Land Use Review Application

Department of City Planning **120 Broadway, 31st Floor, New York, NY 10271**

N 210095 ZRY

City Planning will assign and stamp reference numbers here

APPLICATION NUMBER | APPLICATION NUMBER

APPLICATION NUMBER | APPLICATION NUMBER

1. APPLICANT AND APPLICANT'S REPRESENTATIVES

Department of City Planning

APPLICANT (COMPANY/AGENCY OR OTHER ORGANIZATION) *

APPLICANT'S PRIMARY REPRESENTATIVE

120 Broadway, 31st floor

STREET ADDRESS

REPRESENTATIVE'S COMPANY/AGENCY OR OTHER ORGANIZATION

New York **NY** **10271**

CITY STATE ZIP

STREET ADDRESS

212-720-3300

AREA CODE TELEPHONE # FAX#

CITY STATE ZIP

AREA CODE TELEPHONE # FAX#

*** List additional applicants below:**

CO-APPLICANT (COMPANY/AGENCY OR OTHER ORGANIZATION)

CO-APPLICANT (COMPANY/AGENCY OR OTHER ORGANIZATION)

ADDITIONAL APPLICANT REPRESENTATIVE:

NAME AND PROFESSIONAL AFFILIATION (ATTORNEY/ARCHITECT/ENGINEER ETC.) TELEPHONE # FAX #

2. SITE DATA

(If the site contains more than one property complete the "LR Item 2. Site Data Attachment Sheet.")

STREET ADDRESS

Zoning for Coastal Flood Resiliency

PROJECT NAME (IF ANY)

Citywide Zoning Text Amendment

DESCRIPTION OF PROPERTY BY BOUNDING STREETS OR CROSS STREETS

EXISTING ZONING DISTRICT (INCLUDING SPECIAL ZONING DISTRICT DESIGNATION, IF ANY)

ZONING SECTIONAL MAP NO(S).

TAX BLOCK AND LOT NUMBER BOROUGH COMM. DIST.

URBAN RENEWAL AREA, HISTORIC DISTRICT OR OTHER DESIGNATED AREA (IF ANY)

IS SITE A NEW YORK CITY OR OTHER LANDMARK? NO ☐ YES ☐ IF YES, IDENTIFY

3. DESCRIPTION OF PROPOSAL

(If the entire project description does not fit in this space, enter "see attached description" below and submit description on a separate sheet, identified as "LR item 3. Description of Proposal")

see attached description

4. ACTIONS REQUESTED AND FEES

(Check appropriate action(s) and attach supplemental form)

* No supplemental form required

☐	CHANGE IN CITY MAP.....MM	$
☐	ZONING MAP AMENDMENT.....ZM	$
☒	ZONING TEXT AMENDMENT..... ZR	$
☐	ZONING SPECIAL PERMIT.....ZS	$
☐	ZONING AUTHORIZATION.....ZA	$
☐	ZONING CERTIFICATION.....ZC	$
☐	PUBLIC FACILITY, SEL../ACQ.....PF	$
☐	DISPOSITION OF REAL PROP.....PP	$
☐	URBAN DEVELOP=T ACTION.....HA	$
☐	URBAN RENEWAL PROJECT.....*	$
☐	HOUSING PLAN & PROJECT.....*	$
☐	FRANCHISE.....*	$
☐	REVOCABLE CONSENT.....*	$
☐	CONCESSION.....*	$
☐	LANDFILL.....*	$
☐	OTHER (Describe)	$

☐	MODIFICATION	$
☐	FOLLOW-UP (APPLICATION NO.)	$
☐	RENEWAL (APPLICATION NO.)	$
☐	OTHER (SPECIFY)	$

TOTAL FEE (For all actions) $ **0**

Make Check or Money Order payable to Department of City Planning.

If fee exemption is claimed check box below and explain

☒ **City Agency**

Has pre-application meeting been held? ☒ NO ☐ YES

If yes

DCP Office/Representative Date of meeting

5. ENVIRONMENTAL REVIEW

CITY ENVIRONMENTAL QUALITY REVIEW (CEQR) (Discuss with CEQR lead agency before completing)

LEAD AGENCY **City Planning Commission** CEQR NUMBER **19DCP192Y**

TYPE OF CEQR ACTION:

☐ TYPE II Type II category: _____ Date determination was made: _____

☒ TYPE I } Has EAS been filed? Yes ☒ No ☐

☐ UNLISTED } If yes, Date EAS filed: _____

Has CEQR determination been made? Yes ☒ No ☐

If yes, what was determination? Negative Declaration ☐

CND ..... ☐ } Date determination made: **May 10, 2019** (Attach Copy)

Positive Declaration ☒

If Positive Declaration, has PDEIS been filed? **Yes**

Has Notice of Completion (NOC) for DEIS been issued? **Yes** If yes, attach copy.

If PDEIS has not been filed, has final scope been issued? **Yes** If yes, date issued: **10/16/20**

6. COASTAL ZONE MANAGEMENT

IS SITE IN STATE DESIGNATED COASTAL ZONE MANAGEMENT (CZM)? AREA? No ☐ Yes ☒

7. RELATED ACTIONS BY CITY PLANNING

LIST ALL CURRENT OR PRIOR CITY PLANNING COMMISSION ACTIONS RELATED TO SITE:

APPLICATION NO.	DESCRIPTION/ DISPOSITION/STATUS	CAL. NO.	DATE
N 150302 ZRY	**Special Regulations for Neighborhood Recovery**	**9**	**6/17/2015**
N 130331(A) ZRY	**Flood Resilience Text Amendment**	**12**	**9/11/2013**

8. RELATED ACTIONS BY OTHER AGENCIES

LIST ALL OTHER CURRENT OR PRIOR CITY, STATE OR FEDERAL ACTIONS RELATED TO APPLICATION:

REFERENCE NO.	DESCRIPTION/ DISPOSITION/STATUS	CAL. NO.	DATE

9. FUTURE ACTIONS REQUIRED

LIST ALL FUTURE CITY, STATE OR FEDERAL ACTIONS REQUIRED TO IMPLEMENT THE PROPOSED ACTION:

10. APPLICANT (Attach authorizing resolution(s), if applicable)

Frank Ruchala Jr. _____ **10/16/20**

NAME AND TITLE OF APPLICANT OR AUTHORIZED REPRESENTATIVE | SIGNATURE OF APPLICANT | DATE

Zoning Director, Department of City Planning

APPLICANT'S COMPANY/AGENCY OR OTHER ORGANIZATION (IF ANY)

11. CO-APPLICANTS

(Attach authorizing resolution(s), if applicable)

_____ _____

NAME AND TITLE OF CO-APPLICANT OR AUTHORIZED REPRESENTATIVE | SIGNATURE OF CO-APPLICANT | DATE

CO-APPLICANT'S COMPANY/AGENCY OR OTHER ORGANIZATION

STREET ADDRESS | CITY | STATE | ZIP | TEL.NO. | FAX

_____ _____

NAME AND TITLE OF CO-APPLICANT OR AUTHORIZED REPRESENTATIVE | SIGNATURE OF CO-APPLICANT | DATE

CO-APPLICANT'S COMPANY/AGENCY OR OTHER ORGANIZATION

STREET ADDRESS | CITY | STATE | ZIP | TEL.NO. | FAX

ADMINISTRATIVE CODE

ANY PERSON WHO SHALL KNOWINGLY MAKE A FALSE REPRESENTATION ON OR WHO SHALL KNOWINGLY FALSIFY OR CAUSE TO BE FALSIFIED ANY FORM, MAP, REPORT OR OTHER DOCUMENT SUBMITTED IN CONNECTION WITH THIS APPLICATION SHALL BE GUILTY OF AN OFFENSE PUNISHABLE BY FINE OR IMPRISONMENT OR BOTH, PURSUANT TO SECTION 10-154 OF THE CITY OF NEW YORK ADMINISTRATIVE CODE.

NOTICE

THIS APPLICATION WILL BE DEEMED PRELIMINARY UNTIL IT IS CERTIFIED AS COMPLETE BY THE DEPARTMENT OF CITY PLANNING OR THE CITY PLANNING COMMISSION. ADDITIONAL INFORMATION MAY BE REQUESTED OF THE APPLICANT BY THE DEPARTMENT OF CITY PLANNING.

City Map Change . . . . . MM

APPLICATION NO

Proposed City Map Change
(Check appropriate boxes)

1. ESTABLISH NEW..... ☐ STREET ☐ PARK ☐ PUBLIC PLACE ☐ GRADE
2. ELIMINATE EXISTING..... ☐ STREET ☐ PARK ☐ PUBLIC PLACE ☐ GRADE
3. CHANGE EXISTING STREET..... ☐ WIDTH ☐ ALIGNMENT ☐ GRADE
4. EASEMENT
   Delineate New..... ☐ Remove Existing..... ☐ Modify Existing..... ☐
5. RELATED ACQUISITION OR DISPOSITION OF PROPERTY ..... ☐

Zoning Map Change . . . . . ZM

APPLICATION NO

(If more than five changes are being requested, enter "see attached" below and list ALL PROPOSED ZONING CHANGES in the same format as below on a separate sheet titled "Proposed Zoning Map Changes")

Proposed Zoning Map Change(s)

		EXISTING	TO:	PROPOSED
CHANGE #1	FROM:		TO:	
CHANGE #2	FROM:		TO:	
CHANGE #3	FROM:		TO:	
CHANGE #4	FROM:		TO:	
CHANGE #5	FROM:		TO:	

Zoning Text Amendment . . . . . ZR

N 210095 ZRY

APPLICATION NO.

If more than five sections are proposed to be amended, enter "see attached" below, and list ALL PROPOSED TEXT AMENDMENTS in the same format as below on a separate sheet titled "Proposed Zoning Text Amendments.")

Affected Zoning Resolution (ZR) Sections

ZR SECTION NUMBER	ZONING RESOLUTION SECTION TITLE
	see attached

Zoning for Coastal Flood Resiliency
N210095 ZRY
All Proposed Text Amendments

11-339 Post-Hurricane Sandy construction
12-10 DEFINITIONS
13-221 Enclosure and screening requirements
22-13 Use Group 3
22-16 Special Regulations for Nursing Homes
23-12 Permitted Obstructions in Open Space
23-44 Permitted Obstructions in Required Yards or Rear Yard Equivalents
23-631 General provisions
23-87 Permitted Obstructions in Courts
24-33 Permitted Obstructions in Required Yards or Rear Yard Equivalents
24-68 Permitted Obstructions in Courts
33-23 Permitted Obstructions in Required Yards or Rear Yard Equivalents
37-31 Applicability
37-36 Special Requirements for Blank Walls
37-361 Blank wall thresholds
37-362 Mitigation elements
43-23 Permitted Obstructions in Required Yards or Rear Yard Equivalents
62-00 GENERAL PURPOSES
62-11 Definitions
62-332 Rear yards and waterfront yards
62-512 Dimensions of visual corridors
62-53 Requirements for Shore Public Walkways
62-60 DESIGN REQUIREMENTS FOR WATERFRONT PUBLIC ACCESS AREAS
62-61 General Provisions Applying to Waterfront Public Access Areas 62-611 Permitted obstructions
62-62 Design Requirements for Shore Public Walkways and Supplemental Public Access Areas
62-65 Public Access Design Reference Standards
62-655 Planting and trees
62-811 Waterfront public access and visual corridors
64-00 (inclusive) Special Regulations Applying in Flood Hazard Areas
65-00 (inclusive) Special Regulations Applying in Designated Recovery Areas
73-242 In C3 Districts
73-622 Enlargements of single- and two-family detached and semi-detached residences
73-70 LAPSE OF PERMIT
73-71 Special Permit for Modification of Certain Zoning Regulations
73-72 Special Permit for Ground Floor Uses in Residence Districts
73-80 LAPSE OF PERMIT
74-901 Long-term care facilities
74-962 Floor area increase and public plaza modifications in Industrial Business Incentive Areas
84-02 General Provisions
87-01 Definitions
87-043 Applicability of Article VI, Chapter 4
87-412 Transparency requirements in the Core and South Subdistricts
87-414 Special provisions applicable within the flood zone

87-415 Special streetscape provisions for certain blank walls
87-416 Special open area provisions
87-71 Special Public Access Provisions
88-02 General Provisions
89-01 General Provisions
91-01 General Provisions
92-02 General Provisions
93-02 General Provisions
94-02 General Provisions
95-02 General Provisions
96-02 General Provisions
98-02 General Provisions
103-10 GENERAL PROVISIONS
104-02 General Provisions
104-30 Special Height and Setback Requirements
105-02 General Provisions
106-01 General Provisions
107-02 General Provisions
107-09 Applicability of Article VI, Chapter 2
107-091 Applicability of Article VI, Chapter 2
107-092 Applicability of Article VI, Chapter 4
108-01 General Provisions
111-02 General Provisions112-02 General Provisions
113-01 General Provisions
114-01 General Provisions
116-02 General Provisions
116-05 Applicability
116-221 Special floor area regulations for mixed buildings
117-02 General Provisions
119-02 General Provisions
123-10 GENERAL PROVISIONS
124-01 General Provisions
124-14 Retail Continuity
124-15 Modification of Sign Regulations
124-312 New streets
125-01 General Provisions
126-01 General Provisions
128-02 General Provisions
131-01 General Provisions
131-421 Coney East Subdistrict, south side of Surf Avenue
131-423 Along all other streets
131-431 Coney West District, Surf Avenue
131-432 Along all other streets, other than Riegelmann Boardwalk
131-441 Coney North Subdistrict, Surf Avenue
131-443 Mermaid and Stillwell Avenues
131-45 Mermaid Avenue Subdistrict
131-49 Authorization for Exterior Ramps
135-044 Applicability of Article VI, Chapter 4

135-11 Ground Floor Use Regulations
135-12 Special Streetscape Provisions for Blank Walls
135-13 Physical Culture or Health Establishments
135-14 Breweries
135-15 Modification of Supplemental Use Provisions
135-24 Special Street Wall Location Regulations
136-01 General Provisions
137-10 GENERAL PROVISIONS
137-40 SPECIAL APPLICABILITY OF ARTICLE V
137-50 SPECIAL REQUIREMENTS FOR DEVELOPMENTS AND ENLARGEMENTS
138-01 General Provisions
138-22 Street Wall Regulations
138-31 Ground Floor Use Regulations
138-32 Special Streetscape Provisions for Blank Walls
142-01 General Provisions
142-14 Ground Floor Level Requirements
142-141 Special Streetscape Provisions for Blank Walls
APPENDIX K: Areas with Nursing Home Restrictions

Zoning for Coastal Flood Resiliency
Citywide Zoning Text Amendment
N210095 ZRY
10/16/20

1. INTRODUCTION

The Department of City Planning (DCP) is proposing a zoning text amendment, Zoning for Coastal Flood Resiliency (ZCFR), to update the Special Regulations Applying in Flood Hazard Areas (Article VI, Chapter 4). The current zoning rules were adopted on an emergency basis to remove zoning barriers that were hindering the reconstruction and retrofitting of buildings affected by Hurricane Sandy and to help ensure that new construction there would be more resilient. ZCFR would improve upon and make permanent the relevant provisions of the current temporary zoning rules and provide homeowners, business owners, and practitioners who live and work in the city's floodplain the option to design or otherwise retrofit buildings to: (a) reduce damage from future coastal flood events, (b) be resilient in the long-term by accounting for climate change, and (c) potentially save on long-term flood insurance costs. In addition, it would allow resiliency improvements to be more easily incorporated on waterfront sites at the water's edge and in public spaces, as well as provide zoning regulations to help facilitate the city's long-term recovery from the COVID-19 pandemic and other future disasters.

ZCFR was drawn from lessons learned and initiatives implemented through New York City's recovery efforts after Hurricane Sandy and was developed based on analysis of resilient construction in the floodplain, through widespread coordination with partner City agencies, and community feedback received during an extensive public engagement process as laid out in *Zoning For Resiliency: Community Outreach Summary*, released in 2018. ZCFR would mostly affect New York City's current 1% annual and 0.2% annual chance floodplains. However, select provisions would be applicable citywide (discussed in detail below), affecting all five boroughs and the city's 59 Community Districts.

ZCFR also includes updates to other sections of the ZR, including the Special Regulations Applying in the Waterfront Area (Article VI, Chapter 2) and provisions within various Special Purpose Districts.

In the long term, ZCFR, in conjunction with coastal protection strategies and infrastructure improvements that are being pursued by the City and other state and federal agencies,[1] would help to fully realize the vision of a more resilient New York City.

2. BACKGROUND

The City's Coastal Flood Risk

With 520 miles of shoreline, there is no denying that New York City is a coastal city. Its large natural harbor, where the Hudson River meets the Atlantic Ocean, is one of the reasons that the city has become a center of commerce and culture. However, due to its extensive and varied shoreline, New York City is vulnerable to coastal flooding.

While there are many sources of flooding that pose issues in New York City, including flooding from severe rain storms or due to impaired infrastructure, coastal storms present the most significant flood risk in terms of compromising human safety, property damage, and business disruption. Therefore, in 1983, the City joined the National Flood Insurance Program (NFIP) allowing homeowners to purchase flood insurance and receive assistance following flood events. This program, administrated by FEMA, is a voluntary program based on an agreement between the federal government and local communities. FEMA identifies areas at risk of flooding through the development of flood-risk maps. Local authorities adopt these maps to implement and enforce floodplain management regulations. In exchange, local communities get access to federally backed flood insurance, which is made available to property owners and renters throughout the floodplain. The rates for this flood insurance vary depending on the property's location, height above sea level and general building characteristics. These rates can be substantially reduced when subgrade spaces, such as basements and cellars are filled in residential buildings, and when living spaces are elevated above the base flood elevation (BFE).[2]

[1] Coastal protection strategies and infrastructure improvements includes climate adaptation measures such as those identified in the City's *Lower Manhattan Climate Resiliency Study* issued in March 2019, the East Side Coastal Resiliency Project that is projected to be completed by 2023, and South Shore of Staten Island Hurricane and Storm Damage Reduction Project being initiated by the US Army Corps of Engineers. Examples of such measures include floodwalls and deployable flip-up barriers to protect upland areas from storm surges. For more information, refer to the Lower Manhattan Climate Resiliency Study.

[2] The elevation to which floodwater is anticipated to rise during a 1% annual chance storm as shown on FEMA's FIRMs and PFIRMs, as measured from sea level.

Areas at risk of a 1% or 0.2% annual chance of flood are commonly known as the floodplain and are currently designated on FEMA's FIRMs and Preliminary FIRMs (PFIRMs). New York City's 1% annual chance floodplain covers approximately 15 percent of the city's land area, touching 50 of the city's 59 Community Boards and 45 of its 51 Council Districts. This vast geography contains over 80,900 buildings housing 434,500 residents that are currently at high risk of flooding by coastal storms. In commercial areas, the floodplain contains roughly 14,500 private businesses that employ approximately 270,000 people.[3] In industrial areas, roughly 3,600 private businesses that employ approximately 87,000 people are located in the floodplain.[4] The city's 0.2% annual chance floodplain encompasses an additional four percent of the city's land area, which includes approximately 44,600 buildings that are at moderate risk of being flooded today and houses an additional 348,000 residents. Combined, there are a total of 125,500 buildings and 782,800 residents in the city's floodplain.

No single flood event has made New York City's vulnerability clearer than Hurricane Sandy in 2012. This event created a historic storm surge that flooded neighborhoods well beyond the 1% annual chance floodplain, inundating approximately half of the lots in the 0.2% annual chance floodplain and illustrating how these areas are at risk today and will continue to be at risk in the future.

The City's Regulatory Framework in the Floodplain

The need to quickly recover from Hurricane Sandy revealed several regulatory conflicts between the construction standards in Appendix G of the NYC Building Code, which are overseen by the New York City Department of Buildings (DOB) as a requirement of the NFIP, and zoning regulations located within the ZR, which is administered by DCP and enforced by DOB. Within the 1% annual chance floodplain, Appendix G currently requires all habitable spaces of new construction, and existing buildings that were substantially damaged or are undertaking substantial improvements[5], to be raised above the Design Flood Elevation (DFE).[6] All spaces below the DFE must be either wet-floodproofed, if the building is used solely for residential use, or dry-floodproofed, if the building contains non-residential uses.[7] Spaces that are wet-floodproofed only can be used as crawl space, or for parking, storage and building access, and spaces that are dry-floodproofed can be used for non-residential uses. Additionally, residential buildings are not allowed to provide spaces, such as basements and cellars, below grade and mechanical equipment must be located above the DFE.

These requirements have, at times, posed conflicts with certain zoning regulations, as they change the way that most buildings in New York City are structurally designed and internally configured. In New York City, aside from land use, zoning also establishes limits on the size and shape of buildings, with a range of zoning districts mapped to reflect their varying density and character of waterfront areas. These limits include height and floor area restrictions, which may hinder buildings from elevating their spaces to comply with Appendix G.

Historically, the ZR generally did not account for the issues caused by coastal flooding. The floodplain was first introduced to the ZR as part of the Lower Density Contextual Zoning (N 890552 ZRY) text amendments adopted in 1989 when architects and residents of waterfront communities raised concerns about achieving permitted height and floor area in the floodplain. As a result, underlying zoning regulations now allow for buildings in the floodplain to measure building perimeter wall, roof and cellar heights from the BFE rather than from the adjoining grade.

After Hurricane Sandy in October 2012, the Mayor signed Executive Order No. 230, suspending height and other restrictions to the extent necessary to allow buildings to be rebuilt to the Appendix G requirements. The Executive Order was by its nature an interim measure that needed to be codified by a zoning text amendment. As a result, the City had to adopt two zoning text amendments - the 2013 Flood Text (N 130331(A) ZRY) and the 2015 Recovery Text (N 150302 ZRY). These were intended to remove regulatory barriers that would hinder or prevent the reconstruction of storm-damaged properties and to enable new and existing buildings to comply with new, higher flood elevations issued by FEMA, and to new requirements in the New York City Building Code.

In removing regulatory obstacles from the ZR, the 2013 Flood Text allowed buildings within the 1% annual chance floodplain to meet the requirements of Appendix G by, for example, allowing height to be measured from the DFE (rather than from grade). The subsequent 2015 Recovery Text simplified the process to

[3] NYC Planning, *Resilient Retail* (2016). New York City, NY. Source: www.nyc.gov/resilientretail
[4] NYC Planning, *Resilient Industry* (2018). New York City, NY. Source: www.nyc.gov/resilientindustry
[5] Substantial damage is damage to a building for which the total cost of repair is 50 percent or more of the building's current market value before the disaster occurred, regardless of the cause of damage. Substantial improvement is any repair, reconstruction, rehabilitation, addition, or improvement with a cost equaling or exceeding 50 percent of the current market value of the building.
[6] The DFE is the minimum elevation to which a building in the 1% annual chance floodplain must be elevated or floodproofed, determined by adding freeboard (additional height for safety, either one or two feet depending on the use occupancy type) to the base flood elevation (BFE) as determined by Appendix G.
[7] Wet-floodproofing is a method designed to allow the passage of water within parts of the structure that are located below the flood elevation, while ensuring that the structure resists water loads. Dry-floodproofing is a method designed to seal a building's exterior walls to flood waters while ensuring that the building can resist water loads below the expected level of flooding.

document non-compliances,[8] and established new rules to allow the reconstruction of damaged homes located on narrow and small lots.

The two text amendments were adopted on a temporary, emergency basis and were not subject to environmental review, as determined to be Type II per New York Codes, Rules, and Regulations (NYCRR) Part 617.5 (33): "*adoption of regulations, policies, procedures and local legislative decisions in connection with any action on this list.*" The zoning changes are set to expire in the next few years: the 2013 Flood Text expires within one year of the adoption of new FIRMs, which are expected to be revised by FEMA in the next few years, while applicability of the 2015 Recovery Text expired in July 2020.

Both 2013 and 2015 zoning changes also supported the City's land use strategy for the floodplain. With such a vast and populous area subject to varied risks of flooding, it is evident that the city cannot simply retreat from the entire shoreline. Therefore, the City's local land use policies across the 1% and 0.2% annual chance floodplains vary based on the degree of flood risk that exists in different parts of the city. As an example, in 2017, the City established Special Coastal Risk Districts in Broad Channel and Hamilton Beach, Queens to limit future density in these areas due to their exceptional vulnerability to coastal storms and projected daily tidal flooding due to sea level rise. On a citywide level, the City's land use strategy has aimed to maintain prevailing land uses and the planned density across neighborhoods in the floodplain while encouraging buildings and neighborhoods of all types to become resilient in the long-term.

COVID-19 Pandemic

New York City encountered its first case of COVID-19 on March 1, 2020 and, on March 7, Governor Andrew Cuomo declared a State disaster emergency for the entire state to address the threat the virus posed to the health and welfare of New York residents and visitors. With cases quickly increasing over the next few weeks, the Governor announced a full stay-at-home order for all non-essential workers on March 20 and halted all non-essential construction on March 27. The City's Uniform Land Use Review Procedure (ULURP) was suspended from March 16 through September 14.

As of October, over 240,000 cases and nearly 24,000 deaths were reported in the city making it one of the global centers of the pandemic. In addition, the city's economy was greatly impacted by the shutdown, losing nearly one million jobs in the span of only a few weeks.

To help address these issues, Mayor Bill de Blasio issued Emergency Executive Order No. 98 on March 12 which included a declaration of a state of emergency in the city due to the virus. This order was updated repeatedly and soon also addressed provisions of the ZR including legally imposed deadlines for the filing of certain documents or for the completion of other required actions since the measures taken to combat the spread of the virus could prevent individuals, business and other entities from meeting them. These measures were generally intended to provide more time for businesses to reopen and builders to complete construction projects. However, these allowances cannot be extended beyond the timeframe of the Emergency Order without a zoning text amendment

3. DESCRIPTION OF THE PROPOSED PROJECT AREA

ZCFR would be applicable to all lots located wholly or partially within both the current 1% and 0.2% annual chance floodplains (the latter serving as a proxy for the projected 2050 1% annual chance floodplain).[9] This contrasts with the 2013 Flood Text and 2015 Recovery Text, which have a more limited geography as they only apply to buildings located wholly or partly within the 1% annual chance floodplain. However, to help the city prepare for or respond to other disasters, select provisions in ZCFR would be applicable throughout the city.

1% Annual Chance Floodplain

The 1% annual chance floodplain encompasses a significant portion of land coverage in New York City, including approximately 65,600 lots and 80,900 buildings across the city's five boroughs.

0.2% Annual Chance Floodplain

The 0.2% annual chance floodplain encompasses a large portion of land in New York City, including approximately 36,700 lots and 44,600 buildings across the city's five boroughs.

[8] A non-complying building is any structure that does not adhere to bulk regulations of the applicable zoning district. A non-conforming use is any land use that is not permitted under applicable zoning regulations.

[9] The applicable area would be automatically updated when maps or map data reflecting new flood risks are adopted in the New York City Building Code.

4. PURPOSE AND NEED

ZCFR builds upon the 2013 Flood Text and the 2015 Recovery Text which were approved in the aftermath of Hurricane Sandy. These temporary zoning rules, adopted on an emergency basis, removed many of the zoning barriers hindering the reconstruction and retrofitting of buildings affected by the storm and helped ensure that new construction in these locations would be more resilient. The 2013 Flood Text provisions are set to expire with the adoption of new and final FEMA Flood Insurance Rate Maps, anticipated to occur in the next few years. Applicability of the 2015 Recovery Text expired in July 2020. If these rules are not made permanent, it would limit the ability of owners to protect existing vulnerable buildings from flooding and would disincentivize more resilient construction in the floodplain.

Therefore, ZCFR would make permanent the temporary zoning rules of these previous actions, but also improve upon them based on lessons learned since their original implementation through DCP's analysis of resilient construction in the floodplain, coordination with partner City agencies, and community feedback received during public engagement since Hurricane Sandy.

Most critically, the 2013 Flood Text and the 2015 Recovery Text focused on modifying zoning regulations so that buildings could be constructed or modified to meet minimum requirements set forth in Appendix G of the Building Code. However, the city's flood risk will continue to increase with climate change, since sea level rise will increase the potential height of storm surges. For that reason, current building code standards that are tied to today's storm surge projections may not be sufficient to protect buildings from being damaged by future storms. In addition to increasing the potential height of storm surges, sea level rise will also cause the floodplain to expand over time.

To supplement and inform future flood risk, the City relies on the findings of the New York City Panel on Climate Change (NPCC). The NPCC is a group of scientists and private sector experts that provides climate change projections for the city. NPCC's most recent report, released in early 2019, provides the latest estimates for sea level rise (SLR) in the city. The projections take into account different climate change scenarios and inputs to arrive at high- and low-range SLR projections for the 2020s, 2050s, 2080s, and 2100. The NPCC projects that the city could experience 28 inches of sea level rise at the 90th percentile of its estimation in the 2050s. The City uses the NPCC's high-range sea level rise projections for the 2050s as its actionable data to inform land use and capital planning considerations, including ZCFR. The City continues to monitor the NPCC's projections as they evolve over time because the science and underlying data are not static and will continue to advance.

Based on data provided by the NPCC, the 1% annual chance floodplain is projected to cover one-quarter of the city's total landmass by the 2050s.[10] This area, which closely overlaps today's 0.2% annual chance floodplain (whose full geographic extent includes the area of the 1% annual chance floodplain), currently contains twice the number of residents as today's 1% annual chance floodplain: approximately 780,000 residents and 122,100 buildings. As a result, current zoning rules need to be modified to take into consideration future flood risk, so that long-term adaptation can be achieved across the city's entire floodplain.

Beyond this, there are other issues that need to be addressed to ensure that the zoning regulations applicable in the floodplain allow for all types of buildings in neighborhoods across the city to be resilient in the long term. Each neighborhood in the floodplain faces different challenges to adapt to climate change. For instance, most of the floodplain is characterized by low-density communities that contain a prevalence of single- and two-family homes that are highly vulnerable to flooding but are also easier to retrofit since they often can be physically elevated. There are also medium- and high-density neighborhoods in the floodplain, which contain larger multi-family structures that make it more difficult and more expensive to fully comply with resiliency standards but can be protected over time through incremental resiliency improvements. The floodplain also hosts different types of commercial corridors and industrial areas that need to be protected. These areas play an important role in providing services to residents in the floodplain, and in serving critical functions that support the city's overall population and economy. However, businesses face challenges to incorporate resiliency improvements while keeping a functional operation that largely depends on being at grade. These uses will therefore have to explore incremental resiliency improvements and creative solutions to increase the building's safety over time.

Through its public outreach efforts and analyses, DCP has identified that the current zoning regulations are predominantly focused on low-density residential areas – which were heavily impacted by Hurricane Sandy – and they less effectively address the wider variety of conditions found in the city's floodplain. This makes it less likely that other areas, such as retail corridors, can become resilient over time. In addition, some of the regulations themselves have been found to be not always well calibrated, sometimes hampering the ability to conduct resiliency improvements while at other times leading to buildings out of scale with their surroundings or with unwelcoming blank walls at street level. These inconsistencies sometimes even occur along the same streets. This is an outcome of the necessarily fast-paced nature of the response to the 2012

[10] The 1% annual chance floodplain for the 2050s is based on FEMA's PFIRMs and the NPCC's 90th Percentile Projection for Sea Level Rise (30 inches).

hurricane, with DCP and other agencies making their best attempt to create zoning regulations to address situations never before seen in the city. With more than seven years of experience under the current floodplain regulations, some of these inconsistencies have become clear and must be addressed so that buildings and, by extension, neighborhoods in the city's floodplain can become resilient.

It will take time for New York City's building stock to adapt to climate change because only a small portion of these buildings currently meet the requirements of Appendix G of the Building Code. Nevertheless, the City believes that resilient construction should become the new normal in the floodplain. By making the current regulations permanent and addressing the various identified issues with them, ZCFR would facilitate this goal and make for more resilient neighborhoods, since places with a resilient building stock would be able to bounce back more quickly from a coastal flood event. In conjunction with coastal protection strategies and infrastructure improvements that are being pursued by the City collectively with other state and federal agencies, this will help the City to fully realize the vision of a more resilient New York City.

Finally, the city's experience recovering from Hurricane Sandy and the current COVID-19 pandemic makes clear that zoning should include rules that can help facilitate long-term disaster recovery. While the storm pointed out the need for provisions that make it easier to reconstruct damaged buildings after a disaster like a hurricane, there is also a need for zoning regulations to address the associated effects from disasters like the pandemic, even if they do not cause physical damage. All rules should be able to be made applicable quickly after a disaster strikes the city, as with the COVID-19 pandemic, but should last no longer than necessary to facilitate the recovery. Beyond this, the city can be made less susceptible to future disasters by undertaking zoning changes that keep vulnerable populations in nursing homes out of harm's way and by allowing for a more resilient energy grid.

Goals of ZCFR

Given the issues currently facing New York City's coastal neighborhoods under the existing zoning framework and the possibility for future disasters beyond the floodplain, DCP has developed the following core goals to assist the city and its residents to be resilient over the long-term.

Goal 1. Encourage resiliency throughout the current and future floodplains.
All building owners in areas subject to flood risk should have the option to proactively incorporate resiliency standards into their buildings, even when these standards are not required by FEMA and Appendix G of the New York City Building Code.

Goal 2. Support long-term resilient design of all building types.
Zoning rules in the floodplain should facilitate protection from coastal flooding for all buildings, independent of their age, typology or specific location.

Goal 3. Allow for adaptation over time through incremental retrofits.
Building owners should be able to incrementally incorporate resiliency improvements into all buildings and waterfront sites, including existing structures that are not able to fully meet Appendix G.

Goal 4. Facilitate future recovery by reducing regulatory obstacles.
Zoning rules should assist vulnerable populations and the recovery process after a future storm or other type of disaster, including the ongoing COVID-19 pandemic.

While ZCFR includes a range of zoning changes to meet these four goals, it would continue the overarching goal of the 2013 Flood Text to maintain prevailing land uses and the planned density in neighborhoods across the floodplain, while helping buildings and neighborhoods of all types to be resilient in the long-term. The following section gives an overview of the proposed text amendment, categorized by the four goals outlined above.

5. PROJECT DESCRIPTION

Like the 2013 Flood Text and the 2015 Recovery Text, ZCFR would generally provide optional zoning rules in the floodplain for buildings to fully incorporate "flood-resistant construction standards,"[11] but also for those who may want to incorporate incremental resiliency improvements to protect their buildings against flooding over time, as described in more detail below. Given the scale and variety of the city's floodplain, ZCFR necessarily includes modifications to many existing zoning regulations. These changes generally allow habitable spaces and other building support features to be better protected and raised out of

[11] "Flood-resistant construction standards" are the construction standards set forth in Appendix G of the NYC Building Code for "Post-FIRM Construction" (as defined therein) applied up to the flood-resistant construction elevation or higher to aid in protecting buildings in the floodplain from flood damage, governing both buildings that are required to comply with such standards and those that voluntarily comply.

harm's way and address the effect these elevated spaces can have on the city's streetscape. ZCFR also includes provisions with applicability beyond the floodplain to help address a wider variety of situations.

Goal 1. Encourage resiliency throughout the current and future floodplains.

ZCFR would modify zoning regulations to allow building owners throughout the floodplain to proactively incorporate resiliency improvements in their buildings by expanding the applicability of the optional rules.

Expanding beyond the current 1% annual chance floodplain

ZCFR would greatly expand the current availability of optional regulations to allow more building owners to design or retrofit their buildings to meet "flood-resistant construction standards" proactively. The existing 2013 Flood Text only applies in the 1% annual chance floodplain. As a result, for buildings in the 0.2% annual chance floodplain, there are no zoning regulations to facilitate or encourage resiliency improvements. While most uses in this area are not required to comply with Appendix G, the current 0.2% annual chance floodplain will become more vulnerable to flooding in the future as sea-level rise projections show flood risk increasing over time. To address this, ZCFR would apply to both the 1% annual chance floodplain and the 0.2% annual chance floodplain.[12] The City believes that the 0.2% annual chance floodplain geography is a valid proxy for the projected 1% annual chance floodplain in the 2050s and that this geographic expansion is a sensible precautionary approach that would allow the city to proactively adapt to future flood risk. Eligibility within these two geographies would be determined at the time of a building permit application.

Expanding to lots

ZCFR would simplify the design process and encourage more building owners to proactively meet "flood-resistant construction standards" by determining applicability based on their zoning lot. The 2013 Flood Text provisions are currently applicable only to buildings located wholly or partially within the 1% annual chance floodplain. For example, in a residential campus with multiple buildings where only some of which are in the 1% annual chance floodplain, the 2013 Flood Text zoning allowances and flood protection standards cannot be applied to all buildings, making the design process more complex—and ultimately costly—since each building would have to follow different zoning rules. Along streets, this standard produces inconsistent results where only some specific buildings touch the floodplain edge. By determining eligibility based on whether the zoning lot is both wholly or partially within the floodplain, ZCFR would produce a more consistent outcome and be more in line with applicability requirements in the rest of the ZR.

Goal 2. Support long-term resilient design for all building types.

ZCFR would include optional zoning regulations that better enable building owners to make their buildings more resilient by physically elevating habitable spaces and other building support features above expected flood elevations. These would generally modify existing regulations for building envelopes and ground floors, as well as address more unique situations. When these allowances are used, buildings would have to comply with "flood-resistant construction standards" and a new set of streetscape regulations.

<u>Building Envelope Modifications to Promote Resiliency</u>

ZCFR includes optional modifications of various building envelope regulations to better allow habitable spaces to be raised above flood levels.

Flood-resistant construction elevation

ZCFR would continue to provide additional building height where building owners are required or are opting to meet Appendix G floodproofing standards.

All zoning districts have height and setback regulations that govern the size and shape of buildings. Their heights are measured from different starting points depending on the type of building and the zoning district. For example, the maximum height of a single-family residence in a lower-density contextual Residence District (typically 35 feet) is measured from the "base plane," which is generally located between the elevation of the curb and the average natural grade along the building facade.

Since 1989, in the 1% annual chance floodplain, required heights in the ZR can be measured from the BFE to allow building owners to construct habitable space above the elevations which FEMA projects would be inundated by flooding without losing buildable space. However, it has been identified that pre-1989 buildings could utilize this extra height for enlargements without providing any floodproofing, as long as the improvement did not trigger compliance with Appendix G.

[12] In the proposed text amendment, the 1% annual chance floodplain is defined as the "high-risk flood zone" and the 0.2% annual chance floodplain is defined as the "moderate-risk flood zone."

In the aftermath of Hurricane Sandy, DOB changed the Building Code to require that buildings in the 1% annual chance floodplain locate all living spaces at or above the DFE which, depending on building type, requires an extra one or two feet above the BFE as an extra measure of safety. The 2013 Flood Text embedded this rule into the ZR by allowing heights in all zoning districts to be measured from the "flood-resistant construction elevation" (FRCE), which is generally synonymous with the DFE in the current rules. The underlying building envelope associated with building types and zoning districts did not change; the only change was to the height from where the envelope was measured. With this modification, building owners can meet the requirements of Appendix G without sacrificing living space.

ZCFR would continue to allow building envelopes across all zoning districts to be measured from the FRCE. In addition, such term would be revised to add certain clarifications. The FRCE will be required to not be lower than two feet above lowest adjacent grade to ensure a minimum level of floodproofing. In the 0.2% floodplain, where compliance with Appendix G is voluntary and no DFEs exist, this two foot minimum level of protection would also apply. Coupled with required compliance with the "flood-resistant construction standards," this would mean that no living space would be located below the FRCE, and below grade basements and cellars would not be built in residences. In addition, essential facilities (such as hospitals) would be able to measure height from the 500-year flood elevation, which is required by Appendix G. Finally, the allowance to measure height from the BFE would be removed to ensure a consistent framework and any additional height would be tied to flood-resistant improvements.

Reference plane

ZCFR would include a consistent framework for additional building height to encourage building owners to address long-term climate change, lower insurance costs and provide usable spaces at grade.

Acknowledging that there may be situations where the FRCE height could result in spaces with awkward heights that could deleteriously impact the streetscape, the 2013 Flood Text allows the reference point at which heights are measured to be adjusted upwards to create more practical and viable ground floor spaces. This alternate reference plane is available in areas where the BFE equals or exceeds four feet, and the plane's maximum height (ranging from 9 to 12 feet) is dependent on the zoning district and building use.

While the notion of an alternative reference plane has proven sensible, there are issues with the specific ways it is applied. First, varying the reference point based on the building type and zoning district creates a highly complex framework that benefits some buildings more than others. This leads to inconsistent outcomes, sometimes even along the same street due to minor changes in the topography. Additionally, the BFE height necessary to use the reference plane limits its applicability since most of the buildings in the 1% annual chance floodplain are subject to a lower BFE. This means that most building owners in the floodplain can only measure building height from the FRCE, whose lower height only encourages compliance with the minimum construction standards set forth in Appendix G, making it difficult for building owners to over-elevate their buildings without sacrificing living space. This means that building owners cannot easily incorporate sea level projections into their building design (the NPCC projects that New York City would be subject to approximately 30 inches of sea level rise by the 2050s)[13] or maximize their flood insurance reduction (which is generally achieved when the first occupiable floor is placed four feet above the BFE).

To create a consistent framework for height measurement that addresses these issues, ZCFR would allow building heights to be measured from a new "reference plane" that is up to 10 feet above the base plane or curb level in the 1% annual chance floodplain and up to five feet in the 0.2% annual chance floodplain. To ensure that the additional height is tied to actual improvement in the building's resiliency, the building would have to comply with "flood-resistant construction standards" and its "first story above the flood elevation" (FSAFE) would have to be located at or above the chosen "reference plane" height. The FSAFE would be defined as the level of the finished floor of the first story located at or above the level to which the building complies with "flood-resistant construction standards." In areas where the FRCE is higher than 10 feet, the higher FRCE could continue to be used.

Other envelope modifications

To help offset the effects of the proposed additional height that would allow construction at or above the FRCE, ZCFR would include several allowances intended to break down the building massing in the upper portions of buildings.

For lower-density residential areas, ZCFR would continue to encourage sloped roof design in areas where that type of roof is the prevailing context. However, there would be a minor modification to the existing "attic allowance," which allows a 20 percent floor area bonus in exchange for a sloped roof in R2X, R3, R4, R4A and R4-1 Districts. The current regulations require that the additional floor area be located directly under the roof, which often results in taller roofs and building heights to accommodate a usable attic. If these rules were applied to the floodplain, the height of these buildings could be exacerbated, as building

[13] "Climate Resiliency Design Guidelines – Version 3.0." New York City Mayor's Office of Recovery and Resiliency (March 2019). Appendix 2.FFDGGGHGG

heights would be measured from the FRCE or the "reference plane." To address this, ZCFR would instead allow the additional floor area to be located in any portion of the building which would encourage a lower roof slope and overall building height. In Lower Density Growth Management Areas (LDGMA) the rule would not change, since the ability to locate the additional floor area is already permitted (albeit with a steeper roof pitch). However, "cottage envelope" buildings, described below, would be able to use the lower pitch in LDGMAs since it is more reminiscent of bungalow homes.

In medium- and high-density contexts, ZCFR would make two modifications to promote lower building scale. First, while maximum base heights and overall heights in Quality Housing buildings may be measured from the FRCE or the "reference plane," ZCFR would allow minimum base heights to continue to be measured from the base plane. This would allow setbacks in buildings to be made closer to the ground and keep the base heights lower. The provision was adopted as part of the 2013 Flood Text and would be maintained in ZCFR. Additionally, ZCFR would modify the underlying dormer allowances to provide an alternative that could break up the bulk in the upper portion of the building. The underlying dormer allowance permits 60 percent of the width of the building as a permitted obstruction in the building setback above the maximum base height, but this must diminish in width as the building rises. ZCFR would allow a dormer that extends up to 40 percent of the building width without any diminishing.

Accommodating "flood-resistant construction standards" on Ground Floors

ZCFR includes a series of regulations intended to incentivize the floodproofing of ground floors, encourage active uses to be kept at the street level to promote more resilient neighborhoods, and encourage internal building access. These regulations build on the standards included in the 2013 Flood Text but aim to provide more consistent outcomes throughout the floodplain. These are described below under five categories: wet-floodproofed spaces, dry-floodproofed spaces, cellars, street wall location, and ground floor use requirements.

Wet-floodproofed spaces

ZCFR would provide a consistent floor area exemption for wet-floodproofed ground floor spaces for all buildings to promote long-term resiliency improvements.

"Flood-resistant construction standards" require the ground floor of residential buildings to be wet-floodproofed, thereby limiting the use of this ground floor space solely to parking, storage and/or building access. While accessory parking is generally not counted toward zoning floor area calculations, spaces used for storage or building access typically count and therefore can act as a severe disincentive to floodproofing. The 2013 Flood Text addressed this by allowing all existing structures to fully exempt a wet-floodproofed ground floor. For new buildings, the exemptions are limited to entryway areas used for enclosed ramps and stairs to encourage access to be kept within the building.

ZCFR would provide the full ground floor exemption for wet-floodproofed spaces to new and existing buildings. This would provide more consistent results and incentivize internal access at grade, while encouraging living spaces to be elevated above the FRCE in new and existing buildings, including those that cannot be physically elevated.

Dry-floodproofed spaces

To promote a safe and lively pedestrian environment, ZCFR would encourage active dry-floodproofed ground floor spaces along the City's retail corridors.

"Flood-resistant construction standards" allow non-residential ground floor uses to be dry-floodproofed. While this method allows active uses to be kept close to grade, which is beneficial in maintaining retail continuity along the city's commercial streets, this method has proven to be quite costly. The 2013 Flood Text attempted to incentivize dry-floodproofing by allowing up to 10,000 square feet of non-residential uses in existing buildings to be exempted from floor area calculations if they are dry-floodproofed. However, this provision has seen limited use to date due to both the high cost of dry-floodproofing as well as existing restrictions on the use of relocated space that make the resiliency investment less viable. But if the 2013 provision was utilized, the large size of the floor area exemption could lead to out-of-scale development on small lots. For new buildings, the exemptions are limited to entryway areas used for enclosed ramps and stairs, to encourage access to be located within the building.

ZCFR would modify these incentives to better encourage dry-floodproofed spaces in appropriate locations. The provision would be available for both new and existing buildings facing "primary street frontages" (as defined in the ZR) in Commercial Districts and M1 Districts paired with Residence Districts. The floor area exemption would only be available for the first 30 horizontal feet of the non-residential floor space as measured from the street wall of the building, since this is the most critical space to maintaining retail continuity. The exemption would come with design requirements to ensure quality ground floors. These would require the ground floor level be within two feet of the adjacent sidewalk and follow transparency

requirements. In addition, ZCFR would maintain the existing floor area exemption for access, to encourage ramps and stairs be located within the building.

Cellars

ZCFR would ensure that floor area exemptions are given only when buildings are floodproofed and remove incentives to build low-quality ground-floors.

The 2013 Flood Text included some limited modifications to the definition of "cellar" to help ensure that buildings with moderate and high FRCE levels (especially those that equal or exceed four and a half feet above grade) can achieve their fully permitted floor area. However, this provision has unexpectedly resulted in low-quality spaces, since it encourages low ground floor heights to obtain the floor area exemption, and the outcome can be out of scale with the neighborhood context, since an entire floor can be discounted from floor area calculations even when the space is used for active uses. In addition, where allowed, this provision has also encouraged the construction of sunken retail ground floors. While these floors would have to be dry-floodproofed, they could become vulnerable as sea levels rise, making it harder to further retrofit these buildings in the future.

