large-scale residential development#, the City Planning Commission may permit:

- (a) the total #floor area#, #lot coverage#, #dwelling units# or #rooming units# permitted by the applicable district regulations or by Sections [78-32](#) (Bonus for Good Site Plan) or [78-33](#) (Bonus for Common Open Space) for all #zoning lots# within the #large-scale residential development# to be distributed without regard for #zoning# #lot lines#;
- (b) the total #open space# required by the applicable district regulations or by Sections [78-32](#) or [78-33](#) for all #zoning lots# within the #large-scale residential development# to be distributed without regard for #zoning# #lot lines# except that where subdivision is authorized in accordance with the provisions of Section [78-51](#) (General Provisions), the Commission, in authorizing such distribution may allow reductions in the minimum required #open space# on individual #zoning lots# only where adequate provision is made for common #open space# to serve such lots;
- (c) minor variations in required #front# or #rear yards# on the periphery of such #large-scale residential development# for the purpose of introducing variety or preserving natural features;
- (d) in R1, R2, R6, R7, R8, R9 or R10 Districts, minor variations in the front height and setback regulations on the periphery of such #large-scale residential development# for the purpose of introducing variety, preserving natural features, or providing for improved access of light and air, but within the general purpose and intent of the height and setback regulations. In R3, R4 or R5 Districts, the Commission may modify the height and setback regulations set forth in Section [23-631](#) and paragraph (b) of Section [78-31](#), on the periphery of such #large-scale residential development#, for the purposes of introducing variety, providing a transition in neighborhood scale between the #large-scale residential development# and surrounding #buildings#, preserving natural features or view corridors, or improving the access of light and air;
- (e) variations in the location of primary business entrances, #show windows#, and #signs# along frontages adjacent to #zoning lots# outside the #large-scale residential development#, without regard to restrictions applicable near #Residence District# boundaries, for the purpose of achieving better site planning and community planning. However, in no event shall the Commission allow such primary business entrances, #show windows# or #signs# to be located within 10 feet of the #Residence District# boundary; and
- (f) modifications of the minimum spacing requirements consistent with the intent of the provisions of Section [23-71](#) (Minimum Distance Between Buildings on a Single Zoning Lot) and may authorize modifications of the spacing required by paragraphs (c), (d), (e) and (h) of Section [78-311](#) (Authorizations by the City Planning Commission).

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## 78-313 - Findings

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As a condition precedent to the granting of authorizations under the provisions of Section [78-311](#) (Authorizations by the City Planning Commission) or a special permit under the provisions of Section [78-312](#) (Special permits by the City Planning Commission), the Commission shall make the following findings:

- (a) that such modifications will aid in achieving the general purposes and intent of this Chapter as set forth in Section [78-01](#) (General Purposes);
- (b) that such distribution of #floor area#, #dwelling units#, #rooming units#, #open spaces#, locations of #buildings#, or location of primary business entrances, #show windows# or #signs# will permit better site planning and will thus benefit both the residents of the #large-scale residential development# and the City as a whole;

- (c) that such distribution or location will not unduly increase the #bulk# of #buildings#, density of population, or intensity of #use# in any #block#, to the detriment of the occupants of #buildings# in the #block# or nearby #blocks#;
- (d) that such distribution or location will not affect adversely any other #zoning lots# outside the #large-scale residential development# by restricting access to light and air or by creating traffic congestion;
- (e) where portions of the total required #open space# are pooled in common #open space# areas or common parking areas, that such common areas will, by location, size, shape and other physical characteristics, and by their relationship to surrounding development and the circulation system, permit realization of the full community service of advantages for which such pooled areas are designed;
- (f) where one or more #zoning lots# in the #large-scale residential development# do not #abut# mapped #streets#, that suitable private access to mapped #streets# will be provided conforming to standards which will ensure adequate circulation and make adequate provision for public services; and
- (g) the modification of height and setback will not impair the essential character of the surrounding area and will not have adverse effects upon the access to light, air and privacy of adjacent properties.

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### **78-32 - Bonus for Good Site Plan**

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LAST AMENDED  
2/2/2011

In R1-2, R2 or R3-1 Districts, including #Commercial Districts# mapped within such #Residence Districts#, for any #large-scale residential development#, the City Planning Commission, by special permit, may allow the #open space ratio# otherwise required for the #large-scale residential development# as a whole and for individual #zoning lots# therein to be reduced by not more than 10 percent, may allow the maximum number of #dwelling units# to be increased by not more than five percent, and may allow the maximum #residential# #floor area ratio# to be increased by not more than 7.5 percent, if the Commission finds that throughout the #large-scale residential development# the site plan provides a significantly better arrangement of the #buildings# in relation to one another and to their sites from the standpoints of privacy, access of light, organization of private #open spaces# and preservation of important natural features than would be possible or practical for a development comprised of similar types built in strict compliance with the applicable district regulations.