ZCFR would limit these exemptions by not allowing the FRCE to be used as the measurement threshold for cellars and basements. In addition, as noted in the "flood resistant construction elevation" section above, ZCFR would modify the "base plane" definition to remove references to the BFE. Taken together, this would restrict the owners of buildings subject to a high BFE from taking significant floor area exemptions for these low-quality below-grade spaces. With this proposed change, floor area exemptions would only be tied to the floodproofing of the building. However, existing buildings would have the option to determine floor area calculations using either the definition prior to or after the change to ensure that significant new non-compliances are not caused for these sites.

Street wall location

ZCFR would include limited street wall modifications when access or flood protection measures are provided outside of the building.

Many zoning districts have street wall location provisions that ensure new development will be constructed close to the property line to reflect the character of their area. While these regulations promote best practices in streetscape design, they can conflict with the ability to provide sufficient outdoor access from the sidewalk into buildings in the floodplain since stairs and ramps can occupy considerable space and may not fit in the permitted area.

The 2013 Flood Text provided street wall modifications in the highest-density Commercial Districts to allow stairs and ramps in recesses that occupy up to 30 percent of the street wall width. However, this allowance is not applicable to buildings in lower-density districts and does not fully accommodate stairs and ramps serving narrow buildings, or buildings with high flood elevations, because of the limited recess percentage allowance. The 2013 Flood Text also did not provide any street wall location modifications for installing flood protection measures, which has been identified by practitioners as hampering flood resiliency. While ZCFR is particularly intended to facilitate interior entrances to improve the streetscape around flood-resilient buildings there are situations where exterior access may be necessary and existing street wall location provisions may make this impossible. Provisions governing these types of locations may also hamper the implementation of flood protection measures such as flood gates.

ZCFR would instead allow sufficient space to accommodate exterior stairs and ramps, as well as flood panels, in all zoning districts that require street walls be located on or near the street line. To incorporate these measures, street walls could be located up to eight feet from the property line and, to allow ramps that run perpendicular to the street, up to 50 percent of the street wall could be located beyond eight feet. In acknowledging the access challenges for narrow lots (less than 50 feet), ZCFR would allow the remaining 50 percent of the street wall to be recessed at the ground floor level. The possible visual impact of the access measures would be limited by requiring planting if the access extended along 70 percent or more of the street wall.

Ground floor level requirements

ZCFR would accommodate resilient buildings and raised first floors by addressing conflicts with existing ground floor level zoning requirements.

To promote walkability and enliven retail corridors, some zoning districts have ground floor use regulations that typically require non-residential uses (i.e., commercial and community facility) on the ground floor level in close proximity to the sidewalk level (often between two and five feet), and that the building facade adjoining these uses would be transparent to promote the feel of shopping districts with large show windows. In the floodplain, that ground floors and transparency be located close to the sidewalk level would often preclude floodproofing strategies, which could become extremely onerous in areas with a high FRCE. In addition, Commercial and Manufacturing Districts include accessory signage regulations to promote

businesses on the lot that include size and height limitations measured from grade which may lead to impractical outcomes in the floodplain given the need to sometimes elevate these uses.

To address issues in applying these rules at the sidewalk level in the floodplain, the 2013 Flood Text allowed these ground floor measures to be elevated to the FRCE so that buildings could comply with Appendix G. For example, if the FRCE of the building was five feet above grade, the measurement elevation for required non-residential uses could be elevated to the FRCE along with associated transparency rules. Accessory signage could also be measured from this elevation. With these changes, owners can consider a wide variety of resilient design strategies including ground-floor elevation, dry-floodproofing, or the creation of wet-floodproofed "show pits."

ZCFR would continue to allow this, with small additions. In all areas, any blank walls created along retail corridors would now be subject to streetscape rules and would need to be addressed by adding elements such as planting, street furniture, or artwork. Additionally, in V zones and Coastal A zones identified by FEMA, ground floor use regulations would be made optional because dry-floodproofing is prohibited and FRCEs are often extremely high above the sidewalk.

Improving Streetscape in the Floodplain

ZCFR would require buildings using any of the regulations provided to comply with "flood-resistant construction standards" to also comply with streetscape requirements meant to help ensure flood-resistant buildings contribute to their surroundings.

Leading up to the 2013 Flood Text, there were concerns that elevating buildings and restricting the use of ground floor space would have deleterious effects on the neighborhood streetscape. To address this, the 2013 Flood Text included ground level design requirements for those buildings that utilized its zoning regulations. These requirements are dependent on the height of the FRCE, the building's use and the applicable zoning district. They require that a minimum number of elements be incorporated into the building's design from a small menu of options. For instance, single- and two-family homeowners that elevate their first occupiable floor five feet above grade must incorporate one of four design treatments, including front yard plantings or a front porch.

While this system laudably attempts to provide design flexibility while ensuring an appropriate level of streetscape consideration, its workability has proven challenging in practice. This has mainly been due to the requirements and thresholds being overly focused on residential buildings, particularly in low-density areas. For example, buildings in Commercial Districts are rarely required to meet any streetscape requirements because their applicable flood elevation threshold is so high, while many buildings in Residence Districts are required to comply because the thresholds there are lower. In addition, the actual design options in the menu are rather limited, particularly for buildings other than single- and two-family residences. For example, while these buildings have four design options to choose from, multi-family buildings typically have only one. In addition, practitioners have identified that some of the options are inadvertently restricted by unrelated zoning regulations, further limiting the number of available design features.

ZCFR would continue to require design features to address concerns about building elevation and blank walls but would address the issues raised with the current rules. Specifically, this would create a more consistent framework of requirements, with more design options, to better address the wide variety of building conditions found in the floodplain.

The framework would include a points system, like the 2013 Flood Text. Points would now be available in two broad categories: Building Access and Ground Floor Level. Building Access would be focused on how users reach the building's elevated first story, while Ground Floor Level would be focused on the design of the ground floor itself. Generally, for buildings with a "first story above the flood elevation" (FSAFE) that is less than five feet above grade, one point would be required and may be fulfilled within either category. Where the building's FSAFE is five feet or higher, the building would have to meet a total of three points, with at least one point coming from each of the two categories. These requirements would be applicable in all zoning districts other than M2 and M3 districts. Additionally, in M1 districts, they would not apply to heavy industrial uses. A much-expanded menu of design options would be available for each category to better address different building types and scales found in the floodplain. For example, the Building Access category would include nine options such as front porches, stair turns, entrances close-to-grade, and multiple entrances along a facade. The Ground Floor Level category would include 14 options, including planting and raised yards (included in the 2013 Flood Text), as well as wall treatments such as decorative latticework, street furniture, and ground floor level transparency. This expanded menu would give designers the toolkit to better reflect conditions found in the floodplain, such as locations along commercial corridors or in higher-density residential neighborhoods.

In addition, ZCFR would ensure that these design options can be more easily utilized. It would classify steps and covered porches as permitted obstructions in front yards and modify the maximum height of retaining walls to three feet to address those practical construction constraints caused by the previous

maximum height of two and a half feet. In low-density Residence Districts, ZCFR would also exempt buildings on narrow lots from existing front yard planting requirements that inadvertently limit the use of the other available design options. Finally, for all buildings subject to these provisions, all group parking facilities provided on the ground floor level would be required to be either wrapped by usable building space, or screened by treatments such as latticework, vertical plantings, or artwork.

Accommodating Current and Future Flood Elevations in Special Conditions

ZCFR includes more tailored zoning regulations to address special situations found in the city's floodplain, including small or narrow lots, as well as for existing buildings that do not meet current zoning requirements. While these conditions exist throughout the floodplain, they are often concentrated in certain neighborhoods, such as the bungalow communities often found along the water's edge.

Substandard lots (cottage envelope)

ZCFR would expand the availability of the popular cottage envelope option, first created in the 2015 Recovery Text, to small lots throughout the floodplain. This would allow for the construction of resilient buildings that better match their surroundings and accommodate better layouts.

Following the 2013 Flood Text, many neighborhoods with a prevalence of small, high-lot coverage bungalow homes on substandard zoning lots had concerns about the taller heights of recently constructed flood-resistant buildings. This issue was partially a result of zoning regulations that were designed with larger lots in mind. For instance, when traditional yard regulations were applied on narrow and/or shallow lots, the resulting building footprint was extremely small and forced the permitted floor area into a taller building than would have otherwise been expected. To make matters worse, the interiors of these narrow homes were also undesirable and inefficient, so both neighbors and the homeowners themselves were often dissatisfied with the outcome.

To better reflect the scale of surrounding buildings,[14] the 2015 Recovery Text provided an alternative cottage envelope option for single- and two-family detached residences reconstructed in the special Neighborhood Recovery Areas. This envelope came with decreased yard requirements and increased permitted lot coverages on substandard lots, in exchange for a shorter overall building height. The resulting building form mimics the wider and deeper bungalow homes and has provided homeowners the opportunity to create a more practical design and interior layout. While this provision has been well received, it was limited to reconstructions in the specific recovery areas.

ZCFR would expand the 2015 Recovery Text provisions by allowing all new and existing single- and two-family detached residences in R1 through R5 districts in the floodplain to use the cottage envelope option when the building is designed to "flood-resistant construction standards." Specifically, the maximum permitted building height would be reduced to 25 feet, as measured from the "reference plane," instead of the typical maximum height of 35 feet. In exchange for this reduction, the applicable yard and lot coverage requirements would be modified: the minimum front yard would be reduced to the depth of neighboring homes, while minimum side and rear yards would be reduced at a rate proportional to the narrowness and shallowness of the lot (up to a minimum of three and 10 feet respectively). In addition, any applicable lot coverage and open space requirements would not apply because the modified yard regulations effectively control the building's footprint. Corner lots would be able to consider one of their front yards a (narrower) side yard to allow for a more contextual corner building.

Parking on narrow lots

ZCFR would continue to encourage single- and two-family residences on narrow lots to have parking be located below the building.

Several low-density Residence Districts restrict the location of parking spaces and curb cuts on a property. For instance, in many contextual districts, parking is only allowed within the side lot ribbon on lots less than 35 feet wide, and curb cuts must be at least 16 feet from other curb cuts on the same or an adjoining zoning lot. While the combination of these regulations works well to preserve the streetscape in many neighborhoods, they may be particularly difficult to comply with in the floodplain due to the prevalence of narrow lots found there and the inability to use ground floors for habitable spaces.

To address these issues, the 2013 Flood Text included modified curb cut spacing and parking location requirements, particularly for narrow lots. These have allowed narrow residences to be elevated and parking to be located below the building provided that at least two parking spaces are located there. ZCFR would maintain these allowances, with small modifications to better align the number of parking spaces that may locate under an elevated building to what is required by the zoning district (which may be less than two

[14] For more information on the cottage envelope, see report outlining the City's proposal, *Zoning for Coastal Flood Resiliency: Planning for Resilient Neighborhoods*, issued by the NYC Department of City Planning. Page 20.

spaces) and to only allow the curb cut spacing for narrow lots. Specifically, in providing parking spaces beneath the building single and two-family residences in R1 through R5 districts (except R4B and R5B districts) would be able to disregard underlying parking location and curb cut location rules to allow parking spaces be located under the building. On existing zoning lots with widths of less than 35 feet, the curb cut spacing regulations would become optional if four feet of curb space is provided between the new and existing curb cuts. In either case, the site would have to comply with the underlying front yard planting requirements.

Non-complying and non-conforming buildings

ZCFR would promote resiliency for the large number of existing buildings and land uses that do not adhere to the zoning rules that are currently applicable.

These conditions exist because the buildings or uses were constructed before zoning existed or because they were legally built under the provisions in effect at the time and the regulations have since changed. These non-complying buildings or non-conforming uses can stay in place but there are limits on their reconstruction, enlargement or alteration. Most importantly, if these buildings or uses are demolished or damaged, such that more than a specified amount of floor area is removed — (75 percent for most non-compliances, 50 percent for most non-conformances) — they cannot be put back, although single- and two-family residences located in districts that permit them can be fully demolished and replaced. This longstanding policy was intended to ensure that properties comport with the applicable zoning regulations over time.

However, these restrictions became immediately problematic in the aftermath of Hurricane Sandy. The drafters of the ZR in 1961 did not anticipate the significant destruction of non-conforming uses or non-complying buildings caused by the storm, which meant that many uses and buildings could not be rebuilt since they were damaged beyond the applicable thresholds. Nor did the drafters anticipate that these buildings would need to be elevated to become more resilient, therefore potentially creating, or increasing, non-compliance with several bulk regulations.

To ensure that building owners could rebuild and get their properties out of harm's way, the 2013 Flood Text allowed non-conforming uses and non-complying buildings damaged in Hurricane Sandy beyond the applicable thresholds to be reconstructed while still retaining their previous non-conformances or non-compliances. It also encouraged buildings to be elevated or reconstructed up to the FRCE by permitting new and increasing existing non-compliances. Subsequently, the 2015 Recovery Text created two additional allowances to address situations that building owners encountered when rebuilding their homes. First, it permitted non-conforming two-family residences in single-family Residence Districts and single- and two-family residences in Manufacturing Districts to rebuild or vertically enlarge if they were in Neighborhood Recovery Areas, neither of which had been permitted under the 2013 Flood Text. Additionally, it allowed all habitable space in existing single- and two-family residences, including space in basements, to be elevated above the FRCE and accommodated all associated non-compliances.

These special rules have facilitated reconstruction of properties damaged by Hurricane Sandy, but building owners and practitioners have identified issues that deterred some owners from making their buildings more resilient. For example, the non-compliance allowances only permitted buildings to be elevated to the FRCE, which limited the ability to over-elevate to lower insurance premiums or plan for projected sea level rise. Additionally, buildings being elevated have to keep within their existing footprint to maintain existing yard and open space non-compliances, which has proven to be challenging for those on small or awkwardly configured lots. Finally, many of the provisions were only applicable in the Neighborhood Recovery Areas for a limited time period, even though similar issues are found throughout the floodplain.

In response, ZCFR would allow nearly all non-conforming uses and non-complying buildings to be elevated, retrofitted, or reconstructed to meet "flood-resistant construction standards" and measure height from the "reference plane" while retaining existing non-conformances and non-compliances. This allowance would come with the condition that less than 75 percent of the floor area be damaged or demolished (single- and two-family residences in districts that permit them would maintain their higher threshold). Relief beyond this threshold would be available for non-conforming uses and non-complying buildings damaged in any future disaster, as described in the "Disaster Recovery Rules" section of Goal 4 below.

In addition, non-compliances could be created or increased as long as the change to the building does not exceed specified parameters. For example, it would be possible to retain and relocate non-complying floor area (often located in basements) above the "reference plane", provided that the floor area does exceed the maximum allowed in the applicable zoning district by 20 percent. Similarly, it would be possible to increase the height of a building with non-complying height (as measured from the lowest floor to the highest point of the roof), provided that the elevated building does not exceed the maximum height allowed by the applicable zoning district by 10 percent or 10 feet, whichever is less, as measured from the "reference plane". Non-compliances could also be created or increased for open areas (yards, courts, and open spaces, including minimum distance between buildings) to accommodate resiliency measures on constrained sites.

For instance, a building's previous footprint could be shifted or altered provided that the building's lot coverage is not increased and that any new encroachment into required yards does not get too close to surrounding lot lines (five feet from the rear lot line and three feet from the front and side lot lines).

Building on the provisions of the 2015 Recovery Text, ZCFR would also allow non-conforming residential buildings in heavy Commercial (C8) Districts and in all Manufacturing Districts throughout the floodplain to be elevated, retrofitted, or reconstructed to meet "flood-resistant construction standards" and measure height from the "reference plane" as long as the buildings are located within predominantly residential areas in these districts. In addition, the residential floor area in these buildings could not be increased and the maximum height for single- and two-family residences would be 35 feet (multi-family buildings, generally rare in these areas, would be able to use the applicable zoning district height).

Providing Discretionary Actions to Address Special Situations

ZCFR would modify the existing special permit that can be granted by the New York City Board of Standards and Appeals (BSA) to facilitate resiliency improvements in unique conditions and also create a new BSA special permit to allow alternative uses on ground floors in Residence Districts.

BSA resiliency special permit

ZCFR would expand upon the existing BSA special permit to allow it to better fulfill its original mission of promoting compliance with Appendix G. ZCFR would also move the text to ZR Section 73-71.

There are often building or site conditions that cannot be fully addressed by modifications to zoning regulations and therefore require review on a case-by-case basis. The 2013 Flood Text recognized this by including a resiliency special permit (ZR Section 64-81, "Special Permit for Modification of Certain Zoning Resolutions") whereby the BSA could modify zoning regulations (predominantly related to the building envelope) if it found that the existing rules created practical difficulty in complying with Appendix G. While this special permit has proven necessary in many situations, some of the limits placed on the possible modifications available have made it difficult to undertake resiliency improvements. For example, maximum height regulations could not be increased by more than 10 percent or 10 feet (whichever is lower), which proved inconsequential in many low-density zoning districts given their low maximum height. Additionally, regulations for use, parking or floor area were not available for modification even though these were found to be necessary in many situations, particularly through the City's *Build It Back* program.

The modifications in ZCFR would change the maximum height limitations to 10 percent or 10 feet (whichever is higher) to help accommodate different retrofitting needs, which often require a building's ground floor to be evacuated and the floor space relocated to the top of the structure. While continuing to allow yard and permitted obstruction modifications, a wider range of zoning regulations could also be modified through the special permit. For example, floor area regulations could be modified to encourage below-grade spaces (typically exempted from floor area calculations) to be raised above the FRCE (where they would not be exempted). This allowance would be limited to a maximum increase of 20 percent above what is permitted in the zoning district or 10,000 square feet, whichever is less. In addition, some parking and use regulations could also be requested. For all these modifications, the BSA would have to find that there would be practical difficulty in meeting "flood-resistant construction standards" absent the modifications. The special permit would also be moved to ZR Section 73-71.

BSA ground floor use special permit

ZCFR would create a new discretionary action to permit ground floor offices in Residence Districts, where appropriate, to encourage dry-floodproofing and benefit the streetscape in these areas.

While ZCFR includes strategies to encourage buildings to become more resilient, public input has noted the limited options available for residential buildings, since Appendix G requires their ground floors to be wet-floodproofed and therefore limited solely to parking, storage or access. This is a particular issue in Residence Districts, where the only permitted option for dry-floodproofed ground floors are community facility uses.

ZCFR would therefore create a separate BSA special permit for buildings located in Residence Districts in the floodplain. This special permit would allow office uses (Use Group 6B) on the ground floor if the space is dry-floodproofed and meets certain conditions focused on ensuring that the use fits into its residential context. Parking and signage regulations typically applicable to doctor's office would apply to the use. The new special permit would be found in ZR Section 73-72, "Special Permit for Ground-Floor Uses in Residence Districts."

Goal 3. Allow for adaptation over time through incremental retrofits.

While the proposal is primarily focused on encouraging all buildings in the floodplain to fully meet "flood-resistant construction standards," there are situations where specific conditions, such as regulatory obstacles or cost constraints, may prevent a building from reaching that level of resiliency. ZCFR includes optional modifications that would encourage buildings to become more resilient over time without having to comply with those standards. These modifications, which would also be available to buildings that meet flood-resistant construction standards, include provisions to facilitate location of mechanical equipment and other critical spaces above the flood-resistant construction elevation (FRCE), allowances for some specific flood protection measures, and parking design modifications in low-density Residence Districts.

Locating Mechanical Equipment Above Flood Elevations

ZCFR would help protect mechanical equipment from flood damage by facilitating its elevation above flood levels, which is often the first and most cost-effective resiliency strategy for existing buildings since it requires few changes to the building's structure or floor elevations.

The 2013 Flood Text allowed mechanical equipment, typically found in basements and cellars, to be relocated to other areas within buildings or in required open areas. In some instances, these have been found to be insufficient and have therefore hampered resiliency improvements. For example, owners of residential campuses who are looking to construct a new separate structure to house mechanical equipment above expected flood levels have been hindered by zoning regulations that require minimum distances between buildings. ZCFR would improve upon these existing 2013 Flood Text provisions for mechanical equipment by promoting an expanded set of resiliency improvements.

Within and on top of buildings

ZCFR would facilitate the relocation of mechanical equipment from basements and cellars to locations higher in or on top of buildings.

The 2013 Flood Text included allowances for larger bulkheads on the top of multi-family buildings and for existing commercial or manufacturing buildings. It also included modifications in lower-density Residence Districts to facilitate the relocation of equipment from below-grade spaces to elsewhere within the building. Bulkheads were already considered permitted obstructions and permitted to extend above any required maximum heights or sky exposure planes if they remained within certain size limitations. The 2013 Flood Text increased these dimensions in the floodplain to encourage mechanical equipment to be moved onto roofs where they are more protected from flooding. For example, for buildings in R5 through R10 districts, and in Commercial and Manufacturing Districts, these changes permitted a 10 percent increase in bulkhead coverage. Alternatively, for existing buildings, it allowed an approximately 30 percent increase of their permitted height. Bulkheads in R3 and R4 Residence Districts were permitted smaller increases given their smaller scale. Screening was required for all bulkheads. ZCFR would maintain these provisions, while increasing their applicability for all new and existing buildings in Residence, Commercial and Manufacturing Districts. While there are no prohibitions on locating mechanical equipment in the cellars of non-residential structures, in the long-term it is safer to locate such equipment above the flood level.

In addition, the 2013 Flood Text also exempted buildings in the floodplain from limitations on interior mechanical space found in many lower-density Residence Districts, as this tended to force mechanical equipment into basements and cellars. This exemption would continue in ZCFR to ensure that mechanical equipment can be placed above the FRCE.

In open areas

ZCFR would also facilitate the placement of mechanical equipment above the FRCE outside of buildings to address situations where the structures cannot physically sustain additional loads or where centralizing this equipment in a single structure would be more efficient.

The 2013 Flood Text included allowances for mechanical equipment in various open areas regulated by zoning. The equipment can be considered permitted obstructions within yards, courts and other open areas if it stays within certain coverage and height limitations. These measures offered alternative locations for necessary mechanical equipment in lieu of basements and cellars. The provisions are available for existing single- and two-family residences as well as all other new and existing buildings.

ZCFR would consistently apply these allowances to all buildings regardless of whether they are new or existing. It would also modify some of the dimensional limitations to provide more rational standards to address various design challenges that have been identified since 2013. Mechanical equipment would have to be placed a minimum of five feet from property lines (though this could be reduced to three feet for substandard lots). Coverage would be limited to 25 percent of the minimum required open space, but the coverage would be restricted to 25 square feet if the equipment is located between the building and the front lot line, to minimize its effect on the street. The height would be limited to certain heights above the "reference plane" depending on the zoning district (10 feet in low-density Residence Districts, 15 feet in other Residence Districts, and 23 feet in Commercial and Manufacturing Districts). All equipment would be required to be screened by vegetation when located in front yards or between the street line and the street

wall and when placed in other locations, if more than one piece of equipment is provided, it would have to be screened by materials that are at least 50 percent opaque.

Finally, to allow for the construction of new utility structures on larger campus-style housing sites, ZCFR would permit buildings used predominantly for mechanical equipment to be considered permitted obstructions on properties larger than 1.5 acres. The structure's coverage would similarly be limited to 25 percent of the minimum required open space, and it would be required to be located at least 30 feet from any legally required windows with the exhaust stacks located above adjacent residential buildings. The structures would be subject to underlying height and setback controls.

Locating Important Spaces Out of Harm's Way

Beyond mechanical equipment, there are some situations where elevating key support spaces would improve the long-term resiliency of buildings and their uses. ZCFR therefore includes modifications to address three of these situations.

Many retail stores rely on basement and cellar space to support their at-grade retail, but zoning regulations often restrict these spaces from being located on the second floor, which limits the stores' ability to become more resilient. ZCFR would therefore include two modifications to address this issue.[15] In low- and medium-density C1 and C2 local Commercial Districts, where underlying zoning regulations limit commercial uses to the first story in mixed-use buildings, ZCFR would allow commercial uses on the second story in buildings in the floodplain. This would give businesses an opportunity to move key spaces out of basements or cellars. The space within the second floor would still be counted towards floor area regulations.

In Commercial and Manufacturing Districts with a low maximum floor area ratio (FAR), buildings may have little available floor area to raise key spaces above the flood elevation.[16] To remedy this, ZCFR would add a floor area exemption of up to 500 square feet to provide businesses the option of elevating important spaces, such as offices or storage rooms, above the FRCE in Commercial and Manufacturing Districts where the permitted commercial or manufacturing FAR is less than or equal to 1.0.

Lastly, existing residential buildings in low-density Residence Districts are often hindered by underlying zoning regulations when attempting to fill in their basements or cellars and relocate the required parking found there to other portions of their lot. The 2013 Flood Text included provisions to address this. ZCFR would similarly allow below-grade parking in existing residential buildings in R1 through R5 districts (except R4B and R5B districts) to be relocated to front, side or rear yards. To be granted this allowance, below-grade spaces would have to be removed and filled, in compliance with "flood-resistant construction standards." In addition, ZCFR would continue to allow parking spaces and driveways to be covered with dustless gravel for all single- and two-family residences in R1 through R5 districts.

Incorporating Flood Protection Measures

ZCFR would allow more flood protection measures as permitted obstructions to accommodate their installation when required for compliance with "flood-resistant construction standards" and in situations where alternate flood protection strategies may be warranted.

The 2013 Flood Text allowed several flood protection measures, such as flood barriers and associated emergency egress, as permitted obstructions in various required open areas in recognition that they are required in front of building entrances. However, practitioners and other City agencies have subsequently identified additional viable measures that are not included and have noted the difficulty in finding on-site storage within buildings for temporary measures such as flood panels, both of which have limited the use of these measures.

ZCFR would therefore maintain the existing flood protection measures listed as permitted obstructions but add items which were not previously listed: landscaped berms and their associated floodgates. ZCFR would also allow space used for the storage of temporary flood panels to be exempted from floor area calculations, up to a maximum exemption of 15 square feet for each linear foot of protection and no more than 1,000 square feet of exemption per zoning lot. These standards account for the space that panels, trolleys and deployable access take up in a typical building configuration).

Accommodating Current and Future Flood Elevations on Waterfront Sites

ZCFR would modify provisions applicable in waterfront areas to better allow for coastal flood resilient design.

In 1993 DCP enacted comprehensive waterfront rules that, at their core, required developments on the waterfront to provide public access in the form of esplanades and ancillary spaces. The zoning text set forth

[15] This recommendation came from the 2016 *Resilient Retail* report.
[16] This recommendation came from the 2018 *Resilient Industry* report.

minimum amounts and dimensions for these spaces and stipulates necessary amenities that must be provided, including circulation paths, planting, seating, lighting, and several other elements to help ensure that these are successful public spaces.

However, practitioners have noted how some of these requirements make it difficult, if not impossible, to integrate contemporary resiliency measures into the waterfront spaces and address sea level rise. The 2013 Flood Text provided some limited allowances for the grading of waterfront yards and visual corridors to increase flood resilience, but practitioners have identified other rules that could also be improved. These include limits on site grading and height for waterfront yards, open spaces and paths.

ZCFR would permit the construction of bi-level esplanades that facilitate waterfront public access both close to the shoreline at the water level and at a higher elevation to meet flood design elevations at the building level. To facilitate these bi-level designs, ZCFR would also allow for increased retaining wall heights (generally up to three feet), provide new planting design options (including terraced planting), and provide slight reductions to the minimum required planting areas, and screening buffers so that access requirements can be satisfied.

ZCFR would facilitate the elevation of waterfront public access areas while maintaining visual connectivity to the water by raising the required level of visual corridors on upland streets from three feet above curb level to five feet. In addition, flood protection measures such as temporary flood control devices and associated permanent fixtures, structural landscaped berms, flood gates, and associated emergency egress systems would be permitted as obstructions in both waterfront yards and visual corridors subject to dimensional limitations (up to the FRCE or five feet above the lowest adjacent grade, whichever is higher).

Finally, to encourage waterfront sites to include soft shorelines (such as natural aquatic grasses) as a resiliency measure, ZCFR would allow the width of the required waterfront yard and shore public walkway to be reduced for soft shorelines by up to seven feet along up to 30 percent of the shoreline length of such yard.

Goal 4. Facilitate future recovery by reducing regulatory obstacles.

ZCFR would include modifications to expedite future recovery processes. Hurricane Sandy showed that areas affected by the storm went beyond the floodplain and that the regulations which would facilitate recovery would be useful for other types of disasters. Thus, these select rules would be applicable citywide. Topics addressed in this section include mechanical equipment, vulnerable populations, as well as zoning rules available after a disaster occurs.

Power Systems and Other Mechanical Equipment

ZCFR would allow appropriately scaled power systems on lots throughout the city to make it easier to provide back-up energy, especially in the event of a disaster. Recovery efforts from Hurricane Sandy also identified issues with existing zoning regulations for mechanical equipment both within and outside of the floodplain. As described below, both of these issues extend beyond the floodplain and therefore modifications to address them are required on a citywide basis.

The 2012 hurricane caused a wide array of power system disruptions well beyond the floodplain, and the city's power grid has seen other recent disruptions through events like blackouts. Allowing power systems to be more easily located around the city would help support back-up energy needs and the overall energy grid. The 2013 Flood Text took the first step by allowing back-up systems, such as emergency generators, to be considered permitted obstructions in the required yards and open spaces for single- and two-family residences in the floodplain.

ZCFR would expand this approach citywide in a more consistent fashion. Power systems (including, but not limited to, generators, solar energy systems, fuel cells, batteries, and other energy storage systems) would be added as a permitted obstruction, subject to dimensional limitations, that could encroach in any required open area in all zoning districts citywide. Similar to the limitations for the broader mechanical equipment category in the floodplain, power systems would have to be placed a minimum of five feet from property lines. Coverage would be limited to 25 percent of the minimum required open space, although the coverage would be restricted to 25 square feet if the equipment is located between the building and the front lot line to minimize its effect on the street. The height would be limited to certain heights above adjoining grade, or the "reference plane" for lots in the floodplain, depending on the zoning district (10 feet in low-density Residence Districts, 15 feet in other Residence Districts, and 23 feet in Commercial and Manufacturing Districts). Exempted equipment would be subject to requirements for enclosure or screening, depending on the equipment type and applicable zoning district.

In addition, recovery efforts after Hurricane Sandy have highlighted shortcomings with the floor area exemptions provided for mechanical equipment in the ZR that have hampered resiliency projects. Space used for mechanical equipment is exempted from floor area calculations in all zoning districts citywide. However, it has not been clear whether the space necessary for routinely accessing and servicing the

equipment is also exempted, which has led to inconsistent outcomes. This has also, in some situations, made it difficult to retrofit buildings in the floodplain by moving mechanical equipment from below-grade locations, where they are fully exempted from floor area calculations, to upper areas where they may not be. To address this situation in a comprehensive manner across the city, ZCFR would clarify that the floor area exemption for mechanical equipment applies to mechanical, electrical, plumbing equipment, as well as to fire protection and power systems, and necessary maintenance and access areas. This is consistent with the general practice at the Department of Buildings but would ensure that buildings across the city would be treated consistently.

Ramps and Lifts

ZCFR would provide rules for accessible design that are consistent throughout the city.

The 2013 Flood Text classified ramps and lifts as permitted obstructions in various forms of required open areas to help facilitate the elevation of living spaces. But in areas beyond the floodplain, these elements are permitted in required open areas in a piecemeal fashion. For example, lifts are classified as permitted obstructions in residential courts, yet they are not considered permitted obstructions in required yards. While DCP has been gradually adding them to the ZR as permitted obstructions through different text amendments, ZCFR would provide full consistency across the city by classifying both ramps and lifts as permitted obstructions in all required open areas.

Vulnerable Populations

ZCFR would limit the growth of vulnerable populations in nursing homes in high-risk areas of the floodplain.

Hurricane Sandy and other storms across the nation have exposed the difficulties facing nursing home residents in high-risk areas. Nursing homes are licensed to house populations that require continual medical care, but research shows that this dependency can be strained whether nursing homes shelter in place or evacuate prior to a coastal storm event. While all nursing homes in hurricane evacuations zones in the city are subject to mandatory evacuations during a declared emergency, the City believes it would be appropriate to limit the growth of nursing homes in high-risk areas to lessen the health consequences and logistical challenges of evacuating the residents of these facilities.

ZCFR would therefore prohibit the development of new nursing homes and restrict the enlargement of existing facilities within the 1% annual chance floodplain and other selected geographies likely to have limited vehicular access because of the storm event. The modification would restrict the enlargement of existing nursing homes in this geography to a maximum of 15,000 square feet to allow for improvements, including those related to resiliency. These restrictions would also apply to the nursing home portions of Continuing Care Retirement Communities (CCRCs). The CPC special permit (ZR Section 74-901) that permits nursing homes in areas where they are not allowed as-of-right (i.e., R1 and R2 districts and certain community districts) would not be available in this geography.

Disaster Recovery Rules

ZCFR would include rules that could be made available to facilitate the recovery process from future disasters, some of which would be implemented now to help address the COVID-19 pandemic and its associated economic effects.

The need to adopt the 2013 Flood Text and 2015 Recovery Text as temporary zoning rules on an emergency basis after Hurricane Sandy demonstrated that a lengthy process to update zoning regulations can present obstacles to the necessarily fast-paced disaster response. In addition, while the Mayor can issue Emergency Orders to temporarily remove legislative obstacles to facilitate recovery efforts, including rules from the ZR, that process is limited in time (the duration of the disaster), which may not be enough for a longer-term recovery. That became clear post-Sandy and now during the COVID-19 pandemic disaster response.

Given this, ZCFR would include a series of disaster recovery provisions that could be made available through a text amendment when a disaster occurs. Adding these provisions to the ZR would offer a useful roadmap for the public, planners, and decision-makers when working to recover from a disaster. Applicable recovery provisions would be selected based on the issues caused by the disaster and would be available for a limited time period (set at the time of the text amendment). The provisions could be limited to designated recovery areas whose extent would be determined based on the disaster's impacts and the City's recovery plans.

The recovery provisions would include a range of rules that could facilitate the recovery process from disasters which cause physical impacts. The 2013 Flood Text and the 2015 Recovery Text included a set of rules that facilitated the reconstruction and retrofit of Hurricane Sandy-damaged buildings, and therefore could also be useful after any other disasters that lead to a concentration of physical damage in the city. ZCFR would build upon this set of provisions and include modifications to the damage and destruction thresholds set forth in the underlying zoning rules to allow the reconstruction of non-complying buildings

and non-conforming uses. It would also include modifications to building envelope rules to allow non-compliances to be increased, or even created, in the event new regulations would require damaged buildings be replaced in a slightly different shape and form. (For example, after Hurricane Sandy, new Building Code regulations were adopted and required buildings to elevate beyond the minimum level required prior to the storm.) These provisions would also include an allowance for property owners to use their tax lot as their zoning lot when applying zoning rules, which was found necessary in many waterfront communities. Lastly, it would allow the documentation process for obtaining DOB permits to be simplified for disaster-damaged buildings.

The recovery provisions would also facilitate the recovery process from a wider range of disasters including those that do not involve physical impacts, such as pandemics. This set of provisions is mostly drawn from the lessons learned during the COVID-19 pandemic response. The provisions would provide a framework to allow uses in zoning districts where they are not typically permitted to better respond to the situation then at hand. This framework would also allow possible relief from zoning rules that require permits to be sought with a specific timeframe, and those that require a certain level of construction and operation be completed to vest a project. It would also include possible relief from provisions that only allow non-conforming uses to remain inactive for a limited period (generally two years) before they can no longer legally reopen.

The Mayor's Executive Order No. 98 (March 12, 2020), which provided short-term relief from regulations hindering the pandemic recovery effort, included relief from construction timeframes and non-conforming use provisions. However, these allowances will cease when the Executive Order expires. Consistent with the general intent of the disaster recovery rules and the Mayor's Executive Order, ZCFR would extend the available timeframe for non-conforming uses to reactivate by an additional two years. In addition, ZCFR would allow for the extension of the timeframe required for substantial construction to take place under City Planning Commission special permits and authorizations for an additional term. These changes would provide greater certainty to residents, business and building owners, and therefore support the city's recovery from the ongoing pandemic.

Uses in Waterfront Recreation Districts

Lastly, ZCFR would modify the zoning requirements that have made it difficult for eating or drinking establishments in some lower-density waterfront areas from making long-term resiliency improvements.

In C3 and C3A Waterfront Recreation zoning districts, which are mapped along the city's waterfront in limited locations, these businesses are required to obtain a BSA special permit to operate, renewable every five years. Local elected officials and business owners have noted how this short timeframe adds uncertainty that makes it difficult for these establishments to invest in resiliency. Therefore, ZCFR would extend the initial special permit term from five to 10 years for new applicants. Additionally, for existing establishments with a previously approved special permit, the permit would allow the BSA to determine the required term moving forward.

Overlap with Special Districts

While special purpose districts cater to a range of locally specific conditions, the 2013 Flood Text allowed the optional provisions in the 1% annual chance floodplain to supersede their special regulations and further modified select special purpose district rules that overlap with the floodplain. ZCFR would allow the optional provisions to supersede regulations applicable in all areas within any special purpose district that geographically overlaps with the 1% and 0.2% annual chance floodplains. Additionally, select provisions in these special purpose districts would be modified to align with ZCFR's ground floor use, street wall, and building envelope regulations, as well as the proposed streetscape rules. This would allow all buildings in the floodplain to have a consistent zoning framework for resiliency.

Related Actions

In addition to the proposed citywide zoning recommendations, DCP would be proposing neighborhood-specific zoning text and map changes in three neighborhoods that were recommended as part of DCP's Resilient Neighborhoods Initiative. These related actions would be in public review concurrent with ZCFR and their effects are analyzed as part of separate environmental reviews. These specific actions are intended to address resiliency challenges that are specific to the conditions in these areas. These three neighborhoods are Gerritsen Beach and Sheepshead Bay in Brooklyn, and Old Howard Beach in Queens.

ZONING FOR COASTAL FLOOD RESILIENCY

Matter in underline is new, to be added.
Matter in ~~strikeout~~ is to be deleted.
Matter with # # is defined in Section 12-10 or other, as applicable.
* * * indicates where unchanged text appears in the Zoning Resolution.

* * *

ARTICLE I
GENERAL PROVISIONS

* * *

Chapter 1
Title, Establishment of Controls, and Interpretation of Regulations

* * *

11-30
BUILDING PERMITS ISSUED BEFORE EFFECTIVE DATE OF AMENDMENT

* * *

11-33
Building Permits for Minor or Major Development or Other Construction Issued Before Effective Date of Amendment

* * *

11-339
~~**Post-Hurricane Sandy construction**~~
Building permits issued in the flood zone

The provisions of this Section shall apply within the #flood zone#. The provisions of this Section are subject to all provisions of Title 28 of the Administrative Code of the City of New York and Appendix G of the ~~Building Code of the City of New York~~ New York City Building Code, or its successors, including those pertaining to expiration, reinstatement, revocation and suspension. Changes in #flood maps# shall be considered an amendment of the Zoning Resolution ~~pursuant to~~ for the purposes of applying the provisions of Section 11-30 (BUILDING PERMITS ISSUED BEFORE EFFECTIVE DATE OF AMENDMENT).

~~(a) Applications for approval of construction documents approved pursuant to Executive Order 230~~

~~If an application for approval of construction documents has been approved on or before October 9, 2013, pursuant to Executive Order No. 230 (Emergency Order to Suspend Zoning Provisions to Facilitate Reconstruction in Accordance with Enhanced Flood Resistant Construction Standards), dated January 31, 2013, and its successors, including Executive Order No. 427 in effect on October 9, 2013, relating to #Hurricane Sandy# as defined in Section 64-11 of this Resolution, a building permit authorizing such construction may be issued pursuant to the regulations of this Resolution in effect at the time of such approval of construction documents, and such construction may continue until October 9, 2019. After such date, the vesting provisions of Section 11-30 shall apply.~~

~~(b)~~(a) Construction approved pursuant to previous versions of #flood maps#

If, within one year prior to a change in the #flood maps# affecting a property, the Department of Buildings issued ~~an approval of construction documents or issued~~ a building permit for construction on that property pursuant to the previous #flood maps#, the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas)~~,~~ shall be deemed modified so as to substitute the previous #flood maps# for the current #flood maps#~~,~~ and such construction may continue pursuant to such prior #flood maps# until ~~October 9, 2019~~ two years after the date of adoption of the new #flood maps#. After this date, the vesting provisions of Section 11-30 shall apply.

~~(c) Provisions applying in the event that Flood Resilience Zoning Text Amendment expires~~

~~This provision shall become effective only upon the expiration of Article VI, Chapter 4, adopted on October 9, 2013. If an application for approval of construction documents has been approved on or before the expiration of Article VI, Chapter 4, a building permit authorizing such construction may be issued pursuant to Article VI, Chapter 4, and such construction may continue until a date six years after the expiration of Article VI, Chapter 4. After such date, the vesting provisions of Section 11-30 shall apply.~~

~~(d)~~(b) Provisions applying when Appendix A (Special Regulations for Neighborhood Recovery) of Article VI, Chapter 4 expires

This provision shall become effective only upon the expiration of Appendix A of Article VI, Chapter 4, adopted on July 23, 2015. If a building permit authorizing construction pursuant to Appendix A has been approved on or before the expiration of such Appendix, construction may continue up to two years after the expiration. After such date, the provisions of Section 11-30 shall apply.

* * *

Chapter 2
Construction of Language and Definitions

* * *

12-10
DEFINITIONS

* * *

~~Base flood elevation~~

[Note: Existing text to be deleted and replaced by the definition of "flood-resistant construction elevation" in Section 64-11]

~~The "base flood elevation" is the level in feet of the flood having a one percent chance of being equaled or exceeded in any given year, as indicated on the Flood Insurance Rate Map prepared by the Federal Emergency Management Agency.~~

Base plane

The "base plane" is a plane from which the height of a #building or other structure# is measured as specified in certain Sections. For #buildings#, portions of #buildings# with #street walls# at least 15 feet in width, or #building segments# within 100 feet of a #street line#, the level of the #base plane# is any level between #curb level# and #street wall line level#. Beyond 100 feet of a #street line#, the level of the #base plane# is the average elevation of the final grade adjoining the #building# or #building segment#, determined in the manner prescribed by the New York City Building Code for adjoining grade elevation. ~~In either case, in the #flood zone#, either the #base flood elevation# may be the level of the #base plane# or #building# height may be measured from the #flood-resistant construction elevation#, as provided in Article VI, Chapter 4.~~ For the purposes

of this definition, #abutting buildings# on a single #zoning lot# may be considered a single #building#. In addition, the following regulations shall apply:

(a) Within 100 feet of a #street line#:

(1) The level of the #base plane# for a #building# or #building segment# without a #street wall# shall be determined by the average elevation of the final grade adjoining such #building# or #building segment#.

(2) Where a #base plane# other than #curb level# is established, the average elevation of the final grade adjoining the #street wall# of the #building# or #building segment#, excluding the entrance to a garage within the #street wall#, shall not be lower than the level of the #base plane#~~#, unless the #base plane# is also the #base flood elevation#~~.

(3) Where the average elevation of the final grade adjoining the #street wall# of the #building#, excluding the entrance to a garage within the #street wall#, is more than two feet below #curb level#, the level of the #base plane# shall be the elevation of such final grade~~, unless the #base plane# is also the #base flood elevation#~~. This paragraph shall not apply to #buildings developed# before June 30, 1989, in R2X, R3, R4 or R5 Districts. Furthermore, this paragraph shall not apply to #buildings# in C1 or C2 Districts mapped within R2X, R3, R4 or R5 Districts, or in C3 or C4-1 Districts, unless such #buildings# are located on #waterfront blocks#.

* * *

Floor area

"Floor area" is the sum of the gross areas of the several floors of a #building# or #buildings#, measured from the exterior faces of exterior walls or from the center lines of walls separating two #buildings#. In particular, #floor area# includes:

* * *

(h) floor space in #accessory buildings#, except for floor space used for #accessory# off-street parking or #accessory# mechanical equipment;

* * *

However, the #floor area# of a #building# shall not include:

* * *

(8) floor space used for #accessory# mechanical equipment, including equipment serving the mechanical, electrical, or plumbing systems of #buildings# as well as fire protection systems, and power systems such as solar energy systems, generators, fuel cells, and energy storage systems. Such exclusion shall also include floor space for necessary maintenance and access to such equipment. ~~except that~~ However, such exclusion shall not apply in R2A Districts, and in R1-2A, R2X, R3, R4, or R5 Districts, such exclusion shall be limited to 50 square feet for the first #dwelling unit#, an additional 30 square feet for the second #dwelling unit# and an additional 10 square feet for each additional #dwelling unit#. For the purposes of calculating floor space used for mechanical equipment, #building segments# on a single #zoning lot# may be considered to be separate #buildings#;

* * *

~~Flood maps~~

[Note: Existing text moved to Section 64-11 and modified]

~~"Flood maps" shall be the most recent advisory or preliminary maps or map data released by the Federal Emergency Management Agency (FEMA) after October 28, 2012, until such time as the~~

~~City of New York adopts new final Flood Insurance Rate Maps. When new final Flood Insurance Rate Maps are adopted by the City of New York superseding the Flood Insurance Rate Maps in effect on October 28, 2012, #flood maps# shall be such new adopted final Flood Insurance Rate, Maps.~~

Flood zone

The "flood zone" ~~is the area that has a one percent chance of flooding in a given year~~, shall include the #high-risk flood zone# and the #moderate-risk flood zone#, as defined in Section 64-11 (Definitions) and as indicated on the ~~effective Flood Insurance Rate Maps, plus any additional area that has a one percent chance of flooding in a given year, as indicated on the~~ #flood maps#.

* * *

Designated recovery area

A "designated recovery area" shall be an area which experienced physical or non-physical impacts from a #severe disaster#, in accordance with recovery plans, as applicable.

* * *

Severe disaster

A "severe disaster" shall include any event within any boundary of the City of New York, for which the Mayor proclaims a local state of emergency, or the Governor declares a disaster emergency.

* * *

Chapter 3
Comprehensive Off-street Parking and Loading Regulations in the Manhattan Core

* * *

13-20
SPECIAL RULES FOR MANHATTAN CORE PARKING FACILITIES

* * *

13-22
Applicability of Enclosure and Screening Requirements

* * *

13-221
Enclosure and screening requirements

(a) #Accessory# off-street parking facilities

All #accessory# off-street parking spaces shall be located within a #completely enclosed building#, with the exception of parking spaces #accessory# to a hospital, as listed in Use Group 4, and as provided in Section 13-45 (Special Permits for Additional Parking Spaces). In addition, such parking facilities shall comply with the following provisions:

(1) Screening

Any portion of an #accessory# off-street parking facility that is located above #curb level# shall comply with the applicable parking wrap and screening provisions set forth in Section 37-35.

(2) Transparency

Portions of ground floor #commercial# and #community facility uses# screening the parking facility in accordance with the provisions of paragraph (a) of Section 37-35 shall be glazed with transparent materials in accordance with Section 37-34.

~~However, for #buildings# where the #base flood elevation# is higher than the level of the adjoining sidewalk, all such transparency requirements shall be measured from the level of the #flood-resistant construction elevation#, as defined in Section 64-11, instead of from the level of the adjoining sidewalk.~~

For #zoning lots# with multiple #street wall# frontages, the transparency provisions of this paragraph, (a)(2), need not apply to #street walls# that are located entirely beyond 100 feet of any portion of the #accessory# parking facility, as measured in plan view, perpendicular to such parking facility.