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### **78-33 - Bonus for Common Open Space**

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LAST AMENDED  
2/2/2011

In R3-1 Districts, including #Commercial Districts# mapped within such #Residence Districts#, for any #large-scale residential development#, the City Planning Commission, by special permit, may allow the #open space ratio# otherwise required for such #large-scale residential development# as a whole to be reduced by not more than 20 percent, may allow the maximum number of #dwelling units# to be increased by not more than 10 percent and may allow the maximum #residential# #floor area ratio# to be increased by not more than 15 percent, provided that:

- (a) at least one acre or 20 percent of the total #open space#, whichever is more, is provided in common areas meeting the requirements of Section [78-52](#) (Common Open Space) and not used for off-street parking;
- (b) the #large-scale residential development# qualifies for a bonus in accordance with the provisions of Section [78-32](#); and
- (c) the Commission makes the findings required in Section [78-32](#) and in paragraph (e) of Section [78-313](#) (Findings).

Such authorizations shall be instead of, rather than in addition to, those which would be allowable under the provisions of Section [78-32](#).

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## **78-34 - Special Permit Provisions for Certain Large-scale Developments**

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LAST AMENDED

2/2/2011

In R3-2, R4 and R5 Districts, or in [Commercial Districts](#) in which [residential buildings](#) are governed by the [bulk](#) regulations of such [Residence Districts](#), for any [large-scale residential development](#), the City Planning Commission, by special permit, may make modifications in the [open space ratio](#), [residential](#) [floor area ratio](#) and density regulations, pursuant to the provisions of Section [78-35](#) (Special Bonus Provisions), if the Commission finds that:

- (a) throughout the [large-scale residential development](#) the site plan provides a significantly better arrangement of the [buildings](#) in relation to one another and to their sites from the standpoints of privacy, access of light, organization of private [open spaces](#) and preservation of important natural features to a greater degree than would be possible or practical for a development composed of similar types built in strict compliance with the applicable district regulations;
- (b) the public facilities and utilities in the area are adequate to meet the needs of the [large-scale residential development](#) or that needed additional facilities will be provided as a part of the [large-scale residential development](#) by the developer or owner;
- (c) the [large-scale residential development](#) complies with the provisions of Section [78-351](#) (Common open space and good site plan); and
- (d) a [large-scale residential development](#) having an area of four acres or more complies with the provisions of Section [78-352](#) (Bonus for community facility space).

If the Commission determines that a proposed [large-scale residential development](#) containing not more than 250 [dwelling units](#) does not require [community facility](#) space, finding (d) shall be waived and the provisions of Section [78-352](#) made inapplicable. In making its determination, the Commission shall give due consideration to a recommendation from the Community Board within which the proposed [large-scale residential development](#) is located.

If a site for a fire or police station is provided within the Community District in which a [large-scale residential development](#) is to be located, which site has been donated in fee to the City, selected as a site pursuant to Section 218 (Site Selection) of the New York City Charter and, if applicable, approved under the provisions of Section [74-67](#) (Fire or Police Stations), the Commission may waive finding (d), provided that the [community facility](#) requirements contained in Section [78-352](#) are determined to be unnecessary.

Any [large-scale residential development](#) which qualifies for a bonus in accordance with this Section and the applicable provisions of Section [78-35](#) shall be eligible for any modifications permitted under Sections [78-311](#) (Authorizations by the City Planning Commission) or [78-312](#) (Special permits by the City Planning Commission) provided the findings of Section [78-313](#) (Findings) are satisfied.

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## **78-35 - Special Bonus Provisions**

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LAST AMENDED

3/8/1973

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### **78-351 - Common open space and good site plan**

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The provisions of this Section shall not apply to any #zoning lot# subdivided to under four acres after January 1, 1972, nor to any #large-scale residential development# for which authorization has been granted by the City Planning Commission prior to July 31, 1972.

In R3-2 or R4 Districts, or in #Commercial Districts# in which #residential buildings# are governed by the #bulk# regulations of such #Residence Districts#, for any #large-scale residential development# which complies with the requirements of Section [78-34](#) (Special Permit Provisions for Certain Large-scale Developments), the permitted #residential# #floor area ratio#, required #open space ratio# and density regulations for the #large-scale residential development# as a whole may be modified as set forth in this Section. At least 25 percent of the total required #open space# is to be provided in common areas meeting the requirements of Section [78-52](#) (Common Open Space). No portion of such common #open space# is to be used for driveways or off-street parking. The findings required in paragraph (e) of Section [78-313](#) (Findings) are to be satisfied.

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District	Maximum #Floor Area Ratio#	Minimum #Open Space Ratio#
R3-2	.60	125.0
R4	1.00	66.5

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The maximum number of #dwelling units# shall equal the total #residential# #floor area# permitted divided by the applicable factor in Section [23-20](#) (DENSITY REGULATIONS).

In R5 Districts, or in #Commercial Districts# in which #residential buildings# are governed by the #bulk# regulations of such #Residence Districts#, at least 25 percent of the total required #open space# is to be provided in common areas that meet the requirements of Section [78-52](#). No portion of such common #open space# is to be used for driveways or off-street parking. All findings required in paragraph (c) of Section [78-313](#) are to be satisfied.