* * *

ARTICLE II
RESIDENCE DISTRICT REGULATIONS

* * *

Chapter 2
Use Regulations

* * *

22-10
USES PERMITTED AS-OF-RIGHT

* * *

22-13
Use Group 3

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

* * *

A. #Community facilities#

Colleges or universities[1], including professional schools but excluding business colleges or trade schools

College or school student dormitories and fraternity or sorority student houses[1]

Libraries, museums or non-commercial art galleries

#Long-term care facilities#[2,3,4]

* * *

Philanthropic or non-profit institutions with sleeping accommodations[4, 5]

#Schools#

B. #Accessory uses#

[1] Not permitted in R1 or R2 Districts as-of-right

[2] In R1 and R2 Districts, permitted only by special permit by the City Planning Commission pursuant to Section 74-901 (Long-term care facilities)

[3] In Community District 11 in the Borough of the Bronx, Community District 8 in the Borough of Manhattan, ~~Community District 14 in the Borough of Queens~~ and Community District 1 in the Borough of Staten Island, #developments# 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, are permitted only by special permit by the City Planning Commission pursuant to Section 74-901 (Long-term care facilities). However, such special permit may not be applied to #developments# or #enlargements# that are subject to the restrictions set forth in Section 22-16 (Special Regulations for Nursing Homes)

[4] In #high-risk flood zones#, as defined in Section 64-11 (Definitions), or within the areas set forth in APPENDIX K (Areas With Nursing Home Restrictions), the #development# or #enlargement# of nursing homes and nursing home portions of continuing care retirement communities, as such facilities are defined in the New York State Public Health Law, are subject to the restrictions set forth in Section 22-16 (Special Regulations for Nursing Homes)

[4,5] The number of persons employed in central office functions shall not exceed 50, and the amount of #floor area# used for such purposes shall not exceed 25 percent of the total #floor area#, or, in R8, R9 or R10 Districts, 25,000 square feet, whichever is greater

* * *

22-16
Special Regulations for Nursing Homes

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, the #development# of nursing homes and nursing home portions of continuing care retirement communities, as defined in the New York State Public Health Law, or the #enlargement# of an existing nursing home that increases such #floor area# by more than 15,000 square feet, shall not be permitted on any portion of a #zoning lot# that is located within the #high-risk flood zone#, as defined in Section 64-11 (Definitions), or within the areas set forth in APPENDIX K (Areas With Nursing Home Restrictions).

In addition, in Community Districts where #long-term care facilities# are allowed only by special permit pursuant to Section 74-901 (Long-term care facilities), such special permit may not be applied to #developments# or #enlargements# of nursing homes and nursing home portions of continuing care retirement communities located in the areas subject to the provisions of this Section.

* * *

Chapter 3
Residential Bulk Regulations in Residence Districts

* * *

23-10
OPEN SPACE AND FLOOR AREA RATIO REGULATIONS

* * *

23-12
Permitted Obstructions in Open Space

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In the districts indicated, the following obstructions shall be permitted in any #open space# required on a #zoning lot#:

* * *

(h) Parking spaces, off-street, enclosed, #accessory#, not to exceed one space per #dwelling unit#, when #accessory# to a #single-family#, #two-family# or three-#family residence#, provided that the total area occupied by a #building# used for such purposes does not exceed 20 percent of the total required #open space# on the #zoning lot#. However, two such spaces for a #single-family residence# may be permitted in #lower density growth management areas# and in R1-2A Districts;

(i) Power systems, including, but not limited to, generators, solar energy systems, fuel cells, batteries and other energy storage systems, provided that:

(1) all equipment shall be subject to the following location, enclosure, and screening requirements, as applicable:

(i) all generators and cogeneration equipment #accessory# to #buildings# other than #single-# or #two-family residences# shall be completely enclosed within a #building or other structure#, except as necessary for mechanical ventilation;

(ii) all other types of equipment, including generators and cogeneration equipment serving #single-# or #two-family residences#, may be unenclosed, provided that such equipment is located at least five feet from any #lot line#. However, if the area bounding all such equipment, as drawn by a rectangle from its outermost perimeter in plan view, exceeds 25 square feet, such equipment shall be screened in its entirety on all sides. Such screening may be opaque or perforated, provided that where perforated materials are provided, not more than 50 percent of the face is open;

(iii) where any equipment is located between a #street wall#, or prolongation thereof, and a #street line#, the entire width of such portion of the equipment facing a #street#, whether open or enclosed, shall be fully screened by vegetation; and

(2) the size of all equipment, including all screening and enclosures containing such equipment, shall not exceed:

(i) an area equivalent to 25 percent of a required #open space#;

(ii) in R1 through R5 Districts, a height of 10 feet above the adjoining grade; and

(iii) in R6 through R10 Districts, a height of 15 feet above the adjoining grade.

(j) Ramps or lifts for people with physical disabilities;

~~(i)~~(k) Solar energy systems:

(1) on the roof of an #accessory building#, limited to 18 inches in height as measured perpendicular to the roof surface; or

(2) on walls existing on April 30, 2012, projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects;

~~(j)~~(l) Swimming pools, #accessory#, above-grade structures limited to a height not exceeding eight feet above the level of the #rear yard# or #rear yard equivalent#;

~~(k)~~(m) Terraces, unenclosed, fire escapes or planting boxes, provided that no such items project more than six feet into or over such #open space#.

* * *

23-40
YARD REGULATIONS

* * *

23-44
Permitted Obstructions in Required Yards or Rear Yard Equivalents

In all #Residence Districts#, the following obstructions shall be permitted within a required #yard# or #rear yard equivalent#:

(a) In any #yard# or #rear yard equivalent#:

* * *

(14) Parking spaces, off-street, open, within a #front yard#, that are #accessory# to a #building# containing #residences#, provided that:

* * *

However, no parking spaces of any kind shall be permitted in any #front yard# in an R4B, R5B or R5D District. Furthermore, no parking spaces of any kind shall be permitted in any #front yard# on a #zoning lot# containing an #attached# or #semi-detached building# in an R1, R2, R3A, R3X, R4A or R5A District, or in any #front yard# on a #zoning lot# containing an #attached building# in an R3-1 or R4-1 District;

(15) Power systems, including, but not limited to, generators, solar energy systems, fuel cells, batteries and other energy storage systems, provided that:

(i) all equipment shall be subject to the following location, enclosure, and screening requirements, as applicable:

(a) all generators and cogeneration equipment #accessory# to #buildings# other than #single-# or #two-family residences# shall be completely enclosed within a #building or other structure#, except as necessary for mechanical ventilation;

(b) all other types of equipment, including generators and cogeneration equipment serving #single-# or #two-family residences#, may be unenclosed, provided that such equipment is located at least five feet from any #lot line#. However, if the area bounding all such equipment, as drawn by a rectangle from its outermost perimeter in plan view, exceeds 25 square feet, such equipment shall be screened in its entirety on all sides. Such screening may be opaque or perforated, provided that where perforated materials are provided, not more than 50 percent of the face is open;

(c) where any equipment is located in a #front yard#, the entire width of such portion of such equipment facing a #street#, whether open or enclosed, shall be fully screened by vegetation; and

(ii) the size of all equipment, including all screening and enclosures containing such equipment, shall not exceed:

(a) an area equivalent to 25 percent of a required #yard#, or #rear yard equivalent#, and in addition, in #front yards#, is limited to an area not exceeding 25 square feet. However, for #corner lots#, one #front yard# may be treated as a #side yard# for the purpose of applying such size restrictions;

(b) in R1 through R5 Districts, a height of 10 feet above the adjoining grade in #rear yards#, #rear yard equivalents# and #side yards#, or a height of five feet above the adjoining grade in #front yards#; and

(c) in R6 through R10 Districts, a height of 15 feet above the adjoining grade.

~~(15)~~(16) Ramps or lifts for ~~persons~~ people with physical disabilities;

~~(16)~~(17) Solar energy systems on walls existing on April 30, 2012, projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects;

~~(17)~~(18) Steps, provided that such steps access only the lowest #story# or #cellar# of a #building# fronting on a #street#, which may include a #story# located directly above a #basement#;

~~(18)~~(19) Swimming pools, #accessory#, above-grade structures limited to a height not exceeding eight feet above the level of the #rear yard# or #rear yard equivalent#. #Accessory# swimming pools are not permitted obstructions in any #front yard#;

~~(19)~~(20) Terraces or porches, open;

~~(20)~~(21) Walls, not exceeding eight feet in height above adjoining grade and not roofed or part of a #building#, and not exceeding four feet in height in any #front yard#, except that for #corner lots#, a wall may be up to six feet in height within that portion of one #front yard# that is between a #side lot line# and the prolongation of the side wall of the #residence# facing such #side lot line#;

* * *

23-60
HEIGHT AND SETBACK REGULATIONS

* * *

23-63
Height and Setback Requirements in R1 Through R5 Districts

* * *

23-631
General provisions

[Note: Existing text to be deleted and replaced by the definition of "reference plane" in Section 64-11 and Section 64-321 (Measurement of height for flood-resistant buildings)]

Height and setback regulations for R1 through R5 Districts are set forth in this Section. Such maximum heights may only be penetrated by permitted obstructions set forth in Section 23-62.

* * *

R1-2A R2A R2X R3 R4 R4-1 R4A R5A

(b) In the districts indicated, the height and setback of a #building or other structure# shall be as set forth herein except where modified pursuant to paragraphs (h) and (j) of this Section.

For the purposes of this Section, where #base planes# of different elevations apply to different portions of a #building or other structure#, each such portion of the #building# may be considered to be a separate #building#. Furthermore, for the purposes of this Section, #building segments# may be considered to be separate #buildings# and #abutting semi-detached buildings# may be considered to be one #building#.

The perimeter walls of a #building or other structure# are those portions of the outermost walls enclosing the #floor area# within a #building or other structure# at any level and height is measured from the #base plane#. Perimeter walls are subject to setback regulations at a maximum height above the #base plane# of:

21 feet	R2A R2X R3 R4A
25 feet	R1-2A R4-1 R4 R5A
26 feet~~*~~	R3 R4-1 R4A within #lower density growth management areas#

~~* In R3, R4-1 and R4A Districts within #lower density growth management areas#, where a #base plane# is established at a #base flood elevation# higher than grade, the maximum perimeter wall height shall be 21 feet above such #base flood elevation# or 26 feet above grade, whichever is more~~

* * *

23-80
COURT REGULATIONS, MINIMUM DISTANCE BETWEEN WINDOWS AND WALLS OR LOT LINES AND OPEN AREA REQUIREMENTS

* * *

23-87
Permitted Obstructions in Courts

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, the following obstructions shall be permitted within the minimum area and dimensions needed to satisfy the requirements for a #court#:

* * *

(h) Open terraces, porches, steps, and ramps or lifts for ~~persons~~ people with physical disabilities;

(i) Power systems, including, but not limited to, generators, solar energy systems, fuel cells, batteries and other energy storage systems, provided that:

(1) all equipment shall be subject to the following location, enclosure, and screening requirements, as applicable:

(i) all generators and cogeneration equipment #accessory# to #buildings# other than #single-# or #two-family residences# shall be completely enclosed within a #building or other structure#, except as necessary for mechanical ventilation;

(ii) all other types of equipment, including generators and cogeneration equipment serving #single-# or #two-family residences#, may be unenclosed, provided that such equipment is located at least five feet from any #lot line#. However, if the area bounding all such equipment, as drawn by a rectangle from its outermost perimeter in plan view, exceeds 25 square feet, such equipment shall be screened in its entirety on all sides. Such screening may be opaque or perforated, provided that where perforated materials are provided, not more than 50 percent of the face is open;

(iii) where any equipment at the ground floor level is located between a #street wall#, or prolongation thereof, and a #street line#, the entire width of such portion of the equipment facing a #street#, whether open or enclosed, shall be fully screened by vegetation; and

(2) the size of all equipment, including all screening and enclosures containing such equipment, shall not exceed:

(i) an area equivalent to 25 percent of any #court# containing #legally required windows#;

(ii) in R1 through R5 Districts, a height of 10 feet above the lowest level of such #court#; and

(ii) in R6 through R10 Districts, a height of 15 feet above the lowest level of such #court#.

~~(i)~~(j) Recreational or drying yard equipment;

~~(j)~~(k) Solar energy systems on walls existing on April 30, 2012, projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects.

* * *

Chapter 4
Bulk Regulations for Community Facilities in Residence Districts

* * *

24-30
YARD REGULATIONS

24-33
Permitted Obstructions in Required Yards or Rear Yard Equivalents

In all #Residence Districts#, the following obstructions shall be permitted when located within a required #yard# or #rear yard equivalent#:

(a) In any #yard# or #rear yard equivalent#:

* * *

(10) Power systems, including, but not limited to, generators, solar energy systems, fuel cells, batteries and other energy storage systems, provided that:

(i) all equipment shall be subject to the following location, enclosure, and screening requirements, as applicable:

(a) all generators and cogeneration equipment shall be completely enclosed within a #building or other structure#, except as necessary for mechanical ventilation;

(b) all other types of equipment may be unenclosed, provided that such equipment is located at least five feet from any #lot line#. However, if the area bounding all such equipment, as drawn by a rectangle from its outermost perimeter in plan view, exceeds 25 square feet, the entirety of such equipment shall be screened on all sides. Such screening may be opaque or perforated, provided that where perforated materials are provided, not more than 50 percent of the face is open;

(c) where any equipment is located in a #front yard#, the entire width of such portion of the equipment facing a #street#, whether open or enclosed, shall be fully screened by vegetation; and

(ii) the size of all equipment, including all screening and enclosures containing such equipment, shall not exceed:

(a) an area equivalent to 25 percent of a required #yard#, or #rear yard equivalent#, and in addition, in #front yards#, is limited to an area not exceeding 25 square feet. However, for #corner lots#, one #front yard# may be treated as a #side yard# for the purpose of applying such size restrictions;

(b) in R1 through R5 Districts, a height of 10 feet above the adjoining grade in #rear yards#, #rear yard equivalents# and #side yards#, or a height of five feet above the adjoining grade in #front yards#; and

(c) in R6 through R10 Districts, a height of 15 feet above the adjoining grade.

~~(10)~~(11) Solar energy systems, on walls existing on April 30, 2012, projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects;

~~(11)~~(12) Steps, and ramps or lifts for people with physical disabilities;

~~(12)~~(13) Terraces or porches, open;

~~(13)~~(14) Walls, not exceeding eight feet in height and not roofed or part of a #building#.

* * *

24-60
COURT REGULATIONS AND MINIMUM DISTANCE BETWEEN WINDOWS AND WALLS OR LOT LINES

24-68
Permitted Obstructions in Courts

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, the following shall not be considered obstructions when located within a #court#:

* * *

(h) Power systems, including, but not limited to, generators, solar energy systems, fuel cells, batteries and other energy storage systems, provided that:

(1) all equipment shall be subject to the following location, enclosure, and screening requirements, as applicable:

(i) all generators and cogeneration equipment shall be completely enclosed within a #building or other structure#, except as necessary for mechanical ventilation;

(ii) all other types of equipment may be unenclosed, provided that such equipment is located at least five feet from any #lot line#. However, if the area bounding all such equipment, as drawn by a rectangle from its outermost perimeter in plan view, exceeds 25 square feet, the entirety of such equipment shall be screened on all sides. Such screening may be opaque or perforated, provided that where perforated materials are provided, not more than 50 percent of the face is open; and

(iii) where any equipment at the ground floor level is located between a #street wall#, or prolongation thereof, and a #street line#, the entire width of such portion of the equipment facing a #street#, whether open or enclosed, shall be fully screened by vegetation; and

(2) the size of all equipment, including all screening and enclosures containing such equipment, shall not exceed:

(i) an area equivalent to 25 percent of any #court# containing #legally required windows#;

(ii) in R1 through R5 Districts, a height of 10 feet above the lowest level of such #court#; and

(ii) in R6 through R10 Districts, a height of 15 feet above the lowest level of such #court#; and

~~(h)~~(i) Recreational or yard drying equipment;

(j) Steps, and ramps or lifts for people with physical disabilities;

~~(i)~~(k) Solar energy systems on walls existing on April 30, 2012, projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects;

~~(j)~~(l) Terraces, open, porches or steps.

* * *

ARTICLE III
COMMERCIAL DISTRICT REGULATIONS

* * *

Chapter 3
Bulk Regulations for Commercial or Community Facility Buildings in Commercial Districts

* * *

33-20
YARD REGULATIONS

* * *

33-23
Permitted Obstructions in Required Yards or Rear Yard Equivalents

In all #Commercial Districts#, the following obstructions shall be permitted when located within a required #yard# or #rear yard equivalent#:

(a) In any #yard# or #rear yard equivalent#:

* * *

(9) Parking spaces for automobiles or bicycles, off-street, open, #accessory#;

(10) Power systems, including, but not limited to, generators, solar energy systems, fuel cells, batteries and other energy storage systems, provided that all equipment shall not exceed a height of 23 feet above #curb level#.

~~(10)~~(11) Solar energy systems on walls existing on April 30, 2012, projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects;

~~(11)~~(12) Steps, and ramps or lifts for people with physical disabilities;

~~(12)~~(13) Terraces or porches, open;

~~(13)~~(14) Walls, not exceeding eight feet in height and not roofed or part of a #building#.

* * *

Chapter 7
Special Urban Design Regulations

* * *

37-30
SPECIAL GROUND FLOOR LEVEL STREETSCAPE PROVISIONS FOR CERTAIN AREAS

37-31
Applicability

Section 37-30, inclusive, specifies #ground floor level# requirements that establish consistent standards for a minimum depth for certain #uses#, a maximum width for certain #uses#, minimum transparency requirements, ~~and~~ parking wrap and screening requirements, and minimum requirements for blank walls that apply in conjunction with requirements set forth for certain #Commercial Districts# in the supplemental #use# provisions of Section 32-40, inclusive, for #Quality Housing buildings# in certain #Commercial Districts# subject to supplemental provisions for #qualifying ground floors#; for certain #Manufacturing Districts# in Section 42-485 (Streetscape provisions); for #zoning lots# subject to the off-street parking regulations in the #Manhattan Core# in Article I, Chapter 3; for #zoning lots# subject to the special provisions for waterfront areas ~~and~~, FRESH food stores, and #flood zones# in Article VI, Chapters 2 ~~and~~, 3, and 4 respectively; and for #zoning lots# subject to the provisions of certain Special Purpose Districts.

* * *

37-36
Special Requirements for Blank Walls

[Note: Consolidated and Modified Text from Sections 87-415, 135-12, 138-32, and 142-141]

Where visual mitigation elements are required on a blank wall along the #ground floor level street wall# in accordance with other streetscape provisions in this Resolution, such blank wall shall be covered by one or more of the following mitigation elements set forth in this Section.

37-361
Blank wall thresholds

The height and width of blank walls and the applicable percent coverage of mitigation elements are set forth in this Section. Blank wall surfaces shall be calculated on the #ground floor level street wall# except in the #flood zone#, blank wall surfaces shall be calculated between the level of the adjoining sidewalk and the level of the #first story above the flood elevation# as defined in Section 64-11(Definitions).

The different types of blank walls are established below and the type of blank wall that applies is determined by the provisions of each applicable Section.

(a) Type 1

Where Type 1 blank wall provisions apply, a "blank wall" shall be a #street wall#, or portions thereof, where no transparent materials or entrances or exits are provided below a height of four feet above the level of the adjoining sidewalk, or grade, as applicable, for a continuous width of at least 50 feet.

For such blank walls, at least 70 percent of the surface or linear footage of the blank wall, as applicable, shall be covered by one or more of the options described in Section 37-362 (Mitigation elements).

The maximum width of a portion of such blank wall without visual mitigation elements shall not exceed 10 feet. In addition, where such blank wall exceeds a #street wall# width of 50 feet, such rules shall be applied separately for each 50 foot interval.

(b) Type 2

Where Type 2 blank wall provisions apply, a "blank wall" shall be a #street wall#, or portions thereof, where no transparent materials or entrances or exits are provided below a height of four feet above the level of the adjoining sidewalk, or grade, as applicable, for a continuous width of at least 25 feet.

For such blank walls, at least 70 percent of the surface or linear footage of the blank wall, as applicable, shall be covered by one or more of the options described in Section 37-362. In addition, where such blank wall exceeds a #street wall# width of 50 feet, such rules shall be applied separately for each 50 foot interval.

(c) Type 3 or Type 4

Where Type 3 or Type 4 blank wall provisions apply, a "blank wall" shall be a #street wall#, or portions thereof, where no transparent materials or entrances or exits are provided below a height of four feet above the level of the adjoining sidewalk, or grade, as applicable, for a continuous width of at least 15 feet for Type 3 or for a continuous width of at least five feet for Type 4.

For such blank walls, at least 70 percent of the surface or linear footage of the blank wall, as applicable, shall be covered by one or more of the options described in Section 37-362. In addition, where such blank wall exceeds a #street wall# width of 25 feet, such rules shall be applied separately for each 25 foot interval.

37-362
Mitigation elements

The following mitigation elements shall be provided on the #zoning lot#, except where such elements are permitted within the #street# under other applicable laws or regulations.

(a) Surface treatment

Where utilized as a visual mitigation element the following shall apply:

(1) Wall treatment

Wall treatment, in the form of permitted #signs#, graphic or sculptural art, decorative screening or latticework, or living plant material shall be provided along the #street wall#. Each linear foot of wall treatment shall constitute one linear foot of the mitigation requirement.

(2) Surface texture

Surface texture that recesses or projects a minimum of one inch from the remaining surface of the #street wall# shall be provided. The height or width of any individual area that recesses or projects shall not be greater than 18 inches. Each linear foot of wall treatment shall constitute one linear foot of the mitigation requirement.

(b) Linear treatment

Where utilized as a visual mitigation element the following shall apply:

(1) Planting

Planting, in the form of any combination of perennials, annual flowers, decorative grasses or shrubs, shall be provided in planting beds, raised planting beds or planter boxes in front of the #street wall#. Each foot in width of a planting bed, raised planting bed or planter box, as measured parallel to the #street wall#, shall satisfy one linear foot of the mitigation requirement. Such planting bed, or planter boxes shall extend to a depth of at least three feet, inclusive of any structure containing the planted material. Any individual planted area, including planters spaced not more than one foot apart, shall have a width of at least five feet.

(2) Benches

Fixed benches, with or without backs, shall be provided in front of the #street wall#. Unobstructed access shall be provided between such benches and an adjoining sidewalk or required circulation paths. Each linear foot of bench, as measured parallel to the #street wall#, shall satisfy one linear foot of the mitigation requirement. Any individual bench shall have a width of at least five feet and no more than 20 feet of benches may be used to fulfill such requirement per 50 feet of frontage.

(3) Bicycle racks

Bicycle racks, sufficient to accommodate at least two bicycles, shall be provided in front of the #street wall# as follows. No more than three bicycle racks may be used to fulfill such requirement per 50 feet of frontage.

(i) Where bicycle racks are oriented so that the bicycles are placed parallel to the #street wall#, each bicycle rack so provided shall satisfy five linear feet of the mitigation requirement.

(ii) Where bicycle racks are oriented so that bicycles are placed perpendicular or diagonal to the #street wall#, each bicycle rack so provided shall satisfy the width of such rack, as measured parallel to the #street wall#, of the mitigation requirement.

(4) Tables and chairs

In #Commercial Districts# and M1 Districts, fixed tables and chairs shall be provided in front of the #street wall#. Each table shall have a minimum diameter of two feet and have a minimum of two chairs associated with it. Each table and chair set so provided shall satisfy five linear feet of the mitigation requirement.

* * *

ARTICLE IV
MANUFACTURING DISTRICT REGULATIONS

* * *

Chapter 3
Bulk Regulations

* * *

43-20
YARD REGULATIONS

* * *

43-23
Permitted Obstructions in Required Yards or Rear Yard Equivalents

In all #Manufacturing Districts#, the following obstructions shall be permitted within a required #yard# or #rear yard equivalent#:

(a) In any #yard# or #rear yard equivalent#:

* * *

(9) Parking spaces for automobiles or bicycles, off-street, open, #accessory#;

(10) Power systems, including, but not limited to, generators, solar energy systems, fuel cells, batteries and other energy storage systems, provided that all equipment shall not exceed a height of 23 feet above #curb level#;

~~(10)~~(11) Solar energy systems on walls existing on April 30, 2012, projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects;

~~(11)~~(12) Steps, and ramps or lifts for people with physical disabilities;

~~(12)~~(13) Terraces or porches, open;

~~(13)~~(14) Walls, not exceeding eight feet in height and not roofed or part of a #building#.

* * *

ARTICLE VI
SPECIAL REGULATIONS APPLICABLE TO CERTAIN AREAS

* * *

Chapter 2
Special Regulations Applying in the Waterfront Area

62-00
GENERAL PURPOSES

The provisions of this Chapter establish special regulations which are designed to guide development along the City's waterfront and in so doing to promote and protect public health, safety and general welfare. These general goals include, among others, the following purposes:

(a) to maintain and reestablish physical and visual public access to and along the waterfront;

(b) to promote a greater mix of uses in waterfront developments in order to attract the public and enliven the waterfront;

(c) to encourage water-dependent (WD) uses along the City's waterfront;

(d) to create a desirable relationship between waterfront development and the water's edge, public access areas and adjoining upland communities;

(e) to preserve historic resources along the City's waterfront; ~~and~~

(f) to protect natural resources in environmentally sensitive areas along the shore~~.~~; and

(g) to allow waterfront developments to incorporate resiliency measures that help address challenges posed by coastal flooding and sea level rise.

62-10
GENERAL PROVISIONS

62-11
Definitions

Definitions specially applicable to this Chapter are set forth in this Section. The definitions of other defined terms are set forth in Section 12-10 (DEFINITIONS) and Section 64-11 (Definitions).

Development

For the purposes of this Chapter, a “development” shall also include:

(a) an #enlargement#;

(b) any alteration that increases the height or coverage of an existing #building or other structure#;

(c) an #extension#; or

(d) a change of #use# from one Use Group to another, or from one #use# to another in the same Use Group, or from one #use# listed in Section 62-21 (Classification of Uses in the Waterfront Area) to another such #use#.

However, a #development# shall not include incidental modifications to a #zoning lot#, including but not limited to, the addition of deployable flood control measures and any associated permanent fixtures, the addition of temporary structures such as trash receptacles, food carts or kiosks, and the incorporation of minor permanent structures such as light stanchions, bollards, fences, or structural landscaped berms and any associated flood gates. All such modifications shall remain subject to any associated permitted obstruction allowances, as applicable.

Tidal Wetland Area

A "tidal wetland area" is an area planted with species tolerant of saline water inundation that is located between the mean low water line and the landward edge of the stabilized natural shore or bulkhead. Such area may be used to satisfy requirements for #waterfront yards#, #shore public walkways# and planting in this Chapter.

* * *

62-30
SPECIAL BULK REGULATIONS

* * *

62-33
Special Yard Regulations on Waterfront Blocks

* * *

62-332
Rear yards and waterfront yards

[Note: Text restructured for clarity]

~~#Rear yard# regulations shall be inapplicable on #waterfront zoning lots#. In lieu thereof, a #waterfront yard# shall be provided along the entire length of the #shoreline#, bulkhead or stabilized natural shore, whichever is furthest landward, with a depth as set forth in the following table. The minimum depth shall be measured from the landward edge of the bulkhead, landward edge of stabilized natural shore or, in the case of natural #shorelines#, the mean high water line.~~

~~Where a #platform# projects from the #shoreline#, stabilized natural shore, or bulkhead, such #waterfront yard# shall, in lieu of following the shore at that portion, continue along the water edge of such #platform# until it again intersects the #shoreline#, stabilized natural shore, or bulkhead, at which point it shall resume following the #shoreline#, stabilized natural shore, or bulkhead.~~

~~The level of a #waterfront yard# shall not be higher than the elevation of the top of the adjoining existing bulkhead, existing stabilized natural shore or mean high water line, as applicable, except that natural grade level need not be disturbed in order to comply with this requirement. The level of the portion of a #waterfront yard# on a #platform# shall not be higher than the abutting level of the non-platformed portion of the #waterfront yard#, of which it is the continuation, except that the level of a #platform# existing on October 25, 1993 need not be altered in order to comply with this requirement.~~

~~No #building or other structure# shall be erected above the lowest level of a #waterfront yard#. Permitted obstructions in #waterfront yards# in all districts shall include permitted obstructions as listed in Sections 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents) and~~

62-611, except that enclosed #accessory# off-street parking spaces and walls exceeding four feet in height shall not be permitted.

In addition, the following #rear yard# obstructions shall not be permitted except when #accessory# to #single # or #two family residences# in #detached#, #semi-detached# or #zero lot line buildings#:

Balconies, unenclosed;

Greenhouses, non-commercial, #accessory#;

Parking spaces, off-street, open or enclosed, #accessory#;

Swimming pools, #accessory#;

Terraces or porches, open.

WATERFRONT YARD DEPTH FOR ALL DISTRICTS

Column A Districts with 30 Foot Requirement	Column B Districts with 40 Foot Requirement
R1 R2 R3 R4 R5	R6 R7 R8 R9 R10
C1 C2 mapped in R1 R2 R3 R4 R5	C1 C2 mapped in R6 R7 R8 R9 R10
C3	C1-6 C1-7 C1-8 C1-9 C2-6 C2-7 C2-8 C4 C5 C6 C7 C8 M1 M2 M3

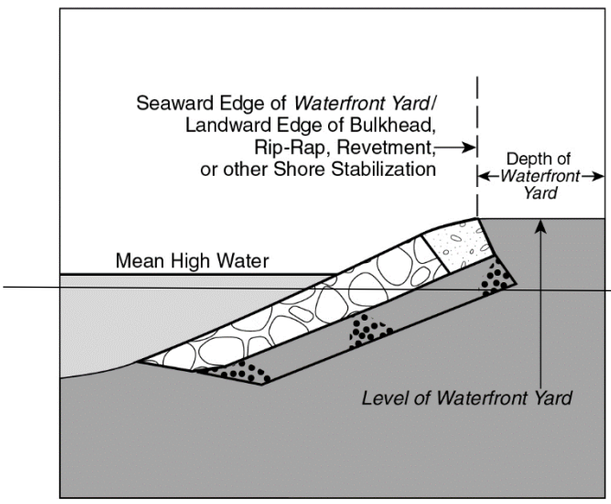
The minimum depth set forth in the preceding table may be reduced at the following locations provided no #waterfront yard# is reduced to less than 10 feet:

(a) Along those portions of the landward edge of stabilized shore, bulkhead, natural #shoreline# or along those portions of the water edge of a #platform#, having a lot dimension, measured perpendicular and landward from such edge, that is less than 70 feet in the case of districts in Column A or 80 feet in the case of districts in Column B.

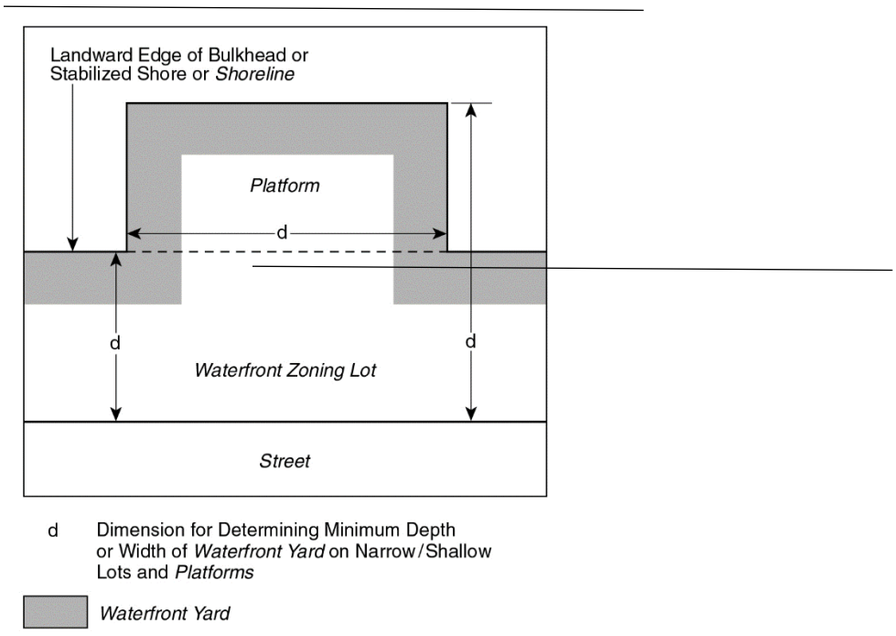
For such shallow portions of lots, the minimum depth may be reduced by one foot for each foot that the lot dimension measured from such edge is less than 70 or 80 feet, as applicable.

(b) Along those portions of the water edge of a #platform# having a dimension, measured perpendicular from such water edge to an opposite water edge that is less than 100 feet in the case of districts in Column A or 120 feet in the case of districts in Column B.

For such narrow portions of #platforms#, the minimum depth along each opposite edge may be reduced by one-half foot for each foot that the #platform# dimension is less than 100 or 120 feet, as applicable. WATERFRONT YARD AT STABILIZED SHORELINE (62-332b.1) WATERFRONT YARD (62-332b.2)



~~WATERFRONT YARD AT STABILIZED SHORELINE~~
~~(62-332b.1)~~



~~WATERFRONT YARD~~
~~(62-332b.2)~~

#Rear yard# regulations shall be inapplicable on #waterfront zoning lots#. In lieu thereof, a #waterfront yard# shall be provided along the entire length of the #shoreline#, bulkhead or stabilized natural shore, whichever is furthest landward. In addition, the following rules shall apply to the #waterfront yard#:

(a) Depth of the #waterfront yard#

[Note: Modified 62-332 text]

The required minimum depth of a #waterfront yard# is set forth in the following table. Column A sets forth districts where the minimum depth is 30 feet, and Column B sets forth districts where the minimum depth is 40 feet. Such minimum depths shall be measured from the landward edge of the bulkhead, landward edge of stabilized natural shore, or, in the case of natural #shorelines#, the mean high water line.

Where a #platform# projects from the #shoreline#, stabilized natural shore, or bulkhead (see illustration below of Waterfront Yard), such #waterfront yard# shall, in lieu of

following the shore at that portion, continue along the water edge of such #platform# until it again intersects the #shoreline#, stabilized natural shore, or bulkhead, at which point it shall resume following the #shoreline#, stabilized natural shore, or bulkhead.

WATERFRONT YARD DEPTH FOR ALL DISTRICTS

Column A	Column B
Districts with 30 Foot Requirement	Districts with 40 Foot Requirement
R1 R2 R3 R4 R5	R6 R7 R8 R9 R10
C1 C2 mapped in R1 R2 R3 R4 R5	C1 C2 mapped in R6 R7 R8 R9 R10
C3	C1-6 C1-7 C1-8 C1-9 C2-6 C2-7 C2-8 C4 C5 C6 C7 C8 M1 M2 M3

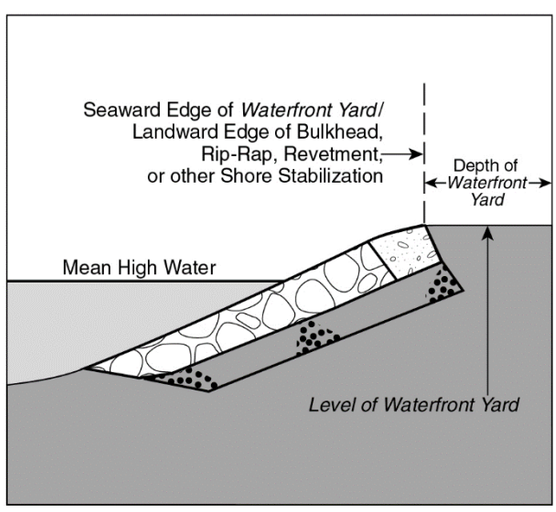
The minimum depth set forth in the preceding table may be reduced at the following locations provided no #waterfront yard# is reduced to less than 10 feet:

(1) Along those portions of the landward edge of stabilized shore, bulkhead, natural #shoreline# or along those portions of the water edge of a #platform#, having a lot dimension, measured perpendicular to and landward from such edge, that is less than 70 feet in the case of districts in Column A or 80 feet in the case of districts in Column B. For such shallow portions of lots, the minimum depth may be reduced by one foot for each foot that the lot dimension measured from such edge is less than 70 or 80 feet, as applicable.

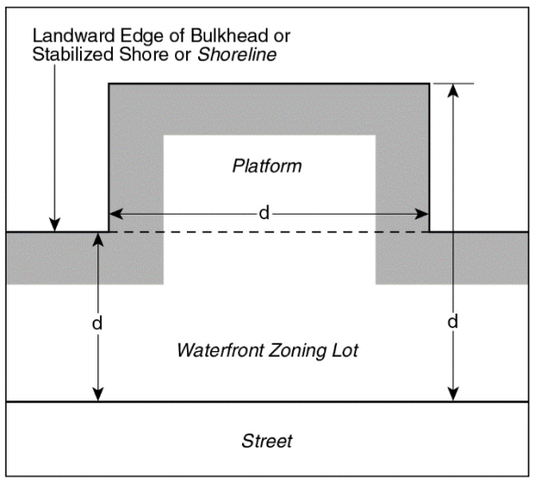
(2) Along those portions of the water edge of a #platform# having a dimension, measured perpendicular from such water edge to an opposite water edge that is less than 100 feet in the case of districts in Column A or 120 feet in the case of districts in Column B. For such narrow portions of #platforms#, the minimum depth along each opposite edge may be reduced by one-half foot for each foot that the #platform# dimension is less than 100 or 120 feet, as applicable.

[Note: New text]

(3) Where a #tidal wetland area# is provided, the depth of the #waterfront yard# may be reduced by a foot for every foot of stabilized natural shore or intertidal planting area beyond the landward edge of the bulkhead, stabilized natural shore or #shoreline# up to seven feet. Such reduction in depth shall not extend along more than 30 percent of the #shoreline# of the #waterfront zoning lot#.



WATERFRONT YARD AT STABILIZED SHORELINE
(62-332a.1)



WATERFRONT YARD
(62-332a.2)

(b) The level of the #waterfront yard#

The level of required #waterfront yards# shall not be higher than the elevation of the top of the adjoining existing bulkhead, existing stabilized natural shore or mean high water line, as applicable, except that natural grade level need not be disturbed in order to comply with this requirement.

The level of the portion of a #waterfront yard# on a #platform# shall not be more than three feet higher than the abutting level of the non-platformed portion of the #waterfront yard#, of which it is the continuation, except that the level of a #platform# existing on October 25, 1993 need not be altered in order to comply with this requirement.

[Note: Text moved from Section 64-82(a) and modified]

However, the level of the #waterfront yard# may be modified as follows:

(1) For #zoning lots# not required to provide #waterfront public access areas# pursuant to Section 62-52 (Applicability of Waterfront Public Access Area Requirements), the level of #waterfront yards# may be raised either to:

(i) the #flood-resistant construction elevation# or six feet above #shoreline#, whichever is higher; or

(ii) a higher elevation, provided that the #waterfront yard# complies with the applicable provisions of paragraph (b)(2) of this Section, depending on the condition of the shared #lot line#.

(2) For #zoning lots# with required #waterfront public access areas# pursuant to Section 62-52, the level of #waterfront yards# may be raised to a higher elevation, provided that such elevated #waterfront yard# complies with the following provisions, depending on the condition of the adjacent #zoning lot# :

(i) where a #waterfront yard# adjoins a #street#, #public park#, or #waterfront public access area# on an adjacent #zoning lot#, the level of the #waterfront yard# within 15 feet of the shared #lot line# shall not exceed three feet above the level of the adjoining #street#, #public park# or #waterfront public access area#, and the width of the circulation path at the #lot line# is greater than that required by paragraph (a) of Section 62-62 (Design Requirements for Shore Public Walkways and Supplemental Public Access Areas). However, the elevation of the required circulation path shall be no higher than the grade of the adjacent #street#, #public park#, or #zoning lot# at the #lot line#.

(ii) where a #waterfront yard# does not adjoin a #street#, #public park#, or #waterfront public access area# on an adjacent #zoning lot#, the level of the #waterfront yard# at the shared #lot line#, may exceed the level of the adjacent #zoning lot#:

(a) up to a maximum of six feet above the #shoreline#; or

(b) to a level higher than six feet above the #shoreline#, where the Chairperson of the City Planning Commission certifies, pursuant to Section 62-811 (Waterfront public access and visual corridors) that:

(1) the applicant has submitted a plan indicating the proposed level of the #waterfront yard# at the #lot line# of adjacent #zoning lots# and the level of such adjacent #zoning lots# adjacent to the #waterfront yard#; and

(2) submitted proof of a legal commitment, executed by the fee owner of any #zoning lot# that is adjacent to the subject #waterfront yard# that the owner will develop a #waterfront public access area# with a grade that meets that of the

adjacent #zoning lots# based on the proposed level of the subject #waterfront yard# as reflected in the submitted plan. Such legal commitment shall be recorded against all affected parcels of land.

(c) Permitted obstructions

[Note: Modified text]

No #building or other structure# shall be erected above the lowest level of a #waterfront yard#. Permitted obstructions in #waterfront yards# in all districts shall include permitted obstructions as listed in Sections 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents) and 62-611, except that enclosed #accessory# off-street parking spaces and walls exceeding four feet in height shall not be permitted. Where any power systems, including, but not limited to, generators, solar energy systems, fuel cells, batteries and other energy storage systems, are located in a #front yard#, the entire width of the portion of such equipment facing a #street#, whether open or enclosed, shall be fully screened by vegetation.

In addition, the following #rear yard# obstructions shall not be permitted except when #accessory# to #single-# or #two-family residences# in #detached#, #semi-detached# or #zero lot line buildings#:

Balconies, unenclosed;

Greenhouses, non-commercial, #accessory#;
Parking spaces, off-street, open or enclosed, #accessory#;

Swimming pools, #accessory#;

Terraces or porches, open.

* * *

62-50
GENERAL REQUIREMENTS FOR VISUAL CORRIDORS AND WATERFRONT PUBLIC ACCESS AREAS

* * *

62-51
Applicability of Visual Corridor Requirements

* * *

62-512
Dimensions of visual corridors

The width of a #visual corridor# shall be determined by the width of the #street# of which it is the prolongation but in no event shall be less than 50 feet. #Visual corridors# that are not the prolongations of #streets# shall be at least 50 feet wide. For the purposes of establishing the width, vehicular turnarounds at the terminations of such #streets#, including curved or flanged treatments at intersections, shall be omitted.

~~The lowest level of a #visual corridor# shall be determined by establishing a plane connecting the two points along the #street lines# from which the #visual corridor# emanates at curb elevation with the two points where the prolonged #street lines# intersect the #shoreline#, stabilized natural shore, bulkhead or the #base plane# of a #pier# or #platform#, whichever intersection occurs first.~~

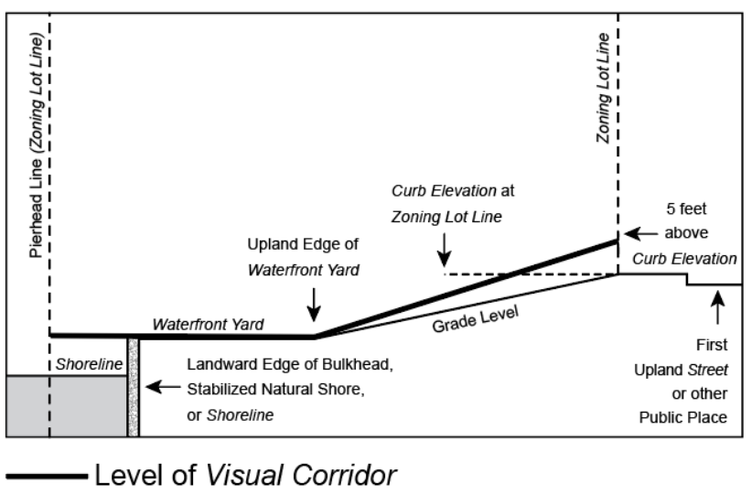
~~Such plane shall then continue horizontally seaward from the line of intersection. #Visual corridors# that are not prolongations of mapped #streets# shall be determined by establishing a plane connecting the curb elevation at the two points along the #lot line# from which the #visual corridor# emanates with the two points of intersection at the #shoreline#, stabilized natural shore, bulkhead or the #base plane# of a #pier# or #platform#, whichever intersection occurs first.~~

[Note: Text moved from Section 64-82(b) and modified]

The level of a #visual corridor# shall be determined by establishing a plane connecting the two points along the #street lines# from which the #visual corridor# emanates at an elevation five feet above curb elevation with the two points where the prolonged #street lines# intersect the #shoreline#, stabilized natural shore, bulkhead, or upland edge of a #waterfront yard#, or the #base plane# of a #pier# or #platform#, whichever intersection occurs first. Such plane shall then continue horizontally seaward from the line of intersection. #Visual corridors# that are not prolongations of mapped #streets# shall be determined by establishing a plane connecting an elevation five feet above curb elevation at the two points along the #lot line# from which the #visual corridor# emanates with the two points of intersection at the #shoreline#, stabilized natural shore, bulkhead, upland edge of a #waterfront yard#, or the #base plane# of a #pier# or #platform#, whichever intersection occurs first.

[Note: Text below is a continuation of Section 62-512]

No obstructions are permitted within a #visual corridor#, except as set forth in Sections 62-513 and 62-60 (DESIGN REQUIREMENTS FOR WATERFRONT PUBLIC ACCESS AREAS), inclusive, when a #visual corridor# coincides with an #upland connection#.



LEVEL OF VISUAL CORRIDOR
(62—512)

* * *

62-53
Requirements for Shore Public Walkways

(a) All #waterfront zoning lots# meeting the criteria set forth in Section 62-52 (Applicability of Waterfront Public Access Area Requirements), or #floating structures#, shall provide a #shore public walkway#, which shall comply with the following requirements:

(1) Such #shore public walkway# shall have a seaward edge contiguous with the seaward edge of the #waterfront yard# as established in Section 62-332 (Rear yards

and waterfront yards) with a minimum width measured from such edge as set forth in paragraph (a)(2) of this Section, or for #floating structures#, as set forth in Section 62- 55, unless relocation or modification of width is permitted pursuant to this Section;

(2) Such #shore public walkway# shall have a minimum width of 30 feet for #zoning lots developed# with #predominantly community facility# or #commercial uses# in R3, R4, R5 and C3 Districts, and such #uses# in C1 and C2 Districts mapped within R1 through R5 Districts. The minimum width for a #shore public walkway# provided for a #zoning lot developed# with any #use# in all other districts, other than R1 and R2 Districts, shall be 40 feet.

(3) The minimum width of the #shore public walkway# set forth in paragraph (a)(2) of this Section may be reduced at the following locations provided no #shore public walkway# is reduced to less than 10 feet:

(i) on shallow portions of #zoning lots# that are less than 150 feet in depth, the minimum width of a #shore public walkway# may be reduced by one foot for every two feet that the lot dimension, measured from such edge, is less than 150 feet;

(ii) on narrow portions of #platforms# that are less than 150 feet in depth between the water edges located perpendicular to the landward edge of such #platform#, the minimum width of such #shore public walkway# along each opposite edge may be reduced by one foot for every two feet that the #platform# dimension is less than 150 feet~~.~~;

(iii) on #zoning lots# where a #tidal wetland area# is provided, the width of the #shore public walkway# may be reduced by a foot for every foot of #tidal wetland area# along the seaward edge of the #waterfront yard# up to seven feet. Such reduction in depth shall not extend along more than 30 percent of the #shoreline# of the #waterfront zoning lot#.

* * *

62-60
DESIGN REQUIREMENTS FOR WATERFRONT PUBLIC ACCESS AREAS

#Waterfront public access areas# required pursuant to Section 62-52 (Applicability of Waterfront Public Access Area Requirements) shall comply with the provisions of this Section, inclusive.

62-61
General Provisions Applying to Waterfront Public Access Areas

(a) All #waterfront public access areas# shall be unobstructed from their lowest level to the sky, except as set forth in Section 62- 611 (Permitted obstructions). The lowest level of any portion of a #waterfront public access area# shall be determined by the elevation of the adjoining portion on the same or an adjoining #zoning lot# or the public sidewalk to which it connects. Reference elevations shall be established from the public sidewalks, #waterfront yard# levels and the elevations previously established by adjoining #zoning lots# at #lot line# intersections of a waterfront public access network, as applicable.

(b) The minimum required circulation path shall be connected and continuous through all #waterfront public access areas# on adjacent #zoning lots#.

(c) #Waterfront public access areas# shall be accessible to persons with physical disabilities in accordance with the Americans with Disabilities Act and the American National Standards Institute (ANSI) design guidelines.

(d) All #waterfront public access areas# improved for public access shall meet the following regulations for site grading:

(1) In required circulation paths:

(i) for cross-sectional grading regulations (perpendicular to the general direction of pedestrian movement), the minimum slope of a required circulation path shall be one and one-half percent to allow for positive drainage and the maximum slope shall be three percent. Steps and stairways accommodating a cross-sectional grade change are only permitted outside of the required circulation path(s).

(ii) for longitudinal grading controls (parallel to the general direction of pedestrian movement), grade changes shall be permitted along the length of a required circulation path by means of steps or ramps in compliance with the requirements for handicapped accessibility.

(2) In required planting areas, including screening buffers:

Within ~~five~~ three feet of the edge of any planting area, the grade level of such planting area shall be no more than ~~18 inches~~ three feet higher or lower than the adjoining level of the pedestrian circulation path.

* * *

62-611
Permitted obstructions

#Waterfront public access areas# shall be unobstructed from their lowest level to the sky except that the obstructions listed in this Section shall be permitted, as applicable. However, no obstructions of any kind shall be permitted within a required circulation path~~.~~, except as specifically set forth herein.

(a) In all areas

* * *

(7) Structural landscaped berms and associated flood gates, including emergency egress systems that are assembled prior to a storm and removed thereafter, provided the height of such berm does not exceed the #flood-resistant construction elevation# required on the #zoning lot# or five feet above the lowest adjoining grade of the #waterfront yard# established pursuant to Section 62-332 (Rear yards and waterfront yards), whichever is higher;

(8) Temporary flood control devices and associated permanent fixtures, including emergency egress systems that are assembled prior to a storm and removed thereafter. Permanent fixtures for self-standing flood control devices shall be flush-to-grade, and shall be permitted obstructions within a required circulation path.

* * *

62-62
Design Requirements for Shore Public Walkways and Supplemental Public Access Areas

The design requirements of this Section shall apply to #shore public walkways# and #supplemental public access areas#, except as modified by Section 62-57 (Requirements for Supplemental Public Access Areas).

* * *

(c) Planting

(1) Planting areas

An area equal to at least ~~50~~ 35 percent of the area of the #shore public walkway# and #supplemental public access area# shall be planted~~, except that in R3, R4, R5, C1, C2 and C3 Districts, and in C1 or C2 Districts mapped within R1 through R5 Districts, for #zoning lots# occupied by #predominantly commercial# or #community facility uses#, such area shall be equal to at least 40 percent~~.

In addition, the following conditions shall apply:

(i) Where a #supplemental public access area# is greater than 1,875 square feet, at least ~~25~~ 15 percent of the required planting area of the #shore public walkway# and #supplemental public access area#, combined, shall be provided as lawn;

(ii) Up to ~~15~~ 30 percent of the required planting area may be ~~located seaward of a #shore public walkway#~~ provided as #tidal wetland area# and shall be measured in plan view and not along the planted slope; or

(iii) When a dedicated bicycle path is provided within a #supplemental public access area#, a planting area with a width of at least five feet shall be provided between the bicycle path and any paved area for pedestrian use. For the purpose of calculating planting requirements, the area of the bicycle path may be deducted from the combined area of the #shore public walkway# or #supplemental public access area#.

Such planting areas in this paragraph, (c), may be located anywhere within the #shore public walkway# or #supplemental public access area# and shall comply with the standards of Section 62-655.

(2) Screening buffer

(i) A screening buffer shall be provided within the #shore public walkway# or the #supplemental public access area#, running along the entire upland boundary of such area where it abuts non-publicly accessible areas of the #zoning lot#, except as waived pursuant to paragraph (c)(2)(iii) of this Section. Any screening buffer provided pursuant to this Section may be used to meet the planting requirements of paragraph (c)(1) of this Section.

(ii) The minimum width of the screening buffer shall be ~~10~~ six feet. On shallow lots where the width of the #shore public walkway# may be reduced pursuant to Section 62-53, the width of the screening buffer may be reduced proportionally but shall not be less than four feet.

(iii) No screening buffer shall be required:

(a) adjacent to a private drive, a #street# or at the entrances to #buildings#; or

(b) for a #commercial# or #community facility use# within a distance of 15 feet from the sidewalk or #waterfront public access area#, that is glazed with windows, transoms or glazed portions of doors in accordance with the provisions of Section 37-34 (Minimum Transparency Requirements).

* * *

62-65
Public Access Design Reference Standards

* * *

62-655
Planting and trees

Within #waterfront public access areas# and parking areas where planting or screening is required, the design standards of this Section shall apply.

A detailed landscape plan prepared by a registered landscape architect shall be submitted to the Department of Parks and Recreation prior to seeking certification by the Chairperson of the City Planning Commission, pursuant to the requirements of Section 62-80. Such plans shall include plants suited for waterfront conditions and include a diversity of species with emphasis on native plants, ~~salt tolerance~~ species that are tolerant of salt, sediment, high seasonal water flow, and high winds, as applicable to the location and the facilitation of sustainable wildlife habitats, where appropriate. No species listed on quarantine or as a host species for any disease listed by the Department of Parks and Recreation at the time of application shall be included.

All landscaped areas shall contain a built-in irrigation system or contain hose bibs within 100 feet of all planting areas.

(a) Planting areas

Wherever a minimum percentage of planting area is specified for a #waterfront public access area#, such requirements shall be met only through the provisions of the types of planting areas listed in paragraphs (a)(1) through (a)~~(7)~~(8) of this Section. A curb with a maximum height of six inches is permitted along the perimeter of any planting area. Any edging higher than six inches above adjacent grade shall be considered a retaining wall. Retaining walls shall not exceed ~~60 percent of the perimeter of a planting area or~~ a maximum height of ~~18 inches~~ three feet, as measured from the level of the adjoining ~~adjacent~~ grade or planted area below such wall so that no more than three feet of such retaining wall is visible from the #waterfront public access areas#. ~~At least one continuous length, equal to 40 percent of the planting area's perimeter, shall have a grade level within six inches of the adjacent grade level.~~ Where not specifically indicated, the minimum planting standard for required planting areas shall be turf grass, other natural grasses or groundcover. All planting areas shall be located on undisturbed subsoil or clean fill.

* * *

(3) Planting beds

Planting beds for turf grass or groundcovers shall have minimum dimensions of two feet in any direction and a minimum depth of two feet. Planting beds for shrubs shall have minimum dimensions of three feet by three feet for each shrub and a minimum depth of 2 feet, 6 inches. Planting beds containing trees shall have a minimum dimension of five feet and a minimum area of 30 square feet for each tree, with a minimum depth of 3 feet, 6 inches. Trees, shrubs or groundcovers may be combined in a single planting bed only if such bed meets the minimum depth required for the largest plant.

Retaining walls are permitted along the perimeter of a planting bed in accordance with the regulations for planting areas in paragraph (a) of this Section.

(4) ~~Raised planting beds~~ Terraced planting area

~~A "raised planting bed" is a planting area with retaining walls along more than 60 percent of its perimeter or a height along any portion greater than 18 inches. A raised planting bed shall comply with the dimensional standards for a planting bed except that the height from the adjacent grade to the top of the retaining wall of a raised planting bed shall be a maximum of 36 inches.~~

A "terraced planting area" is a planting area with two or more planting beds incorporating retaining walls on a slope with a grade change greater than or equal

to three feet. A terraced planting area shall comply with the dimensional standards for a planting bed except that the average depth of the individual planting beds between the two retaining walls shall not be less than three feet, as measured perpendicular to the edge of the retaining wall. In addition, for retaining walls between two or more planting beds, their height may exceed three feet, provided that the front of such retaining walls is screened by plant material.

(5) Berms

A "berm" is a planting area with sloped grade stabilized primarily by plant materials rather than retaining walls or other similar built structures. A berm shall comply with the dimensional standards for a planting bed except that the height ~~from the adjacent grade to the top~~ of the berm shall not exceed ~~60 inches~~ the #flood-resistant construction elevation# on the #zoning lot#, or five feet above the lowest adjoining grade of the #waterfront yard# established pursuant to Section 62-332 (Rear yards and waterfront yards), whichever is higher.

* * *

(8) Tidal wetland area

A #tidal wetland area# may satisfy up to 30 percent of the required planting area for #waterfront public access areas#.

* * *

62-80
SPECIAL REVIEW PROVISIONS

* * *

62-81
Certifications by the Chairperson of the City Planning Commission

* * *

62-811
Waterfront public access and visual corridors

No excavation or building permit shall be issued for any #development# on a #waterfront block#, or any other #block# included within a Waterfront Access Plan, until the Chairperson of the City Planning Commission certifies to the Department of Buildings or Department of Business Services, as applicable, that:

(a) there is no #waterfront public access area# or #visual corridor# requirement for the #zoning lot# containing such #development# due to the following:

(1) the #development# is exempt pursuant to Sections 62-52 (Applicability of Waterfront Public Access Area Requirements) or 62-51 (Applicability of Visual Corridor Requirements); or

(2) the #waterfront public access area# or #visual corridor# requirement has been waived pursuant to Section 62-90 (WATERFRONT ACCESS PLANS);

(b) a site plan and all other applicable documents ~~has~~ have been submitted showing compliance with the provisions of Sections 62-332 (Rear yards and waterfront yards), 62-50 (GENERAL REQUIREMENTS FOR VISUAL CORRIDORS AND WATERFRONT PUBLIC ACCESS AREAS), and 62-60 (DESIGN REQUIREMENTS FOR WATERFRONT PUBLIC ACCESS AREAS);

* * *

Chapter 4
Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones

64-00
GENERAL PURPOSES

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

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

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

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

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

~~(d) to expedite the recovery of neighborhoods that experienced a high concentration of damage to single- and two-family residences from Hurricane Sandy within the Neighborhood Recovery Areas specified in Appendix A of this Chapter; and~~

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

64-10
GENERAL PROVISIONS

[Note: Existing text to be deleted]

~~The provisions of this Chapter shall be in effect until one year after the adoption by the City of New York of new final Flood Insurance Rate Maps superseding the Flood Insurance Rate Maps in effect on October 28, 2012.~~

64-11
Definitions

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

~~Basement~~

[Note: Existing text to be deleted]

~~For #buildings#, or portions thereof, that comply with #flood-resistant construction standards#, a "basement" is a #story# (or portion of a #story#) partly below #flood-resistant construction~~

~~elevation#, with at least one-half of its height (measured from floor to ceiling) above #flood-resistant construction elevation#.~~

~~Cellar~~

[Note: Existing text to be deleted]

~~For #buildings#, or portions thereof, that comply with #flood-resistant construction standards#, a #cellar# is a space wholly or partly below the #flood-resistant construction elevation#, with more than one-half its height (measured from floor to ceiling) below the #flood-resistant construction elevation#.~~

Cottage envelope building

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

(a) such #single-# or #two-family detached residence# complies with Section 64-333 (Height and setback regulations for cottage envelope buildings); and

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

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

(i) less than that required under the provisions of Section 23-32 (Minimum Lot Area or Lot Width for Residences) in R1, R2, R3-1, R3-2, R3X, R4, R4A, R5, and R5A Districts; or

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

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

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

First story above the flood elevation

[Note: Text substituted "Lowest occupiable floor"]

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

Flood map

[Note: Text moved from Section 12-10 and modified]

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

Flood-resistant building

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

Flood-resistant construction elevation

~~The "flood-resistant construction elevation" is the greater of:~~

~~(a) the "design flood elevation" determined pursuant to Appendix G of the New York City Building Code for a building's structural occupancy category; or~~

~~(b) the base flood elevation indicated on the #flood maps#, plus the additional elevation required above base flood elevation for the applicable occupancy category when determining the Design Flood Elevation pursuant to Appendix G of the Building Code.~~

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

Flood-resistant construction standards

~~"Flood-resistant construction standards" shall:~~

~~(a) comply with the standards of Appendix G of the Building Code for "Post-FIRM Construction," whether construction voluntarily complies with standards for "Post-FIRM Construction" or is required to comply; and~~

~~(b) utilize the higher base flood elevation and the more stringent flood hazard area designation, as applicable, of the #flood maps# or the Flood Insurance Rate Maps in effect on October 28, 2012.~~

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

High-risk flood zone

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

~~Hurricane Sandy~~

~~"Hurricane Sandy" a severe storm that occurred on October 28, 2012, causing heavy flooding, power outages, property damage, and disruption of public transportation and other vital services.~~

~~Lowest occupiable floor~~

[Note: Existing text is deleted and substituted by "First story above the flood elevation"]

~~The "lowest occupiable floor" shall be the finished floor level of the lowest floor that is not used solely for parking, storage, building access or crawl space, where any space below such #lowest occupiable floor# is wet flood-proofed in accordance with #flood-resistant construction standards# and used only for parking, storage or building access, or otherwise is not occupiable space.~~

Lowest usable floor

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

Moderate-risk flood zone

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

~~Predominant or predominantly~~

[Note: Existing text to be deleted]

~~"Predominant" or "predominantly" shall mean that a #use# or a group of #uses# comprises at least 75 percent of the total #floor area# of the #building# or of the area of the #zoning lot#, as applicable.~~

Reference plane

The “reference plane” is a horizontal plane from which the height and setback regulations governing a #building or other structure# may be measured, in accordance with certain provisions of this Chapter. The #reference plane# shall be located at or below the #first story above flood elevation#, as applicable.

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

For #zoning lots# located wholly or partially within the #moderate-risk flood zone#, the #reference plane# may be established at any level between the #flood-resistant construction elevation# and a height of five feet above the #base plane# or #curb level#, as applicable.

64-12
Applicability

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

[Note: Existing text in this Section is re-written below]

~~(a) Except where otherwise stated, all #buildings#, or portions thereof, shall comply with #flood-resistant construction standards# as a condition of construction pursuant to the following optional provisions, as applicable, inclusive:~~

~~Section 64-10 GENERAL PROVISIONS~~

~~Section 64-20 SPECIAL USE REGULATIONS~~

~~Section 64-30 SPECIAL BULK REGULATIONS~~

~~Section 64-40 SPECIAL BULK REGULATIONS FOR BUILDINGS EXISTING ON OCTOBER 28, 2012~~

~~Section 64-50 SPECIAL PARKING REGULATIONS~~

~~Section 64-70 SPECIAL REGULATIONS FOR NON-CONFORMING USES AND NON-COMPLYING BUILDINGS~~

~~Section 64-80 MODIFICATION OF SPECIAL REGULATIONS APPLYING IN WATERFRONT AREAS~~

~~Section 64-90 SPECIAL APPROVALS~~

~~(b) The provisions of Section 64-60 (DESIGN REQUIREMENTS) shall apply to all #developments#, all horizontal #enlargements# with new #street walls#, or alterations that increase the height of #street walls#, except that Section 64-65 (Screening Requirements for Parking Within or Below Buildings) shall apply to all #buildings# as provided therein.~~

~~(c) Where a #zoning lot# is located partially within a #flood zone#, the regulations of this Chapter shall apply where any portion of a #building# on such #zoning lot# is within such #flood zone#.~~

~~(d) In Neighborhood Recovery Areas, shown on maps in Section 64-A80 (NEIGHBORHOOD RECOVERY AREA MAPS) of this Chapter, optional provisions to expedite the vertical elevation or reconstruction of #single-# or #two-family residences# shall apply. These provisions are set forth in Appendix A and shall supplement, supersede or modify the provisions of this Chapter. The maps are hereby incorporated and made part of this Resolution, for the purpose of specifying locations where special regulations and requirements set forth in the text of this Chapter may apply.~~

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

The provisions of Sections 64-21 (Special Use Regulations for All Buildings), 64-31 (Special Bulk Regulations for All Buildings) and 64-41 (Special Parking Regulations for All Buildings), inclusive, may be applied to all #zoning lots#, regardless of whether #buildings or other structures# on such #zoning lots# comply with #flood-resistant construction standards#.

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

The provisions of Sections 64-22 (Special Use Regulations for Flood-resistant Buildings), 64-32 (Special Bulk Regulations for Flood-resistant Buildings), 64-42 (Special Parking Regulations for Flood-resistant Buildings), and 64-60 (SPECIAL REGULATIONS FOR NON-CONFORMING USES AND NON-COMPLYING BUILDINGS), inclusive, may be applied only to #zoning lots# containing #flood-resistant buildings#, including #cottage envelope buildings#, as applicable, and Section 64-33 (Special Bulk Regulations for Cottage Envelope Buildings) may additionally be applied exclusively to #zoning lots# containing #cottage envelope buildings#. Where such provisions are utilized, the provisions of Section 64-50 (STREETSCAPE REGULATIONS), inclusive, shall apply.

(c) For portions of #buildings#

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

(1) the provisions of Section 64-311 (Special floor area modifications for all buildings) and 64-313 (Special height and setback regulations for all buildings) may be applied to portions of #buildings#, regardless of whether such portions comply with #flood-resistant construction standards#;

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

64-13
Applicability of District Regulations

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

~~**64-131**~~
~~**Measurement of height**~~

[Note: Existing text to be deleted and replaced by Sections 64-221 and 64-321]

~~All measurements of height above #curb level#, #base plane#, #base flood elevation#, grade, or other similar ground related datum, shall be from the #flood-resistant construction elevation#. This provision shall not apply to #buildings# that are #accessory# to #single-# or #two-family residences#, or to fences, #signs# not affixed to #buildings#, or other structures that are not #buildings#.~~

~~In R3, R4A and R4-1 Districts within #lower density growth management areas#, the maximum perimeter wall height shall be 21 feet above the #flood-resistant construction elevation# or 26 feet above grade, whichever is greater.~~

~~Where different #flood-resistant construction elevations# apply to different portions of a #building#, the highest of such #flood-resistant construction elevations# may apply to the entire #building#.~~

~~For #buildings# located partially within and partially outside of the #flood zone#, all measurements of height shall be in accordance with only one of the following provisions:~~

~~(a) the #flood-resistant construction elevation# shall apply to the entire #building#;~~

~~(b) the height of the portion of the #building# within the #flood zone# shall be measured from the #flood-resistant construction elevation#, and the height of the portion of the #building# outside of the #flood zone# shall be measured from an elevation determined in accordance with the underlying applicable regulations; or~~

~~(c) the elevation of each such portion of the #building# from where height is measured shall be multiplied by the percentage of the total #lot coverage# of the #building# to which such elevation applies. The sum of the products thus obtained shall be the elevation from which the height of the entire #building is measured.~~

64-20
SPECIAL USE REGULATIONS

The provisions of this Section, inclusive, are optional, and may be applied to all #zoning lots# located wholly or partially within #flood zones#.

The provisions of Section 64-21 (Special Use Regulations for All Buildings), inclusive, may be applied to all #zoning lots# regardless of whether #buildings or other structures# on such #zoning lots# comply with #flood-resistant construction standards#.

The provisions of Section 64-22 (Special Use Regulations for Flood-resistant Buildings), inclusive, may be applied to #zoning lots# containing #flood-resistant buildings#, including #cottage envelope buildings#.

64-21
~~**Ground Floor Use**~~
Special Use Regulations for All Buildings

[Note: Existing text moved to Section 64-222 and modified]

~~(a) In all districts, where compliance with the elevation and wet flood-proofing requirements of Appendix G of the New York City Building Code would result in a #lowest occupiable floor# that is above a level required by the Zoning Resolution without the relief provided by this Section, such requirements shall be modified so that the level of such ground floor shall be the lowest level permitted for #uses# other than parking, storage and building access as if it were "Post-FIRM Construction," as defined by Appendix G of the Building Code, using elevation and wet flood-proofing techniques.~~

~~(b) In C1, C2 and C4 Districts in the Borough of Staten Island, where #flood-resistant construction elevation# is more than 10 feet above #curb level#, the provisions of Section 32-433 (Ground floor use in C1, C2 and C4 Districts in the Borough of Staten Island) shall be modified to allow enclosed parking spaces, or parking spaces covered by a #building#, including such spaces #accessory# to #residences#, on the ground floor within 30 feet of the #street wall# of the #building#, provided that the standards of Section 64-641 (Transparency requirements) are met.~~

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

64-211
Limitation on floors occupied by commercial uses

C1 C2

In the districts indicated, the provisions of Section 32-421 (Limitation on floors occupied by commercial uses) may be modified to allow #commercial uses# listed in Use Group 6, 7, 8, 9 or 14 to occupy the lowest two #stories# of a #mixed building#, provided that such #mixed building# contains no #basement# or #cellar#. In addition, such #uses# listed in Use Group 6, 7, 8, 9 or 14 may occupy the same #story# occupied in whole or in part by #dwelling units#, provided that the #uses# are located in a portion of the #mixed building# that has a separate access to the street with no direct access to the #residential# portion of the #building# at any #story#.

64-22
~~**Transparency Requirements**~~
Special Use Regulations for Flood-resistant Buildings

[Note: Existing text to be deleted]

~~In all districts, as an alternative to #street wall# transparency regulations, the following optional provisions may apply, except where #buildings# are governed by the provisions of Section 64-64 (Design Requirements for Non-residential and Mixed Buildings in Commercial and Manufacturing Districts).~~

~~#Street walls# shall be glazed with transparent materials which may include #show windows#, transom windows or glazed portions of doors. Such transparent glazing materials shall occupy at least 50 percent of the surface area of such #street wall#, measured between the level of the first finished floor above #curb level# and a height 12 feet above such level.~~

The provisions of this Section, inclusive, are optional and may be applied to #zoning lots# containing #flood-resistant buildings#, including #cottage envelope buildings#. For such #zoning

lots#, the underlying #use# regulations shall apply, except where permitted to be modified by the allowances of this Section, inclusive.

64-221
Measurement of height

In all districts, as an alternative to measuring heights from #base plane#, #curb level#, or other applicable datum, all height measurements in #flood zones# may be measured from the #reference plane#. However, this provision shall not apply to #signs# not affixed to #buildings or other structures#.

64-222
Ground floor use

[Note: Text moved from Section 64-21 and modified]

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

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

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

64-30
SPECIAL BULK REGULATIONS

The provisions of this Section, inclusive, are optional, and may be applied to all #zoning lots# located wholly or partially within #flood zones#.

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

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

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

64-31
~~**Special Floor Area Regulations**~~
Special Bulk Regulations for All Buildings

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

64-311
~~**Entryways in single- and two-family residences**~~
Special floor area modifications for all buildings

[Note: Existing text is deleted and substituted by Section 64-322 (c)]

~~For #single-# and #two-family residences# with enclosed entryways below #flood-resistant construction elevation#, up to 10 square feet of such entryway may be excluded from the definition of #floor area# for each foot of difference between the #lowest occupiable floor# and #curb level#. This area may be excluded from the definition of #floor area# provided it is not greater than the total area of ramps, stairs, lifts and elevators between grade and the first finished floor, plus an initial entry area of no more than 12 square feet.~~

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

(a) Mechanical equipment

[Note: Existing text moved from Section 64-313]

In R1-2A, R2A, R2X, R3, R4 or R5 Districts, the limitations on exempting #floor area# for mechanical equipment set forth in paragraphs (m) and (8) in the definition of #floor area# in Section 12-10 (DEFINITIONS), shall not apply, provided that all mechanical equipment is located at or above the #flood-resistant construction elevation#.

(b) Flood control devices

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

(c) Buildings containing non-#residential uses#

In #Commercial# and #Manufacturing Districts#, where the permitted #commercial# or #manufacturing floor area ratio# is 1.0 or less, up to 500 square feet of floor space may be excluded from the definition of #floor area#, provided that:

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

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

64-312
~~**Entryways in all other buildings**~~
Permitted obstructions in required yards, courts, and open spaces for all zoning lots

[Note: Existing text moved to Section 64-322(a) and modified]

~~For all #buildings# other than #single-# and #two-family residences#, with enclosed publicly accessible entryways below #flood-resistant construction elevation#, up to 100 square feet of such entryways may be excluded from the definition of #floor area# for each foot of difference between the #lowest occupiable floor# and #curb level#. This area may be excluded from the definition of #floor area# provided it is not greater than the total area at each publicly accessible entryway of~~

~~ramps, stairs, lifts and elevators plus an initial entry area of no more than 100 square feet for each entryway.~~

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

(a) Mechanical equipment

[Note: Text moved from Section 64-421 and modified]

In all districts, the underlying allowances for power systems as permitted obstructions in any #open space#, #yard#, #rear yard equivalent#, or #court#, may be expanded to include all #accessory# mechanical equipment, provided that:

(1) all equipment shall be subject to the following enclosure and screening requirements, as applicable:

(i) all power system equipment shall be enclosed within a #building or other structure#, or screened, as applicable, pursuant to the requirements set forth in the applicable underlying district allowances;

(ii) all other types of equipment, including all mechanical, electrical and plumbing equipment, shall be completely enclosed within a #building or other structure#, except as necessary for mechanical ventilation; and

(2) the size and location of all #accessory# mechanical equipment, including all screening and enclosures containing such equipment, shall not exceed the size limitations specified in the underlying allowances, except that, where such equipment is elevated above the #flood-resistant construction elevation#, the permitted size and location of such #accessory# mechanical equipment may be modified as follows:

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

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

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

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

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

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

(3) such #building or other structure# complies with one point of the streetscape mitigations set forth in Section 64-52 (Ground floor level mitigation options); and

(iii) the maximum area that such equipment may occupy within a required #side yard#, #rear yard# or #rear yard equivalent#, or any #court# containing

#legally required windows# need not apply where the height of such obstructions do not exceed the applicable underlying height allowances, as modified by the provisions of paragraph (a)(2)(ii)(a) of this Section.

(b) Berms

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

(c) Flood control devices

[Note: Text moved from Section 64-323 and modified]

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

(d) Steps

In all #Residence Districts#, the provisions of paragraph (a)(17) of Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents) shall be modified to allow steps within a required #yard# or #rear yard equivalent#, provided that such steps access any #story# located at or below the #first story above the flood elevation#.

64-313
~~**Mechanical systems in low density districts**~~
Special height and setback regulations for all buildings

[Note: Existing text to be deleted and substituted by Section 64-311(a)]

~~Floor space used for #accessory# mechanical equipment in R1-2A, R2A, R2X, R3, R4 or R5 Districts may be excluded from the definition of #floor area# without the limitations provided in the definition of #floor area#, paragraphs (m) and (8) in Section 12-10 (DEFINITIONS).~~

[Note: Text moved from Section 64-331 and modified]

The regulations for permitted obstructions to applicable height and setback regulations shall be modified in accordance with the provisions of this Section.

(a) Bulkheads and mechanical equipment in low-density #Residence Districts#

In R3-2, R4, and R5 Districts, except R4-1, R4A, R4B and R5A Districts, for #buildings# other than #single-# and #two-family residences#, the underlying permitted obstructions regulations governing elevator or stair bulkheads (including shafts, and vestibules not larger than 60 square feet in area providing access to a roof), roof water tanks, and #accessory# mechanical equipment, other than solar or wind energy systems, may be modified as follows:

(1) In R3-2 and R4 Districts, for #buildings#, or portions thereof, subject to the provisions of Article II, Chapter 3, the provisions of Section 23-621 (Permitted obstructions in certain districts) shall be modified to permit such obstructions, provided that:

(i) such obstructions shall be located not less than 10 feet from the #street wall# of a #building#;

(ii) all mechanical equipment shall be screened on all sides;

(iii) the #lot coverage# of all such obstructions and such screening shall not exceed 250 square feet or 10 percent of the #lot coverage# of the #building#, whichever is greater; and

(iv) such obstructions are limited to a height of 15 feet above the maximum height of perimeter walls;

(2) In R3-2 and R4 Districts, for #buildings#, or portions thereof, subject to the provisions of Article II, Chapter 4, the provisions of paragraph (f) of Section 24-51 (Permitted Obstructions) shall apply, except that the maximum #lot coverage# may be increased from 20 percent to 30 percent of the #lot coverage# of the #building#, provided that such obstructions are limited to a maximum height of 25 feet;

(3) In R5 Districts, the provisions of paragraph (g) of Section 23-62 (Permitted Obstructions), and paragraph (f) of Section 24-51 shall apply, as applicable, except that the maximum #lot coverage# may be increased from 20 percent to 30 percent of the #lot coverage# of the #building#, provided that such obstructions are limited to a maximum height of 25 feet.

(b) Bulkheads and mechanical equipment in medium- and high-density #Residence Districts#, and #Commercial# and #Manufacturing Districts#

[Note: Text moved from Section 64-332 and modified]

In R6 through R10 Districts, and in all #Commercial# and #Manufacturing Districts#, the underlying permitted obstructions regulations of paragraph (g) of Section 23-62, paragraph (f) of Section 24-51, paragraph (f) of Section 33-42, or paragraph (e) of Section 43-42, as applicable, governing elevator or stair bulkheads (including shafts, and vestibules not larger than 60 square feet in area providing access to a roof), roof water tanks, and #accessory# mechanical equipment, other than solar or wind energy systems, may be modified as follows:

(1) where the maximum permitted height of a #building#, or portion thereof is less than 120 feet:

(i) the maximum #lot coverage# may be increased from 20 percent to 30 percent of the #lot coverage# of the #building#, provided that such obstructions are limited to a maximum height of 25 feet; or

(ii) the maximum permitted height of such volume may be increased from 25 feet to 33 feet, provided that the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage of the #building#;

(2) where the maximum permitted height of a #building#, or portion thereof is 120 feet or greater:

(i) the maximum #lot coverage# may be increased from 20 percent to a maximum #lot coverage# of 30 percent of the #lot coverage# of the #building#, provided that such obstructions are limited to a maximum height of 40 feet; or

(ii) the maximum permitted height of such volume may be increased from 40 feet to 55 feet, provided that the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage of the #building#.

(c) Dormers

For #Quality Housing buildings#, or portions thereof, as an alternative to the provisions of paragraph (c) of Section 23-621, dormers may be a permitted obstruction within a required front setback distance above a maximum base height, provided that the aggregate width of all dormers at the maximum base height does not exceed 40 percent of the width of the #street wall# of the highest #story# entirely below the maximum base height. Such dormers need not decrease in width as the height above the maximum base height increases.

64-32
~~**Special Yard Regulations**~~
Special Bulk Regulations for Flood-resistant Buildings

[Note: Existing text to be deleted]

~~The provisions of this Section shall apply without requiring a #building# to comply with #flood-resistant construction standards# as established in paragraph (a) of Section 64-12 (Applicability).~~

The provisions of this Section, inclusive, are optional, and may apply to #zoning lots# containing #flood-resistant buildings#, including #cottage envelope buildings#. For such #zoning lots#, the underlying #bulk# regulations shall apply, except where permitted to be modified by the allowances of this Section, inclusive.

64-321
~~**Level of required yards**~~
Measurement of height for flood-resistant buildings

[Note: Existing text moved to Section 64-323(a) and modified]

~~Underlying #yard# regulations shall be modified to allow #yards# to be higher than #curb level# but in no event higher than #flood-resistant construction elevation#. In addition, the following regulations shall apply:~~

~~(a) in #Residence Districts# and C1 through C6 Districts, #yards# higher than #curb level# shall comply with the following standards:~~

~~(1) final grade shall not penetrate a plane that begins 30 inches above #curb level# at each #lot line# and has a slope extending perpendicular to #lot lines# of one foot vertical for each 2.5 feet horizontal;~~

~~(2) retaining walls shall be permitted above #curb level# in #yards# provided the maximum height of each wall above adjacent grade does not exceed 30 inches; and~~

~~(3) in #front yards# in Residence Districts, portions of fences greater than four feet above #curb level# shall be required to be no more than 50 percent opaque; and~~

~~(b) in C7 and C8 Districts and in #Manufacturing Districts#, #yards# shall be permitted to a maximum grade equal to #flood-resistant construction elevation#. However, for portions of #zoning lots# where Sections 33-29 and 43-30 (SPECIAL PROVISIONS APPLYING ALONG DISTRICT BOUNDARIES) apply, #yards# are permitted above #curb level# only pursuant to paragraph (a) of this Section.~~

~~Nothing in this Section shall be construed so as to permit the creation of spaces sub-grade on all sides in a manner inconsistent with Appendix G of the Building Code.~~

[Note: Text to replace Sections 64-131, 64-334, 64-335 and 64-336]

In all districts, as an alternative to measuring heights from #base plane#, #curb level#, or other applicable datum, all height measurements in #flood zones# may be measured from the #reference plane#, except as follows:

(a) for #Quality Housing Buildings#, any minimum base height requirements shall continue to be measured from the #base plane#; and

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

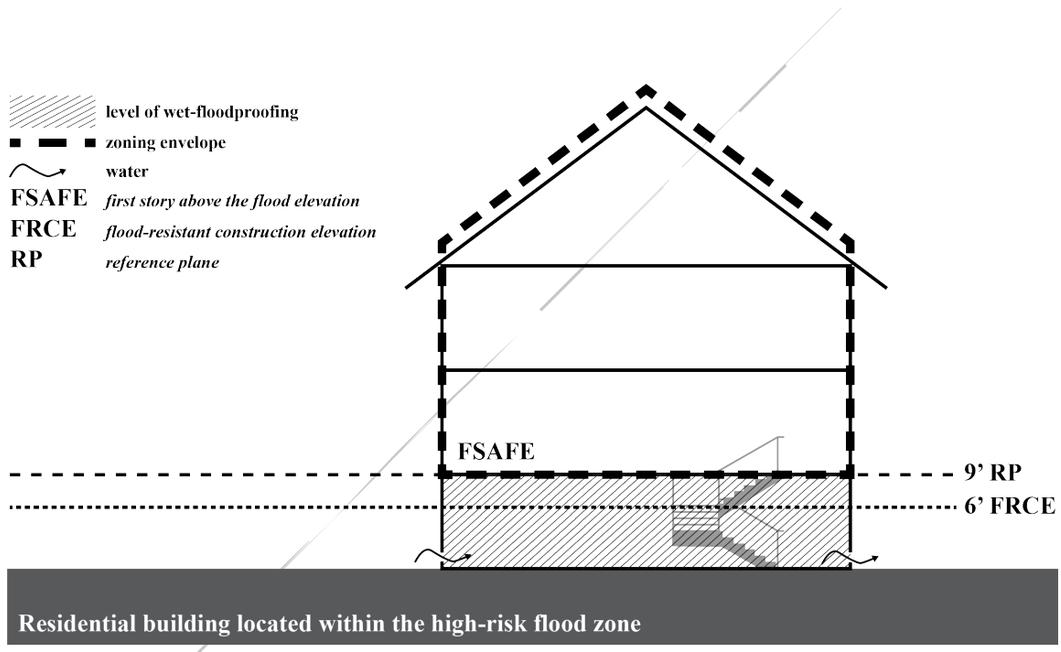
(1) to fences or other structures that are not #buildings#; and

(2) to #buildings# that are #accessory# to #single-# or #two-family residences#, except when mechanical equipment is located within such #building#.

Illustrative Examples

The following examples, although not part of the Zoning Resolution, are included to demonstrate the application of the optional height regulations available to #zoning lots# in #flood zones#. Specially, the examples illustrate how the defined terms #reference plane#, from which height is measured, relates to the #flood-resistant construction elevation# and the #first story above the flood elevation#. All terms are defined in Section 64-11 (Definitions).

EXAMPLE 1



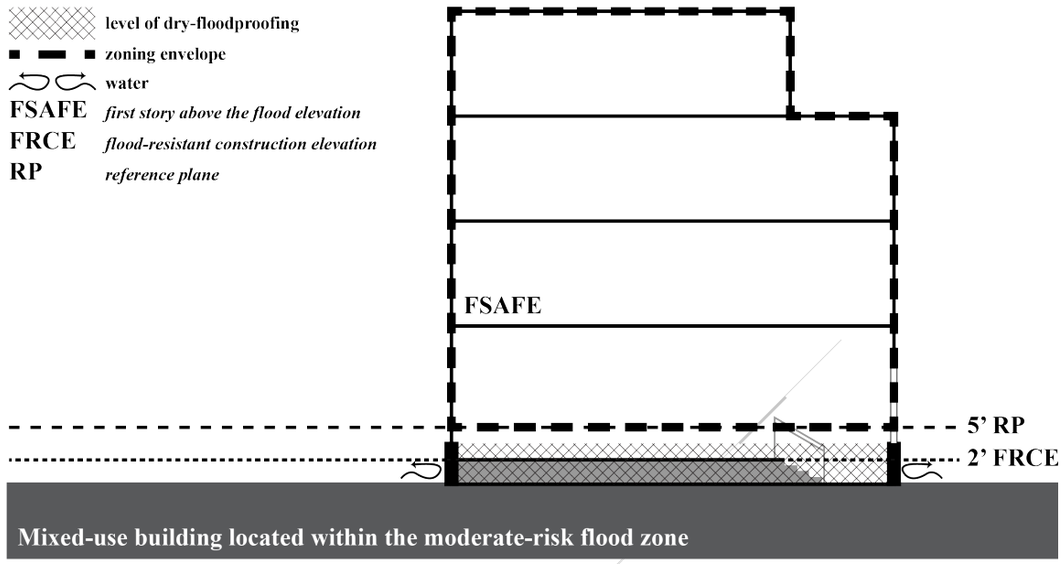
A #zoning lot# located within the #high-risk flood zone# has a #flood-resistant construction elevation# (as defined in Section 64-11) that equates to being located six feet above grade (for illustrative purposes). The owner of a #single-family detached residence# would like to elevate the first habitable floor three feet above the #flood-resistant construction elevation# and wet-floodproof the ground floor up to that same level (nine feet above grade) to account for sea level rise projections.

Pursuant to Section 64-321, height measurements in #flood zones#, including height and setback regulations, may start from the #reference plane#, allowing the owner the necessary flexibility to address long-term climate change. For #zoning lots# located within the #high-risk flood zone#, the #reference plane#, may be established at any level between the #flood-resistant construction elevation# and a height of 10 feet above the #base plane# or #curb level#, as applicable. (Where the #flood-resistant construction elevation# exceeds 10 feet, the #reference plane# may still be established at the #flood-resistant construction elevation#, but that is not the case here.) While there is a level of flexibility built into the #reference plane# definition, the #reference plane# itself must also be located at or below the #first story above flood elevation#.

Considering the owner of such #single-family detached residence# is proposing to wet-floodproof the ground floor up to nine feet above grade, the #first story above flood elevation# becomes the finished floor level of the first #story# located at or above nine feet, which is, in this case, the second #story#. Therefore, the #reference

plane# was able to be situated at that same level (nine feet above grade), but not higher.

EXAMPLE 2



A #zoning lot# located within the #moderate-risk flood zone# has a #flood-resistant construction elevation# (as defined in Section 64-11) of two feet above the lowest grade adjacent to the #building or other structure#. The owner of a #mixed building# that was flooded during Hurricane Sandy, would like to proactively comply with #flood-resistant construction standards# to be better prepared in the event of a future storm. To realize that, the owner decided to elevate the ground floor with a #commercial use# to the #flood-resistant construction elevation#, and dry-floodproof one foot above that for extra safety.

Pursuant to Section 64-321, height measurements in #flood zones#, including height and setback regulations, may start from the #reference plane#, allowing the owner the necessary flexibility to address long-term climate change. For #zoning lots# located within the #moderate-risk flood zone#, the #reference plane# may be established at any level between the #flood-resistant construction elevation# and a height of five feet above the #base plane# or #curb level#, as applicable. While there is a level of flexibility built within the #reference plane# definition, the #reference plane# must also be located at or below the #first story above flood elevation#.

Considering that the owner of such #mixed building# is proposing to elevate and dry-floodproof the ground floor up to three feet above grade, the #first story above flood elevation# becomes the finished floor level of the first #story# located at or above three feet, which is, in this case, the second #story#. Therefore, the #reference plane# was able to be situated at five feet above the #base plane# or #curb level#, as applicable.

64-322
~~**Permitted obstructions in required yards, courts and open spaces**~~
Special floor area modifications for flood-resistant buildings

[Note: Existing paragraph (a) is modified in paragraph (b) of Section 64-323]
[Note: Existing paragraph (b) is substituted by Sections 23-12(j), and 23-44(a)(16)]
[Note: Existing paragraph (c) moved to Section 64-312(a) and modified]

~~(a) For #single-# and #two-family residences#, where #flood-resistant construction elevation# is five feet or more above #curb level#, roofed porches shall be permitted obstructions in any #open space# required on the #zoning lot# and in #yards#. Balconies for such #residences# may exceed the width and depth standards of Section 23-13 where such balconies are located directly above a porch.~~

~~(b) For #single-# and #two-family residences#, lifts for persons with disabilities shall be permitted obstructions in any #open space# required on the #zoning lot# and in #courts#, #yards# and #rear yard equivalents#, provided that in #front yards#, such lifts are unenclosed.~~

~~(c) For all #buildings#, except #single-# and #two-family residences#, #accessory# mechanical equipment shall be a permitted obstruction in #rear yards# and #rear yard equivalents#, provided that such equipment is:~~

~~(1) located above #flood-resistant construction elevation#;~~

~~(2) enclosed within a #building#, or portion thereof, or within a #structure# that provides screening of such mechanical equipment on all sides by walls consisting of at least 50 percent opaque materials;~~

~~(3) in R3, R4 or R5 Districts, limited to a height of 10 feet above #flood-resistant construction elevation#, including the apex of a pitched roof;~~

~~(4) in R6, R7, R8, R9 or R10 Districts, limited to a height of 14 feet above #flood-resistant construction elevation#; or~~

~~(5) in #Commercial# or #Manufacturing Districts#, limited to a height of 23 feet above #flood-resistant construction elevation#.~~

~~#Accessory# mechanical equipment located in #rear yards# or #rear yard equivalents# and meeting the standards of this Section shall be a permitted obstruction in any #open space# required on the #zoning lot#, provided that the total area occupied by a #building# used for both enclosed parking and such mechanical equipment does not exceed 20 percent of the total required #open space# on the #zoning lot#.~~

~~Decks, parapet walls, roof thickness, skylights, vegetated roofs, and weirs, as set forth in Section 23-62 (Permitted Obstructions), and solar energy systems, limited to 18 inches in height, as measured perpendicular to the roof surface, shall be permitted upon the roof of such #accessory building# within the #rear yard# or #rear yard equivalent#.~~

For all #flood-resistant buildings#, the definition of #floor area# may be modified in accordance with the provisions of this Section.

(a) Entryways

[Note: Text moved from Section 64-312 and modified]

In all districts, for #buildings# other than #residential buildings# with enclosed entryways below the #first story above the flood elevation#, up to 100 square feet of such entryways may be excluded from the definition of #floor area# for each foot of difference between the #first story above the flood elevation# and the level of the adjoining sidewalk, provided such floor space complies with the #flood-resistant construction standards# for dry-flood-proofing up to the #flood-resistant construction elevation# or higher. However, no more than a maximum of 500 square feet may be excluded from the definition of #floor area# for each entryway.

(b) Modifications to attic allowances for #residential buildings#

In R2X, R3, R4, R4A, and R4-1 Districts outside of #lower density growth management areas#, the provisions of paragraph (a) of Section 23-142 (Open space and floor area regulations in R1 and R2 Districts with a letter suffix and R3 through R5 Districts) shall be

modified to allow the #floor area ratio# set forth in the table of such Section to be exceeded by 20 percent provided that any such increase in #floor area# is located in any portion of a #building# covered by a sloping roof that rises at least three and one-half inches in vertical distance for each foot of horizontal distance.

(c) Flood-proofed ground floors

[Note: Text moved from Section 64-411 and modified]

(1) In all #Commercial Districts# and for M1 Districts paired with #Residence Districts#, for #buildings# along #primary street frontages#, or portions thereof, as defined in Section 37-311, floor space located below the #first story above flood elevation# and within 30 feet of the #street wall# may be excluded from the calculation of #floor area#, provided that:

(i) such floor space complies with the #flood-resistant construction standards# for dry-flood-proofing up to the #flood-resistant construction elevation# or higher;

(ii) the level of the finished floor of such floor space is located no more than two feet above nor two feet below #curb level#;

(iii) such floor space shall be limited to #non-residential uses# and subject to the minimum depth requirements set forth in Section 37-32 (Ground Floor Depth Requirements for Certain Uses);

(iv) #ground floor level street walls# shall be glazed in accordance with the provisions set forth in Section 37-34 (Minimum Transparency Requirements); and

(v) for #developments#, the level of the #first story above flood elevation# is 13 feet or more above the level of the adjoining sidewalk.

(2) In all districts, floor space located below the #first story above flood elevation# may be excluded from the calculation of #floor area# provided such floor space complies with the #flood-resistant construction standards# for wet-flood-proofing up to the #flood-resistant construction elevation# or higher.

(d) #Floor area# for existing #buildings#

For #zoning lots# containing #buildings# existing prior to [date of adoption], as an alternative to the #floor area# regulations of this Chapter, the amount of #floor area# allocated to a #basement# or #cellar# in such existing #building# may be determined in accordance with how those terms were defined prior to [date of adoption].

64-323

~~**Flood panels in required yards and open space**~~

Special regulations for required yards and open spaces for zoning lots with flood-resistant buildings

[Note: Existing text moved to Section 64-312(c) and modified]

~~Temporary flood control devices and associated emergency egress systems that are assembled prior to a storm and removed thereafter shall be permitted obstructions in #yards# and #rear yard equivalents#, #courts#, #open space#, #waterfront yards# as defined in Article VI, Chapter 2, #public plazas# and all other publicly accessible open areas during such storm event and for a reasonable period prior to and after such storm event, as determined by the Department of Buildings.~~

For all #zoning lots# with #flood-resistant buildings#, the regulations for #yards# and #open space# shall be modified in accordance with the provisions of this Section.

(a) Level of required yards

[Note: Text moved from Section 64-321 and modified]

In all districts, the underlying #yard# regulations shall be modified to allow the level of a #yard# or a #rear yard equivalent# to be located higher than #curb level#, provided that it does not exceed the #flood-resistant construction elevation#, and the level set forth by the following regulations:

(1) in #Residence Districts#, the final grade of #front yards# and #side yards# shall not penetrate a plane that begins three feet above #curb level# at each #lot line# and has a slope extending perpendicular to #lot lines# of one foot vertical for each 2 feet 6 inches of horizontal distance;

(2) in #Commercial# and in #Manufacturing Districts#, for portions of #zoning lots# where Sections 33-29 and 43-30 (SPECIAL PROVISIONS APPLYING ALONG DISTRICT BOUNDARIES) apply, the level of #front yards# and #side yards# may be permitted to exceed #curb level# only pursuant to paragraph (a)(1) of this Section.

Nothing in this Section shall be construed so as to permit the creation of spaces below grade on all sides in a manner inconsistent with #flood-resistant construction standards#.

(b) Permitted obstructions

[Note: Text moved from Section 64-322 (a) and modified]

(1) Covered porches, balconies, and covered access areas

In all districts, a porch or access area covered by a roof or other permanent structure shall be permitted obstructions in any required #open space# or #yard# on the #zoning lot#. Where permanent structures such as balconies are located directly above a porch or access area, such balconies may exceed the width and depth standards of Section 23-13 (Balconies).