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## **78-352 - Bonus for community facility space**

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In R3-2, R4 and R5 Districts, or in #Commercial Districts# in which #residential buildings# are governed by the #bulk# regulations of such #Residence Districts#, for any #large-scale residential development# which complies with the provisions of Section [78-34](#) (Special Permit Provisions for Certain Large-scale Developments), the permitted #residential# #floor area ratio#, required #open space ratio#, and required #floor area# per #dwelling unit# for the #large-scale residential development# as a whole may be modified as set forth in this Section, provided floor space for #community facility# #use# and/or a program for improvement and maintenance for parks not included in the City capital budget is provided as required in paragraph (b) of this Section.

- (a) Permitted #Floor Area Ratio# and Required #Open Space Ratio#:

District	Maximum #Floor Area Ratio#	Minimum #Open Space Ratio#
R3-2	.70	102.0
R4	1.15	54.7
R5	1.45	37.7

The maximum number of #dwelling units# shall equal the total #residential# #floor area# permitted divided by the applicable factor in Section [23-20](#) (DENSITY REGULATIONS).

- (b) There shall be at least 15 square feet of #community facility# floor space for each #dwelling unit# within the #large-scale residential development# and/or a substantial park area located adjacent to or within a reasonable distance from the #large-scale residential development#. Such space shall be used for #schools# where the need is certified by the Board of Education and where the Board agrees to lease such space at no cost. Otherwise such space shall be allocated for one or more #uses# as specified in this Section where the need for such space has been certified by the City Planning Commission and a City Department agrees to lease such space at no cost. If such certification and agreement are not obtained in either case, the Commission shall approve any private #community facility# proposed to be rented or maintained by the developer, or the homeowners' association or other entity owning the common elements of the #large-scale residential development#. In no case shall the size of an individual #use# be less than the amount set forth in this Section.

#Community Facility#	Size (in square feet)
Day care center	3,000
Ambulatory care center	10,000
Library	7,500
Senior citizen center	3,750
Community center	2,000
Indoor recreation center	2,000

In the case of a program for improvement and/or maintenance for parks which is eligible for a bonus pursuant to this Section, comparable improvements and maintenance costs for an equivalent amount of the required #community facility# space shall be incurred.

- (c) In no event shall the total #floor area# for any #development# constructed pursuant to the Provisions Section exceed the

maximum #floor area ratio# for #community facility# #uses# permitted by the applicable district regulations.

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## 78-353 - Bonus for enclosed parking

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LAST AMENDED  
12/6/2023

In R4 or R5 Districts, or in #Commercial Districts# in which #residential buildings# are governed by the #bulk# regulations of such #Residence Districts#, for any #large-scale residential development# which complies with the provisions of Section [78-34](#) (Special Permit Provisions for Certain Large-scale Developments), the permitted #residential# #floor area ratio# may be increased over the amount earned by other provisions of Section [78-35](#) (Special Bonus Provisions) and the required #open space ratio# for the #large-scale residential development# as a whole correspondingly decreased as set forth in this Section provided that at least two-thirds of the required off-street parking is enclosed.

District	Increase in #Floor Area Ratio#	Decrease in #Open Space Ratio#
R4	.25	14.5
R5	.25	10.0

For any #large-scale residential developments# comprising #buildings# of not more than four #stories# receiving a bonus under this Section, the Commission may modify where appropriate the requirements of paragraph (c) of Section [23-12](#) (Permitted Obstructions in Open Space).

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## 78-40 - OFF-STREET PARKING REGULATIONS

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LAST AMENDED  
8/24/1967

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## 78-41 - Location of Accessory Parking Spaces

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LAST AMENDED  
2/2/2011

When a #large-scale residential development# includes, or will include after subdivision, two or more #zoning lots#, the City Planning Commission may, upon application, authorize permitted or required #accessory# off-street parking spaces or bicycle parking spaces to be located anywhere within the #large-scale residential development# without regard for #zoning# #lot lines#, provided that in each case the Commission shall make the following special findings:

- (a) that such off-street parking spaces or bicycle parking spaces will be conveniently located in relation to the #use# or #uses# to which such spaces are #accessory#;
- (b) that such location of the off-street parking spaces or bicycle parking spaces will permit better site planning and will thus

benefit both the owners, occupants, employees, customers, residents or visitors of the #large-scale residential development# and the City as a whole; and

- (c) that such location of the off-street parking spaces or bicycle parking spaces will not increase the number of spaces in any single #block# or the traffic drawn through any one or more of the nearby local #streets# in such measure as to affect adversely other #zoning lots# outside the #large-scale residential development# or traffic conditions in the surrounding area.

Whenever required off-street parking spaces or bicycle parking spaces are authorized to be located without regard for #zoning #lot lines# in accordance with the provisions of this Section, the number of spaces required for each #building# or #use# shall be kept available for such #building# or #use# throughout its life. Whenever any #zoning lot# within such a #large-scale residential development# is subdivided into two or more #zoning lots#, such subdivision shall be subject to the provisions of Section [78-51](#) (General Provisions).

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## **78-42 - Parking Regulations for Commercial and Community Facility Uses**

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LAST AMENDED  
2/2/2011

For #large-scale residential developments# in R3-2, R4, R5, R6, R7, R8, R9 or R10 Districts, or in #Commercial Districts# in which #residences# are governed by the #bulk# regulations of R3-2, R4, R5, R6, R7, R8, R9 or R10 Districts, the City Planning Commission may, by special permit, waive the requirements for off-street parking spaces #accessory# to any #commercial# or #community facility# #use# included in such #large-scale residential development# and intended primarily for the use of its residents.