(2) Retaining walls

In #Residence Districts#, retaining walls shall be permitted in #front yards# and #side yards# provided any retaining wall parallel to, or within 15 degrees of being parallel to, the #street# shall not exceed a maximum height of three feet, as measured from the level of the adjoining grade or planted area below such wall, so that no more than three feet of such retaining wall is visible from the #street#; and

(3) Fences

In #Residence Districts#, portions of fences located in #front yards# with height greater than four feet above #curb level# shall be required to be no more than 50 percent opaque.

(c) Front yard planting requirement

[Note: Text moved from Section 64-422 and modified]

In R1 through R5 Districts, where the distance between the #street wall# and the #street line# is 10 feet or less, or for #zoning lots# with #front yards# that are shallower than the minimum required pursuant to the applicable district regulations, stairs, ramps or lifts that access the #first story above the flood elevation# shall be exempted from the area of a #front yard# for the purpose of calculating the planting requirements of Section 23-451 (Planting requirement).

64-324
Street wall location for flood-resistant buildings

[Note: Text to replace Section 64-333]

For all #buildings#, where the #street wall# location regulations of this Resolution require the #street wall# to be located within eight feet of the #street line#, such regulations may be modified to accommodate exterior stairs and ramps for access to the #building#, to comply with the requirements of Section 64-50 (Streetscape Regulations), or to provide temporary flood control devices and associated fixtures, as follows:

(a) no #street wall# need be located closer to the #street line# than eight feet;

(b) for #buildings# on #zoning lots# with a #lot width# greater than or equal to 50 feet, up to 50 percent of the #aggregate width of street walls# may be recessed beyond eight feet of the #street line#, provided that any such recesses deeper than 10 feet along a #wide street# or 15 feet along a #narrow street# are located within an #outer court# and the height of such recess shall not be less than the height of the first #story# located completely above the level of the adjoining grade; and

(c) for #buildings# on #zoning lots# with a #lot width# of less than 50 feet:

(1) for the first #story# above the #flood-resistant construction elevation#, or #reference plane#, as applicable, and any #street wall# below such first #story#, the #aggregate width of street wall# may be located anywhere; and

(2) for the remaining #aggregate width of street walls# above such #stories#, up to 50 percent of the #aggregate width of street walls# may be recessed beyond eight feet of the #street line#, provided that any such recesses deeper than 10 feet along a #wide street# or 15 feet along a #narrow street# are located within an #outer court#.

For all #buildings# where the aggregate width of exterior stairs, ramps, or elevated platforms in front of a #street wall# exceeds 70 percent or more along the ground floor of the #street wall#, such stairs, ramps, or elevated platforms shall be screened by living plant material or by the provisions of paragraph (b)(1) of Section 64-521 (Options available for all buildings).

64-33
~~**Special Height and Setback Regulations**~~
Special Bulk Regulations for Cottage Envelope Buildings

[Note: Text moved from Section 64-A30 and modified]

The provisions of this Section, inclusive, are optional, and may be applied to #zoning lots# with #cottage envelope buildings#. For such #zoning lots#, the underlying #bulk# regulations shall apply, except where permitted to be modified by the allowances of this Section, inclusive.

No #building# that utilizes the provisions of this Section shall subsequently be #enlarged# pursuant to Section 73-622 (Enlargements of single- and two-family detached and semi-detached residences).

64-331
~~**Permitted obstructions for multi-family buildings in R3-2 and R4 Districts**~~
Modifications to the attic allowance for cottage envelope buildings

[Note: Existing text moved to Section 64-313(a) and modified]

~~The provisions of this Section shall apply without requiring a #building# to comply with #flood-resistant construction standards# as established in paragraph (a) of Section 64-12 (Applicability).~~

~~In R3-2 and R4 Districts, for all #buildings#, or portions thereof, subject to Section 23-60 (HEIGHT AND SETBACK REGULATIONS), except #single-# and #two-family residences#, elevator or stair bulkheads (including shafts, and vestibules not larger than 60 square feet in area providing access to a roof), roof water tanks and #accessory# mechanical equipment (including enclosures), other than solar or wind energy systems, shall be considered permitted obstructions to height and setback regulations, provided that:~~

~~(a) such obstructions shall be located not less than 10 feet from the #street wall# of a #building#;~~

~~(b) all mechanical equipment shall be screened on all sides;~~

~~(c) the #lot coverage# of all such obstructions and screening does not exceed 250 square feet or 10 percent of the #lot coverage# of the #building#, whichever is greater; and~~

~~(d) such obstructions are limited to a height of 15 feet above the maximum height of perimeter walls.~~

[Note: Text moved from Section 64-A312 and modified]

R3 R4A R4-1

In #lower density growth management areas# in the districts indicated, the provisions of paragraph (b) of Section 23-142 (Open space and floor area regulations in R1 and R2 Districts with a letter suffix and R3 through R5 Districts) shall be modified to allow the #floor area ratio# set forth in the table of such Section to be exceeded by 20 percent, provided that any such increase in #floor area# is located in any portion of a #cottage envelope building# covered by a sloping roof that rises at least three and one-half inches in vertical distance for each foot of horizontal distance.

64-332
~~Permitted obstructions for buildings in medium and high density districts~~
Special regulations for required yards, courts and open spaces on zoning lots with cottage envelope buildings

[Note: Existing text moved to Section 64-313 (b) and modified]

~~The provisions of this Section shall apply without requiring a #building# to comply with #flood-resistant construction standards# as established in paragraph (a) of Section 64-12 (Applicability).~~

~~In R5 through R10 Districts, and in all #Commercial# and #Manufacturing Districts#, for all #buildings#, the underlying regulations governing permitted obstructions to height and setback shall be modified to increase the permitted volume for elevator or stair bulkheads (including shafts, and vestibules not larger than 60 square feet in area providing access to a roof), roof water tanks and #accessory# mechanical equipment (including enclosures), other than solar or wind energy systems, from a maximum #lot coverage# of 20 percent of the #lot coverage# of the #building# to a maximum #lot coverage# of 30 percent of the #lot coverage# of the #building#, provided that where the maximum permitted height of a #building# is less than 120 feet, such obstructions are limited to a maximum height of 25 feet, and where the maximum permitted height of a #building# is 120 feet or greater, such obstructions are limited to a maximum height of 40 feet.~~

R1 R2 R3 R4 R5

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

(a) Lot Coverage and Open Space

[Note: Text moved from Section 64-A311 and modified]

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

(b) Front Yards

[Note: Text to replace Section 64-A351]

For #buildings# that are utilizing the provisions of this paragraph, the provisions of paragraphs (b) and (c) of Section 23-45 (Minimum Required Front Yards) need not apply.

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

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

(c) Side Yards

[Note: Text moved from Section 64-A352 and modified]

The #side yard# provisions for the applicable district shall apply, except that the required total width of #side yards# for a #zoning lot# may be reduced by four inches for each foot by which the width of a #zoning lot# is less than the minimum widths set forth in the definition of #cottage envelope building# in Section 64-11 (Definitions). However, in no event shall the required width of a #side yard# be less than three feet.

In addition, for #buildings# utilizing the provisions of this paragraph, the provisions of paragraph (c) of Section 23-461 (Side yards for single- or two-family residences) need not apply, provided such open area does not serve as access or contain #accessory# off-street parking spaces serving existing #buildings# that remain on the #zoning lot#, or an adjoining #zoning lot#.

(d) Rear Yards

[Note Text moved from Section 64-A353 and modified]

(1) Where an #interior lot# is less than 95 feet deep at any point, the depth of a required #rear yard#, or portion thereof, for such #interior lot#, may be reduced by six inches for each foot by which the depth of a #zoning lot#, or portion thereof, is less than 95 feet. However, in no event shall the minimum depth of a #required rear yard#, or portion thereof, be reduced to less than 10 feet.

(2) Where a #through lot# is less than 180 feet deep at any point, the depth of a required #rear yard equivalent#, or portion thereof, for such #through lot#, may be reduced by one foot for each foot by which the depth of a #zoning lot#, or portion thereof, is less than 180 feet. However, in no event shall the minimum depth of a required #rear yard equivalent#, or portion thereof, be reduced to less than 20 feet.

(e) Corner Lots

[Note: Text moved from Section 64-A354 and modified]

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

64-333
~~**Street wall location in certain districts**~~
Height and setback regulations for cottage envelope buildings

[Note: Existing text to be replaced by Section 64-324]

~~The provisions of this Section shall apply without requiring a building to comply with flood-resistant construction standards as established in paragraph (a) of Section 64-12 (Applicability).~~

~~In all districts, where underlying street wall location regulations require the ground floor of a street wall to extend along the entire street frontage of a zoning lot and be located on the street line, such regulations are modified as follows:~~

~~(a) recesses, not to exceed five feet in depth from the street line, shall be permitted on the ground floor where required to provide access to the building; and~~

~~(b) up to 30 percent of the aggregate width of street walls may be recessed beyond the street line, provided any such recesses deeper than 10 feet along a wide street, or 15 feet along a narrow street, are located within an outer court. However, no recesses shall be permitted within 30 feet of the intersection of two street lines.~~

[Note: Text moved from Section 64-A36 and modified]

R1 R2 R3 R4 R5

In the districts indicated, all #cottage envelope buildings# shall be subject to the height and setback provisions set forth in paragraph (b) of Section 23-631 (General provisions), except that:

(a) the maximum height of a perimeter wall of a #cottage envelope building# before setback shall be 21 feet;

(b) the maximum height of a ridge line shall be 25 feet; and

(c) all heights may be measured from the #reference plane#.

In addition, the maximum number of #stories# in any #cottage envelope building# shall not exceed two #stories# above the #reference plane#. For the purposes of this Section, attic space providing structural headroom of less than eight feet shall not be considered a #story#.

~~**64-334**~~
~~**Alternative height measurement for single- and two-family residences**~~

[Note: Existing text to be deleted and substituted by Sections 64-221 and 64-321]

~~R1 R2 R3 R4 R5~~

~~In the districts indicated, as an alternative to Section 64-131 (Measurement of height), for #single-# and #two-family residences# where #flood-resistant construction elevation# is between six and nine feet above #curb level#, #building# height may be measured from a reference plane nine feet above #curb level#, provided that at least two mitigating elements are provided from the list in Section 64-61 (Design Requirements for Single- and Two-family Residences).~~

~~**64-335**~~
~~**Alternative height measurement for other buildings in Residence Districts**~~

[Note: Existing text to be deleted and substituted by Sections 64-221 and 64-321]

~~R1 R2 R3 R4 R5 R6 R7 R8 R9 R10~~

~~In the districts indicated, as an alternative to Section 64-131 (Measurement of height), for all #buildings# other than #single-# and #two-family residences#, where #flood-resistant construction elevation# is between five and 10 feet above #curb level#, #building# height may be measured from a reference plane 10 feet above #curb level#, and any minimum base height requirements may be measured from #curb level#. Where the provisions of this Section are utilized, the standards of Section 64-622 (Lobby or non-residential use) shall be met.~~

~~64-336~~
~~Alternative height measurement in Commercial and Manufacturing Districts~~

[Note: Existing text to be deleted and substituted by Sections 64-221 and 64-321]

~~C1 C2 C3 C4 C5 C6~~

~~(a) In the districts indicated, as an alternative to Section 64-131 (Measurement of height), for all #residential buildings# other than #single-# and #two-family residences#, where #flood-resistant construction elevation# is between five and 10 feet above #curb level#, #building# height may be measured from a reference plane 10 feet above #curb level#, and any minimum base height requirements may be measured from #curb level#. Where the provisions of this Section are utilized, the standards of Section 64-622 (Lobby or non-residential use) shall be met.~~

~~C1 C2 C3 C4 C5 C6 C7 C8 M1 M2 M3~~

~~(b) In the districts indicated, as an alternative to Section 64-131, for all #buildings# other than #residential buildings# and #buildings# containing #predominantly# Use Group 16, 17 or 18 #uses#, where #street walls# are within 50 feet of a #street line# and #flood-resistant construction elevation# is between five and 12 feet above #curb level#, #building# height may be measured from a reference plane 12 feet above #curb level#, and any minimum base height requirements may be measured from #curb level#. Where the provisions of this Section are utilized, the standards of Section 64-642 (Transparency requirements for buildings utilizing alternative height measurement) shall be met.~~

64-40
~~SPECIAL BULK REGULATIONS FOR BUILDINGS EXISTING ON OCTOBER 28, 2012~~
SPECIAL PARKING REGULATIONS

[Note: Existing text to be deleted]

~~The following provisions shall apply to #buildings# existing on October 28, 2012, and to the reconstruction of such #buildings#.~~

[Note: Text moved from Section 64-50 and modified]

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

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

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

64-41
~~Special Floor Area Regulations for Buildings Existing on October 28, 2012~~

Special Parking Regulations for All Buildings

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

64-411
~~**Floors below the flood-resistant construction elevation**~~
For residential buildings with below-grade parking

[Note: Existing text moved to Section 64-321 (c) and modified]

~~(a) Dry flood-proofing~~

~~In C1 and C2 Districts mapped within R1 through R6 Districts, and in C3, C4-1, C4-2 and C4-3 Districts, where the level of any finished floor above adjacent grade that existed on October 28, 2012, is below #flood-resistant construction elevation#, such floor space may be exempted from the definition of #floor area# provided that such floor space, as well as any space below such floor space, complies with the #flood-resistant construction standards# for dry flood-proofing. The certificate of occupancy, if required, shall note that such floor space has been dry flood-proofed and must comply with the provisions of Appendix G of the New York City Building Code, and that the number of #dwelling units# or #rooming units# shall be limited to no more than the number existing on October 28, 2012.~~

~~In addition, the following provisions shall apply:~~

~~(1) such floor space exempted from the definition of #floor area# shall not exceed 10,000 square feet;~~

~~(2) such floor space exempted from the definition of #floor area# shall be used for a #community facility use# or #commercial use# permitted by the underlying zoning district;~~

~~(3) no floor space shall be exempted if parking spaces within such #building# are located within 30 feet of the #street wall#; and~~

~~(4) the #building# shall contain no more #dwelling units# or #rooming units# than existed on October 28, 2012.~~

~~(b) Wet flood-proofing~~

~~This paragraph shall not apply to #buildings# containing non-#residential uses# where the #flood-resistant construction elevation# is less than two feet above the level of the first finished floor above #curb level#.~~

~~Where the level of any finished floor above adjacent grade that existed on October 28, 2012, is below #flood-resistant construction elevation#, such floor space may be exempted from the definition of #floor area# provided that such floor space, as well as any space below such floor space, complies with the #flood-resistant construction standards# for wet flood-proofing. The certificate of occupancy, if required, shall note that such floor space has been wet flood-proofed and must comply with the provisions of Appendix G of the Building Code.~~

~~The #floor area# which has been flood-proofed pursuant to the provisions of this Section need not be rebuilt prior to sign-off by the Department of Buildings or issuance of a certificate of occupancy for such alteration to the flood-proofed floor space in order for such #floor area# to be preserved as long as an application for construction documents for the reconstruction of such #floor area# has been approved by the Department of Buildings prior to the issuance of such sign-off or certificate of occupancy for the alteration associated with the flood-proofing. Such construction~~

~~documents shall acknowledge that the #non-complying floor area# is being preserved and shall depict its use within the same #building# in a manner complying with #flood-resistant construction standards#.~~

[Note: Text moved from Section 64-51 and modified]

R1 R2 R3 R4 R5

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

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

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

(c) where eliminated garages were accessed by a driveway less than 18 feet long, such driveway and curb cut shall be eliminated, and the former driveway planted to the extent necessary to comply, or increase compliance, with the provisions of Section 23-451 (Planting requirement) as if the #building# on the #zoning lot# was constructed after April 30, 2008.

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

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

64-412
~~Lowest story of a residential building~~
Surfacing

[Note: Existing text to be deleted]

~~In all districts, where the #floor area# of a #single#- or #two-family residence# existing on October 28, 2012, did not include the lowest #story# because such #story# complied with the criteria set forth in paragraph (9) of the definition of "floor area" in Section 12-10, any space used for dwelling purposes within such #story# shall continue to be exempt from the definition of #floor area#, notwithstanding such criteria, provided such #story# is elevated or reconstructed at or above the #flood-resistant construction elevation#.~~

[Note: Text moved from Section 64-53 and modified]

R1 R2 R3 R4 R5

In the districts indicated, Section 25-65 (Surfacing) may be modified to allow dustless gravel on all open off-street parking spaces and on portions of driveways beyond the #front lot line# that access #single-# or #two-family residences# on a #zoning lot#.

64-42
~~Yards, Courts and Open Space for Buildings Existing on October 28, 2012~~
Special Parking Regulations for Flood-resistant Buildings

The provisions of this Section, inclusive, are optional, and may apply to #zoning lots# containing #flood-resistant buildings#.

64-421
~~**Permitted obstructions**~~
Parking modifications

[Note: Existing text moved to Section 64-312(a) and modified]

~~The provisions of this Section shall apply without requiring a #building# to comply with #flood-resistant construction standards# as established in paragraph (a) of Section 64-12 (Applicability).~~

~~(a) For existing #single-# and #two-family residences#, and for the reconstruction of such #residences#, mechanical equipment including but not limited to #accessory# heating and cooling equipment and emergency generators, shall be permitted obstructions in #open space# required on the #zoning lot#, in any #side yard#, #rear yard# or #rear yard equivalent#, and in #courts#, provided such equipment is:~~

~~(1) located above #flood-resistant construction elevation#; and~~

~~(2) located at least five feet from any #lot line#; and~~

~~(3) screened on all sides by walls consisting of at least 50 percent opaque materials; and~~

~~(4) in compliance with the standards of either paragraph (a)(5) or (a)(6) of this Section; and~~

~~(5) the mechanical equipment and all structure and screening are located no more than seven feet from the wall of a #building# and limited to a height of no more than 10 feet above #flood-resistant construction elevation#; or~~

~~(6) the mechanical equipment is located within a detached garage or on the roof of a detached garage, provided that:~~

~~(i) where covered by a sloping roof that rises at least seven inches in vertical distance for each foot of horizontal distance, no portion of the roof shall exceed a height of 14 feet above the adjoining grade, measured to the midpoint of a sloping roof; or~~

~~(ii) for all other conditions, no portion of the garage, screening or the mechanical equipment shall exceed a height of 12 feet above the adjoining grade.~~

~~(b) For existing #buildings#, except #single-# and #two-family residences#, #accessory# mechanical equipment shall be permitted obstructions in #courts# and #open space#, provided such equipment is:~~

~~(1) located above #flood-resistant construction elevation#;~~

~~(2) within a #structure# that provides screening of such mechanical equipment on all sides by walls consisting of at least 50 percent opaque materials;~~

~~(3) limited to a height established in Section 64-322 (Permitted obstructions in required yards, courts and open space), paragraph (c), for mechanical equipment as permitted obstructions in a #rear yard#; and~~

~~(4) located at least 30 feet from any #legally required window#.~~

~~(c) For existing #buildings#, except #single-# and #two-family residences#, lifts for persons with disabilities, where permitted pursuant to provisions of the New York City Building Code, shall be permitted obstructions in #yards#, #courts# and #open space#.~~

[Note: Text moved from Section 64-52 and modified]

R1 R2 R3 R4 R5

In the districts indicated, except R4B and R5B Districts, the provisions of this Section shall apply to #zoning lots# containing #single-# or #two-family residences#. For such #zoning lots#, where off-street parking spaces are required pursuant to Section 25-20 (REQUIRED ACCESSORY OFF-STREET PARKING SPACES FOR RESIDENCES) inclusive, the underlying parking regulations may be modified as follows:

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

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

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

All #zoning lots# utilizing this Section shall comply with the provisions of Section 23-451 (Planting requirement) as if the #building# on the #zoning lot# was constructed after April 30, 2008.

~~64-422~~
~~Front yard planting requirement~~

[Note: Existing text moved to Section 64-322(c) and modified]

~~R1 R2 R3 R4 R5~~

~~In the districts indicated, the provisions of Section 23-451 (Planting requirement) are modified for existing #buildings#, where the distance between the #street wall# and the #street line# is six feet or less, to allow stairs, ramps or lifts that access the #lowest occupiable floor# to be counted as planted area for the purposes of fulfilling the requirements of such provisions.~~

~~64-43~~
~~Special Height and Setback Regulations for Buildings Existing on October 28, 2012~~

~~64-431~~
~~For existing single- and two-family residences~~

[Note: Existing text to be deleted]

~~#Single-# and #two-family residences# existing on October 28, 2012, may be vertically elevated, or reconstructed to a higher elevation, in order to raise the lowest floor level containing habitable space, located at or above the adjoining grade as of October 28, 2012, to #flood-resistant construction elevation#, and in so doing so, may create a #non-compliance# as to height and~~

~~setback to the extent that such lowest floor level is elevated or reconstructed to #flood-resistant construction elevation#.~~

~~Where the elevation requirements of Appendix G of the New York City Building Code apply to the lowest horizontal structural member, #single-# and #two-family residences# existing on October 28, 2012, may be vertically elevated, or reconstructed to a higher elevation, in order to raise the lowest horizontal structural member supporting the lowest floor containing habitable space, located at or above the adjoining grade as of October 28, 2012, to #flood-resistant construction elevation#, and in so doing so, may create a #non-compliance# as to height and setback to the extent that such lowest horizontal structural member is elevated or reconstructed to #flood-resistant construction elevation#.~~

~~This Section shall not preclude the construction of complying #enlargements# or other complying structures on the #zoning lot#.~~

~~#Buildings# that were complying on October 28, 2012, and vertically elevated or reconstructed to a higher elevation, pursuant to this Section, shall be considered legal #non-complying buildings#.~~

~~64-432~~
~~Permitted obstructions for certain existing buildings~~

[Note: Existing text to be deleted]

~~The provisions of this Section shall apply without requiring a #building# to comply with #flood resistant construction standards# as established in paragraph (a) of Section 64-12 (Applicability).~~

~~In R5 through R10 Districts, and in #Commercial# and #Manufacturing Districts#, for all existing #buildings#, the regulations for permitted obstructions to height and setback regulations shall be modified to increase the permitted volume for elevator or stair bulkheads (including shafts, and vestibules not larger than 60 square feet in area providing access to a roof), roof water tanks and #accessory# mechanical equipment (including enclosures), other than solar or wind energy systems, as follows:~~

~~(a) where the maximum #building# height is less than 120 feet, the maximum permitted height of such volume may be increased from 25 feet to 33 feet, provided that the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#; and~~

~~(b) where the maximum #building# height is 120 feet or greater, the maximum permitted height of such volume may be increased from 40 feet to 55 feet, provided that the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#.~~

~~64-44~~
~~Special Minimum Distance Regulations for Buildings Existing on October 28, 2012~~

[Note: Existing text to be deleted]

~~For #single-# and #two-family residences# existing on October 28, 2012, if such #buildings# are elevated, relocated or reconstructed pursuant to Sections 64-131 (Measurement of height), 64-722 (Single and two-family residences in required front yards) and 64-431 (For existing single- and two-family residences), the provisions of Section 23-86 (Minimum Distance Between Legally Required Windows and Walls or Lot Lines) shall not apply.~~

64-50
~~SPECIAL PARKING REGULATIONS~~
STREETSCAPE REGULATIONS

[Note: Existing text moved to Section 64-40 and modified]

~~Sections 64-51 (For Residential Buildings with Below-grade Parking) and 64-52 (For Elevated Buildings) shall apply to #buildings# existing on October 28, 2012, and to the reconstruction of such #buildings#. Section 64-51 shall apply without requiring a #building# to comply with #flood-resistant construction standards# provided in paragraph (a) of Section 64-12 (Applicability).~~

~~Section 64-53 (Surfacing) shall apply to all #zoning lots# within the #flood zone#.~~

~~The underlying parking location, curb cut spacing, permitted obstruction and surfacing regulations are modified in accordance with the provisions of this Section.~~

The provisions of this Section, inclusive, shall apply to #zoning lots# containing #flood-resistant buildings#, as set forth in paragraphs (b) and (c) of Section 64-12 (Applicability), that have a #street wall# within 50 feet of the #street line# in #Residence Districts#, #Commercial Districts# and M1 Districts#. However, the provisions shall not apply to such #buildings# containing #uses# predominantly listed in Use Group 18.

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

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

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

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

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

Level of the #first story above the flood elevation#	**Streetscape Mitigations**		**Total Points**
	Building Access (Section 64-51)	**Ground Floor Level (Section 64-52)**	
Below five feet			1
Five feet or above	x	x	3 [1, 2]

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

[2] If the requirements of this Section apply to only a portion of the #building# with a #first story above the flood elevation# at five feet or above, and such portion of the #building# does not have a principal entrance, the total points required shall be two, and they need only be satisfied through the ground floor level category.

64-51
~~For Residential Buildings With Below-grade Parking~~
Building Access Mitigation Options

[Note: Existing text moved to Section 64-411 and modified]

~~R1 R2 R3 R4 R5~~

~~In the districts indicated, other than R4B and R5B Districts, where below-grade garages within #residential buildings# are eliminated in order to comply with Appendix G of the New York City Building Code, #accessory# off-street parking spaces may be relocated from such garages to the side or rear of such #buildings#, or to the #front yard# driveway that accessed the former garage, or to a shared driveway along a common #side lot line#. Where such parking spaces are so relocated, each such space shall have a dimension at least 18 feet long and eight feet wide, and such spaces shall be allowed without regard to underlying parking location, curb cut spacing or permitted obstruction regulations. No modifications of the number of curb cuts on a #zoning lot# or the minimum or maximum width of a curb cut shall be allowed. Where eliminated garages were accessed by a driveway less than 18 feet long, such driveway and curb cut shall be eliminated, and the former driveway planted to the extent necessary to comply, or increase compliance, with the provisions of Section 23-451 (Planting requirement) as if the #building# on the #zoning lot# was constructed after April 30, 2008.~~

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

64-511
Options available for all #buildings#

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

(a) Entrance close to grade
(one point)

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

(b) Recessed access
(one point)

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

(c) Wide stairs
(one point)

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

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

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

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

(d) Covered access
(one point)

The principal entrance to a #building# shall have a porch or access area covered by a roof or other permanent structure, provided that all structural elements shall have a minimum width or depth of at least three inches. Such roof or other permanent structure shall be located at a minimum height at least eight feet above the finished floor of the principal entrance. In addition, such covering shall have a depth of at least three feet measured perpendicular to the #street wall# and shall extend along at least 50 percent of the #aggregate width of the street wall#.

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

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

(a) Porch or landing
(one point)

[Note: Text to replace Section 64-61(a)]

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

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

[Note: Text moved from Section 64-61(b) and modified]

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

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

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

Multiple entrances
(one point)

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

64-52
~~**For Elevated Buildings**~~
Ground Floor Level Mitigation Options

[Note: Existing text moved to Section 64-421 and modified]

~~R1 R2 R3 R4 R5~~

~~In the districts indicated, except R4B and R5B Districts, the provisions of this Section shall apply to #single-# or #two-family residences# with a #flood-resistant construction elevation# at least~~

~~nine feet above #curb level#, and to other #single-# or #two-family residences# utilizing the provisions of Section 64-334 (Alternative height measurement for single- and two-family residences). For such #residences#, where at least two #accessory# off-street parking spaces are provided beneath the #lowest occupiable floor#, such spaces shall be allowed without regard to the underlying parking location, curb cut spacing or permitted obstruction regulations. However, no modification of the number of curb cuts on a #zoning lot# or the minimum or maximum width of a curb cut shall be allowed.~~

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

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

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

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

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

64-521
Options available for all #buildings#

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

(a) Surface treatment
(one point)

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

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

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

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

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

[Note: Text moved from Section 64-61 (c) and modified]

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

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

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

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

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

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

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

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

(a) Transparency
(one point)

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

(b) Additional fenestration
(one point)

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

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

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

(a) Transparency with #use#
(one to two points)

One or more of the following options may apply:

(1) Lobby
(one point)

In all districts, a lobby that complies with the standards of Type 1 lobbies set forth in Section 37-33 (Maximum Width of Certain Uses), shall be provided. Transparent glazing materials shall occupy at least 40 percent of the surface area of the #street wall# of the lobby, measured between a height of two feet and 10 feet, or the height of the ground floor ceiling, whichever is higher, as measured from the adjoining sidewalk.

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

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

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

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

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

(b) Transparency close to grade
(one point)

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

(c) Linear treatment
(one point)

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

64-53
~~**Surfacing**~~
Screening Requirements for Parking Within or Below Buildings

[Note: Existing text moved to Section 64-412 and modified]

~~R1 R2 R3 R4 R5~~

~~In the districts indicated, Section 25-65 (Surfacing) shall be modified to allow dustless gravel driveways that access one #single-# or #two-family residence# on a #zoning lot#, provided that all portions of such driveway located between the curb and the #front lot line# shall be surfaced with asphaltic or Portland cement concrete, or other hard-surfaced dustless material, at least four inches thick, and public sidewalks shall be constructed to Department of Transportation standards.~~

[Note: Text moved from Section 64-65 and modified]

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

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

(b) #buildings# containing predominantly Use Group 18 #uses# in M1 Districts.

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

#Buildings# in existence prior to [date of adoption] shall not be altered in any way that will create a new #non-compliance# or increase the degree of #non-compliance# with the provisions of this Section.

64-60
~~**DESIGN REQUIREMENTS**~~
SPECIAL REGULATIONS FOR NON-CONFORMING USES AND NON-COMPLYING BUILDINGS

[Note: Existing text to be deleted]

~~The following Sections shall apply to all #developments# and to all horizontal #enlargements# with new #street walls# or alterations increasing the height of #street walls#, or as otherwise referenced within this Chapter:~~

~~Section 64-61 Design Requirements for Single- and Two-family Residences~~

~~Section 64-62 Design Requirements for Other Buildings in Residence Districts~~

~~Section 64-63 Design Requirements for Residential Buildings in Commercial Districts~~

~~Section 64-64 Design Requirements for Non-residential and Mixed Buildings in Commercial and Manufacturing Districts~~

~~Section 64-65 (Screening Requirements for Parking Within or Below Buildings) shall apply to any #zoning lot# occupied by a #building#, other than a #single-# or #two-family residence# constructed after October 9, 2013. Any #zoning lot# occupied by a #building# constructed prior to such date~~

~~shall not be altered in any way that will either create a new #non-compliance# or increase the degree of #non-compliance# with the provisions of Section 64-65.~~

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

64-61
~~Design Requirements for Single- and Two-family Residences~~
Special Provisions for Non-conforming Uses

[Note: Existing text to be deleted and substituted by Section 64-50]

~~R1 R2 R3 R4 R5 R6~~

~~In R1, R2, R3, R4 and R5 Districts, for #single-# and #two-family residences# that have a #street wall# within 50 feet of the #street line#, and in R6 Districts, for #detached# and #semi-detached single-# and #two-family residences# that have a #street wall# within 50 feet of the #street line#, where the level of the #lowest occupiable floor# is five feet or more above #curb level#, at least one of the following visual mitigation elements shall be provided. For such #residences# where the level of the #lowest occupiable floor# is nine feet or more above #curb level#, at least two of the following visual mitigation elements shall be provided.~~

~~(a) Porch~~

~~Where provided as a mitigating element, a porch shall have a finished floor at least six inches below the #lowest occupiable floor# and have a width at least 70 percent of the aggregate width of all #street walls# within 25 feet of the #street line#. The depth of the porch must be at least five feet, and the porch may not be closer to the #street line# than five feet. Open porches shall count as one mitigating element and roofed porches shall count as two mitigating elements, provided that for such roofed porches, all structural elements shall have a minimum width or depth of at least three inches, and such roof shall have a depth of at least five feet measured perpendicular to the #street wall# and extend along at least 70 percent of the width of the #street wall#. A balcony directly above a porch and a trellis or arbor with structural members spaced no further than 30 inches on center that cover such porch may be considered a porch roof for the purposes of this Section.~~

~~(b) Stair direction change~~

~~Where provided as a mitigating element, stairs shall be constructed between grade and the #lowest occupiable floor# or porch, as applicable, which shall change direction at least 90 degrees in plan at a point no lower or higher than two feet from the beginning and end of the stair run.~~

~~(c) Raised front yard~~

~~Where provided as a mitigating element, the grade between the #street line# and #street walls# within 25 feet of the #street line#, and their prolongations, shall be elevated above #curb level# so that a line drawn midway between the #street line# and such #street walls# and prolongations is at least 18 inches above #curb level# at all points, except for pedestrian ways, vehicular access and off-street parking spaces permitted pursuant to Section 64-50 (SPECIAL PARKING REGULATIONS). The area with final grade above #curb level# must be greater than 50 percent of the total area between the #street line# and #street walls# within 25 feet of the #street line# and their prolongations. Such raised #yards# shall be planted to comply with Section 23-451.~~

~~(d) Trees or shrubs at least three feet high~~

~~Where provided as a mitigating element, trees or shrubs that attain a height of at least three feet shall be provided between the #street line# and #street walls# within 25 feet of the~~

~~#street line# and their prolongations. Planting beds shall be at least three feet wide in plan, measured parallel and perpendicular to the #street line#. The length of each planted area shall be measured by inscribing each planted area within a rectangle and measuring the longest dimension of such rectangle. The total length of planted areas shall be greater than 60 percent of the #lot width#, and be planted to screen at least 50 percent of the length of the #street wall#.~~

~~However, no mitigation shall be required where more than 50 percent of the #street wall# of a #building# is within three feet of the #street line#.~~

[Note: Text to substitute Section 64-71]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

64-614
Process for establishing non-conforming uses

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

64-62
~~**Design Requirements for Other Buildings in Residence Districts**~~
Special Provisions for Non-complying Buildings

[Note: Existing text to be deleted and substituted by Section 64-50]

~~R1 R2 R3 R4 R5 R6 R7 R8 R9 R10~~

~~In the districts indicated, for all #buildings#, except #single-# and #two-family residences#, where #street walls# are within 50 feet of the #street line#, the provisions of this Section, inclusive, shall apply.~~

[Note: Text to substitute Sections 64-722, 64-723, 64-724, 64-A12, 64-A22, 64-A23]

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

In addition, such altered, #enlarged#, relocated or reconstructed #building or other structure# may create a new #non-compliance# with, or increase the degree of existing #non-compliance# with

the applicable #bulk# regulations for the district, subject to the applicable provisions of this Section, inclusive.

64-621
~~**Planting requirement**~~
Special floor area regulations for non-complying buildings

[Note: Existing text to be deleted and substituted by Section 64-50]

~~Where the level of the #lowest occupiable floor# is five or more feet above #curb level#, the area between the #street line# and all #street walls# of the #building# shall be planted at ground level, or in raised planting beds that are permanently affixed to the ground. Such planting shall consist of trees or shrubs within six feet of the #street wall# that attain a height of at least three feet. Such planting shall not be required at the entrances to and exits from the #building#, within driveways accessing off-street parking spaces located within, to the side, or rear of such #building#, or between #commercial uses# and the #street line#. Any such planted area shall have a depth of at least three feet. Where ramps or stairs are located parallel to a #street wall# and within six feet of such #street wall#, minimum planting beds shall be provided between such ramps or stairs and the #street line#.~~

~~However, where #street wall# location rules would require a #street wall# to be located such that planting beds would be less than three feet in width, the provisions of this Section shall not apply.~~

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

64-622
~~**Lobby or non-residential use**~~
Special open area regulations for non-complying buildings

[Note: Existing text to be deleted and substituted by Section 64-50]

~~Where the #flood-resistant construction elevation# is ten or more feet above #curb level#, a lobby with a minimum width of 20 feet shall be provided along the #street wall# at the level of the adjoining sidewalk or other publicly accessible open area, with a depth of at least 20 feet. For #buildings# with an #aggregate width of street wall# of more than 65 feet, such lobby width shall be at least 30 percent of the #aggregate width of street wall#, but need not be wider than 35 feet. For #zoning lots# with less than 25 feet of frontage along a #street#, a five-foot wide service corridor may be exempted from the requirements of this Section. Transparent glazing materials shall occupy at least 40 percent of the surface area of the #street wall# of the lobby, measured between a height of two feet above the level of the adjoining sidewalk or other publicly accessible open area and a height ten feet above the level of the first finished floor above #curb level#.~~

~~Any permitted #non-residential use#, other than #accessory# off-street parking or storage, may be substituted for lobby area required pursuant to this Section, provided that the required width, depth and transparency shall apply to such #use#.~~

~~However, where #flood-resistant construction standards# prohibit glazing due to the location of the #building# in a zone subject to wave action as indicated on #flood maps#, the glazing requirements of this Section shall not apply.~~

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

(a) Relocation allowances

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

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

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

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

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

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

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

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

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

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

(b) Allowances for horizontal expansions

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

(1) the increased #lot coverage# does not exceed an additional 20 percent of such #lot coverage# permitted by the underlying regulations in R1-2A, R2A, R3-1, R3-2, R4, R4B, R5, R5B, and R5D Districts;

(2) the increased #lot coverage# does not exceed an additional 20 percent of the maximum footprint permitted by applying the applicable district #rear, side and front yard# regulations in R2X, R3A, R3X, R4-1, R4A, and R5A Districts;

(3) for #single-# or #two-family residences#, the encroachment into a #rear yard# does not result in a #rear yard# with a depth of less than 20 feet; and

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

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

64-623
Special height regulations for non-complying buildings

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

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

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

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

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

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

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

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

(2) for #single# or #two-family residences# in R1-2A, R2A, R2X, R3, R4, R4-1, R4A, or R5A Districts, where the degree of the alteration or reconstruction exceeds 75 percent of the #floor area#, the height of a perimeter wall of such altered, #enlarged#, relocated or reconstructed #building or other structure# as measured from the #reference plane# shall not exceed the higher of the maximum perimeter wall height for the district, or the pre-existing height of such perimeter wall, as measured from the top of the #lowest usable floor# to the highest point in such pre-existing #building# before setback.

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

64-624
Process for establishing non-compliances

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

~~**64-63**~~
~~**Design Requirements for Residential Buildings in Commercial Districts**~~

[Note: Existing text to be deleted and substituted by Section 64-50]

~~C1 C2 C3 C4 C5 C6~~

~~In the districts indicated, and in #Special Mixed Use Districts#, for all #residential buildings#, except #single-# and #two-family residences#, where #street walls# are within 50 feet of the #street line#, and where the level of the #lowest occupiable floor# is five feet or more above #curb level#, the provisions of Section 64-62 (Design Requirements for Other Buildings in Residence Districts) shall apply.~~

~~**64-64**~~
~~**Design Requirements for Non-Residential and Mixed Buildings in Commercial and Manufacturing Districts**~~

~~**64-641**~~
~~**Transparency requirements**~~

[Note: Existing text to be deleted and substituted by Section 64-50]

~~C1 C2 C3 C4 C5 C6 C7 C8 M1 M2 M3~~

~~In the districts indicated, the provisions of this Section shall apply to all #buildings#, other than:~~

~~(a) #residential buildings#; and~~

~~(b) in #C8 Districts# and #Manufacturing Districts#, other than #Special Mixed Use Districts#, #buildings# containing #predominantly# Use Group 16, 17 or 18 #uses#.~~

~~Where #street walls# are within 50 feet of the #street line#, and where #flood-resistant construction elevation# is ten feet or more above #curb level#, a portion of the #street wall# with a minimum of 20 feet in width shall provide transparent glazing materials occupying a minimum of 50 percent of the surface area of such #street wall# portion, measured between a height of two feet above the level of the adjoining sidewalk or other publicly accessible open area and a height 12 feet above the level of the first finished floor above #curb level#. The floor level behind such transparent~~

glazing materials shall not exceed the level of the window sill for a depth of at least four feet, as measured perpendicular to the #street wall#. For #buildings# with an #aggregate width of street wall# of more than 65 feet, such transparent portion of the #street wall# shall be at least 30 percent of the #aggregate width of street wall#, but need not be wider than 35 feet.

However, where #flood-resistant construction standards# prohibit glazing due to the location of the #building# in a zone subject to wave action as indicated on #flood maps#, the glazing requirements of this Section shall not apply.

64-642
Transparency requirements for buildings utilizing alternative height measurement

[Note: Existing text to be deleted and substituted by Section 64-50]

C1 C2 C3 C4 C5 C6 C7 C8 M1 M2 M3

In the districts indicated, for all #buildings# utilizing the provisions of Section 64-346 (Alternative height measurement in Commercial and Manufacturing Districts), paragraph (b), #street walls# shall be glazed with transparent materials which may include #show windows#, transom windows or glazed portions of doors. Furthermore, such transparent glazing materials shall occupy at least 50 percent of the surface area of such #street wall#, measured between a height of two feet above the level of the adjoining sidewalk or other publicly accessible open area and a height of 12 feet above the level of the first finished floor above #curb level#. The floor level behind such transparent glazing materials shall not exceed the level of the window sill for a depth of at least four feet, as measured perpendicular to the #street wall#.

64-65
Screening Requirements for Parking Within or Below Buildings

[Note: Existing text moved to Section 64-53 and modified]

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

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

(b) in C8 Districts and #Manufacturing Districts#, other than #Special Mixed Use Districts#, #buildings# containing #predominantly# Use Group 16, 17 or 18 #uses#.

#Buildings# in existence prior to October 9, 2013, shall not be altered in any way that will create a new #non-compliance# or increase the degree of #non-compliance# with the provisions of this Section.

Where the #flood-resistant construction elevation# is five or more feet above #curb level# and the #street wall# of a #building# is within 50 feet of the #street line#, for any level where off-street parking is provided within or below a #building#, such parking shall be screened from the #street line# with a #street wall# that is at least 50 percent opaque. Each one-foot square portion of such #street wall# shall comply individually with this requirement.

In case of a conflict between the provisions of this Section and the provisions of another Chapter, the more restrictive provisions shall apply.

64-70
SPECIAL REGULATIONS FOR NON-CONFORMING USES AND NON-COMPLYING BUILDINGS

[Note: Section 64-70 to be deleted and substituted by Section 64-60]

64-71
Non-Conforming Uses

64-711
Reconstruction of buildings damaged more than 50 percent

[Note: Existing text to be deleted and substituted by Section 65-21 (a)]

Section 52-53 (Buildings or Other Structures in All Districts), inclusive, shall be modified to allow the reconstruction of a #non-conforming use# where a #building# containing such #use# is damaged to the extent of 50 percent or more due to the effects of #Hurricane Sandy#, provided such reconstruction is the subject of an application for approval of construction documents that has been approved by the Department of Buildings no later than one year following the City's adoption of new final Flood Insurance Rate Maps that supersede the Flood Insurance Rate Maps in effect on October 28, 2012. Construction pursuant to such approval may continue until a date six years after the adoption of such superseding Flood Insurance Rate Maps. After such date, the vesting provisions of Section 11-30 (Building Permits Issued Before Effective Date of Amendment) shall apply as if the change in #flood map# were a change in provisions of the Zoning Resolution.

However, this provision shall not apply to #non-conforming residences# in C8 Districts or #Manufacturing Districts#, or to #non-conforming manufacturing uses# located in #Residence Districts# or #Commercial Districts# other than C8 Districts.

64-712
Single- and two-family buildings

[Note: Existing text to be deleted and substituted by Section 64-61]

For #non-conforming single-# and #two-family residences#, except #non-conforming residences# in C8 Districts or #Manufacturing Districts#, reconstruction shall be permitted, provided such reconstruction is the subject of an application for approval of construction documents that has been approved by the Department of Buildings no later than six years following the City's adoption of new final Flood Insurance Rate Maps that supersede the Flood Insurance Rate Maps in effect on October 28, 2012. Construction pursuant to such approval may continue until a date ten years after the adoption of such superseding Flood Insurance Rate Maps. After such date, the vesting provisions of Section 11-30 (Building Permits Issued Before Effective Date of Amendment) shall apply as if the change in #flood map# were a change in provisions of the Zoning Resolution.

64-72
Non-Complying Buildings

64-721
Reconstruction of buildings damaged more than 75 percent

[Note: Existing text to be deleted and substituted by Section 65-21 (b)]

Section 54-40 (DAMAGE OR DESTRUCTION IN NON-COMPLYING BUILDINGS) shall be modified to allow the reconstruction of a #non-complying building# where such #building# is damaged to the extent of 75 percent or more due to the effects of #Hurricane Sandy#, provided such reconstruction is the subject of an application for approval of construction documents that has been approved by the Department of Buildings no later than one year following the City's adoption of new final Flood Insurance Rate Maps that superseded the Flood Insurance Rate Maps in effect on October 28, 2012. Construction pursuant to such approval may continue until a date six years after the adoption of such superseding Flood Insurance Rate Maps. After such date, the vesting provisions of Section 11-30 (Building Permits Issued Before Effective Date of

~~Amendment) shall apply as if the change in #flood map# were a change in provisions of the Zoning Resolution.~~

~~64-722~~
~~Single- and two-family residences in required front yards~~

[Note: Existing text to be deleted and substituted by Section 64-62]

~~The provisions of Article V, Chapter 4, shall be modified in order to accommodate stair access in a #front yard#. #Single-# and #two-family residences# with #non-complying front yards# existing on October 28, 2012, may be relocated or reconstructed in a location further from the #front lot line# on the same #zoning lot#, and thereby create or increase an encroachment in a #side yard#, #rear yard# or #rear yard equivalent#, provided that:~~

~~(a) any encroachment or further encroachment into a required #side# or #rear yard# or #rear yard equivalent# at the rear of the original #building# location is limited to a depth equal to the reduction of encroachment of the #building#, excluding stairs in the #front yard#;~~

~~(b) a distance of at least eight feet shall be maintained between the rear wall of the #building# and all other #residences# on the same or adjoining #zoning lots#; and~~

~~(c) at least four feet of a #rear yard# shall be free of any encroachment, measured perpendicular to the #rear lot line# or, in a #rear yard equivalent#, at least eight feet shall be free of encroachment.~~

~~64-723~~
~~Non-complying single- and two-fam~~~~ily residences~~

[Note: Existing text to be deleted and substituted by Section 64-62]

~~(a) The provisions of Article V, Chapter 4, shall be modified to permit #single-# and #two-family residences# that are #non-complying# and existing on October 28, 2012, to be vertically elevated, or reconstructed to a higher elevation in order to raise the lowest floor level containing habitable space that was located at or above the adjoining grade as of October 28, 2012 to #flood-resistant construction elevation#.~~

~~Where the elevation requirements of Appendix G of the New York City Building Code apply to the lowest horizontal structural member, the provisions of Article V, Chapter 4, shall be modified to permit #single-# and #two-family residences# that are #non-complying# and existing on October 28, 2012, to be vertically elevated, or reconstructed to a higher elevation, in order to raise the lowest horizontal structural member supporting the lowest floor containing habitable space that was located at or above the adjoining grade as of October 28, 2012, to #flood-resistant construction elevation#.~~

~~Such vertical elevation or reconstruction may create a new #non-compliance# as to height and setback, or increase any existing #non-compliances# as to height and setback, required #open space# and #yard# regulations to the extent that such lowest floor level is elevated or reconstructed to #flood-resistant construction elevation#. However, all other provisions of Article V, Chapter 4, shall apply without modification.~~

~~This Section shall not preclude the construction of complying #enlargements# or other complying #buildings or other structures# on the #zoning lot#.~~

~~Furthermore, the provisions of Section 23-86 (Minimum Distance Between Legally Required Windows and Walls or Lot Lines) shall not apply to such elevated, relocated or reconstructed #buildings#.~~

~~(b) For #non-complying single-# and #two-family residences#, reconstruction shall be permitted, provided such reconstruction is the subject of an application for approval of construction documents that has been approved by the Department of Buildings no later~~

than six years following the City's adoption of new final Flood Insurance Rate Maps that supersede the Flood Insurance Rate Maps in effect on October 28, 2012. Construction pursuant to such approval may continue until a date ten years after the adoption of such superseding Flood Insurance Rate Maps. After such date, the vesting provisions of Section 11-30 (Building Permits Issued before Effective Date of Amendment) shall apply as if the change in #flood map# were a change in provisions of the Zoning Resolution.