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## **78-43 - Modification for Open Space Requirements in Large-scale Developments**

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LAST AMENDED  
2/2/2011

For all #large-scale residential developments# in R5, R6, R7, R8 or R9 Districts, or in #Commercial Districts# in which #residences# are governed by the #bulk# regulations of such #Residence Districts#, the City Planning Commission may modify the requirement for #open space# as set forth in the definition of #open space# in Section [12-10](#) (DEFINITIONS) by allowing parking space on the roofs of parking garages not #abutting# another #building# and not more than 23 feet in height above #curb level#, to count as #open space# and by not requiring connections from such roofs to ground level by exterior passageways or ramps, provided that the following findings are made:

- (a) that the total area occupied by driveways, private streets, or open #accessory# off-street parking spaces in all areas claimed as common or private #open space# throughout the #large-scale residential development# shall not exceed 40 percent of the total required #open space# for the #large-scale residential development#; and
- (b) that such arrangement and use of #open space# results in better site planning and community planning.

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## **78-44 - Modification of Curb Cut Regulations**

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LAST AMENDED  
2/2/2011

The City Planning Commission may, upon application, authorize modification of the requirements set forth in Section [25-631](#) (Location and width of curb cuts in certain districts), provided the Commission finds that the proposed location and width of

curb cuts:

- (a) results in a more efficient traffic circulation system;
- (b) permits better site planning; and
- (c) does not unduly increase the amount of traffic on nearby local #streets# so as to adversely affect #zoning lots# outside the #large-scale residential development#.

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## **78-50 - SUBDIVISION OF LARGE-SCALE RESIDENTIAL DEVELOPMENTS**

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LAST AMENDED  
8/24/1967

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### **78-51 - General Provisions**

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LAST AMENDED  
2/2/2011

A #large-scale residential development# may be subdivided before, during or after #development# into two or more #zoning lots# which may be in different ownerships, provided that either:

- (a) all resulting #zoning lots# and all #buildings# thereon comply with all the applicable regulations of this Resolution;
- (b) such subdivision conforms to a subdivision plan which was included as part of the application for authorizations or special permits under the provisions of this Chapter and whose execution has been authorized in the grant of such authorizations or special permits; or
- (c) such subdivision is made necessary by forced sale or foreclosure of a portion of such #large-scale residential development#, but can be accommodated to any authorization or special permit granted pursuant to the provisions of this Chapter.

All #zoning lots# resulting from such subdivisions shall be subject to all the applicable regulations of this Resolution or, in the case of a #large-scale residential development# for which any modifications were granted in accordance with the provisions of this Chapter, shall be subject to the terms, conditions and limitations of the #large-scale residential development# plan as approved.

In any subdivision of a #large-scale residential development# for which such modifications were granted, covenants running with the land which shall permit of public or private enforcement, reflecting the terms, conditions and limitations of the #large-scale residential development# plan, as approved, shall be incorporated in the deed to each parcel conveyed.

Such subdivision may result in commonly or separately owned common #open space# or common parking areas, as set forth in Sections [78-52](#) (Common Open Space) or [78-53](#) (Common Parking Areas).

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### **78-52 - Common Open Space**

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LAST AMENDED  
2/2/2011

An area designated on the site plan of a #large-scale residential development# as "common #open space#" and on the subdivision plan as an area to be held in separate ownership for the use and benefit of residents occupying specified #zoning lots# shown on such subdivision plan may be approved as part of such subdivision plan, provided that it meets the following requirements:

- (a) it shall be conveniently accessible to all residents of #zoning lots# for which it is intended to satisfy the #open space# requirements;
- (b) it shall be made available in its improved state as set forth on the site plan in accordance with an approved time schedule;
- (c) it shall be maintained in accordance with an approved maintenance plan specifying what such maintenance shall consist of, whose responsibility it shall be, and assuring satisfactory execution of maintenance;
- (d) provisions to ensure its continuing availability shall be included in the covenants to be incorporated in the deed to each parcel to be served by such common #open space#;
- (e) it shall be entirely at natural grade level or at the principal level of pedestrian circulation in adjacent areas;
- (f) it may contain only such obstructions as are specifically permitted under the provisions of Section [23-12](#) (Permitted Obstructions in Open Space) or minor #accessory# structures, and the total area occupied by driveways, private streets or open #accessory# off-street parking spaces in all areas claimed as common or private #open space# throughout the #large-scale residential development#, shall not exceed 50 percent of the total required #open space# for the #large-scale residential development#; and
- (g) such #open space# shall include both active and passive recreation space providing a range of recreational facilities and activities appropriate to the occupants of the #large-scale residential development#. Such space shall be physically and visually accessible to the occupants and shall be screened from unsuitable areas. Passive recreation space shall be landscaped and shall be located in areas other than access and egress spaces. Active recreation facilities, such as play equipment, court game facilities, or ball fields, shall be designed to provide the maximum possible area appropriate to the size of the #large-scale residential development#.

The approval of a subdivision plan which includes common #open space# shall be conditioned upon a finding that these requirements are met.

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## **78-53 - Common Parking Areas**

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LAST AMENDED  
2/2/2011

An area designated on the site plan of a #large-scale residential development# as "common off-street parking area" and on the subdivision plan as an area to be held in separate ownership for use by the occupants or visitors of specified #zoning lots# shown on such subdivision plan may be approved as part of such subdivision plan, provided that it shall meet the following requirements:

- (a) it shall be made available in its improved state as set forth in the site plan in accordance with an approved time schedule;
- (b) it shall be maintained in accordance with an approved maintenance plan specifying what such maintenance shall consist of, whose responsibility it shall be, and assuring satisfactory execution of maintenance; and
- (c) provisions to ensure its continuing availability shall be included in the covenants to be served by such common off-street parking area.

The approval of a subdivision plan which includes common off-street parking areas shall be conditioned upon a finding that these requirements are met.



## Zoning Resolution

THE CITY OF NEW YORK

Eric Adams, Mayor

CITY PLANNING COMMISSION

Daniel R. Garodnick, Chair

# **Chapter 9 - Special Regulations Applying to Large-Scale Community Facility Developments**

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# Chapter 9 - Special Regulations Applying to Large-Scale Community Facility Developments

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## 79-00 - DEFINITIONS

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LAST AMENDED  
11/19/1987

Words in italics are defined in Section [12-10](#) (DEFINITIONS) or, if applicable exclusively to this Chapter, in this Section.

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## 79-10 - GENERAL PROVISIONS

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LAST AMENDED  
8/24/1967

### 79-11 - Applicability of This Chapter

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LAST AMENDED  
2/2/2011

*Large-scale community facility developments* are governed by all the *use*, *bulk*, off-street parking and loading, and other applicable regulations of this Resolution, except for such special provisions as are specifically set forth in this Chapter. Such special provisions are designed to deal with problems which arise only in connection with *large-scale community facility developments* and apply only to such *large-scale community facility developments* as set forth herein.

*Large-scale community facility developments* within the *waterfront area* shall be subject to the provisions of Section [62-132](#) (Applicability of Article VII, Chapters 4, 8 and 9).

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### 79-12 - Permitted Uses

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LAST AMENDED  
1/25/1968

A *large-scale community facility development* may include within its area any *community facility use*, *residential uses* or *commercial uses* permitted in the district or districts in which it is located.

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## 79-20 - BULK REGULATIONS

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LAST AMENDED  
8/24/1967

### 79-21 - General Provisions

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LAST AMENDED  
2/2/2011

When a *large-scale community facility development* includes two or more *zoning lots* which are contiguous or would be contiguous but for their separation by a *street*, the City Planning Commission may, in appropriate cases, upon application, authorize the permitted *floor area*, *lot coverage*, *dwelling units* or *rooming units*, or the required *open space* for all

#zoning lots# within the #large-scale community facility development#, to be distributed without regard for #zoning# #lot lines#, may modify the minimum required distance between #buildings# as set forth in Section [23-70](#) (MINIMUM REQUIRED DISTANCE BETWEEN TWO OR MORE BUILDINGS ON A SINGLE ZONING LOT), provided such reduction does not exceed 15 percent of that required by Section [23-71](#), may authorize the location of #buildings# without regard for #front yard# or height and setback regulation which would otherwise apply along portions of #streets# wholly within the #large-scale community facility development# and, further, may authorize the location of #community facility buildings# without regard to #side# or #rear yard# regulations which would otherwise apply along portions of #lot lines# #abutting# other #zoning lots# within the #large-scale community facility development#.

As a condition of granting such authorizations, in each case the Commission shall make the following special findings:

- (a) that such distribution or location will permit better site planning and will thus benefit both the residents, occupants or users of the #large-scale community facility development# and the City as a whole;
- (b) that such distribution or location will not unduly increase the #bulk# of #buildings# in any #block#, to the detriment of the occupants or users of #buildings# in the #block# or nearby #blocks#; and
- (c) that such distribution or location will not affect adversely any other #zoning lots# outside the #large-scale community facility development# by restricting access to light and air or by creating traffic congestion.

In R9, R10, C1-8, C1-9, C2-7 or C2-8 Districts, or in C1 or C2 Districts mapped within R9 or R10 Districts, #floor area# bonuses for #public plazas# or #arcades# permitted in accordance with the applicable district regulations shall apply only to a #development# or #enlargement# with 25 percent or less of the total #floor area# of the #building# in #residential use#.

In R9, R10, C1-8, C1-9, C2-7 or C2-8 Districts, or in C1 or C2 Districts mapped within R9 or R10 Districts, no existing #publicly accessible open area#, #arcade# or other public amenity, open or enclosed, for which a #floor area# bonus has been received pursuant to regulations prior to February 9, 1994, shall be eliminated or reduced in size except by special permit, pursuant to Section [74-761](#) (Elimination or reduction in size of bonused public amenities).