64-724
Special provisions for other buildings within flood zones

[Note: Existing text to be deleted and substituted by Section 64-62]

#Non-complying buildings# may be elevated or reconstructed to an increased height, which at all points does not exceed the difference between #flood-resistant construction elevation# and the applicable datum from which height is measured pursuant to the underlying regulations. Such elevation or reconstruction may create a new #non-compliance# or increase the degree of an existing #non-compliance#.

64-80
MODIFICATION OF SPECIAL REGULATIONS APPLYING IN WATERFRONT AREAS

[Note: Existing text to be deleted]

The following regulations shall apply in #flood zones# and shall modify regulations set forth in Article VI, Chapter 2 (Special Regulations Applying in Waterfront Areas).

64-81
Modification of Waterfront Public Access and Visual Corridor Regulations for Substantially Damaged Buildings

[Note: Existing text to be deleted and substituted by Section 65-21]

Sections 62-50 (GENERAL REQUIREMENTS FOR VISUAL CORRIDORS AND WATERFRONT PUBLIC ACCESS AREAS), inclusive, and 62-811 shall not apply to the reconstruction of #buildings# that sustained substantial damage, as defined in Appendix G of the New York City Building Code, due to the effects of #Hurricane Sandy#, provided that:

(a) such #buildings# had no more than 20,000 square feet of #floor area# prior to October 28, 2012;

(b) the dimensions of the #building# footprint are no greater than the footprint that existed on October 28, 2012;

(c) if such #building# is repositioned on the #zoning lot#, such repositioning does not newly encroach, or further encroach into a required #yard#, #rear yard equivalent#, #visual corridor# or existing #public access area#, as defined in Article VI, Chapter 2; and

(d) the reconstruction does not result in a change of #use# from that existing on October 28, 2012.

The provisions of this Section shall apply to #buildings# that are the subject of an application for approval of construction documents that has been approved by the Department of Buildings no later than one year after the adoption of new final Flood Insurance Rate Maps that supersede the maps in effect on October 28, 2012. Construction pursuant to such approval may continue until a date six years after the adoption of such superseding Flood Insurance Rate Maps. After such date, the vesting provisions of Section 11-30 (Building Permits Issued Before Effective Date of

~~Amendment) shall apply as if the change in #flood map# were a change in provisions of the Zoning Resolution.~~

~~**64-82**~~
~~**Modification of Waterfront Regulations Relating to Level of Yards, Visual Corridors and the Ground Floor**~~

[Note: Existing text to be deleted]

~~The provisions of paragraphs (a) and (b) of this Section shall apply to all #zoning lots#, without requiring a #building# to comply with #flood-resistant construction standards# as established in paragraph (a) of Section 64-12 (Applicability).~~

~~Within the area that has a one percent chance of flooding in a given year, as determined by the Federal Emergency Management Agency (FEMA) in #flood maps# or by earlier adopted Flood Insurance Rate Maps, certain provisions regarding #waterfront yards# and #visual corridors#, as defined in Section 62-11, and ground floor #uses#, are modified as follows:~~

~~(a) #Waterfront yards#~~

[Note: Existing text moved to Section 62-332 and modified]

~~Section 62-332 (Rear yards and waterfront yards) shall be modified to allow the level of a #waterfront yard# to be raised above the elevation of the top of the adjoining existing bulkhead, existing stabilized natural shore or mean high water line, as applicable, provided that:~~

~~(1) where a #waterfront yard# terminates at a #lot line#, the grade of the #waterfront yard# shall be no higher than the grade of the adjacent #street# or #zoning lot#, except that natural grade need not be disturbed to comply with this requirement;~~

~~(2) for #zoning lots# without a #shore public walkway#, as defined in Section 62-11, the maximum grade of the #waterfront yard#, measured parallel to the #shoreline#, shall not exceed three percent; and~~

~~(3) for #zoning lots# with a #shore public walkway#, as defined in Section 62-11, the maximum grade shall be determined by the maximum permitted grade of the circulation path and the provisions of Section 62-60 (DESIGN REQUIREMENTS FOR WATERFRONT PUBLIC ACCESS AREAS).~~

~~(a) #Visual corridors#~~

[Note: Existing text moved to Section 62-512 and modified]

~~Section 62-512 (Dimensions of visual corridors) shall be modified so that the lowest level of a #visual corridor# shall be determined by establishing a plane connecting the two points along the #street lines# from which the #visual corridor# emanates at an elevation three feet above #curb level# with the two points where the prolonged #street lines# intersect the #shoreline#, stabilized natural shore, bulkhead, upland edge of a #waterfront yard# raised pursuant to the provisions of paragraph (a) of this Section, or the #base plane# of a #pier# or #platform#, whichever intersection occurs first. Such plane shall then continue horizontally seaward from the line of intersection. #Visual corridors# that are not prolongations of mapped #streets# shall be determined by establishing a plane connecting an elevation three feet above #curb level# at the two points along the #lot line# from which the #visual corridor# emanates with the two points of intersection at the #shoreline#, stabilized natural shore, bulkhead, upland edge of a #waterfront yard# raised pursuant to the provisions of paragraph (a) of this Section, or the #base plane# of a #pier# or #platform#, whichever intersection occurs first.~~

~~(c) Ground floor #uses#~~

[Note: Existing text to be deleted]

~~Section 62-341 (Developments on land and platforms), paragraph (c)(6), shall be modified so that "ground floor level" shall mean the lowest level permitted for habitable use as if it were "Post-FIRM Construction" as defined by Appendix G of the New York City Building Code, using elevation and wet flood-proofing techniques, provided that where such lowest permitted level would be less than five feet above the finished level of the adjacent sidewalk, such level need not be lower than five feet above the finished level of the adjacent sidewalk.~~

~~64-90 SPECIAL APPROVALS~~

~~64-91 Modification of Certain Certification Requirements in the Special South Richmond Development District~~

[Note: Existing text to be deleted]

~~The provisions of this Section shall apply without requiring a #building# to comply with #flood-resistant construction standards# as established in paragraph (a) of Section 64-12 (Applicability).~~

~~In the #Special South Richmond Development District#, Sections 107-22 (Designated Open Space), inclusive, and 107-23 (Waterfront Esplanade) shall not apply to the reconstruction or repair of #buildings# that were damaged due to the effects of #Hurricane Sandy#, provided that:~~

~~(a) the dimensions of the #building# footprint are no greater than the footprint that existed on October 28, 2012; and~~

~~(b) there is no increase in impervious surfaces on the #zoning lot#.~~

~~In addition, the provisions of Section 107-22, inclusive, shall not apply to a #site alteration# that is not a #development# or #enlargement# where the Commissioner of Buildings determines it is the minimum necessary to enable the reconstruction of a #building#.~~

~~These provisions shall not affect the terms of a certification previously made by the City Planning Commission. The provisions of this Section shall apply to #buildings# that are the subject of an application for approval of construction documents that has been approved by the Department of Buildings no later than one year after the adoption of new final Flood Insurance Rate Maps that supersede the maps in effect on October 28, 2012. Construction pursuant to such approval may continue until a date six years after the adoption of such superseding Flood Insurance Rate Maps. After such date, the vesting provisions of Section 11-30 (BUILDING PERMITS ISSUED BEFORE EFFECTIVE DATE OF AMENDMENT) shall apply as if the change in #flood map# were a change in provisions of the Zoning Resolution.~~

~~64-92 Special Permit for Modification of Certain Zoning Regulations~~

[Note: Existing text moved to Section 73-71 and modified]

~~In order to allow for the alteration of existing #buildings# in compliance with #flood-resistant construction standards# and for #developments# and #enlargements# in compliance with #flood-resistant construction standards#, the Board of Standards and Appeals may permit modification of Section 64-60 (DESIGN REQUIREMENTS), the #bulk# regulations of Sections 64-30, 64-40 (SPECIAL BULK REGULATIONS FOR BUILDINGS EXISTING ON OCTOBER 28, 2012) and 64-70 (SPECIAL REGULATIONS FOR NON-CONFORMING USES AND NON-COMPLYING BUILDINGS), as well as all other applicable #bulk# regulations of the Zoning Resolution, except #floor area ratio# regulations, provided the following findings are made:~~

(a) that 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#;

(b) that any modification of #bulk# regulations related to height is limited to no more than 10 feet in height or 10 percent of permitted height as measured from #flood-resistant construction elevation#, whichever is less; and

(c) 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.

Appendix A
Special Regulations for Neighborhood Recovery

[Note: Appendix A to be deleted, unless otherwise noted]

64-A00
GENERAL PROVISIONS

The provisions of this Resolution shall apply as modified by this Chapter and by the special regulations set forth in this Appendix. The provisions of this Appendix are optional, but when utilized, shall be applied in their entirety. This Appendix shall be in effect until July 23, 2020, at which time it shall automatically expire.

64-A01
Applicability of Special Regulations for Neighborhood Recovery

The provisions of this Appendix shall only be applicable to #buildings# containing #residential use# whose vertical elevation or reconstruction will result in a #single-# or #two-family residence# that complies with #flood-resistant construction standards#, where such #building# is located in a Neighborhood Recovery Area (Section 64-A80), inclusive.

64-A02
Special Requirements for Application

Prior to the approval of any application to the Department of Buildings pursuant to this Appendix, an applicant shall submit the following documents in order to establish that there was a #building# on the subject lot that contained a #residential use# on October 28, 2012:

(a) an aerial photograph taken up to one year prior to October 28, 2012, establishing that a #building# existed on the subject lot on October 28, 2012; and

(b) a 2012 tax bill or assessment roll for the subject lot stating that such #building# contained a #residential use#.

Where the documents specified in this Section are unavailable or inconclusive, the Department of Buildings may accept alternative documentation to satisfy the requirements of paragraphs (a) or (b).

64-A03
Zoning Lots in Neighborhood Recovery Areas

The definition of #zoning lot# set forth in Section 12-10 (DEFINITIONS) shall apply in this Appendix. However, as an option, where a tax lot contained one or more #buildings# on October 28, 2012, or where a #building# or #buildings# occupied more than one tax lot on October 28, 2012, such tax lot may be provisionally considered a #zoning lot# for the sole purpose of demonstrating compliance with the #bulk# requirements of this Resolution, and shall be referred to as a #zoning lot# in this Appendix, provided that the proposed application will not affect compliance with any applicable provisions of the New York City Building Code or Fire Code with respect to access to the same or other #zoning lots# on the same #block#, unless a waiver or modification is obtained from the Department of Buildings or the Fire Department, respectively.

64-A10
SPECIAL REGULATIONS FOR ESTABLISHING NON-CONFORMANCE AND NON-COMPLIANCE

64-A11
Special Regulations for Establishing Non-conformance of Residences

In all #districts#, for a #zoning lot# that contained two or more #dwelling units# on October 28, 2012, and does not have lawful documentation indicating that more than one #dwelling unit# existed on the #zoning lot# on such date, the Board of Standards and Appeals may permit the vertical elevation or reconstruction of #buildings# containing such #dwelling units# and may establish #non-conformance# of such #buildings#, pursuant to Section 64-A71 (Special Permit for Establishing Non-conformance).

64-A12
Special Regulations for Establishing Non-compliance of Existing Buildings

In all districts, a #building# containing #residences#, and any other structure that is attached to such #building#, including porches, stairs, terraces or balconies, that existed both on October 28, 2012, and on the date of application for a building permit, may be considered #non-complying# for the purpose of utilizing the applicable provisions of Article V, Chapter 4 and Article VI, Chapter 4 of this Resolution relating to #non-complying buildings or other structures# provided that:

(a) a survey, prepared by a licensed land surveyor, specifying the location and height of such #building# and any other structures that are attached to such #building#, is submitted as documentation of such #non-compliance#; and

(b) such #building# shall either be vertically elevated in compliance with the #bulk# provisions of Section 64-A20 (SPECIAL BULK REGULATIONS FOR THE VERTICAL ELEVATION OF EXISTING BUILDINGS), or be reconstructed in compliance with the #bulk# provisions of Section 64-A30 (SPECIAL BULK REGULATIONS FOR THE RECONSTRUCTION OF BUILDINGS EXISTING ON OCTOBER 28, 2012).

Upon completion and sign-off of work completed pursuant to the provisions of this Appendix, the #building# shall be considered #non-complying#.

64-A20
SPECIAL BULK REGULATIONS FOR THE VERTICAL ELEVATION OF EXISTING BUILDINGS

The provisions of this Section shall apply to the vertical elevation of #buildings# containing #residences# that existed on October 28, 2012. Except as specifically modified by the provisions

of this Section, inclusive, the applicable #bulk# regulations of this Chapter, the regulations of Article V of this Resolution and the applicable zoning district shall remain in effect.

No #building# that is vertically elevated pursuant to this Section shall subsequently be #enlarged# pursuant to paragraph (b) of Section 54-313 (Single- or two-family residences with non-complying front yards or side yards) or Section 73-622 (Enlargements of single- and two-family detached and semi-detached residences).

64-A21
Special Regulations for Rebuilt Portions of Vertically Elevated Buildings

A portion of a #building# that is being vertically elevated pursuant to this Appendix may be rebuilt, provided that:

(a) the rebuilt portion does not exceed 75 percent of the existing #floor area# of such #building#; and

(b) except as specifically allowed by this Chapter, no new #non-compliance# shall be created, nor shall the degree of any existing #non-compliance# be increased beyond that established pursuant to Section 64-A10 (SPECIAL REGULATIONS FOR ESTABLISHING NON-CONFORMANCE AND NON-COMPLIANCE).

If the rebuilt portion of a #building# exceeds 75 percent of the existing #floor area# of the #building#, such #building# shall be subject to the regulations of 64-A30 (SPECIAL BULK REGULATIONS FOR THE RECONSTRUCTION OF BUILDINGS EXISTING ON OCTOBER 28, 2012).

64-A22
Special Regulations for Space Partially Below Grade

For a #building# where the lowest floor containing habitable space is partially below adjoining grade, and at least one-half of the floor-to-ceiling height of such floor is above adjoining grade, such #building# may be vertically elevated in order to raise the lowest floor containing habitable space to the #flood-resistant construction elevation#, provided that:

(a) the elevated #building# does not exceed two #stories#, except that attic space providing structural headroom of less than eight feet shall not be considered a #story# for the purposes of this Section; and

(b) the height of such elevated #building#, including the apex of a pitched roof, does not exceed 25 feet, as measured from the #flood-resistant construction elevation#.

Any floor space that becomes #floor area# in excess of the maximum permitted #floor area ratio# for such #zoning lot#, as a result of the vertical elevation, shall be considered #non-complying floor area#. Such vertical elevation may increase any existing #non-compliances# with respect to required #open space# and #yard# regulations to the extent that such #non-compliance# results from the elevation of the lowest floor to the #flood-resistant construction elevation#. All other provisions of Article V, Chapter 4 (Non-complying Buildings), shall apply without modification.

The level of the adjoining grade shall be the average elevation of the grade adjoining the building, before it is elevated, determined in the manner prescribed by the Building Code of the City of New York for adjoining grade elevation.

64-A23
Special Regulations for Existing Buildings Located Over Water

For a #building# that will be vertically elevated and is located either partially or entirely seaward of the #shoreline#, such #building# may be relocated landward of the #shoreline# on the same

#zoning lot#. Such relocation may create a new #non-compliance# or increase the degree of any existing #non-compliance# as to #side yards#, waterfront yards, #rear yards# or #rear yard equivalents#, provided that:

(a) an open area of at least three feet shall be maintained between the exterior wall of the #building# and any #lot line#; and

(b) except as specifically allowed by this Chapter, no new #non-compliance# shall be created, nor shall the degree of any existing #non-compliance# be increased, beyond that established pursuant to Section 64-A12 (Special Regulations for Establishing Non-compliance of Existing Buildings).

64-A24
Permitted Obstructions in Required Open Space, Yards and Courts

The provisions of Sections 23-12 (Permitted Obstructions in Open Space), 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents) and 64-421 (Permitted obstructions) shall be modified such that:

(a) mechanical equipment including, but not limited to, #accessory# heating and cooling equipment, fuel oil tanks and emergency generators shall be permitted obstructions in #open space# required on the #zoning lot#, in any #side yard#, #rear yard# or #rear yard equivalent# and in #courts#, provided such equipment is:

(1) located at least three feet from any #lot line#;

(2) screened on all sides by walls consisting of at least 50 percent opaque materials; and

(3) in compliance with the standards of either of the following provisions:

(i) all structures and screening are located no more than 10 feet from the wall of a #building# and limited to a height of no more than 12 feet above #flood-resistant construction elevation#; or

(ii) is located on the roof of a #building or other structure#, provided that the height of such equipment and screening does not exceed six feet, as measured from the finished level of a flat roof or, for a sloping roof, as measured from the midpoint of such roof. Such equipment shall be located not less than 15 feet from any #street wall# of a #building or other structure#.

(b) visual mitigation elements, provided pursuant to Section 64-A50 (SPECIAL DESIGN REQUIREMENTS) shall be permitted obstructions in any #open space# required on the #zoning lot#, in any #yard# and in #courts#.

64-A30
SPECIAL BULK REGULATIONS FOR THE RECONSTRUCTION OF BUILDINGS EXISTING ON OCTOBER 28, 2012

[Note: Existing text moved to Section 64-33 and modified]

The #bulk# regulations of this Section shall apply only to the permitted reconstruction of a #building# that existed on October 28, 2012, and results in a #single-# or #two-family detached residence#. Except as specifically modified by the provisions of this Section, inclusive, the #bulk# regulations of this Chapter and the applicable zoning district shall remain in effect. #Buildings# reconstructed pursuant to this Section shall not be considered #developments# or #enlargements#.

No #building# that is reconstructed pursuant to this Section shall subsequently be #enlarged# pursuant to paragraph (b) of Section 54-313 (Single- or two-family residences with non-complying

front yards or side yards) or Section 73-622 (Enlargements of single- and two-family detached and semi-detached residences).

64-A31
Special Regulations for Minimum Required Open Space, Maximum Lot Coverage and Maximum Floor Area

64-A311
Lot coverage and open space

[Note: Existing text moved to Section 64-332 (a) and modified]

R1-2A R2A R3-1 R3-2 R4 R4-1 R4A

In the districts indicated, for #zoning lots# that do not meet the required minimum #lot area# or #lot width# of the applicable district, #lot coverage# and #open space# shall be governed by the #yard# requirements set forth in Section 64-A35 (Special Yard Regulations).

64-A312
Floor area

R2X R3 R4 R4-1 R4A

In the districts indicated, the #floor area ratio# set forth in Section 23-142 (Open space and floor area regulations in R1 and R2 Districts with a letter suffix and R3 through R5 Districts) may be increased by 20 percent provided that any such increase in #floor area# is located in any portion of a #building# covered by a sloping roof that rises at least seven inches in vertical distance for each foot of horizontal distance.

64-A313
Special open space, lot coverage and floor area regulations for small lots

R1 R2 R3 R4 R5 R6

In the districts indicated, for #zoning lots# with a #lot area# of less than 1,800 square feet, #open space#, #lot coverage# and #floor area ratio# regulations shall not apply. In lieu thereof, the #yard# requirements set forth in Section 64-A35 (Special Yard Regulations) and the height and setback requirements of Section 64-A36 (Special Height and Setback Regulations) shall govern.

64-A32
Special Regulations for Maximum Number of Dwelling Units and Minimum Size of Dwelling Units

64-A321
Maximum number of dwelling units

R1 R2 R3 R4 R5 R6

In the districts indicated, the provisions of Section 23-22 (Maximum Number of Dwelling Units) shall not apply. In lieu thereof, not more than one #single-family detached residence# or, where permitted in the applicable zoning district pursuant to Section 22-12 (Use Group 2), one #two-family detached residence#, may be reconstructed. However, any #two-family detached residence# may only be reconstructed if such #zoning lot# contained two or more #dwelling units# on October 28, 2012, as indicated on the certificate of occupancy or upon approval by the Board of Standards and Appeals pursuant to Section 64-A71 (Special Permit for Establishing Non-conformance).

64-A322
Minimum size of dwelling units

R3 R4-1 R4A

In the districts indicated, the minimum size of a #dwelling unit# as set forth in paragraph (b) of Section 23-23 shall not apply to the permitted reconstruction of a #two-family detached residence#.

64-A33
Special Regulations for Minimum Lot Area or Lot Width for Residences

In all districts, including #lower density growth management areas#, either one #single-family detached residence# or, where permitted in the applicable zoning district pursuant to Section 22-12 (Use Group 2) one #two-family detached residence#, may be reconstructed upon a #zoning lot# that:

(a) has less than the prescribed minimum #lot area# or #lot width# as required by the applicable district regulations; and

(b) if reconstructed as a #two-family detached residence#, either:

(1) complies with the maximum number of #dwelling units# requirement of the applicable zoning district; or

(2) such #zoning lot# contained two or more #dwelling units# on October 28, 2012, as indicated on the certificate of occupancy or upon approval by the Board of Standards and Appeals pursuant to Section 64-A71 (Special Permit for Establishing Non-conformance).

64-A34
Permitted Obstructions in Required Open Space, Yards and Courts

The provisions of Sections 23-12 (Permitted Obstructions in Open Space), 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents) and 64-421 (Permitted obstructions) shall be modified as follows:

(a) mechanical equipment, including, but not limited to, #accessory# heating and cooling equipment, fuel oil tanks and emergency generators, shall be permitted obstructions in any #open space# required on the #zoning lot#, in any #side yard#, #rear yard# or #rear yard equivalent# and in #courts#, provided that such equipment is:

(1) located at least three feet from any #lot line#;

(2) screened on all sides by walls consisting of at least 50 percent opaque materials; and

(3) in compliance with the standards of either of the following provisions:

(i) all structures and screening are located no more than 10 feet from the wall of a #building# and limited to a height of no more than 12 feet above #flood-resistant construction elevation#; or

(ii) is located on the roof of a #building# or other structure, provided that the height of such equipment and screening does not exceed six feet, as measured from the finished level of a flat roof or, for a sloping roof, as measured from the midpoint of such roof. Such equipment shall be located

not less than 15 feet from any #street wall# of a #building or other structure#.

(b) eaves, gutters or downspouts shall be permitted obstructions in any #open space# required on the #zoning lot#, in any #yard# and in #courts#, provided that such eave, gutter or downspout does not project further than 16 inches into such required #open space#, #yard# or #court#.

(c) visual mitigation elements, provided pursuant to Section 64-A50 (SPECIAL DESIGN REQUIREMENTS) shall be permitted obstructions in any #open space# required on the #zoning lot#, in any #yard# and in #courts#.

64-A35
Special Yard Regulations

64-A351
Special provisions for front yards

[Note: Existing text to be deleted and substituted by Section 64-332(b)]

R1 R2 R3 R4 R5

(a) In the districts indicated, the #front yard# provisions of the applicable district shall apply, except that in R4 and R5 Districts, a #front yard# may have a depth of any dimension equal to or exceeding 10 feet.

(b) In the districts indicated, where an enclosed garage fronts upon a #street#, there shall be an unobstructed area at ground level, between the garage door and the #street line#, which is at least eight and one half feet in width by 18 feet in depth, except no such space shall be required in R5D Districts. Where an unenclosed #accessory# off-street parking space is provided in an open area on a #zoning lot#, or provided beneath an elevated #building#, an unobstructed area at ground level which is at least eight and one half feet in width by 18 feet in depth shall be provided between the #street line# and such space.

(c) For #buildings# that are reconstructed pursuant to this Section 64-A30, inclusive, the provisions regulating the depth of #front yards# in relation to adjacent #buildings#, set forth in paragraphs (b) and (c) of Section 23-45, shall not apply.

64-A352
Special provisions for narrow lots

[Note: Existing text moved to Section 64-332(c) and modified]

R1 R2 R3 R4 R5 R6

(a) In the districts indicated, the #side yard# provisions of the applicable district shall apply, except that the required total width of #side yards# for a #single-# or #two-family detached residence# may be reduced by four inches for each foot by which the width of a #zoning lot# is less than that required under the provisions of Section 23-32 (Minimum Lot Area or Lot Width for Residences). In no event shall the required width of a #side yard# be less than three feet. For #zoning lots# with less than 21 feet in #lot width#, the required total width of #side yards# shall be six feet.

(b) In the #Special South Richmond Development District#, the provisions of Sections 107-42 (Minimum Lot Area and Lot Width for Residences) and 107-462 (Side yards) shall not apply. In lieu thereof, the regulations of the applicable underlying #Residence District# shall apply pursuant to Section 23-32 (Minimum Lot Area or Lot Width for Residences)

and Section 23-46 (Minimum Required Side Yards) and may be modified, as applicable, by the regulations of this Appendix.

(c) For the permitted reconstruction of #detached buildings# the provisions of paragraph (c) of Section 23-461 (Side yards for single- or two-family residences) shall not apply, provided such open area does not serve as access to required #accessory# off-street parking.

64-A353
Special provisions for shallow lots

[Note: Existing text moved to Section 64-332(d) and modified]

R1 R2 R3 R4 R5 R6

In the districts indicated, if at any point the depth of a #zoning lot# is less than 95 feet, the depth of a required #rear yard# or waterfront yard may be reduced by six inches for each foot by which the mean lot depth is less than 95 feet. In no event shall the required depth of a rear yard be less than 10 feet.

64-A354
Special provisions for corner lots

[Note: Existing text moved to Section 64-332(e) and modified]

For #corner lots# in R1-2 Districts, if one #front yard# has a depth of 20 feet, then the other #front yard# may have a depth of 15 feet. For #corner lots# in R3 Districts, if one #front yard# has a depth of 15 feet, then the other #front yard# may have a depth of 10 feet.

In all districts, for #corner lots# with less than the minimum #lot area# required pursuant to the applicable district regulations, the following provisions shall apply:

(a) one #front yard# shall be provided along the full length of either #front lot line#;

(b) the remaining #front lot line# shall be treated as a #side lot line#; and

(c) any #side lot line# that is parallel to, or within 45 degrees of being parallel to the #front lot line# selected pursuant to paragraph (a) of this Section, shall be treated as a #rear lot line# and a #rear yard# shall be provided along the full length of such #lot line#.

The #rear# and #side yards# provided pursuant to this Section may be reduced pursuant to Sections 64-A352 (Special provisions for narrow lots) and 64-A353 (Special provisions for shallow lots).

64-A36
Special Height and Setback Regulations

[Note: Existing text moved to Section 64-333 and modified]

R1 R2 R3 R4 R5 R6

In the districts indicated, the height and setback regulations of the applicable district shall not apply. In lieu thereof, all #buildings# shall be subject to the height and setback provisions set forth in paragraph (b) of Section 23-631 (General provisions), except that the maximum height of a perimeter wall before setback shall be 19 feet, the maximum height of a ridge line shall be 25 feet and all heights shall be measured from the #flood-resistant construction elevation#. In no event shall any #building# exceed two #stories#, except that attic space providing structural headroom of less than eight feet shall not be considered a #story# for the purposes of this Section.

64-A40
SPECIAL PARKING PROVISIONS

64-A41
Waiver of Requirements for Certain Zoning Lots

R1 R2 R3 R4 R5 R6

In the districts indicated, the requirements set forth in Section 25-22 (Requirements Where Individual Parking Facilities Are Provided) shall be waived for a #single-# or #two-family residence# on an #interior zoning lot# that has a #lot width# along a #street# of less than 25 feet, and where the #flood-resistant construction elevation# is less than six feet above #curb level#.

64-A42
For Elevated Buildings

The provisions of Section 64-52 (For Elevated Buildings) shall be modified to allow the #accessory# off-street parking spaces, required pursuant to that section, to be located anywhere on the #zoning lot#.

64-A50
SPECIAL DESIGN REQUIREMENTS

R1 R2 R3 R4 R5 R6

In the districts indicated, the provisions of Section 64-61 (Design Requirements for Single- and Two-family Residences) shall apply, except as expressly modified by this Section. Visual mitigation elements shall be required unless more than 50 percent of the #street wall# is within 18 inches of the #street line#.

64-A51
Special Regulations for Corner Lots

The design requirements set forth in Section 64-61 shall apply separately along each #street frontage# of a #corner lot#, except as modified below:

(a) For #corner lots#, where the level of the #lowest occupiable floor# is nine feet or more above #curb level#, and more than 50 percent of the #street wall# of a #building# is within six feet of a #street line#, only one visual mitigation element shall be required along such #street# frontage.

(b) For #corner lots#, where trees or shrubs are provided as visual mitigation elements along both #street frontages# pursuant to paragraph (d) of Section 64-61, the required total length of planted areas shall be reduced to a minimum of 45 percent of the aggregate length of #street walls#, provided that the planting bed is continuous for the minimum required length, measured along such #street walls#, and at least six feet of planting bed is provided facing each #street#.

64-A52
Special Regulations for Narrow Lots

For #interior zoning lots# that have a #lot width# less than 25 feet, the design requirements of paragraph (d) of Section 64-61 shall be modified to require the total length of planted areas to be greater than 40 percent of the #lot width# and to be planted to screen at least 40 percent of the length of the #street wall#.

~~64-A53~~
~~Special Regulations for Zoning Lots With Shallow Yards~~

~~For #zoning lots# where more than 50 percent of the #street wall# of a #building# is located within six feet of a #street line#, one or more of the following visual mitigation elements may be provided in lieu of paragraph (d) of Section 64-61:~~

~~(a) Climbing vines~~

~~Where provided as a visual mitigation element, climbing vines shall be planted along 40 percent of the aggregate width of #street walls# in a planting bed that is at least 18 inches in width, measured perpendicular to the #street wall# and allows a soil depth of at least two feet. A framework for the climbing vines shall be provided for the full length of the planting bed to a height of at least four feet. Such framework may be freestanding or attached to the #building#.~~

~~(b) Green wall~~

~~Where provided as a visual mitigation element, a green wall or landscaped fence shall extend along 40 percent of the aggregate width of #street walls# to a height of at least four feet. Hanging plants, potted plants or plant material shall be distributed along the entire length of such green wall or landscaped fence. The supporting structure may be freestanding or attached to the #building# and shall be considered a permitted obstruction in any required #yard#, #court# or #open space#.~~

~~(c) Planter box or raised planting bed~~

~~Where provided as a visual mitigation element, planter boxes or raised planting beds may be used in place of planting beds at grade. The top of such planter boxes shall be located between 18 and 36 inches above adjacent grade. Raised planting beds shall be at least 18 inches in height and shall not exceed 36 inches above adjacent grade. For planter boxes and raised planting beds, the minimum soil width shall be at least one foot, measured perpendicular to the street line, and the minimum soil depth shall be 18 inches. The planted area may be comprised of any combination of groundcover, perennials, annuals, shrubs, trees or other living plant material, and must attain a height of at least six inches. Planter boxes may be freestanding or attached to the #building#.~~

~~64-A60~~
~~NON-CONFORMING AND NON-COMPLYING BUILDINGS~~

~~64-A61~~
~~Special Regulations for Non-conforming Single- or Two-family Residences in Manufacturing Districts~~

[Note: Existing text to be deleted and substituted by Section 64-61]

~~The provisions of Section 64-712 (Single- and two-family buildings), shall be modified to allow the vertical elevation or reconstruction of a #non-conforming single-# or #two-family residence# in a #Manufacturing District#. Reconstructions of such #residences# shall utilize the applicable #bulk# regulations of an R4-1 District, as modified by Section 64-A30 of this Appendix.~~

~~64-A70~~
~~SPECIAL APPROVALS~~

~~The special permit and variance provisions of this Resolution shall apply to properties in the Neighborhood Recovery Areas.~~

~~64-A71~~
~~Special Permit for Establishing Non-conformance~~

~~In all districts, for a #zoning lot# that contained two or more #dwelling units# on October 28, 2012, and does not have a certificate of occupancy, or other lawful documentation, indicating that more than one #dwelling unit# existed on the #zoning lot# on such date, the Board of Standards and Appeals may permit the vertical elevation or reconstruction of up to two #dwelling units# on such #zoning lot# in accordance with this Appendix, and all applicable requirements of the New York City Construction Codes, provided that the Board of Standards and Appeals determines that more than one #dwelling unit# existed on the site on October 28, 2012, based on evidence submitted to the Board of Standards and Appeals, which may include, but shall not be limited to, Department of Finance tax records, utility bills or an affidavit from a licensed architect or engineer that documents an on-site inspection of the #zoning lot# performed under the auspices of a governmental agency.~~

~~Such #buildings# which are vertically elevated shall comply with the #bulk# provisions of Section 64-A20, and such #buildings# that are reconstructed shall comply with the #bulk# provisions of Section 64-A30.~~

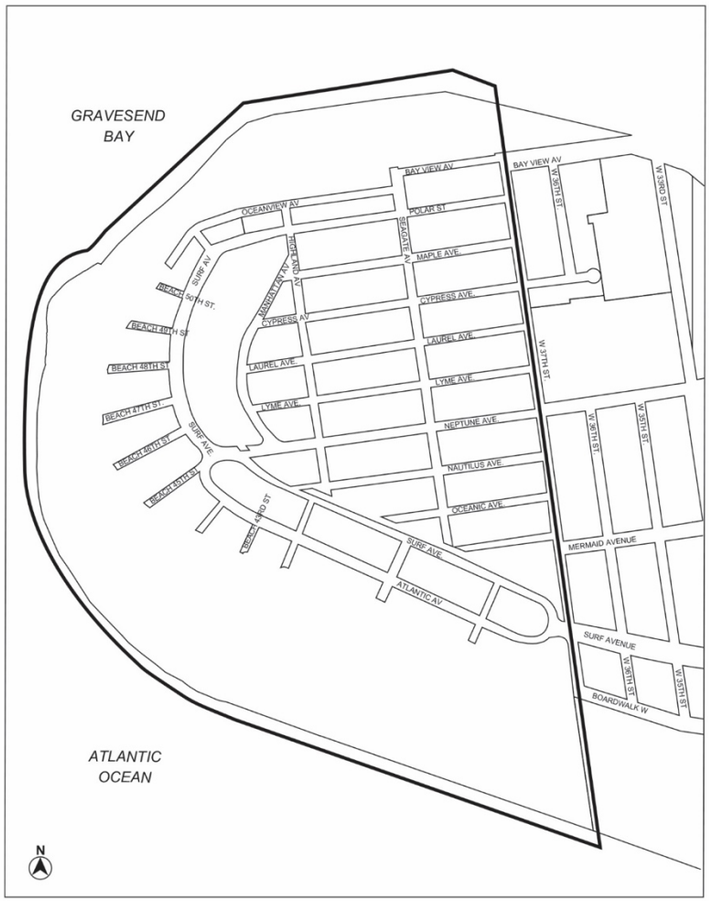
~~Upon completion and sign-off of work completed under the provisions of this Appendix, such #building# shall be considered #non-conforming#.~~

~~64-A80~~
~~NEIGHBORHOOD RECOVERY AREA MAPS~~

~~Neighborhoods that experienced a high concentration of damage to #single#- and #two-family residences# from #Hurricane Sandy# are defined as Neighborhood Recovery Areas.~~

~~64-A81~~
~~Neighborhood Recovery Areas in Brooklyn~~

~~(a) within Community District 13~~



~~Neighborhood Recovery Area Blocks within Community District 13:~~

~~6955, 6956, 6957, 6958, 6959, 6960, 6971, 6972, 6973, 6974, 6975, 6976, 6977, 6998, 6999,~~

~~7000, 7001, 7002, 7003, 7024, 7025, 7026, 7027, 7028, 7029, 7030, 7031, 7032, 7033, 7034, 7035, 7036, 7037, 7038, 7039, 7040, 7041, 7042, 7043, 7044.~~

~~(b) within Community Districts 13 and 15~~



~~Neighborhood Recovery Area Blocks within Community Districts 13 and 15:~~

~~7220, 7222, 7223, 7224, 7239, 7242, 7243, 7244, 7245, 7260, 7261, 7262, 7263, 7264,~~

~~7430, 7431, 7433, 7434, 7435, 7436, 7437, 7438, 7439, 7440, 7441, 7442, 7443, 7444, 7445, 7446, 7447, 7449, 7452, 7454, 7455, 7456, 7457, 7458, 7459, 7460, 7462, 7463, 7464, 7465, 7466, 7467, 7468, 7469, 7470, 7471, 7472, 7473, 7474, 7475, 7476, 7477, 7478, 7479, 7481,~~

~~8590, 8661, 8662, 8663, 8664, 8665, 8666, 8667, 8668, 8669, 8670, 8671, 8672, 8673, 8674, 8675, 8676, 8677, 8678, 8679, 8680, 8682, 8683, 8684, 8685, 8686, 8687, 8688, 8689, 8690, 8691, 8692, 8693,~~

~~8700, 8701, 8702, 8703, 8704, 8705, 8706, 8707, 8709, 8711, 8712, 8714, 8715, 8716, 8717, 8718, 8720, 8721, 8722, 8723, 8725, 8761, 8762, 8763, 8764, 8765, 8766, 8767, 8768, 8769, 8770, 8771, 8772, 8773, 8774, 8775, 8776, 8777, 8778, 8779, 8780, 8781, 8782, 8783, 8784, 8785, 8786, 8787, 8788, 8789, 8790, 8791, 8792, 8793, 8794, 8795, 8796, 8797, 8798, 8799,~~

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~~8900, 8907, 8914, 8923, 8925, 8932, 8939, 8946, 8955.~~

~~(c) within Community District 18~~



~~Neighborhood Recovery Area Blocks within Community District 18:~~

~~8012, 8029, 8030, 8031, 8032, 8033, 8034, 8035, 8036, 8037, 8038, 8039, 8040, 8041, 8043, 8044, 8046, 8047, 8048, 8049, 8050, 8051, 8052, 8053, 8054, 8055, 8056, 8057, 8058, 8059, 8060, 8061, 8062, 8063, 8064, 8065, 8066, 8067, 8068, 8069, 8070, 8071, 8072, 8073, 8074, 8075, 8076, 8077, 8078, 8079, 8080, 8081, 8082, 8083, 8084, 8085, 8086, 8088, 8089, 8090,~~

~~8217, 8218, 8219, 8220, 8221, 8222, 8224, 8225, 8226, 8227, 8228, 8229, 8230, 8231, 8232, 8233, 8234, 8235, 8236, 8237, 8238, 8239, 8240, 8241, 8242, 8243, 8244, 8245, 8246, 8247, 8248, 8249, 8250, 8251, 8252, 8253, 8255, 8256, 8257, 8258, 8259, 8260, 8261, 8262, 8263, 8264, 8265, 8266, 8267, 8268, 8269, 8270, 8271, 8272, 8273, 8274, 8275, 8277, 8278, 8279, 8280, 8281, 8282, 8283, 8284, 8285, 8286, 8287, 8288, 8289, 8290, 8291, 8293, 8294, 8295, 8296, 8297, 8298, 8299,~~

~~8300, 8301, 8302, 8303, 8304, 8305, 8306, 8307, 8308, 8309, 8310, 8312, 8316, 8317, 8318, 8321, 8322, 8323, 8324, 8326, 8327, 8328, 8329, 8330, 8331, 8334.~~

~~64-A82~~

~~Neighborhood Recovery Areas in Queens~~

~~(a) within Community District 10~~



~~Neighborhood Recovery Area Blocks within Community District 10:~~

~~11469, 11472,~~

~~11572, 11583, 11588, 11589, 11590, 11591,~~

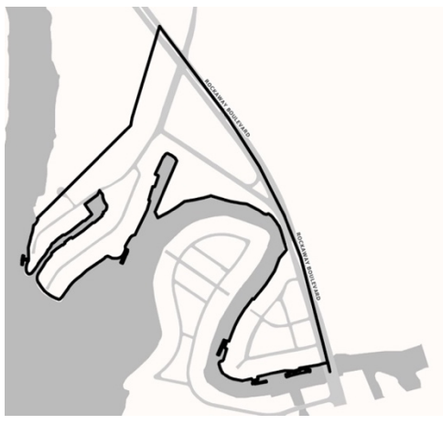
~~13947, 13949, 13950, 13951, 13952, 13953, 13954, 13955, 13956, 13957, 13959, 13960, 13961, 13962, 13963, 13964, 13965, 13966, 13967, 13968, 13969, 13970, 13971, 13972, 13977, 13978, 13979, 13980, 13981, 13982, 13983, 13984, 13985, 13986, 13987, 13988, 13989, 13990, 13991, 13999,~~

~~14000, 14001, 14002, 14003, 14004, 14005, 14006, 14007, 14008, 14009, 14010, 14011, 14012, 14013, 14016, 14017, 14018, 14019, 14020, 14021, 14022, 14023, 14024, 14025, 14026, 14027, 14028, 14029, 14030, 14039, 14040, 14041, 14042, 14043, 14044, 14045, 14046, 14047, 14048, 14057, 14058, 14059, 14060, 14061, 14062, 14063, 14064, 14065, 14066, 14067, 14068, 14069, 14070, 14071, 14072, 14073, 14074, 14075, 14076, 14077, 14078, 14079, 14080, 14081, 14082, 14083, 14084, 14085, 14086,~~

~~14140, 14141, 14142, 14143, 14145, 14147, 14148, 14149, 14150, 14151, 14152, 14154, 14155, 14156, 14158, 14159, 14160, 14161, 14162, 14163, 14165, 14166, 14167, 14168, 14169, 14170, 14171, 14172, 14173, 14175, 14176, 14177, 14178, 14179, 14180, 14181, 14182, 14183, 14185, 14186, 14187, 14188, 14189, 14191, 14192, 14193, 14194, 14195, 14197, 14198, 14199,~~

~~14200, 14201, 14203, 14204, 14205, 14206, 14207, 14209, 14210, 14211, 14212, 14225, 14228, 14231, 14234, 14238, 14239, 14240, 14241, 14242, 14243, 14244, 14245, 14246, 14247, 14248, 14249, 14250, 14251, 14252, 14253, 14254, 14255, 14260.~~

~~(b) within Community District 13~~



~~Neighborhood Recovery Area Blocks within Community District 13:~~

~~13895, 13910, 13911, 13912, 13913, 13914, 13921, 14260.~~

~~(c) within Community District 14~~



~~Neighborhood Recovery Area Blocks within Community District 14:~~

~~15100,~~

~~15300, 15301, 15302, 15303, 15304, 15305, 15306, 15308, 15311, 15312, 15313, 15314, 15315, 15316, 15317, 15318, 15319, 15320, 15321, 15322, 15323, 15324, 15325, 15326, 15327, 15350, 15375, 15376,~~

~~15400, 15450, 15451, 15452, 15453, 15454, 15455, 15456, 15457, 15458, 15459, 15460, 15461, 15462, 15463, 15464, 15465, 15466, 15475, 15476, 15477, 15478, 15479, 15480, 15481, 15482, 15483, 15484, 15485, 15486,~~

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16300, 16301, 16302, 16303, 16304, 16305, 16306, 16307, 16308, 16309, 16310, 16311, 16312, 16313, 16314, 16315, 16316, 16317, 16318, 16319, 16320, 16321, 16322, 16323, 16324, 16325, 16340.

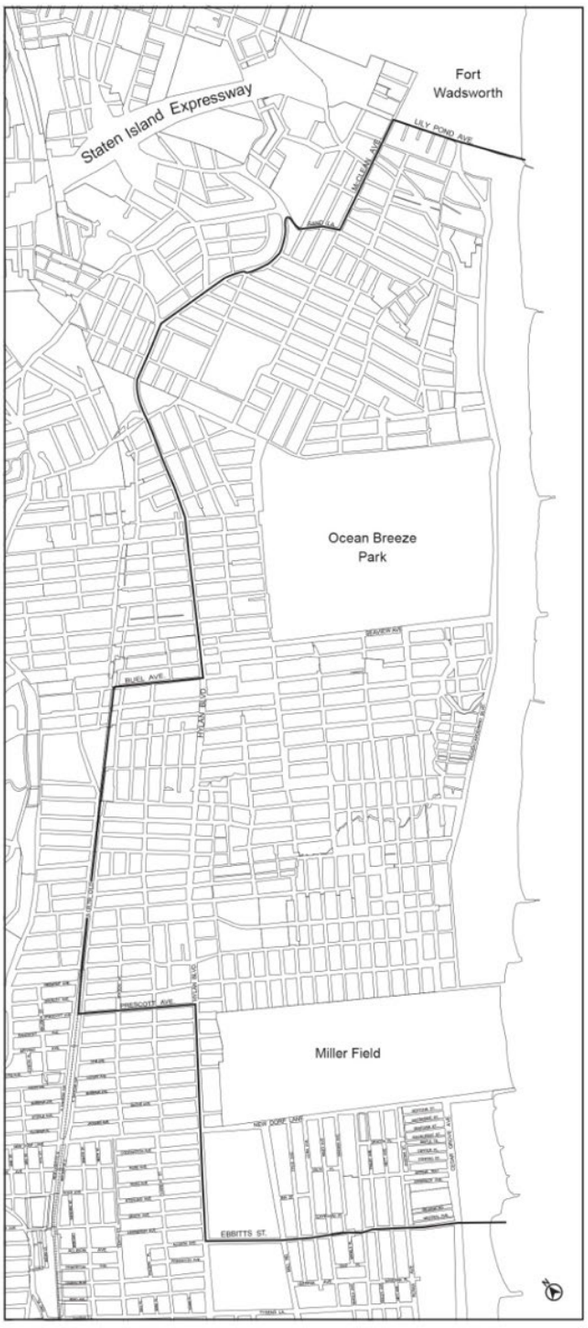
64-A83

Neighborhood Recovery Areas in Staten Island

In Staten Island, any areas designated by New York State as part of the NYS Enhanced Buyout Area Program located within #Special Coastal Risk District# 3, as established in the Appendix to Article XIII, Chapter 7, are excluded from a Neighborhood Recovery Area.