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## **79-30 - PARKING REGULATIONS**

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LAST AMENDED  
8/24/1967

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## **79-31 - Location of Parking Spaces**

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LAST AMENDED  
2/2/2011

When a #large-scale community facility development# includes two or more #zoning lots#, the City Planning Commission may, upon application, authorize permitted or required #accessory# off-street parking spaces or bicycle parking spaces to be located anywhere within the #large-scale community facility development# without regard for #zoning# #lot lines#, provided that in each case the Commission shall make the following special findings:

- (a) that such off-street parking spaces or bicycle parking spaces will be conveniently located in relation to the #use# or #uses# to which such spaces are #accessory#;
- (b) that such location of the off-street parking spaces or bicycle parking spaces will permit better site planning and will thus benefit both the owners, occupants, employees, customers, residents or visitors of the #large-scale community facility development# and the City as a whole; and

- (c) that such location of the off-street parking spaces or bicycle parking spaces will not increase the number of spaces in any single #block# or the traffic drawn through any one or more of the nearby local #streets# in such measure as to affect adversely other #zoning lots# outside the #large-scale community facility development# or traffic conditions in the surrounding area.

Whenever required off-street parking spaces or bicycle parking spaces are authorized to be located without regard for #zoning #lot lines# in accordance with the provisions of this Section, the number of spaces required for each #building# or #use# shall be kept available for such #building# or #use# throughout its life.

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## **79-32 - Location of Loading Berths**

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LAST AMENDED  
2/2/2011

When a #large-scale community facility development# includes two or more #zoning lots#, the City Planning Commission may, upon application, authorize permitted required #accessory# loading berths to be located anywhere within the #large-scale community facility development# without regard for #zoning# #lot lines#, provided that in each case the Commission shall make the following special findings:

- (a) that such loading berths will be appropriately located in relation to the #use# or #uses# to which such berths are #accessory# so as to permit better site planning and will thus benefit the owners, occupants, employees, residents or visitors to the #large-scale community facility development# and the City as a whole;
- (b) that such loading berths will be accessible to all the #uses# in the #large-scale community facility development# without the need to cross any #wide street# at grade;
- (c) that the location of such loading berths will not unduly affect the movement of pedestrians or vehicles on the #streets# within or surrounding such #large-scale community facility development#; and
- (d) that the loading berths comply with all other applicable district regulations.

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## **79-40 - SPECIAL PERMIT PROVISIONS**

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LAST AMENDED  
7/19/1973

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### **79-401 - Special permit for development over streets**

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LAST AMENDED  
2/2/2011

In a #large-scale community facility development# containing #schools#, hospitals or functionally related facilities in R6 or R7-1 Districts, in C1 or C2 Districts mapped within such #Residence Districts#, when the air space above a #narrow street# or portion thereof is closed and demapped, the City Planning Commission may, by special permit, allow the demapped air space to be considered as part of the adjoining #zoning lots# constituting a single #zoning lot#, and may allow within such demapped air space the #development# or #enlargement# of a #building# which is a necessary expansion of an existing #school#, hospital or functionally related facility located on adjoining #zoning lots#. As a condition for granting a permit for such #building#, or portion thereof, within the demapped air space, the Commission shall find:

- (a) that there is a Master Plan for institutional development which demonstrates that the #building# over the #street# is necessary to avoid or minimize demolition of existing facilities, or #buildings designed for residential use#, and

expansion on existing #zoning lots# owned by the #community facility# is not feasible to meet its expansion needs;

- (b) that the location of such #building#, or portion thereof, will not impair the existing residential character of the area;
- (c) that such #building#, or portion thereof, utilizes only unused #floor area# from adjoining #zoning lots# and no #floor area# credit is received from the demapped air space, and such #building# complies with the off-street parking and loading requirements of the underlying district or districts;
- (d) that such #building#, or portion thereof, is contained entirely within the buildable area of the air space plane as defined in this Section, conforms with the height and setback regulations set forth in this Section, is no more than 200 feet in length and is the only such #building# on a #block# front;
- (e) that such #building#, or portion thereof, links the #zoning lots# across the #street#, in the same ownership, with adequate clearance above the #street# bed, and there is no intrusion on the existing #street#, including column supports;
- (f) that all #street# frontages of the #zoning lots# under such #building#, or portion thereof, are provided with fenestration or natural light along at least 75 percent of such frontages, and such #street# frontages when #developed# with #uses# other than open area, contain only #uses# requiring human occupancy such as amusement, education, dining, shopping and other similar #uses# permitted by the underlying district regulations; that the main entrance for principal pedestrian access to the #development# is located along the #street# frontages under such #building# and that no storage rooms, mechanical equipment rooms, parking and loading facilities or curb cuts are located along such #street# frontage unless authorized by the Commission;
- (g) that a satisfactory lighting and ventilation plan consistent with current environmental standards is provided for the #development#; and
- (h) that an additional amount of #open space# for public use at #street# level, linked with the pedestrian circulation system of the area, equivalent to the #street# area covered by such #building#, is provided within 1,000 feet of the #building# and such #open space# maintained as usable public area in the ownership of the applicant.

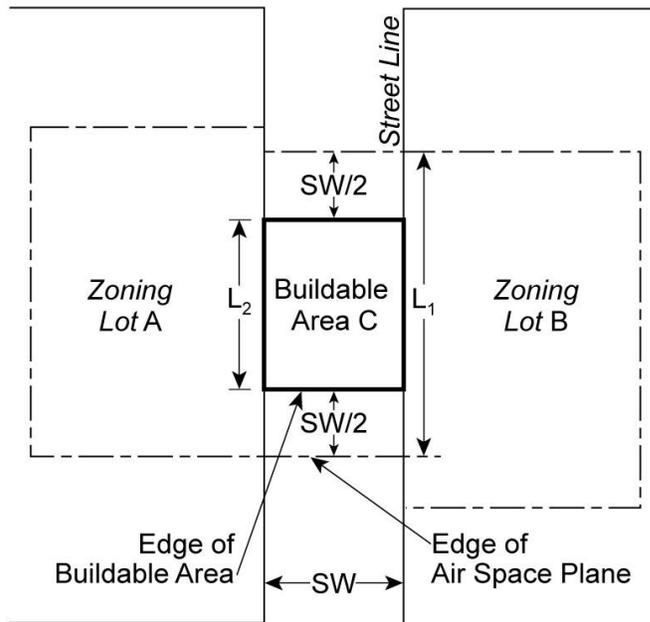
#Curb levels# of the pre-existing #zoning lots# shall not be affected by the closing and demapping of air space over such #street#.

The Commission may impose additional conditions and safeguards to improve the quality of the development and minimize adverse effects on the character of the surrounding area.

For the purposes of paragraph (d) of this Section:

Air space plane is a plane above a #narrow street# located at the same elevation as the lower limiting plane of a volume of #street# eliminated, discontinued and closed by the Board of Estimate, or its successors. The length "L1" of such air space plane is the length of the common lot frontage of two #zoning lots# opposite and across the #street# in the same ownership and its width is the width of the #narrow street# "SW" (See illustration of Required Setback for the Buildable Area).

The buildable area "C" is the lower limiting plane of the volume of #street# eliminated, discontinued and closed by the Board of Estimate, or its successors, except that in no case shall the edge of the buildable area be closer to the edge of the air space plane by a distance equal to one half the #street# width "SW/2" (See illustration of Required Setback for the Buildable Area).



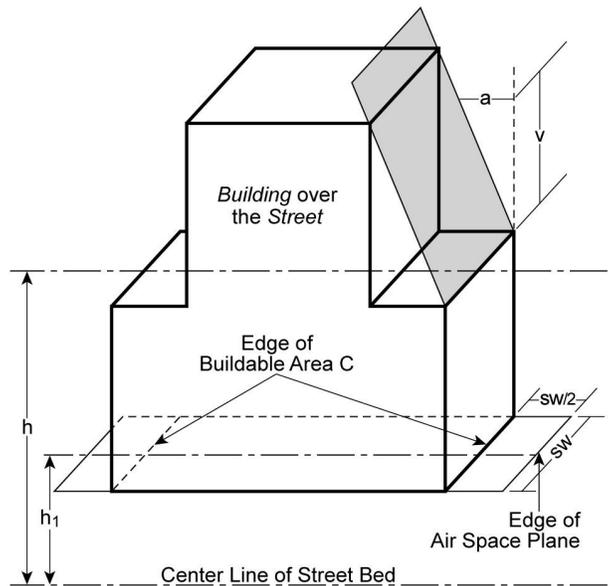
- SW - Width of a *narrow street*
- SW/2 - Minimum required setback for the buildable area from the edge of air space plane
- L<sub>1</sub> - Length of common lot frontage of two *zoning lots* across a *narrow street*
- L<sub>2</sub> - Permissible length of the buildable area for a *building over the street*

**REQUIRED SETBACK FOR THE BUILDABLE AREA**

The #building# over the #street# shall comply with the height and setback regulations of this Section and the buildable area shall be completely covered by such #building#, except that such #building# may be set back from the edge of the buildable area which traverses the #street# provided that such setback area is open and obstructed from the lowest level of the #street# to the sky.

The #development# or #enlargement# of such #building# on the buildable area of the air space plane shall comply with the following #sky exposure plane# regulations (See illustration of Required Sky Exposure Plane):

Height above #street# bed (in feet)	#Sky Exposure Plane#	District
	Slope over buildable area (expressed as a ratio of vertical distance to horizontal distance)	
	Vertical Distance	Horizontal Distance
60	2.7	to 1 R6 R7-1 C1 C2



- a - Horizontal distance
- v - Vertical distance
- h - Height of sky exposure plane above center line of street bed
- h<sub>1</sub> - Required clearance above center line of street bed for a building over the street
- h-h<sub>1</sub> - (h minus h<sub>1</sub>) Maximum permissible height of vertical wall of a building over the street along the edge of a buildable area
- SW - Width of a narrow street
- SW/2 - Minimum required setback for the buildable area from the edge of air space plane
- Sky exposure plane

## REQUIRED SKY EXPOSURE PLANE

The height of the vertical wall or any other portion of a #building# over the #street#, shall not penetrate the #sky exposure plane#.

The #sky exposure plane# shall be measured from a point above the edge of the buildable area which traverses the #street#.