~~(a) within Community District 2~~





~~Neighborhood Recovery Area Blocks within Community District 2:~~

~~3108, 3109, 3110, 3111, 3112, 3113, 3114, 3115, 3116, 3117, 3118, 3119, 3120, 3121, 3122, 3123, 3124, 3125, 3128,~~

~~3220, 3221, 3222, 3223, 3224, 3235, 3236, 3237, 3238, 3239, 3243, 3246, 3247, 3248, 3249, 3250, 3251, 3252, 3253, 3254, 3255, 3256, 3257, 3263, 3264, 3266, 3267, 3268, 3269, 3270, 3271, 3272, 3273, 3274, 3275, 3276, 3277, 3278, 3279, 3280, 3281, 3282, 3284,~~

~~3346, 3347, 3348, 3349, 3350, 3351, 3352, 3353, 3354, 3355, 3358, 3359, 3360, 3361, 3362, 3368, 3369, 3370, 3371, 3372, 3373, 3374, 3375, 3376, 3377, 3378, 3379, 3380, 3389, 3390, 3391, 3392, 3393, 3394, 3395, 3396, 3397, 3398,~~

~~3400, 3401, 3402, 3403, 3404, 3405, 3406, 3407, 3408, 3410, 3411, 3412, 3413, 3414, 3415, 3416, 3417, 3418, 3419, 3420, 3422, 3423, 3427, 3472, 3475, 3478, 3481, 3491,~~

~~3500, 3525, 3538, 3539, 3540, 3541, 3542, 3543, 3544, 3545, 3546, 3547, 3548, 3549, 3550, 3551, 3555, 3556, 3557, 3558, 3559, 3560, 3561, 3567, 3568, 3569, 3570, 3571, 3572, 3573, 3574, 3575, 3583, 3584, 3585, 3586, 3587, 3588, 3589, 3590, 3591,~~

~~3603, 3604, 3605, 3608, 3609, 3610, 3613, 3614, 3615, 3650, 3651, 3652, 3655, 3656, 3657, 3658, 3659, 3660, 3661, 3662, 3663, 3664, 3665, 3666, 3667, 3668, 3669, 3670, 3671, 3672, 3673, 3674, 3679, 3680, 3681, 3682, 3683, 3684, 3685, 3686, 3687, 3688, 3689, 3690, 3691, 3692, 3696, 3697, 3698, 3699,~~

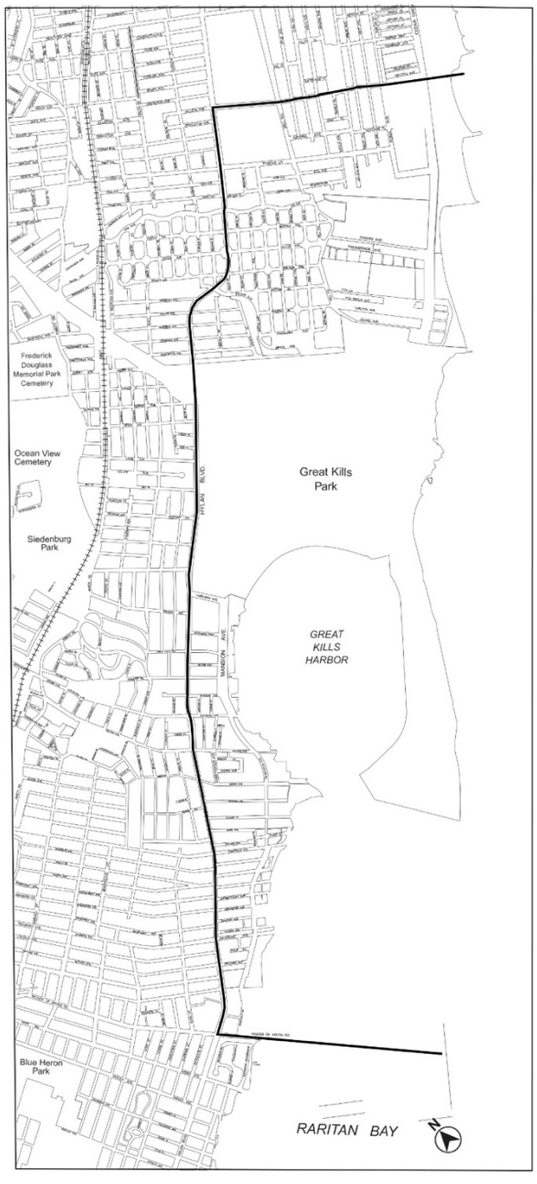
~~3700, 3701, 3702, 3703, 3704, 3705, 3706, 3707, 3708, 3709, 3710, 3711, 3712, 3713, 3714, 3715, 3716, 3717, 3718, 3721, 3722, 3723, 3724, 3725, 3726, 3727, 3728, 3729, 3730, 3731, 3732, 3733, 3734, 3735, 3736, 3737, 3738, 3739, 3740, 3741, 3742, 3743, 3744, 3745, 3746, 3747, 3748, 3750, 3751, 3752, 3753, 3754, 3755, 3756, 3757, 3758, 3759, 3760, 3761, 3762, 3763, 3764, 3765, 3766, 3767, 3768, 3769, 3790, 3791, 3792, 3793, 3794, 3795, 3796, 3797, 3798, 3799,~~

~~3800, 3801, 3802, 3803, 3804, 3805, 3806, 3807, 3808, 3809, 3810, 3811, 3812, 3813, 3814, 3815, 3816, 3817, 3818, 3819, 3820, 3821, 3822, 3823, 3824, 3825, 3826, 3829, 3830, 3831, 3832, 3833, 3834, 3835, 3836, 3837, 3838, 3839, 3840, 3842, 3843, 3844, 3845, 3846, 3847, 3848, 3849, 3850, 3851, 3856, 3859, 3860, 3861, 3864, 3868, 3871, 3873, 3875, 3879, 3881, 3882, 3883, 3884, 3885, 3886, 3887, 3888, 3889, 3891, 3893,~~

~~3930,~~

~~4031, 4033, 4035, 4037, 4038, 4039, 4040, 4041, 4043, 4045, 4046, 4047, 4048, 4049, 4050, 4064, 4065, 4066, 4067, 4068, 4069, 4076, 4077, 4078, 4079, 4080, 4081, 4082, 4083, 4084, 4085, 4086, 4087, 4088, 4089, 4091, 4092, 4093, 4105.~~

~~(b) within Community District 3~~



~~Neighborhood Recovery Area Blocks within Community District 3:~~

~~3983,~~

~~4000, 4001, 4002, 4007, 4015, 4016, 4017, 4018, 4019, 4020, 4021, 4022, 4023, 4024, 4025, 4026, 4027, 4028, 4029, 4030, 4049, 4051, 4052, 4053, 4054, 4055, 4056, 4057, 4058, 4063, 4070, 4071, 4073, 4074,~~

~~4105, 4108, 4130, 4131, 4160,~~

~~4668, 4669, 4672, 4673, 4674, 4675, 4676, 4678, 4679, 4680, 4681, 4682, 4683, 4684, 4685, 4686, 4687, 4688, 4689, 4690, 4691, 4692, 4693, 4694, 4695,~~

~~4717, 4718, 4719, 4720, 4721, 4722, 4723, 4724, 4725, 4726, 4728, 4736, 4737, 4738, 4739, 4740, 4746, 4754, 4758, 4759, 4760, 4761, 4762, 4767, 4768, 4772, 4773, 4774, 4775, 4776, 4781, 4782, 4785, 4787, 4788, 4791, 4792, 4793,~~

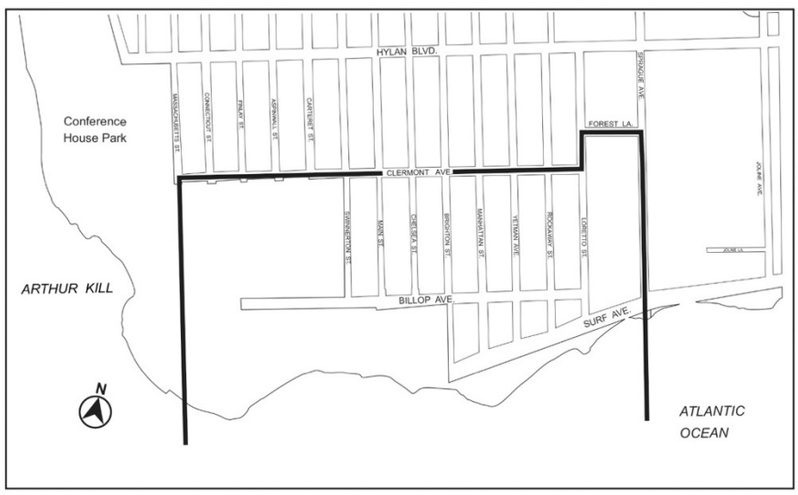
~~4802, 4803, 4805, 4994,~~

~~5067, 5190, 5195, 5200, 5201, 5202, 5203, 5204, 5205, 5206, 5207, 5208, 5209, 5212, 5298, 5299,~~

~~5302, 5303, 5306, 5307, 5308, 5309, 5310, 5311, 5312, 5313, 5314, 5315, 5316, 5317, 5318, 5319, 5320, 5321, 5322,~~

~~5409, 5410, 5411, 5412, 5415, 5418.~~

~~(c) within Community District 3~~



~~Neighborhood Recovery Area Blocks within Community District 3:~~

~~7722,~~

~~7857, 7858, 7859, 7860, 7861, 7862, 7863, 7880, 7881, 7883, 7884, 7885,~~

~~7905, 7906.~~

* * *

Chapter 5
Special Regulations Applying in Designated Recovery Areas

65-00
GENERAL PROVISIONS

The provisions of this Resolution shall apply as modified by this Chapter and by the special regulations set forth herein. The provisions of this Chapter establish optional special regulations which are designed to facilitate, on a temporary basis, the recovery of areas impacted by a severe disaster and in so doing promote and protect public health, safety and general welfare. These general goals include, among others, the following purposes:

(a) to expedite the recovery of neighborhoods that have experienced physical or non-physical impacts from a severe disaster;

(b) to enable the reconstruction and alteration of buildings damaged by a severe disaster, by removing disincentives; and

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

65-01
Applicability of Article VI, Chapter 5

The provisions of this Chapter shall apply based on the type of impacts caused by each #severe disaster#, and such applicability shall be determined at the time such provisions are added to the Chapter's applicability. #Designated recovery areas# shall be determined based on the extent of the impacts caused by the #severe disaster# and recovery plans, as applicable. For each of the #designated recovery areas#, applicable recovery provisions will be set forth in this Chapter based on the type of impacts caused by the #severe disaster#. The #designated recovery areas# shall be listed in Appendix A of this Chapter, and the applicable time duration shall be set forth in the following table.

#Designated Recovery Area# Number and #severe disaster#	**Effective Date**	**Applicable Sections**								**Time Duration (after effective date)***
		65-11	65-12	65-13	65-21	65-31	65-41	65-42	64-51	
1: COVID-19	[date of adoption]		x	x						2 years

* Such time duration limitation may be modified by the specific provision located in this Chapter

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

65-10
SPECIAL TIME-BASED PROVISIONS

The modifications to time limits associated with this Resolution and set forth in this Section, inclusive, may be applied to #zoning lots# within #designated recovery areas#, as set forth in Section 65-01 (Applicability of Article VI, Chapter 5).

65-11
Vesting Provisions

In all districts, the provisions of Section 11-30 (BUILDING PERMITS ISSUED BEFORE EFFECTIVE DATE OF AMENDMENT), inclusive, and any other provision that requires a building permit to be submitted, or a particular amount of construction to be completed within a certain timeframe, shall be suspended. Subsequent to the expiration of the applicable time duration as set forth in Section 65-01 (Applicability of Article VI, Chapter 5), the time period established

by the applicable provisions of this Resolution shall be resumed, and the remaining time associated with submitting a building permit, or completing a particular amount of construction shall be the amount existing prior to the #severe disaster#.

65-12
Authorizations or Special Permits Granted by the City Planning Commission

In all districts, for special permits or authorizations granted by the City Planning Commission where substantial construction has not taken place and such approval would lapse after a total of 10 years within the applicable time duration set forth in Section 65-01 (Applicability of Article VI, Chapter 5), the provisions of Section 11-42 (Lapse of Authorization or Special Permit Granted by the City Planning Commission Pursuant to the 1961 Zoning Resolution) and 11-43 (Renewal of Authorization or Special Permit) shall be modified to allow the renewal of such authorization or special permit without public hearing, for one additional three-year term, provided that the Commission finds that the facts upon which the authorization or special permit was granted have not substantially changed. An application for a renewal of authorization or special permit shall be filed with the Commission before it lapses.

65-13
Discontinuance Provisions

In all districts, where a #non-conforming use# has been discontinued, the time limits associated with restoring active operations of such #use# to retain its #non-conforming# status shall be suspended. Subsequent to the expiration of the applicable time duration as set forth in Section 65-01 (Applicability of Article VI, Chapter 5), the time period established by the applicable provisions of this Resolution shall be resumed, and the remaining time associated with restoring active operations shall be the amount existing prior to the #severe disaster#.

65-20
SPECIAL DAMAGE AND DESTRUCTION PROVISIONS

The following modifications to damage and destruction provisions associated with this Resolution may be applied to #zoning lots# within #designated recovery areas#, as set forth in Section 65-01 (Applicability of Article VI, Chapter 5).

65-21
Reconstruction Provisions

In all districts, where the provisions of this Section are utilized, the provisions of Article V, Chapters 2 (Non-Conforming Uses) and 4 (Non-Complying Buildings) shall be modified to allow the reconstruction of #buildings or other structures# containing #non-conforming uses# and #non-complying buildings or other structures#, that were damaged due to the effects of the #severe disaster#, as follows:

[Note: Text moved from Sections 64-711 and 64-721 and modified]

(a) Section 52-53 (Buildings or Other Structures in All Districts), inclusive, shall be modified to allow the reconstruction of a #non-conforming use# where a #building or other structure# containing such #use# is damaged to the extent of 50 percent or more due to the effects of a #severe disaster#. In addition, for the purpose of this paragraph, the provisions of Section 52-60 (DISCONTINUANCE) shall not apply to such damaged #building or other structure# with #non-conforming uses#; and

(b) Section 54-40 (DAMAGE OR DESTRUCTION IN NON-COMPLYING BUILDINGS) shall be modified to allow the reconstruction of a #non-complying building or other structure# where such #building or other structure# is damaged to the extent of 75 percent or more due to the effects of a #severe disaster#.

For the purpose of applying waterfront and parking regulations, #buildings# reconstructed pursuant to this Section shall not be considered #developments# or #enlargements#.

65-30
SPECIAL USE REGULATIONS

The following modifications to #use# regulations set forth in this Section, inclusive, may be applied to #zoning lots# within #designated recovery areas#, as set forth in Section 65-01 (Applicability of Article VI, Chapter 5).

64-31
Temporary Uses

In all districts, where the provisions of this Section are utilized, the #use# provisions of this Resolution, including any supplemental use regulations and provisions regulating size limitations, change of #non-conforming uses#, #enlargement# or #extension# of #non-conforming uses#, shall be modified to allow a temporary #non-conforming use# to be created, and a #non-conforming use# to be #enlarged# or #extended#, on a temporary basis, to aid in the immediate restoration and recovery of an area adversely impacted by a #severe disaster#.

The creation of a new #non-conforming use# shall be subject to the following limitations:

#Severe Disaster#	**District**	**Use Group of permitted new #non-conformance#**	**Time Duration (if different from Section 65-01)**

Subsequent to the expiration of the applicable time duration as set forth in this Section, any #non-conforming use# that was created, or any portion of a #non-conforming use# that was #enlarged# or #extended# on a #zoning lot#, shall be terminated and, thereafter, such #zoning lot# shall be reinstituted to its pre-existing degree of #non-conformity#, or used only for a conforming #use#.

65-40
SPECIAL BULK REGULATIONS

The following modifications to #bulk# regulations set forth in this Section, inclusive, may be applied to #zoning lots# within #designated recovery areas#, as set forth in Section 65-01 (Applicability of Article VI, Chapter 5).

65-41
Reconstruction and Alteration of Disaster-Damaged Buildings

In all districts, where the provisions of this Section are utilized, the #bulk# provisions of this Resolution, and the provisions regulating the reconstruction, #enlargement# and alteration of #buildings# with #non-conforming uses# and #non-complying buildings or other structures# shall be modified to allow the reconstruction, #enlargement#, relocation and alteration of #buildings or other structures# that were damaged due to the effects of the #severe disaster#, including #non-conformances# to be continued, and #non-compliances# to be created, continued, or increased, provided the #building or other structure# is subject to the following provisions, as applicable:

(a) Floor area

The maximum amount of #floor area# shall not exceed the amount of pre-existing #floor area# as it existed prior to the reconstruction, #enlargement#, relocation or alteration work or the amount permitted by the district, whichever is greater. Furthermore, no #extension# or change of #use# may create a new #non-conformance# or a new #non-compliance#, or increase the degree of existing #non-conformance# or #non-compliance# with #floor area#.

(b) Building footprint

The resulting #lot coverage# shall be less than or equal to that of the pre-existing #building or other structure# as it existed prior to the reconstruction, #enlargement#, relocation or alteration work or the amount permitted by the district, as applicable, whichever is greater. Furthermore, a #building or other structure# may continue an existing #non-compliance#, increase the degree of an existing #non-compliance#, or create a new #non-compliance# with respect to open areas required through regulations for #yards#, #open space#, #open space ratio#, #lot coverage#, #courts#, and minimum distance between #buildings#, in order to relocate or alter the footprint of the #building or other structure#, provided that:

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

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

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

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

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

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

(c) Building height

The resulting height and setback may continue an existing #non-compliance#, provided that the height of such reconstructed, #enlarged#, relocated or altered #building or other structure# as measured from #curb level#, #base plane# or other applicable underlying datum, does not exceed the pre-existing height of such #building#, as measured from the top of the lowest floor that contains #floor area#, to the highest point of such pre-existing #building#. All permitted obstruction allowances shall be measured with respect to the modified height and setback regulations set forth in this Section.

For the purpose of applying waterfront and parking regulations, #buildings or other structures# reconstructed pursuant to this Section shall not be considered #developments# or #enlargements#.

65-42
Properties with Disaster-Damaged Buildings

[Note: Text moved from Section 64-A03 and modified]

In all districts, the definition of #zoning lot# set forth in Section 12-10 (DEFINITIONS) may be modified to allow a tax lot containing one or more #buildings# that were damaged by the #severe disaster#, or where a #building# or #buildings# that were damaged by the #severe disaster# occupied more than one tax lot on the date of the #severe disaster#, to be provisionally considered a #zoning lot# for the sole purpose of demonstrating compliance with the #bulk# requirements of

this Resolution, including the provisions of Section 65-31 (Reconstruction and Alteration of Disaster-Damaged Buildings), as applicable.

65-50
SPECIAL DOCUMENTATION PROVISIONS

The following modifications to documentation procedures may be applied to #zoning lots# within #designated recovery areas#, as set forth in Section 65-01 (Applicability of Article VI, Chapter 5).

65-51
Documentation Provisions

For #buildings or other structures# that were damaged due to the effects of the #severe disaster# and do not have a certificate of occupancy, construction documents, or other lawful documentation filed with the Department of Buildings indicating the existence of such #building or other structure# prior to the #severe disaster# and the presence and extent of #non-conforming uses# or #non-compliances# as to #bulk#, as applicable, in order to receive a building permit to reconstruct, #enlarge#, relocate or alter #buildings or other structures# pursuant to the provisions of this Resolution, inclusive of this Chapter, the Commissioner of Buildings may determine alternate and appropriate documentation necessary to substantiate proof of such #non-conformances# or #non-compliances#, as applicable.

Appendix A
Designated Recovery Areas

The boundaries of each #designated recovery area# are described in this Appendix, and are subject to the temporary provisions of this Chapter, as specified in Section 65-01 (Applicability of Article VI, Chapter 5).

Designated Recovery Area 1: COVID-19 [date of adoption]

The #designated recovery area 1# shall include all #zoning lots# located within the City of New York.

* * *

ARTICLE VII
ADMINISTRATION

* * *

Chapter 3
Special Permits by the Board of Standards and Appeals

* * *

73-00
SPECIAL PERMIT USES AND MODIFICATIONS

* * *

73-20
~~**THEATERS**~~ **ADDITIONAL SPECIAL PERMIT USES**

* * *

73-201
Theaters in C1 Districts

73-202
Theaters in M1-5A or M1-5B Districts

* * *

73-24
Eating or Drinking Places

* * *

73-242
In C3 Districts

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~~ 10 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.

* * *

73-60
MODIFICATIONS OF BULK REGULATIONS

* * *

73-62
Modification of Bulk Regulations for Buildings Containing Residences

* * *

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

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:

* * *

73-70
~~LAPSE OF PERMIT~~
SPECIAL PERMITS IN THE FLOOD ZONE

[Note: Existing text moved to 73-80]

~~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~~.

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

73-71
Special Permit for Modification of Certain Zoning Regulations

[Note: Text moved from Section 64-92 and modified]

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.

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

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.

73-80
LAPSE OF PERMIT

[Note: Text moved from Section 73-70 and not edited]

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.

* * *

Chapter 4
Special Permits by the City Planning Commission

74-00
POWERS OF THE CITY PLANNING COMMISSION

* * *

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

* * *

74-901
Long-term care facilities

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.

* * *

(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, ~~Community~~

~~District 14 in the Borough of Queens,~~ 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.

* * *

74-96
Modification of Use, Bulk, Parking and Loading Regulations in Industrial Business Incentive Areas

* * *

74-962
Floor area increase and public plaza modifications in Industrial Business Incentive Areas

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.

* * *

(a) Application requirements

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

(1) 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 #public plazas#, signage and lighting;

(2) 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#;

(3) 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. The plans shall demonstrate that any #public plaza# provided meets the requirements of paragraph (b)(5) of this Section; and

(4) for #zoning lots# in #flood zones#, flood protection plans, ~~which shall show #base flood elevations# and advisory #base flood elevations#, as applicable~~, 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.

* * *

(b) Conditions

* * *

(4) Ground floor design

~~(i)~~ The ground floor level #street walls# and ground floor level walls fronting on a #public plaza# of a #development# or horizontal #enlargement# shall be glazed in accordance with the provisions of Section 37-34 (Minimum Transparency Requirements). ~~with transparent materials which may include #show windows#, transom windows or glazed portions of doors. Such transparent materials shall occupy at least 50 percent of the surface area of such #street wall#, measured between a height of two feet above the level of the adjoining sidewalk or #public plaza# and a height of 12 feet above the level of the first finished floor above #curb level#. The floor level behind such transparent materials shall not exceed the level of the window sill for a depth of at least four feet, as measured perpendicular to the #street wall#.~~ The ground floor transparency requirements of this paragraph (b)(4)(i) shall not apply to #uses# listed in Use Groups 11, 16, 17 and 18, ~~or to #accessory# loading berths or garage entrances; or~~ 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).

~~(ii) For #zoning lots# within flood hazard areas, in lieu of the requirements of paragraph (b)(4)(i) of this Section, the provisions of Section 64-22 (Transparency Requirements) shall apply; and~~

~~(iii) For any #street wall# greater than 40 feet in width that does not require glazing, as specified in paragraphs (b)(4)(i) or (b)(4)(ii) of this Section, as applicable, the facade, measured between a height of two feet above the level of the adjoining sidewalk and a height of 12 feet above the level of the first finished floor above #curb level#, shall incorporate design elements, including lighting and wall art, or physical articulation.~~

* * *

ARTICLE VIII
SPECIAL PURPOSE DISTRICTS

* * *

Chapter 4
Special Battery Park City District

84-00
GENERAL PURPOSES

* * *

84-02
General Provisions

In harmony with the general purpose and intent of this Resolution and in order to achieve the purpose of the #Special Battery Park City District#, a special set of regulations is established for the #Special Battery Park City District# controlling #use#, #bulk#, #accessory# off-street parking facilities and #accessory# off-street loading facilities. Such regulations are contained in this Chapter and in other provisions of this Resolution incorporated in this Chapter by cross-reference.

In #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

Chapter 7
Special Harlem River Waterfront District

* * *

87-00
GENERAL PURPOSES

* * *

87-01
Definitions

For purposes of this Chapter, matter in italics is defined in Sections 12-10, 62-11 or 64-11, or within this Section.

Ground floor level

The "ground floor level" shall mean the finished floor level of the first #story# that is within five feet of an adjacent public sidewalk or any other #publicly accessible open area#~~, or the finished floor level of the #lowest occupiable floor# pursuant to the provisions of Section 64-21 (Ground Floor Use), whichever is lower~~.

* * *

87-04
Applicability of District Regulations

* * *

87-043
Applicability of Article VI, Chapter 4

In #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4, shall control~~, except as expressly modified by this Chapter~~.

* * *

87-40
SPECIAL REGULATIONS FOR GROUND FLOOR LEVEL

* * *

87-41
Streetscape Requirements in the Core and South Subdistricts

* * *

87-412
Transparency requirements in the Core and South Subdistricts

In the Core and South Subdistricts, for non-#residential uses# located at the #ground floor level#, any portion of a #ground floor level street wall# that is subject to the #floor area# requirements of paragraph (b) of Section 87-411 (Ground floor uses) shall be glazed in accordance with the transparency requirements for designated retail streets set forth in Section 37-34 (Minimum Transparency Requirements), except that:

(a) in the South Subdistrict, where the #ground floor level street wall# is occupied by #uses# in Use Groups 16, 17 or 18, up to 50 percent of the length of such #ground floor level street wall# may be exempt from such transparency requirements, provided that any #street wall# width exceeding 50 feet ~~with no transparent elements on the #ground floor level#~~ shall provide planting or screening ~~(a) or (e) of Section 87-415 (Special streetscape provisions for certain blank walls) for at least 75 percent of such blank wall~~ (a)(1) or (b)(1) of Section 37-362 (Mitigation elements) pursuant to the provisions for Type 1 blank walls set forth in Section 37-361 (Blank wall thresholds); and

(b) in #flood zones#, for #buildings# utilizing the provisions of paragraph (a) of Section 64-21 (Ground Floor Use), ~~where no transparent materials or #building# entrances or exits are provided on the #ground floor level street wall# below a height of four feet above the level of the adjoining sidewalk for a continuous width of at least 25 feet,~~ visual mitigation elements shall be provided in accordance with ~~paragraph (a) of Section 87-415 for such blank wall~~ the provisions for Type 2 blank walls set forth in Section 37-361, except that only paragraph (b)(1) of Section 37-362 shall apply to such blank wall.

For the purposes of applying the provisions of Section 37-34, locations subject to the provisions of paragraph (b) of Section 87-411 shall be considered designated retail streets.

* * *

87-414
~~**Special provisions applicable within the flood zone**~~
Special streetscape provisions for certain blank walls

[Note: Existing text to be deleted]

~~In the Core and South Subdistricts, the provisions of Section 64-336 (Alternative height measurement in Commercial and Manufacturing Districts) shall be modified so that where the #flood-resistant construction elevation# is between four feet and 12 feet above #curb level#, #building# height may be measured from a reference plane 12 feet above #curb level#, and any minimum base height requirements may be measured from #curb level#. The requirements of Section 64-642 (Transparency requirements for buildings utilizing alternative height measurement) shall apply to #buildings# utilizing these alternative height measurement provisions.~~

[Note: Text moved from 87-415 and modified]

The provisions of this Section shall apply to a #ground floor level building# frontage, or any portion thereof, facing a #street#, #shore public walkway#, #upland connection#, or fire apparatus access road provided pursuant to the provisions of Section 87-61 (Special Provisions for Certain Fire Apparatus Access Roads), where visual mitigation elements shall be provided in accordance with the provisions for Type 2 blank walls set forth in Section 37-361 (Blank wall thresholds).

87-415
~~**Special streetscape provisions for certain blank walls**~~
Special open area provisions

[Existing text to be deleted and substituted by Section 37-36]

~~The provisions of this Section shall apply to a #ground floor level building# frontage, or any portion thereof, facing a #street#, #shore public walkway#, #upland connection#, or fire apparatus access road provided pursuant to the provisions of Section 87-61 (Special Provisions for Certain Fire Apparatus Access Roads), where no transparent materials or entrances or exits are provided on the #ground floor level# below a height of four feet above the level of the adjoining sidewalk, or grade, as applicable, for a continuous width of at least 25 feet. For the purpose of this Section, such a #building# wall, or portion thereof, shall be referred to as a "blank wall" and visual mitigation elements shall be provided in accordance with this Section.~~

~~At least 50 percent of the linear footage of any blank wall on a #ground floor level building# frontage shall be treated by one or more of the visual mitigation elements specified in this Section. Where a #building# wall fronts upon a #street#, such visual mitigation elements shall be provided on the #zoning lot#, except that the depth of an area containing such elements within the #zoning lot# need not be greater than three feet, when measured perpendicular to the #street line#. Where a blank wall exceeds a #street wall# width of 50 feet, at least 25 percent of such #street wall# width shall be planted in accordance with the provisions of paragraph (a) of this Section, and where a blank wall exceeds a height of 10 feet, as measured from the level of the adjoining grade, for a width of more than 25 feet, at least 50 percent of such #street wall# width shall provide wall treatments in accordance with the provisions of paragraph (c) of this Section. The maximum width of a portion of the #ground floor level# blank wall without visual mitigation elements shall not exceed 10 feet. However, such blank wall limitation shall not include portions of #street walls# occupied by entrances or exits to #accessory# off-street parking facilities and #public parking garages#, where permitted, entryways to required loading berths, where permitted, or doors accessing emergency egress stairwells and passageways.~~

~~Visual mitigation elements:~~

~~(a) Planting~~

~~Any combination of perennials, annuals, decorative grasses or shrubs shall be provided in planting beds, raised planting beds or planter boxes in front of the #street wall#. Each foot in width of a planting bed, raised planting bed or planter box, as measured parallel to the #street wall#, shall satisfy one linear foot of frontage mitigation requirement. Such planting bed shall extend to a depth of at least three feet, inclusive of any structure containing the planted material. Any individual planted area shall have a width of at least five feet, and the height of such planting, inclusive of any structure containing the planted materials, shall be at least three feet.~~

~~(b) Benches~~

~~Fixed benches with or without seatbacks shall be provided in front of the #street wall#. Unobstructed access shall be provided between such benches and an adjoining sidewalk or required circulation paths. Each linear foot of bench, as measured parallel to the #street wall#, shall satisfy one linear foot of frontage mitigation requirement. Any individual bench shall have a width of at least five feet, and no more than 20 feet of benches may be used to fulfill such requirement per 50 feet of frontage.~~

~~(c) Bicycle racks~~

~~Bicycle racks, sufficient to accommodate at least two bicycles, shall be provided in front of the #street wall#, and oriented so that the bicycles are placed parallel to the #street wall#. Each bicycle rack so provided shall satisfy five linear feet of frontage mitigation requirement. No more than three bicycle racks may be used to fulfill such requirement per 50 feet of frontage.~~

~~(d) Tables and chairs~~

~~Fixed tables and chairs shall be provided in front of the #street wall#. Each table shall have a minimum diameter of two feet, and have a minimum of two chairs associated with it. Each table and chair set so provided shall satisfy five linear feet of frontage mitigation requirement.~~

~~(e) Wall treatment~~

~~Wall treatment, in the form of permitted #signs#, graphic or sculptural art, rustication, decorative screening or latticework, or living plant material, shall be provided along the #street wall#. Each linear foot of wall treatment shall constitute one linear foot of frontage mitigation requirement. Such wall treatment shall extend to a height of at least 10 feet, as measured from the level of the adjoining sidewalk or grade, and have a minimum width of 10 feet, as measured parallel to the #street wall#.~~

[Text moved from Section 87-416]

(a) For Parcels 1, 2, 3 and 4, as shown on Map 1 in the Appendix to this Chapter, the open area between the #street wall# of a #building# fronting on the #Major Deegan Expressway street line# and the western edge of such Expressway, shall be subject to the provisions of Section 28-23 (Planting Areas), whether the ground floor is occupied by #residential uses# or non-#residential uses#. Such provisions shall be modified by the provisions of this Section.

(1) Primary circulation path

A circulation path, with a width of at least 13 feet or the width of such open area, whichever is less, and the western edge of such path shall be provided within five feet of a #street wall# facing the #Major Deegan Expressway street line#. Such circulation path shall extend along the entire frontage of the #zoning lot#, and shall be constructed in accordance with Department of Transportation standards for sidewalks.

(2) Planting

At least 20 percent, but not more than 50 percent of the required open area shall be planted with any combination of perennials, annuals, decorative grasses, shrubs or trees in planting beds, raised planting beds or planter boxes. Such planting bed shall extend to a depth of at least three feet, inclusive of any structure containing the planted material, and any individual planted area shall have a width of at least five feet. For planting located east of the circulation path required pursuant to this paragraph (a), the maximum linear length of any individual planting bed shall not exceed 50 feet.

(3) Other amenities

The remainder of the open area may contain any combination of:

(i) streetscape amenities including, but not limited to, benches or tables and chairs

(ii) entertainment amenities including, but not limited to, water features, playgrounds, dog runs, game tables, courts or skateboard parks; and

(iii) streetscape-enhancing amenities including, but not limited to, trees in tree pits, and lighting, or sculptural artwork.

All streetscape and entertainment amenities provided in accordance with paragraphs (a)(3)(i) and (a)(3)(ii) of this Section shall be connected to the primary circulation path required by paragraph (a) of this Section through secondary circulation paths, paved with permeable materials, each with a minimum width of six feet. Any planting associated with an amenity including, but not limited to, playgrounds and dog runs, as applicable, may exceed the amount set forth in paragraph (b) of this Section.

Any open area not otherwise allocated to amenities or secondary circulation paths shall also be paved with permeable materials. The minimum clear space between any planted areas required by paragraph (b) of this Section, any amenity provided under this paragraph, or any combination thereof, shall be six feet.

(4) Fencing

In no event shall chain link fencing or barbed or razor wire be permitted in any open area provided pursuant to this Section. No fences may exceed a height of four feet.

(b) In the event that Parcel 1 is #developed# with #mixed buildings#, sidewalks shall be provided on such parcel as follows:

(1) Sidewalks with a width of at least 15 feet shall be provided along the entire Exterior Street and East 149th Street frontage of a #zoning lot#.

(2) In locations where the width of the sidewalk within the #street# is less than 15 feet, a sidewalk widening shall be provided on the #zoning lot# such that the combined width of the sidewalk within the #street# and the sidewalk widening equals at least 15 feet. However, existing #buildings# remaining on the #zoning lot# need not be removed in order to comply with this requirement.

All sidewalks and sidewalk widenings shall be constructed or improved to Department of Transportation standards and shall connect at grade to the adjoining public sidewalks.

~~**87-416**~~
~~**Special open area provisions**~~

[Existing text moved to Section 87-415]

~~(a) For Parcels 1, 2, 3 and 4, as shown on Map 1 in the Appendix to this Chapter, the open area between the #street wall# of a #building# fronting on the #Major Deegan Expressway street line# and the western edge of such Expressway, shall be subject to the provisions of Section 28-23 (Planting Areas), whether the ground floor is occupied by #residential uses# or non-#residential uses#. Such provisions shall be modified by the provisions of this Section.~~

~~(1) Primary circulation path~~

~~A circulation path, with a width of at least 13 feet or the width of such open area, whichever is less, and the western edge of such path shall be provided within five feet of a #street wall# facing the #Major Deegan Expressway street line#. Such circulation path shall extend along the entire frontage of the #zoning lot#, and shall be constructed in accordance with Department of Transportation standards for sidewalks.~~

~~(2) Planting~~

~~At least 20 percent, but not more than 50 percent of the required open area shall be planted with any combination of perennials, annuals, decorative grasses, shrubs or trees in planting beds, raised planting beds or planter boxes. Such planting bed shall extend to a depth of at least three feet, inclusive of any structure containing the planted material, and any individual planted area shall have a width of at least five feet. For planting located east of the circulation path required pursuant to this paragraph (a), the maximum linear length of any individual planting bed shall not exceed 50 feet.~~

~~(3) Other amenities~~

~~The remainder of the open area may contain any combination of:~~

~~(i) streetscape amenities including, but not limited to, benches or tables and chairs~~

~~(ii) entertainment amenities including, but not limited to, water features, playgrounds, dog runs, game tables, courts or skateboard parks; and~~

~~(iii) streetscape enhancing amenities including, but not limited to, trees in tree pits, and lighting, or sculptural artwork.~~

~~All streetscape and entertainment amenities provided in accordance with paragraphs (a)(3)(i) and (a)(3)(ii) of this Section shall be connected to the primary circulation path required by paragraph (a) of this Section through secondary circulation paths, paved with permeable materials, each with a minimum width of six feet. Any planting associated with an amenity including, but not limited to, playgrounds and dog runs, as applicable, may exceed the amount set forth in paragraph (b) of this Section.~~

~~Any open area not otherwise allocated to amenities or secondary circulation paths shall also be paved with permeable materials. The minimum clear space between any planted areas required by paragraph (b) of this Section, any amenity provided under this paragraph, or any combination thereof, shall be six feet.~~

~~(4) Fencing~~

~~In no event shall chain link fencing or barbed or razor wire be permitted in any open area provided pursuant to this Section. No fences may exceed a height of four feet.~~

~~(b) In the event that Parcel 1 is #developed# with #mixed buildings#, sidewalks shall be provided on such parcel as follows:~~

~~(1) Sidewalks with a width of at least 15 feet shall be provided along the entire Exterior Street and East 149th Street frontage of a #zoning lot#.~~

~~(2) In locations where the width of the sidewalk within the #street# is less than 15 feet, a sidewalk widening shall be provided on the #zoning lot# such that the combined width of the sidewalk within the #street# and the sidewalk widening equals at least 15 feet. However, existing #buildings# remaining on the #zoning lot# need not be removed in order to comply with this requirement.~~

~~All sidewalks and sidewalk widenings shall be constructed or improved to Department of Transportation standards and shall connect at grade to the adjoining public sidewalks.~~

* * *

87-70
HARLEM RIVER WATERFRONT ACCESS PLAN

* * *

87-71
Special Public Access Provisions

The provisions of Section 62-50 (GENERAL REQUIREMENTS FOR VISUAL CORRIDORS AND WATERFRONT PUBLIC ACCESS AREAS) shall apply to #developments#, as modified in this Section. For the purpose of this Section, "development" shall be as defined in Section 62-11. To "develop" shall mean to create such #development#. In addition, the #lot area# allocated to fire apparatus access road pursuant to the provisions of Section 87-60, inclusive, may count towards any required #supplemental access area# required pursuant to the provisions of Section 62-57 (Required Supplemental Public Access Areas).

* * *

(d) #Visual Corridors#

#Visual corridors# shall be located within Parcels 4, 9, 10, 11, 12 and 13, and mapped parkland, as indicated on Map 4 (Waterfront Access Plan: Visual Corridors) in the Appendix to this Chapter. For all required #visual corridors#, the provisions of Section 62-512 (Dimensions of visual corridors) shall be modified to allow the lowest level of a #visual corridor#, at its seaward points, to be measured to a height as set forth in Section 62-512 ~~two feet above #base flood elevation#~~ or a height equal to the Oak Point Rail Link train track bed elevation, whichever is higher.

The Oak Point Rail Link shall be a permitted obstruction for #visual corridors#.

* * *

Chapter 8
Special Hudson Square District

88-00
General Purposes

* * *

88-02
General Provisions

In harmony with the general purposes and intent of this Resolution and the general purposes of the #Special Hudson Square District#, the provisions of this Chapter shall apply within the #Special Hudson Square District#. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4, shall control.

* * *

Chapter 9
Special Hudson River Park District

89-00
GENERAL PURPOSES

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89-01
General Provisions

The provisions of this Chapter shall apply within the #Special Hudson River Park District#. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4, shall control.

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ARTICLE IX
SPECIAL PURPOSE DISTRICTS

* * *

Chapter 1
Special Lower Manhattan District

91-00
GENERAL PURPOSES

* * *

91-01
General Provisions

Except as modified by the express provisions of the #Special Lower Manhattan District#, the regulations of the underlying zoning districts shall remain in effect.

* * *

In #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4, shall control.

* * *

Chapter 2
Special Park Improvement District

92-00
GENERAL PURPOSES

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92-02
General Provisions

Except as modified by the express provisions of this Chapter, the regulations of the underlying district remain in effect.

For the purposes of this Chapter, Duke Ellington Circle, located at the intersection of Fifth Avenue and East 110th Street, shall be considered a separate #street#.

In #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

Chapter 3
Special Hudson Yards District

93-00
GENERAL PURPOSES

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93-02
General Provisions

The provisions of this Chapter shall apply within the #Special Hudson Yards District#. The regulations of all other chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

Chapter 4
Special Sheepshead Bay District

94-00
GENERAL PURPOSES

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94-02
General Provisions

In harmony with the general purposes of the #Special Sheepshead Bay District# and in accordance with the provisions of this Chapter, certain specified regulations of the districts on which the #Special Sheepshead Bay District# is superimposed are made inapplicable and special regulations are substituted therefor. The City Planning Commission, by special permit, may grant certain #uses# and may authorize #bulk# modifications within the Special District as set forth in this

Chapter. Except as modified by the express provisions of this Special District, the regulations of the underlying zoning districts remain in effect.

In the #waterfront area#, the provisions of the #Special Sheepshead Bay District# are modified in accordance with the provisions of Section 62-13 (Applicability of District Regulations).

In #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

Chapter 5
Special Transit Land Use District

95-00
GENERAL PURPOSES

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95-02
General Provisions

#Special Transit Land Use Districts# are mapped in the vicinity of existing or proposed subway stations. Except as modified by the express provisions of this Chapter, the regulations of the underlying district remain in effect.

Whenever this Special District overlaps another Special District and imposes contradictory regulations, the provisions of the #Special Transit Land Use District# shall apply. Nothing contained in this regulation shall be understood to supersede Landmark or Historic District designations of the New York City Landmarks Preservation Commission.

In #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

Chapter 6
Special Clinton District

96-00
GENERAL PURPOSES

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96-02
General Provisions

Except as modified by the express provisions of this Chapter, the regulations of the underlying districts, or as modified by the #Special Midtown District#, remain in effect.

The #Special Midtown District# and its regulations, where applicable in the #Special Clinton District#, shall also apply and shall supplement or supersede regulations as set forth inthis Chapter pursuant to Section 96-22 (Special Regulations for Eighth Avenue Perimeter Area). In the event of any conflict or discrepancy between the regulations, the more restrictive

regulations shall apply in accordance with Section 11-22 (Application of Overlapping Regulations). This portion of the Special Purpose District is designated on the #zoning map# by the letters "CL-MiD."

In #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

Chapter 8
Special West Chelsea District

98-00
GENERAL PURPOSES

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98-02
General Provisions

The provisions of this Chapter shall apply to any #zoning lot#, or portion thereof, within the #Special West Chelsea District#, except that the provisions of Sections 98-11 (SpecialRegulations for Developments and Enlargements Above, Beneath or Adjacent to the High Line) and 98-16 (Air Space Over a Railroad or Transit Right-of-way or Yard) shall also apply to any #zoning lot# south of the #Special West Chelsea District# over which the #High Line# passes. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of thisChapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

ARTICLE X
SPECIAL PURPOSE DISTRICTS

* * *

Chapter 3
Special Planned Community Preservation District

* * *

103-10
GENERAL PROVISIONS

In harmony with the general purpose and intent of this Resolution and the general purposes of the #Special Planned Community Preservation District#, no #development#, #enlargement#, or substantial alteration of landscaping or topography, shall be permitted within the Fresh Meadows, Harlem River Houses and Parkchester areas, except by special permit of the City Planning Commission, pursuant to Sections 103-11 (Special Permit for Bulk and Parking Modifications) and 103-12 (Special Permit for Landscaping and Topography Modifications).

No demolition of #buildings# shall be permitted within the Fresh Meadows, Harlem River Houses and Parkchester areas, unless it is an unsafe #building# and demolition is required pursuant to the

provisions of Chapter 26, Title C, Part I, Article 8, of the New York City Administrative Code, or its successor, except that such demolition may be permitted pursuant to a development plan for which a special permit has been granted under the provisions of Sections 103-11 and 103-12.

In a C8-4 District, however, a demolition permit may be issued for any #building# that is less than 10,000 square feet and was constructed after December 31, 1955, but prior to July 18, 1974. Special regulations for the Sunnyside Gardens area are set forth in Section 103-20, inclusive.

In #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Zones), the provisions of Article VI, Chapter 4, shall control.

* * *

Chapter 4
Special Manhattanville Mixed Use District

104-00
GENERAL PURPOSES

* * *

104-02
General Provisions

In harmony with the general purposes and content of this Resolution and the general purposes of the #Special Manhattanville Mixed Use District#, the regulations of this Chapter shall apply within the Special District. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

104-30
Special Height and Setback Requirements

In the #Special Manhattanville Mixed Use District#, the height and setback regulations of the underlying C6 Districts shall not apply. In lieu thereof, the height and setback provisions of this Section, inclusive, shall apply in C6 Districts. In Subdistrict B, special height regulations for the underlying M1-2 District are set forth in Section 104-31, et seq.

In Subdistrict A, the height of all #buildings or other structures# shall be measured from the #base plane#. However, the provisions for establishing #base planes# set forth in Section 12-10 (DEFINITIONS) shall not apply. In lieu thereof, #base planes# are specified for each Parcel as shown on Map 5 (Parcel Designation and Maximum Building Heights) in Appendix A of this Chapter. The level of the #base plane# is designated for each such Parcel in Appendix B of this Chapter. ~~However, in #flood zones#, the level of the #base plane# shall be the #flood-resistant construction elevation#.~~

Wherever a #mandatory widened sidewalk line# is shown on Map 3 (Widened Sidewalk Lines) in Appendix A of this Chapter, such line shall be used instead of the #street line# for all purposes of Section 104-30, et seq.

The City Planning Commission may modify, by special permit, the special height and setback requirements of this Section pursuant to Section 104-60 (MODIFICATION OF SPECIAL BULK REQUIREMENTS AND TRANSFER OF FLOOR AREA BY SPECIAL PERMIT).

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Chapter 5
Special Natural Area District

105-00
GENERAL PURPOSES

* * *

105-02
General Provisions

In harmony with the general purpose and intent of this Resolution and the general purposes of the #Special Natural Area District#, the regulations of the districts upon which this Special District is superimposed are supplemented or modified in accordance with the provisions of this Chapter, in order to protect outstanding #natural features# described herein. Except as modified by the express provisions of this Chapter, the regulations of the underlying district remain in effect. The provisions of this Chapter shall apply to:

* * *

When a #zoning lot# existing on the effective date of the Special District designation is subdivided into two or more #zoning lots#, an application shall be submitted to the Commission for review and approval pursuant to Section 105-90 (FUTURE SUBDIVISION).

In #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Zones), the provisions of Article VI, Chapter 4, shall control.

* * *

Chapter 6
Special Coney Island Mixed Use District

106-00
GENERAL PURPOSES

* * *

106-01
General Provisions

In harmony with the general purpose and intent of this Resolution and the general purpose of the #Special Coney Island Mixed Use District# and in accordance with the provisions of this Chapter, regulations of the #Special Coney Island Mixed Use District# shall replace and supersede the existing district regulations. In #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

Chapter 7
Special South Richmond Development District

107-00
GENERAL PURPOSES

* * *

107-02
General Provisions

In harmony with the general purpose and intent of this Resolution and the general purpose of the #Special South Richmond Development District#, the regulations of the districts upon which this Special District is superimposed are supplemented or modified in accordance with the provisions of this Chapter. Except as modified by the express provisions of this Chapter, the regulations of the underlying districts remain in effect. In #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4 shall control. Additional provisions applicable in #flood zones# are set forth in Section 107-092 (Applicability of Article VI, Chapter 4).

* * *

107-09
Applicability of Article VI~~, Chapter 2~~

~~The Chairperson of the City Planning Commission may, by certification, modify or waive a required #visual corridor#, as defined in Section 62-11, with respect to #developments#, including minor modifications thereto, that contain #designated open space# and a portion of the #waterfront esplanade#, where such #development# is conditioned upon a restrictive declaration that includes a site plan for such #development#, including provisions for public access to such #designated open space# and #waterfront esplanade#, provided that at least one required #visual corridor# continues to be provided pursuant to the restrictive declaration.~~

107-091
Applicability of Article VI, Chapter 2

[Note: Text moved from Section 107-09]

The Chairperson of the City Planning Commission may, by certification, modify or waive a required #visual corridor#, as defined in Section 62-11, with respect to #developments#, including minor modifications thereto, that contain #designated open space# and a portion of the #waterfront esplanade#, where such #development# is conditioned upon a restrictive declaration that includes a site plan for such #development#, including provisions for public access to such #designated open space# and #waterfront esplanade#, provided that at least one required #visual corridor# continues to be provided pursuant to the restrictive declaration.

107-092
Applicability of Article VI, Chapter 4

[Note: Text to substitute paragraph (b) of Section 64-A352]

For #zoning lots# in #flood zones# with #single-# or #two-family detached residences# utilizing the provisions for #cottage envelope buildings#, as defined in Section 64-11 (Definitions), the provisions of this Chapter pertaining to minimum #lot area#, #lot width#, and minimum sizes of #front yards# and #side yards# shall not apply, and in lieu thereof, the underlying district regulations shall apply for the purposes of determining the applicability of the definition of #cottage envelope buildings#, and the particular amount of relief permitted pursuant to Section 64-33 (Cottage Envelope Buildings), inclusive.