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## 79-402 - Special permit for development of bridges over streets

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LAST AMENDED

2/2/2011

In a #large-scale community facility development# containing hospitals or functionally related facilities in Manhattan Community Board 12, when the air space above a #wide street#, or portion thereof, is closed and demapped, the City Planning Commission may, by special permit, allow the #development# in such demapped air space of an enclosed bridge or bridges to connect #buildings# within the #large-scale community facility development#. As a condition for granting a permit for #development# of such bridges, the Commission shall find that:

- (a) such bridge or bridges are essential to internal circulation of the medical function of the health care facility;
- (b) such bridge or bridges shall not rest upon columns or other supports which intrude upon the #street#;
- (c) the width of each such bridge shall not exceed 20 feet;
- (d) such bridge within the demapped air space utilizes only #floor area# derived from the adjoining #zoning lots# and that no #floor area# credit is generated from the demapped air space;

- (e) illumination of at least five foot candles is provided at the #curb level# of such bridge or bridges;
- (f) such bridge in demapped air space over a #wide street# adjoins #zoning lots# wholly within the #large-scale community facility development#;
- (g) the minimum horizontal distance between the nearest edges of two such bridges traversing the same #street# shall be two times the width of the #street#;
- (h) the maximum exterior height of each such bridge shall not exceed 12 feet;
- (i) the benefit gained from the bridge or bridges resulting from the #bulk# design or placement of such bridge or bridges outweighs any adverse impact on neighborhood character and any restriction of access to light and air to surrounding public spaces and #streets#; and
- (j) a landscaped open area for public use at #street# level, linked with the pedestrian circulation system, which is at least equivalent to the #street# area covered by the bridge is provided in one location within the #large-scale community facility development# and such open area is maintained with planting and seating facilities by the owner of the #large-scale community facility development# or the owner's designee.

The City Planning Commission may prescribe appropriate conditions and safeguards to minimize the effect of the bridges, including but not limited to clearance above the #street# and surfacing materials of the bridge.

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## **79-41 - Special Permit for Change of Community Facility Use**

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LAST AMENDED  
10/10/1974

For #large-scale community facility developments# previously approved by the City Planning Commission, the Commission may, by special permit, allow a change of #community facility# #use# to a #residential use# subject to the applicable district regulations.

For the purpose of this special permit, such change of #use# shall be deemed not to alter the status and previous authorizations relating to the #large-scale community facility development#.

As a condition precedent to the grant of such special permit, the Commission shall find:

- (a) that such #community facility# #use# does not provide essential services to the community at large; and
- (b) that such #community facility# #use# has been actively operated as a #community facility# #use# for a period not less than five years following Commission approval of the #large-scale community facility development# or was actively operated as a #community facility# #use# prior to Commission approval of the #large-scale community facility development#.

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## **79-42 - Special Permit for Non-profit Hospital Staff Dwelling Buildings**

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LAST AMENDED  
9/9/2004

For #non-profit hospital staff dwellings# in #large-scale community facility developments# in Manhattan Community Board 8, the City Planning Commission, may by special permit, allow:

- (a) Temporary occupancy of #dwelling units# by outpatients of the non-profit or voluntary hospital or by families visiting

hospitalized patients provided the following findings are made:

- (1) that the density and transient nature of the population housed in such #dwelling units# will not impair the essential character, future use or development of the surrounding area; or impair the security of the hospital staff residing in the #building#;
  - (2) that such occupancy will neither create nor contribute to serious traffic congestion and will not unduly inhibit surface traffic and pedestrian flow; and
  - (3) that the number of such #dwelling units# so occupied is less than 50 percent of the total number of #dwelling units# in the #building#.
- (b) Ambulatory diagnostic or treatment health care facilities listed in Use Group 4 on the third floor of such #buildings# in C1 Districts, provided the following findings are made:
- (1) that such facilities are used exclusively for staff of, or staff affiliated with, the non-profit or voluntary hospital;
  - (2) that such occupancy will neither create nor contribute to serious traffic congestion and will not unduly inhibit surface traffic and pedestrian flow;
  - (3) that such #use# will not impair the essential character, future use or development of the surrounding area;
  - (4) that such #use# will not produce any adverse effects which interfere with the appropriate use of land in the districts or in any adjacent district; and
  - (5) that separate access to the outside is provided.

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

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## **79-43 - Special Permit for Limited Bulk Modifications for Certain Large-scale Community Facility Developments**

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LAST AMENDED  
2/2/2011

For #large-scale community facility developments# located within the boundaries of Community Districts 8 and 12 in the Borough of Manhattan, that contain #community facility# #uses# specified in Section [73-64](#) (Modifications for Community Facility Uses), the City Planning Commission may, by special permit, permit modification of regulations relating to height and setback on the periphery of the #large-scale community facility development#, #courts# and distance between windows and walls or #lot lines# not otherwise allowed in Section [79-21](#) (General Provisions). As a condition for such action, the Commission shall find that such modification:

- (a) is required in order to enable the #large-scale community facility development# to provide an essential service to the community;
- (b) will provide a more satisfactory physical relationship to the existing #buildings# which form the #large-scale community facility development#, and provide a more efficient and integrated site plan;
- (c) will better complement the existing character of the neighborhood;
- (d) will not unduly increase the #bulk# of #buildings# in any #block# to the detriment of the occupants or users of #buildings# in the #block# or nearby #blocks#; and

- (e) will not adversely affect any other #zoning lots# or #streets# outside the #large-scale community facility development# by unduly restricting access to light and air.

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## **79-44 - 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.