* * *

Chapter 8
Special Hunts Point District

108-00
GENERAL PURPOSES

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108-01
General Provisions

In harmony with the general purposes and content of this Resolution and the general purposes of the #Special Hunts Point District#, the provisions of this Chapter shall apply to all #developments# and #enlargements# within the #Special Hunts Point District#. The regulations of all other Chapters of this Resolution are applicable except as modified, supplemented or superseded by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4, shall control.

* * *

ARTICLE XI
SPECIAL PURPOSE DISTRICTS

* * *

Chapter 1
Special Tribeca Mixed Use District

111-00
GENERAL PURPOSES

* * *

111-02
General Provisions

The provisions of this Chapter shall apply to all #developments, enlargements, extensions#, alterations, #accessory uses#, open and enclosed and changes in #uses# within the Special District.

Except as modified by the express provisions of the District, the regulations of the underlying districts remain in effect. In #flood zones#, in the event of a conflict between the provisions of this

Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

Chapter 2
Special City Island District

112-00
GENERAL PURPOSES

* * *

112-02
General Provisions

In harmony with the general purposes of the #Special City Island District# and in accordance with the provisions of this Chapter, certain specified regulations of the districts on which the #Special City Island District# is superimposed are made inapplicable and special regulations are substituted therefor. Except as modified by the express provisions of the Special District, the regulations of the underlying zoning districts remain in force. In #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Zones), the provisions of Article VI, Chapter 4, shall control.

* * *

Chapter 3
Special Ocean Parkway District

113-00
GENERAL PURPOSES

* * *

113-01
General Provisions

In harmony with the general purposes of the #Special Ocean Parkway District# and in accordance with the provisions of this Chapter, certain specified regulations of the districts on which the #Special Ocean Parkway District# is superimposed are made inapplicable and special regulations are substituted therefor. Except as modified by the express provisions of the Special District, the regulations of the underlying districts remain in force. #In flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

Chapter 4
Special Bay Ridge District

114-00
GENERAL PURPOSES

* * *

114-01
General Provisions

In harmony with the general provisions and intent of this Resolution and the general purposes of the #Special Bay Ridge District#, the regulations of the districts upon which this Special District is superimposed are supplemented or modified in accordance with the provisions of this Chapter. The provisions of this Chapter shall apply to all #buildings#.

Except as modified by the provisions of this Chapter, the regulations of the underlying districts remain in effect.

In #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

Chapter 6
Special Stapleton Waterfront District

116-00
GENERAL PURPOSES

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116-02
General Provisions

In harmony with the general purposes and content of this Resolution and the general purposes of the #Special Stapleton Waterfront District#, the provisions of this Chapter shall apply to all #developments#, #enlargements# and changes of #use# within the #Special Stapleton Waterfront District#. The regulations of all other Chapters of this Resolution are applicable except as modified, supplemented or superseded by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4 shall control~~, except in Subarea E of this Chapter~~.

Within the #Special Stapleton Waterfront District#, the regulations of the underlying R6, C2-2, C4-2A and M2-1 Districts shall apply, as modified in this Chapter.

* * *

116-05
Applicability

In Subareas A, B and C, the #Esplanade#, #Pier Place# and the #Cove#, the provisions of Article VI, Chapter 2 (Special Regulations Applying in the Waterfront Area), shall not apply. In lieu thereof, the special #use#, #bulk#, #accessory# off-street parking, public access and urban design regulations of Sections 116-10 through 116-50 shall apply.

In Subarea D, the provisions of Article VI, Chapter 2 shall apply pursuant to the underlying M2-1 District regulations.

In Subarea E, the underlying provisions of Article VI, Chapter 2 shall apply, except as modified in Section 116-60 (SPECIAL REGULATIONS IN SUBAREA E), inclusive. In addition, the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), shall not apply. In lieu thereof, the provisions of Section 116-623 (Height and setback regulations), shall apply.

#Lower density growth management area# regulations shall not apply in the #Special Stapleton Waterfront District#.

* * *

116-221
Special floor area regulations for mixed buildings

For #buildings# containing #residences#, the area in such #buildings# occupied by non-#residential uses# on the ground floor, or within two feet of the as-built level of the adjoining sidewalk, shall be excluded from the calculation of permitted #floor area# in the #building#. However, the area occupied by non-#residential uses# on the ground floor shall be included as #floor area# for other purposes including calculating:

(a) requirements for #accessory# off-street parking spaces;

(b) #accessory# off-street loading berths; and

(c) limitations on #floor area# occupied by certain #uses#.

~~In #flood zones#, the #floor area# exclusion permitted by this Section shall also apply to the area occupied by non-#residential uses# on the #lowest occupiable floor#, as defined in Section 64-11~~.

* * *

Chapter 7
Special Long Island City Mixed Use District

117-00
GENERAL PURPOSES

* * *

117-02
General Provisions

In harmony with the general purposes and content of this Resolution and the general purposes of the #Special Long Island City Mixed Use District#, the regulations of this Chapter shall apply within the #Special Long Island City Mixed Use District#. The regulations of all other Chapters of this Resolution are applicable, except as modified, supplemented or superseded by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article V, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

Chapter 9
Special Hillsides Preservation District

119-00
GENERAL PURPOSES

119-02
General Provisions

In harmony with the general purpose and intent of this Resolution and the general purposes of the #Special Hillsides Preservation District#, the regulations of the districts upon which this Special District is superimposed are supplemented or modified in accordance with the provisions of this Chapter. Except as modified by the express provisions of this Chapter, the regulations of the underlying districts remain in effect.

In #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

ARTICLE XII
SPECIAL PURPOSE DISTRICTS

* * *

Chapter 3
Special Mixed Use District

* * *

123-10
GENERAL PROVISIONS

The provisions of this Chapter shall apply within the #Special Mixed Use District#. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

Chapter 4
Special Willets Point District

124-00
GENERAL PURPOSES

* * *

124-01
General Provisions

The provisions of this Chapter shall apply within the #Special Willets Point District#. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

124-10
SPECIAL USE REGULATIONS

124-14
Retail Continuity

The following regulations shall apply within Area A, as shown on Map 1 in the Appendix to this Chapter, to all portions of #buildings# with frontage on 126th Street, the #primary retail street#, #retail streets#, #connector streets# and, in the event that a utility easement is retained on the #block# bounded by Roosevelt Avenue and 126th Street, along the frontage of the publicly accessible open space required by paragraph (d) of Section 124-42.

(a) Ground floor #uses#

#Uses# within #stories# on the ground floor or with a floor level within five feet of ~~#base flood elevation#~~ the #base plane# shall be limited to #commercial uses# permitted by the underlying district, except #uses# listed in Use Groups 6B, 6E, 8C, 8D, 9B, 10B or 12D. A #building's# frontage shall be allocated exclusively to such #uses#, except for Type 2 lobby space or entryways, provided in accordance with Section 37-33 (Maximum Width of Certain Uses), parking pursuant to Section 124-50, inclusive, and vehicular access pursuant to Section 124-53 (Curb Cut Restrictions). Such #uses# shall have a minimum depth of 50 feet measured from any #street wall# facing 126th Street, the #primary retail street# or #connector streets#.

* * *

(d) Transparency

For any #building#, or portion thereof, #developed# or #enlarged# after November 13, 2008, each ground floor #street wall# shall be glazed in accordance with Section 37-34 (Minimum Transparency Requirements).

~~However, in locations where such ground floor #street wall# above the level of the adjoining sidewalk or public access area is below #base flood elevation#, the required glazed area shall occupy an area measured from #base flood elevation#.~~

124-15
Modification of Sign Regulations

~~The height of all #signs# shall be measured from #base flood elevation#.~~ The underlying #sign# regulations shall apply, except as set forth in this Section.

* * *

124-30
MANDATORY IMPROVEMENTS

124-31
Standards for Streets and Blocks

124-312
New streets

The provisions of this Section shall apply to all private streets constructed after November 13, 2008.

* * *

(f) #Service streets#

All newly constructed #streets#, other than those listed in paragraphs (a) through (e) of this Section, shall be improved as a #service street#. A minimum of 50 percent of the #uses# within #stories# on the ground floor or with a floor level within five feet of ~~#base flood elevation#~~ the #base plane# fronting a #service street# shall contain non-#residential uses#. #Service streets# shall be provided, as follows:

* * *

Chapter 5
Special Hunters Point District

125-00
GENERAL PURPOSES

* * *

125-01
General Provisions

In harmony with the general purpose and intent of this Resolution and the general purposes of the #Special Southern Hunters Point District#, the regulations of this Chapter shall apply within the #Special Southern Hunters Point District#. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

Chapter 6
Special College Point District

126-00
GENERAL PURPOSES

* * *

126-01
General Provisions

The provisions of this Chapter shall apply within the #Special College Point District#. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

Chapter 8
Special St. George District

128-00
GENERAL PURPOSES

* * *

128-02
General Provisions

In harmony with the general purpose and intent of this Resolution and the general purposes of the #Special St. George District#, the regulations of this Chapter shall apply within the #Special St. George District#. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

ARTICLE XIII
SPECIAL PURPOSE DISTRICTS

* * *

Chapter 1
Special Coney Island District

131-00
GENERAL PURPOSES

* * *

131-01
General Provisions

The provisions of this Chapter shall apply within the #Special Coney Island District#. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this

Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

131-40
HEIGHT AND SETBACK REGULATIONS

* * *

131-42
Coney East Subdistrict

* * *

131-421
Coney East Subdistrict, south side of Surf Avenue

The following regulations shall apply along the south side of Surf Avenue and along those portions of #streets# intersecting Surf Avenue located north of a line drawn 50 feet north of and parallel to the northern #street line# of Bowery and its westerly prolongation.

(a) #Street wall# location

The #street wall# of a #building# shall be located within five feet of the #street line# and extend along the entire frontage of the #zoning lot#, except that:

(1) a sidewalk widening shall be required at the intersection of Surf Avenue and West 10th Street, extending from a point on the Surf Avenue #street line# 125 feet west of West 10th Street to a point on the West 10th Street #street line# 20 feet south of Surf Avenue. Such area shall be improved as a sidewalk to Department of Transportation standards, be at the same level as the adjoining sidewalks, and be accessible to the public at all times. Such sidewalk widening line shall be considered a #street line# for the purposes of applying the #use# and height and setback regulations of this Chapter;

~~(2) ground floor level recesses up to three feet deep shall be permitted for access to #building# entrances. However, for #building# entrances providing direct access to the lowest #story# located above the #base flood elevation#, such recesses shall be permitted to have a depth of up to 10 feet provided the width of such recesses does not exceed 20 feet and the height of such recessed area is not less than 15 feet at any point as measured from the #base flood elevation#;~~

~~(3)~~(2) to allow for corner articulation, the #street wall# may be located anywhere within an area bounded by intersecting #street lines# and lines 15 feet from and parallel to such #street lines#;

~~(4)~~(3) to allow for portions of towers to rise without setback from grade, a portion of a #building# base below a tower may be set back 10 feet from the #street line#, provided the width of such setback area is not greater than 40 percent of the width of the #street wall# of the tower, and provided such setback area complies with the provisions of Section 131-47 (Design Requirements for Ground Level Setbacks).

* * *

131-423
Along all other streets

The following regulations shall apply along Wonder Wheel Way, Bowery, and all other #streets#, and portions thereof, located south of a line drawn 50 feet north of and parallel to the northern #street# line of Bowery and its westerly prolongation.

(a) #Street wall# location

The #street wall# of the #building#, or portion thereof, shall be located within five feet of the #street line#~~. However, for #building# entrances providing direct access to the lowest #story# located above the #base flood elevation#, a recess shall be permitted to have a depth of up to 10 feet as measured from the #street line#, provided the width of such recess does not exceed 20 feet and the height of such recessed area is not less than 15 feet at any point as measured from the #base flood elevation#~~;

* * *

131-43
Coney West Subdistrict

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131-431
Coney West District, Surf Avenue

The regulations of this Section shall apply along Surf Avenue. The #street wall# location provisions of paragraph (a) of this Section shall also apply along #streets# intersecting Surf Avenue within 50 feet of Surf Avenue, and the #building# base regulations of paragraph (b) of this Section shall also apply along #streets# within 100 feet of Surf Avenue.

(a) #Street wall# location

The #street wall# of a #building# base shall be located on the Surf Avenue #street line# and extend along the entire Surf Avenue frontage of the #zoning lot#, except that:

~~(1) ground floor level recesses up to three feet deep shall be permitted for access to #building# entrances, except that for #building# entrances providing direct access to the lowest #story# located above the #base flood elevation#, such recesses shall be permitted to have a depth of up to 10 feet provided the width of such recess does not exceed 20 feet and the height of such recessed area is not less than 15 feet at any point as measured from the #base flood elevation#~~;

~~(2)~~(1) to allow for corner articulation, the #street wall# may be located anywhere within an area bounded by intersecting #street lines# and lines 15 feet from and parallel to such #street lines# ; and

~~(3)~~(2) to allow for portions of towers to rise without setback from grade, a portion of a #building# base below a tower may be set back 10 feet from a #street line#, provided the width of such setback area is not greater than 40 percent of the width of the #street wall# of the tower and provided such setback area complies with the provisions of Section 131-47 (Design Requirements for Ground Level Setbacks).

* * *

131-432
Along all other streets, other than Riegelmann Boardwalk

The following regulations shall apply along all other #streets# in the Coney West Subdistrict, except within 70 feet of Riegelmann Boardwalk.

(a) #Street wall# location

The #street wall# of a #building# base, or portion thereof, beyond 50 feet of Surf Avenue, shall be located within eight feet of the #street line# except that, to allow portions of towers to rise without setback from grade, a portion of a #building# base below a tower may be set back 10 feet from the #street line#, provided the width of such setback area is not greater than 40 percent of the width of the #street wall# of the tower. ~~In addition, for #street walls# facing Ocean Way, #building# entrances providing direct access to the lowest #story# located above the #base flood elevation# may be recessed up to a depth of 10 feet as measured from the #street line#, provided the width of such recess does not exceed 20 feet and the height of such recessed area is not less than 15 feet at any point as measured from the #base flood elevation#.~~

The entire area of the #zoning lot# between the #street line# and all #street walls# of the #building# and their prolongations shall be planted at ground level, or in raised planting beds that are permanently affixed to the ground, except that such plantings shall not be required at the entrances to and exits from the #building#, within driveways accessing off-street parking spaces located within, to the side, or rear of such #building#, or between #commercial uses# and the #street line#. No #zoning lot# shall be altered in any way that will either create a new non-compliance or increase the degree of non-compliance with the provisions of this Section.

* * *

131-44
Coney North Subdistrict

* * *

131-441
Coney North Subdistrict, Surf Avenue

The regulations of this Section shall apply along Surf Avenue. The #street wall# location provisions of paragraph (a) of this Section shall also apply along #streets# intersecting Surf Avenue within 50 feet of Surf Avenue, and the #building# base regulations of paragraph (b) of this Section shall also apply along #streets# within 100 feet of Surf Avenue.

(a) #Street wall# location

The #street wall# of a #building# base shall be located on the Surf Avenue #street line# and extend along the entire Surf Avenue frontage of the #zoning lot#, except that:

~~(1) ground floor level recesses up to three feet deep shall be permitted for access to #building# entrances. However, for #building# entrances providing direct access to the lowest #story# located above the #base flood elevation#, such recesses shall be permitted to have a depth of up to 10 feet provided the width of such recess does not exceed 20 feet and the height of such recessed area is not less than 15 feet at any point as measured from the #base flood elevation#;~~

~~(2)~~(1) to allow for corner articulation, the #street wall# may be located anywhere within an area bounded by intersecting #street lines# and lines 15 feet from and parallel to such #street lines#; and

~~(3)~~(2) to allow for portions of towers to rise without setback from grade, a portion of a #building# base below a tower may be set back 10 feet from a #street line#, provided the width of such setback area is not greater than 40 percent of the width

of the #street wall# of the tower and provided such setback area complies with the provisions of Section 131-47 (Design Requirements for Ground Level Setbacks).

* * *

131-443
Mermaid and Stillwell Avenues

Within 100 feet of Mermaid Avenue and within 100 feet of Stillwell Avenue, except within 100 feet of Surf Avenue, all portions of a #building or other structure# shall comply with the height and setback regulations of a C2 District mapped within an R7A District, except that the #street wall# of a #building# shall be located on the #street line# and rise without setback to a minimum height of 40 feet or the height of the #building#, whichever is less, except that:

~~(a) ground floor level recesses up to three feet deep shall be permitted for access to #building# entrances. However, for #building# entrances providing direct access to the lowest #story# located above the #base flood elevation#, such recesses shall be permitted to have a depth of up to 10 feet provided the width of such recess does not exceed 20 feet and the height of such recessed area is not less than 15 feet at any point as measured from the #base flood elevation#;~~

~~(b)~~(a) to allow for corner articulation, the #street wall# may be located anywhere within an area bounded by intersecting #street lines# and lines 15 feet from and parallel to such #street lines#; and

~~(c)~~(b) above the level of the second #story#, up to 30 percent of the #aggregate width of street walls# may be recessed, provided no recesses are located within 15 feet of an adjacent #building# or within 30 feet of the intersection of two #street lines#, except where corner articulation is provided as set forth in paragraph (b) of this Section.

* * *

131-45
Mermaid Avenue Subdistrict

All portions of a #building or other structure# shall comply with the height and setback regulations of a C2 District mapped within an R7A District, except that on Mermaid Avenue, and on intersecting #streets# within 50 feet of Mermaid Avenue, the #street wall# of a #building# shall be located on the #street line# and rise without setback to a minimum base height of 40 feet or the height of the #building#, whichever is less, except that:

~~(a) ground floor level recesses up to three feet deep shall be permitted for access to #building# entrances. However, for #building# entrances providing direct access to the lowest #story# located above the #base flood elevation#, such recesses shall be permitted to have a depth of up to 10 feet, provided the width of such recess does not exceed 20 feet and the height of such recessed area is not less than 15 feet at any point as measured from the #base flood elevation#;~~

~~(b)~~(a) to allow for corner articulation, the #street wall# may be located anywhere within an area bounded by intersecting #street lines# and lines 15 feet from and parallel to such #street lines#; and

~~(c)~~(b) above the level of the second #story#, up to 30 percent of the #aggregate width of street walls# may be recessed, provided no recesses are located within 15 feet of an adjacent #building# or within 30 feet of the intersection of two #street lines#, except where corner articulation is provided as set forth in paragraph (b) of this Section.

* * *

131-49
Authorization for Exterior Ramps

The City Planning Commission may authorize modifications of the #street wall# location provisions of this Chapter to allow exterior ramps for access from the public sidewalk to the lowest #story# above the ~~#base flood elevation#~~ #flood-resistant construction elevation#, as defined in Section 64-11 (Definitions), provided the Commission finds that the design of such ramps:

(a) maximizes visibility of interior ground floor space within the #building# from the public sidewalk;

(b) incorporates amenities such as seating and planting as the Commission may find appropriate; and

(c) relates harmoniously with the design and materials of the adjacent #building# and the surrounding streetscape.

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

* * *

Chapter 5
Special Bay Street District

135-00
GENERAL PURPOSES

* * *

135-04
Applicability

* * *

135-044
Applicability of Article VI, Chapter 4

Notwithstanding the general provisions of Section 135-01, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

135-10
SPECIAL USE REGULATIONS

* * *

135-11
Ground Floor Use Regulations

For the purposes of applying to this Chapter the special #ground floor level# streetscape provisions set forth in Section 37-30, any portion of a #ground floor level street# frontage along Bay Street,

as well as any #street# frontage within 50 feet of Bay Street, shall be considered a #primary street frontage#. A #ground floor level street# frontage along any other #street# shall be considered a #secondary street frontage#. For the purposes of this Section, inclusive, defined terms shall include those in Sections 12-10 and 37-311.

The provisions of this Section shall apply to #developments# or #ground floor level enlargements#.

(a) Along #primary street frontages#

For #buildings#, or portions thereof, with #primary street frontage#, #uses# on the #ground floor level#, to the minimum depth set forth in Section 37-32 (Ground Floor Depth Requirements for Certain Uses), shall be limited to non-#residential uses#, except for Type 1 lobbies and entrances and exits to #accessory# parking spaces provided in accordance with the applicable provisions of Section 37-33 (Maximum Width of Certain Uses). #Group parking facilities# located on the #ground floor level# shall be wrapped by #floor area# in accordance with the provisions of paragraph (a) of Section 37-35 (Parking Wrap and Screening Requirements). #Ground floor level street walls# shall be glazed in accordance with the provisions set forth in Section 37-34 (Minimum Transparency Requirements).

For #zoning lots# with a #lot area# of less than 5,000 square feet existing both on June 26, 2019 and on the date of application for a building permit, the provisions of this paragraph (a) shall not apply. In lieu thereof, the provisions of paragraph (b) of this Section shall apply.

In #flood zones#, ~~where no transparent materials or #building# entrances or exits are provided on the #ground floor level street wall# below a height of four feet above the level of the adjoining sidewalk for a continuous width of at least 15 feet,~~ visual mitigation elements shall be provided in accordance with ~~Section 135-12 (Special Streetscape Provisions for Blank Walls) for such blank wall~~ the provisions for Type 3 blank walls set forth in Section 37-361 (Blank wall thresholds).

* * *

135-12
~~Special Streetscape Provisions for Blank Walls~~
Physical Culture or Health Establishments

[Existing Text to be deleted and substituted by Section 37-36]

~~Where visual mitigation elements are required on a blank wall along the ground floor level street wall pursuant to the provisions of Section 135-11 (Ground Floor Use Regulations), at least 75 percent of the linear footage of any such blank wall shall be treated by one or more of the following visual mitigation elements:~~

~~(a) Planting~~

~~Where utilized as a visual mitigation element, any combination of perennials, annuals, decorative grasses or shrubs shall be provided in planting beds, raised planting beds or planter boxes in front of the street wall. Each foot in width of a planting bed, raised planting bed or planter box, as measured parallel to the street wall, shall satisfy one linear foot of frontage mitigation requirement. Such planting bed shall extend to a depth of at least three feet, inclusive of any structure containing the planted material. Any individual planted area shall have a width of at least five feet, and the height of such planting, inclusive of any structure containing the planted materials, shall be at least three feet.~~

~~Where a blank wall exceeds a street wall width of 50 feet, at least 25 percent of such street wall width shall be planted in accordance with the provisions of this paragraph.~~

~~(b) Benches~~

~~Where utilized as a visual mitigation element, fixed benches with or without backs shall be provided in front of the street wall. Unobstructed access shall be provided between such benches and an adjoining sidewalk or required circulation paths. Each linear foot of bench, as measured parallel to the street wall, shall satisfy one linear foot of frontage mitigation requirement. Any individual bench shall have a width of at least five feet, and no more than 20 feet of benches may be used to fulfill such requirement per 50 feet of frontage.~~

~~(c) Bicycle racks~~

~~Where utilized as a visual mitigation element, bicycle racks, sufficient to accommodate at least two bicycles, shall be provided in front of the street wall, and oriented so that the bicycles are placed parallel to the street wall. Each bicycle rack so provided shall satisfy five linear feet of frontage mitigation requirement. No more than three bicycle racks may be used to fulfill such requirement per 50 feet of frontage.~~

~~(d) Tables and chairs~~

~~Where utilized as a visual mitigation element, fixed tables and chairs shall be provided in front of the street wall. Each table shall have a minimum diameter of two feet, and have a minimum of two chairs associated with it. Each table and chair set so provided shall satisfy five linear feet of frontage mitigation requirement.~~

~~(e) Wall treatment~~

~~Where utilized as a visual mitigation element, wall treatment, in the form of permitted signs, graphic or sculptural art, rustication, decorative screening or latticework, or living plant material, shall be provided along the street wall. Each linear foot of wall treatment shall constitute one linear foot of frontage mitigation requirement. Such wall treatment shall extend to a height of at least 10 feet, as measured from the level of the adjoining sidewalk or grade, and have a minimum width of 10 feet, as measured parallel to the street wall.~~

~~All visual mitigation elements shall be provided on the zoning lot, except where such elements are permitted within the street under other applicable laws or regulations.~~

[Text moved from Section 135-13]

Within the #Special Bay Street Corridor District#, a #physical culture or health establishment# shall be permitted as-of-right in #Commercial Districts#. For the purposes of applying the underlying regulations to such #use#, a #physical culture or health establishment# shall be considered a Use Group 9 #use# and shall be within parking requirement category PRC-B.

* * *

135-13
~~Physical Culture or Health Establishments~~
Breweries

[Existing Text moved to Section 135-12]

~~Within the #Special Bay Street Corridor District#, a #physical culture or health establishment# shall be permitted as-of-right in #Commercial Districts#. For the purposes of applying the underlying regulations to such #use#, a #physical culture or health establishment# shall be considered a Use Group 9 #use# and shall be within parking requirement category PRC-B.~~

[Text moved from Section 135-14]

Within the #Special Bay Street Corridor District#, breweries, as listed in Use Group 18A, shall be permitted in Commercial Districts provided that:

(a) the size of such brewery does not exceed 30,000 square feet; and

(b) any brewery #developed# or #enlarged# after June 26, 2019, shall contain an #accessory# eating or drinking establishment.

For the purposes of applying the underlying regulations, such brewery shall be considered a Use Group 11A #use# and shall be within parking requirement category PRC-F. The performance standards for an M1 District set forth in Section 42-20, inclusive, shall apply to such breweries.

* * *

135-14
~~**Breweries**~~
Modification of Supplemental Use Provisions

[Existing Text moved to Section 135-13]

~~Within the #Special Bay Street Corridor District#, breweries, as listed in Use Group 18A, shall be permitted in Commercial Districts provided that:~~

~~(a) the size of such brewery does not exceed 30,000 square feet; and~~

~~(b) any brewery #developed# or #enlarged# after June 26, 2019, shall contain an #accessory# eating or drinking establishment.~~

~~For the purposes of applying the underlying regulations, such brewery shall be considered a Use Group 11A #use# and shall be within parking requirement category PRC-F. The performance standards for an M1 District set forth in Section 42-20, inclusive, shall apply to such breweries.~~

[Text moved from Section 135-15]

In Subdistricts A, B and C, the underlying provisions of Section 32-421 (Limitation on floors occupied by commercial uses) shall be modified as follows:

(a) For #mixed buildings#, offices, as listed in Use Group 6B, shall be permitted on the lowest two #stories# of a #building#, provided that no access exists between such offices and any #residential uses#;

(b) For #commercial buildings#, the provisions restricting the location of #uses# listed in Use Group 6A, 6B, 6C, 6F, 7, 8, 9 or 14 to two #stories#, shall not apply; and

(c) Any brewery #developed# or #enlarged# in accordance with the provisions of Section 135-14, shall be subject to the provisions of Section 32-421.

* * *

~~**135-15**~~
~~**Modification of Supplemental Use Provisions**~~

[Existing Text moved to Section 135-14]

~~In Subdistricts A, B and C, the underlying provisions of Section 32-421 (Limitation on floors occupied by commercial uses) shall be modified as follows:~~

~~(a) For #mixed buildings#, offices, as listed in Use Group 6B, shall be permitted on the lowest two #stories# of a #building#, provided that no access exists between such offices and any #residential uses#;~~

~~(b) For #commercial buildings#, the provisions restricting the location of #uses# listed in Use Group 6A, 6B, 6C, 6F, 7, 8, 9 or 14 to two #stories#, shall not apply; and~~

~~(c) Any brewery #developed# or #enlarged# in accordance with the provisions of Section 135-14, shall be subject to the provisions of Section 32-421.~~

* * *

135-20
SPECIAL BULK REGULATIONS

* * *

135-24
Special Street Wall Location Regulations

The underlying #street wall# location provisions are modified by the provisions of this Section.

(a) Along Bay Street

Along Bay Street, and along #streets# within 50 feet of their intersection with Bay Street, the following #street wall# regulations shall apply:

(1) At least 70 percent of the #aggregate width of street walls# of a #building# shall be located within eight feet of the #street line#, and shall rise without setback up to at least the minimum base height specified in Section 135-25 (Special Height and Setback Regulations), or the height of the #building#, whichever is lower. Pursuant to Section 135-31 (Special Visual Corridor Requirements), required visual corridors shall be considered #streets#.

(2) For #developments# or horizontal #enlargements# of #buildings#, or portions thereof, within the #flood zone# where no transparent materials are provided on the #ground floor level street wall# below a height of four feet above the level of the adjoining sidewalk, pursuant to the provisions of Sections 135-11 (Ground Floor Use Regulations) and 37-34 (Minimum Transparency Requirements) for a continuous distance of more than 25 feet, such #street wall# shall be located at least three feet beyond the #street line#. Such #street wall# shall not be located beyond five feet of the #street line#~~, except as permitted pursuant to Section 64-333 (Street wall location in certain districts)~~. Such #street wall# shall provide visual mitigation elements in accordance with the provisions ~~of Section 135-12 (Special Streetscape Provisions for Blank Walls)~~ for Type 2 blank walls set forth in Section 37-361 (Blank wall thresholds), and any area between the #street wall# and the sidewalk that does not contain any planting material pursuant to the provisions of ~~paragraph (a) of Section 135-12~~ Section 37-362 (Mitigation elements) shall be improved to Department of Transportation standards for sidewalks.

* * *

Chapter 6
Special Downtown Far Rockaway District

136-00
GENERAL PURPOSES

* * *

136-01
General Provisions

The regulations of this Chapter shall apply within the #Special Downtown Far Rockaway District#. The regulations of all other Chapters of this Resolution are applicable except as modified, supplemented or superseded by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control.

In #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

Chapter 7
Special Coastal Risk District

* * *

137-10
GENERAL PROVISIONS

The provisions of this Chapter shall apply in the #Special Coastal Risk District#. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control.

In #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Zones), the provisions of Article VI, Chapter 4 shall control, except as specifically modified in this Chapter.

* * *

137-40
SPECIAL APPLICABILITY OF ARTICLE V

In #Special Coastal Risk District# 3, the provisions of Article V, Chapter 2 (Non-conforming Uses) shall be modified as set forth in this Section. In addition, the provisions of Article VI, Chapter 5 (Special Regulations Applying in Designated Recovery Areas) and Section 64-61 (Special Provisions for Non-conforming Uses) shall not apply.

#Non-conforming uses# may not be #enlarged# or #extended#. In addition, should 50 percent or more of the #floor area# of a #building# containing a #non-conforming use# be damaged or destroyed after September 7, 2017, the #building# may be repaired, #incidentally altered# or reconstructed only for a #conforming use#.

~~However, the provisions of this Section shall not apply to any #building# that was damaged to the extent of 50 percent or more due to the effects of #Hurricane Sandy#, as defined in Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas). The special regulations for #non-conforming buildings# of Section 64-70 shall apply to such #buildings#.~~

* * *

137-50
SPECIAL REQUIREMENTS FOR DEVELOPMENTS AND ENLARGEMENTS

In #Special Coastal Risk District# 3, no #development# or horizontal #enlargement# shall occur, except where authorized by the City Planning Commission pursuant to Sections 137-51 (Authorization for Development of Single Buildings and Enlargements) or 137-52 (Authorization for Development of Multiple Buildings), as applicable. In addition, the provisions of Article VI, Chapter 5 (Special Regulations Applying in Designated Recovery Areas) and Section 64-60 (SPECIAL REGULATIONS FOR NON-CONFORMING USES AND NON-COMPLYING BUILDINGS) shall not apply.

For the purposes of determining which authorization shall be applicable, the #zoning lot# upon which the #development# shall occur shall be considered to be a tract of land that existed under separate ownership from all adjoining tracts of land on April 24, 2017.

For the purposes of such authorizations, the alteration of any existing #building# resulting in the removal of more than 75 percent of the #floor area# and more than 25 percent of the perimeter walls of such existing #building#, and the replacement of any amount of #floor area#, shall be considered a #development#.

The provisions of Section 137-50, inclusive, shall not apply to ~~the reconstruction of any #building# that was damaged to the extent of 50 percent or more due to the effects of #Hurricane Sandy#, as defined in Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas), or to~~ the reconstruction of a garage #accessory# to a #single-family residence# or #two-family residence#.

The provisions of Section ~~64-92~~ 73-71 (Special Permit for Modification of Certain Zoning Regulations) shall be inapplicable to a #building# that is #developed# pursuant to this Section, inclusive.

* * *

Chapter 8
Special East Harlem Corridors District

138-00
GENERAL PURPOSES

* * *

138-01
General Provisions

The provisions of this Chapter shall apply within the #Special East Harlem Corridors District#. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control.

In #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

138-20
SPECIAL BULK REGULATIONS

* * *

138-22
Street Wall Regulations

All #developments# and #enlargements# within the #Special East Harlem Corridors District# shall comply with the #street wall# regulations of Section 35-651 (Street wall location), as specified and modified in this Section. Where M1 Districts are paired with R9 or R10 Districts, #developments# and #enlargements# within such districts shall comply with the provisions of paragraph (b) of this Section. The applicable provisions of Section 35-651 are specified and modified as follows:

(a) Along #wide streets# other than Park Avenue

Along all #wide streets# other than Park Avenue, and along #narrow streets# within 50 feet of an intersection with such #wide street#, the provisions of paragraph (b) of Section 35-651 shall apply, except that the minimum base height shall be 60 feet, or the height of the #building#, whichever is less.

(b) Along Park Avenue

Along Park Avenue and along #narrow streets# located within 100 feet of Park Avenue, the provisions of paragraph (a) of Section 35-651 shall apply, except that the minimum base height shall be 40 feet, or the height of the #building#, whichever is less.

(c) Along all other #streets#

Along all #streets# not subject to the provisions of paragraph (a) or (b) of this Section, the provisions of paragraph (a) of Section 35-651 shall apply, except that the minimum base height shall be 60 feet, or the height of the #building#, whichever is less.

(d) Within #flood zones#

For #buildings# within the #flood zone#, the provisions of paragraphs (a), (b) and (c) of this Section, as applicable, shall be modified as follows:

(1) for #developments# or horizontal #enlargements#, or portions thereof, where no transparent materials are provided on the #ground floor level street wall# below a height of four feet above the level of the adjoining sidewalk pursuant to the provisions of Section 37-34 (Minimum Transparency Requirements), for a continuous distance of more than 25 feet, such #street wall# shall be located at least three feet beyond the #street line#; and

(2) ~~for portions of #developments# and #enlargements# where the provisions of paragraph (a) of this Section apply, such #street wall# shall not be located beyond five feet of the #street line#, except that such #street wall# may be located beyond such distance pursuant to the applicable provisions of paragraph (b) of Section 35-651 or of Section 64-333 (Street wall location in certain districts); and~~

~~(3)~~ the area between such #street wall# and the sidewalk, or portions thereof, that do not contain any planting pursuant to the provisions of ~~paragraph (a) of Section 138-32 (Special Streetscape Provisions for Blank Walls)~~ paragraph (b)(1) of Section 37-362 (Mitigation elements) for at least 70 percent of the linear footage, shall be improved to Department of Transportation standards for sidewalks, be at the same level as the adjoining public sidewalk and be accessible to the public at all times. In addition, such area shall provide visual mitigation elements in accordance with the provisions of ~~Section 138-32~~ Section 37-362 for at least 70 percent of the linear footage of such area per 50 feet of frontage.

* * *

138-30
STREETSCAPE REQUIREMENTS

* * *

138-31
Ground Floor Use Regulations

The special #ground floor level# streetscape provisions set forth in Section 37-30, shall apply to Second Avenue, Third Avenue, Lexington Avenue, Park Avenue and East 116th Street, within the #Special East Harlem Corridors District# which, for the purposes of applying such provisions, shall be considered designated retail streets, and any portion of a #ground floor level street# frontage along the designated retail streets, as well as any #narrow street# frontage within 50 feet of such #streets#, shall be considered #primary street frontages#. A #ground floor level street# frontage along any other #street# shall be considered a #secondary street frontage#. For the purposes of this Section, defined terms shall also include those defined in Section 37-311 (Definitions).

(a) Along #primary street frontages#

For #buildings#, or portions thereof, with #primary street frontage#, #uses# on the #ground floor level#, to the minimum depth set forth in Section 37-32 (Ground Floor Depth Requirements for Certain Uses), shall be limited to non-#residential uses#, except for Type 2 lobbies and entrances and exits to #accessory# parking spaces provided in accordance with the applicable provisions of Section 37-33 (Maximum Width of Certain Uses). #Group parking facilities# located on the #ground floor level# shall be wrapped by #floor area# in accordance with the provisions of paragraph (a) of Section 37-35 (Parking Wrap and Screening Requirements). #Ground floor level street walls# shall be glazed in accordance with the provisions set forth in Section 37-34 (Minimum Transparency Requirements), except that:

(1) in M1-6 Districts paired with an R9 or R10 District, where the #ground floor level# is occupied by #uses# in Use Groups 16, 17 and 18, up to 50 percent of the #ground floor level street wall# width may be exempt from such regulations, provided that ~~any #street wall# width exceeding 50 feet with no transparent elements on the #ground floor level# shall provide~~ planting or screening in accordance with the provisions of paragraphs ~~(a) or (e) of Section 138-32 (Special Streetscape Provisions for Blank Walls) for at least 75 percent of such blank wall~~ (a)(1) or (b)(1) of Section 37-362 (Mitigation elements) is provided pursuant to the provisions for Type 1 blank walls set forth in Section 37-361 (Blank wall thresholds); and

(2) in #flood zones#, ~~where no transparent materials or #building# entrances or exits are provided on the #ground floor level street wall# lower than a height of four feet above the level of the adjoining sidewalk for a continuous width of at least 15 feet,~~ visual mitigation elements shall be provided in accordance with ~~Section 138-32 for such blank wall~~ the provisions for Type 3 blank walls set forth in Section 37-361.

* * *

138-32
~~Special Streetscape Provisions for Blank Walls~~
Off-street Relocation or Renovation of a Subway Stair

[Note: Existing text to be deleted and substituted by Section 37-36]

~~Where visual mitigation elements are required on a blank wall along the #ground floor level street wall# pursuant to the provisions of Section 138-31 (Ground Floor Use Regulations), at least 75 percent of the linear footage of any such blank wall shall be treated by one or more of the following visual mitigation elements which shall be provided on the #zoning lot#, except where such elements are permitted within the #street# under other applicable laws or regulations. Such features, when utilized as visual mitigation elements, shall include:~~

~~(a) Planting~~

~~Any combination of perennials, annuals, decorative grasses or shrubs shall be provided in planting beds, raised planting beds or planter boxes in front of the #street wall#. Each foot in width of a planting bed, raised planting bed or planter box, as measured parallel to the #street wall#, shall satisfy one linear foot of frontage mitigation requirements. Such planting bed shall extend to a depth of at least three feet, inclusive of any structure containing the planted material. Any individual planted area shall have a width of at least five feet, and the height of such planting, inclusive of any structure containing the planted materials, shall be at least three feet.~~

~~Where a blank wall exceeds a #street wall# width of 50 feet, at least 25 percent of such #street wall# width shall be planted in accordance with the provisions of this paragraph.~~

~~(b) Benches~~

~~Fixed benches with or without backs shall be provided in front of the #street wall#. Unobstructed access shall be provided between such benches and an adjoining sidewalk or required circulation paths. Each linear foot of bench, as measured parallel to the #street wall#, shall satisfy one linear foot of frontage mitigation requirement. Any individual bench shall have a width of at least five feet, and no more than 20 feet of benches may be used to fulfill such requirement per 50 feet of frontage.~~

~~(c) Bicycle racks~~

~~Bicycle racks, sufficient to accommodate at least two bicycles, shall be provided in front of the #street wall#, and oriented so that the bicycles are placed parallel to the #street wall#. Each bicycle rack so provided shall satisfy five linear feet of frontage mitigation requirement. No more than three bicycle racks may be used to fulfill such requirement per 50 feet of frontage.~~

~~(d) Tables and chairs~~

~~Fixed tables and chairs shall be provided in front of the #street wall#. Each table shall have a minimum diameter of two feet, and have a minimum of two chairs associated with it. Each table and chair set so provided shall satisfy five linear feet of frontage mitigation requirement.~~

~~(e) Wall treatment~~

~~Wall treatment, in the form of permitted #signs#, graphic or sculptural art, rustication, decorative screening or latticework, or living plant material, shall be provided along the #street wall#. Each linear foot of wall treatment shall constitute one linear foot of frontage mitigation requirement. Such wall treatment shall extend to a height of at least 10 feet, as measured from the level of the adjoining sidewalk or grade, and have a minimum width of 10 feet, as measured parallel to the #street wall#.~~

[Note: Text moved from Section 138-33]

Where a #development# or #enlargement# is constructed on a #zoning lot# of at least 5,000 square feet that fronts on a portion of sidewalk containing a stairway entrance or entrances into the 116th Street Station of the Lexington Avenue subway line, such #development# or #enlargement# shall be subject to the regulations of Section 37-40 (OFF-STREET RELOCATION OR RENOVATION OF A SUBWAY STAIR).

~~**138-33**~~
~~**Off-street Relocation or Renovation of a Subway Stair**~~

[Note: Existing text moved to Section 138-32]

~~Where a #development# or #enlargement# is constructed on a #zoning lot# of at least 5,000 square feet that fronts on a portion of sidewalk containing a stairway entrance or entrances into the 116th Street Station of the Lexington Avenue subway line, such #development# or #enlargement# shall be subject to the regulations of Section 37-40 (OFF-STREET RELOCATION OR RENOVATION OF A SUBWAY STAIR).~~

* * *

ARTICLE XIV
SPECIAL PURPOSE DISTRICTS

* * *

Chapter 2
Special Inwood District

142-00
GENERAL PURPOSES

* * *

142-01
General Provisions

The provisions of this Chapter shall apply within the #Special Inwood District#. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter (Special Regulations Applying in ~~Flood Hazard Areas~~ Flood Zones), the provisions of Article VI, Chapter 4 shall control.

* * *

142-10
SPECIAL USE REGULATIONS

* * *

142-14
Ground Floor Level Requirements

For the purposes of applying the special #ground floor level# streetscape provisions set forth in Section 37-30 to this Chapter, any portion of a #ground floor level street# frontage along #streets# designated on Map 2 (Ground Floor Use and Curb Cut Regulations) in the Appendix to this Chapter shall be considered #primary street frontages#, and shall consist of Type 1, Type 2 and Type 3 #primary street frontages#. A #ground floor level street# frontage along any other #street# shall be considered a #secondary street frontage# except for frontages located within Subdistrict F. For the purposes of this Section, defined terms shall include those in Sections 12-10 and 37-311.

The provisions of this Section shall apply to #developments# or #ground floor level enlargements#.

(a) Along #primary street frontages#

(1) Type 1 #primary street frontages#

For #buildings#, or portions thereof, with Type 1 #primary street frontage#, #uses# on the #ground floor level#, to the minimum depth set forth in Section 37-32 (Ground Floor Depth Requirements for Certain Uses), shall be limited to non-#residential uses#, except for Type 1 lobbies and entrances and exits to #accessory# parking spaces provided in accordance with the applicable provisions of Section 37-33 (Maximum Width of Certain Uses). Group parking facilities located on the #ground floor level# shall be wrapped by #floor area# in accordance with the provisions of paragraph (a) of Section 37-35 (Parking Wrap and Screening Requirements). #Ground floor level street walls# shall be glazed in accordance with the provisions set forth in Section 37-34 (Minimum Transparency Requirements).

(2) Type 2 #primary street frontages#

For #buildings#, or portions thereof, with Type 2 #primary street frontage#, all #uses# permitted by the underlying district shall be permitted on the #ground floor level#, provided that group parking facilities located on the #ground floor level# shall be wrapped by #floor area# in accordance with the provisions of paragraph (a) of Section 37-35.

(3) Type 3 #primary street frontages#

For #buildings#, or portions thereof, with Type 3 #primary street frontage#, the following regulations shall apply to the #ground floor level# to a depth of 30 feet from the #street line#:

(i) the maximum #street wall# width of a bank or loan office, as listed in Use Group 6C, shall not exceed 25 feet.

However, in Subarea A1 or B1, as shown on Map 1, for #buildings# containing predominantly commercial or public utility vehicle storage, including #accessory# fuel pumps, as listed in Use Group 16C, the screening provisions of paragraph (b) of Section 37-35 may be utilized as an alternative to such wrapping requirement and any transparency requirements need not apply.

(b) Along #secondary street frontages#

For #buildings#, or portions thereof, with #secondary street frontage#, all #uses# permitted by the underlying district shall be permitted on the #ground floor level#, provided that any off-street parking spaces on the #ground floor level# shall be wrapped or screened in accordance with Section 37-35. Entrances and exits to accessory parking facilities shall be subject to the provisions of paragraph (b) of Section 37-33.

(c) For blank walls

In #Commercial Districts# or #Manufacturing Districts#, except for portions of #zoning lots# located within Subdistrict F, ~~any #street wall# width exceeding 50 feet with no transparent elements on the #ground floor level# shall provide~~ planting or wall treatment in accordance with the provisions of ~~Section 142-141 (Special Streetscape Provisions for Blank Walls)~~ paragraphs (a)(1) or (b)(2) of Section 37-362 (Mitigation elements) shall be provided pursuant to the provisions for Type 1 blank walls set forth in Section 37-361 (Blank wall thresholds).

The level of the finished floor of such ground floor shall be located not higher than five feet above nor lower than five feet below the as-built level of the adjoining #street#.

In C4-5D Districts, and in C2 Districts mapped within R7D Districts, the provisions of Section 32-434 (Ground floor use in C4-5D and C6-3D Districts and in certain C2 Districts) shall not apply. In lieu thereof, the provisions of this Section shall apply.

~~**142-141**~~
~~**Special Streetscape Provisions for Blank Walls**~~

[Note: Existing Text to be deleted and substituted by Section 37-36]

~~Where visual mitigation elements are required on a blank wall along the #ground floor level street wall# pursuant to the provisions of Section 142-14 (Ground Floor Level Requirements), at least 75 percent of the linear footage of any such blank wall shall be treated by any of the following visual mitigation elements, or both.~~

~~(a) Planting~~

~~When planting is provided as a visual mitigation element, any combination of perennials, annuals, decorative grasses or shrubs shall be provided in planting beds, raised planting beds or planter boxes in front of the #street wall#. Each foot in width of a planting bed, raised planting bed or planter box, as measured parallel to the #street wall#, shall satisfy one linear foot of frontage mitigation requirement. Such planting bed shall extend to a depth of at least three feet, inclusive of any structure containing the planted material. Any individual planted area shall have a width of at least five feet, and the height of such planting, inclusive of any structure containing the planted materials, shall be at least three feet. At least 25 percent of such #street wall# width shall be planted in accordance with the provisions of this paragraph.~~

~~(b) Wall treatment~~

~~When a wall treatment is provided as a visual mitigation element, permitted signs, graphic or sculptural art, rustication, decorative screening or latticework, or living plant material, shall be provided along the #street wall#. Each linear foot of wall treatment shall constitute one linear foot of frontage mitigation requirement. Such wall treatment shall extend to a height of at least 10 feet, as measured from the level of the adjoining sidewalk or grade, and have a minimum width of 10 feet, as measured parallel to the #street wall#.~~

* * *

APPENDIX K: Areas with Nursing Home Restrictions

The areas shown on the maps in this APPENDIX, in addition to any portion of a #zoning lot# that is located within the #high-risk flood zone# as defined in Section 64-11 (Definitions), are subject to the restrictions set forth in Section 22-16 (Special Regulations for Nursing Homes).

These areas include:

the following islands located within The Bronx Community District 10, and Manhattan Community Districts 1, 8, and 11, respectively:

City Island;

Governors Island;

Roosevelt Island; and

Randalls Island.

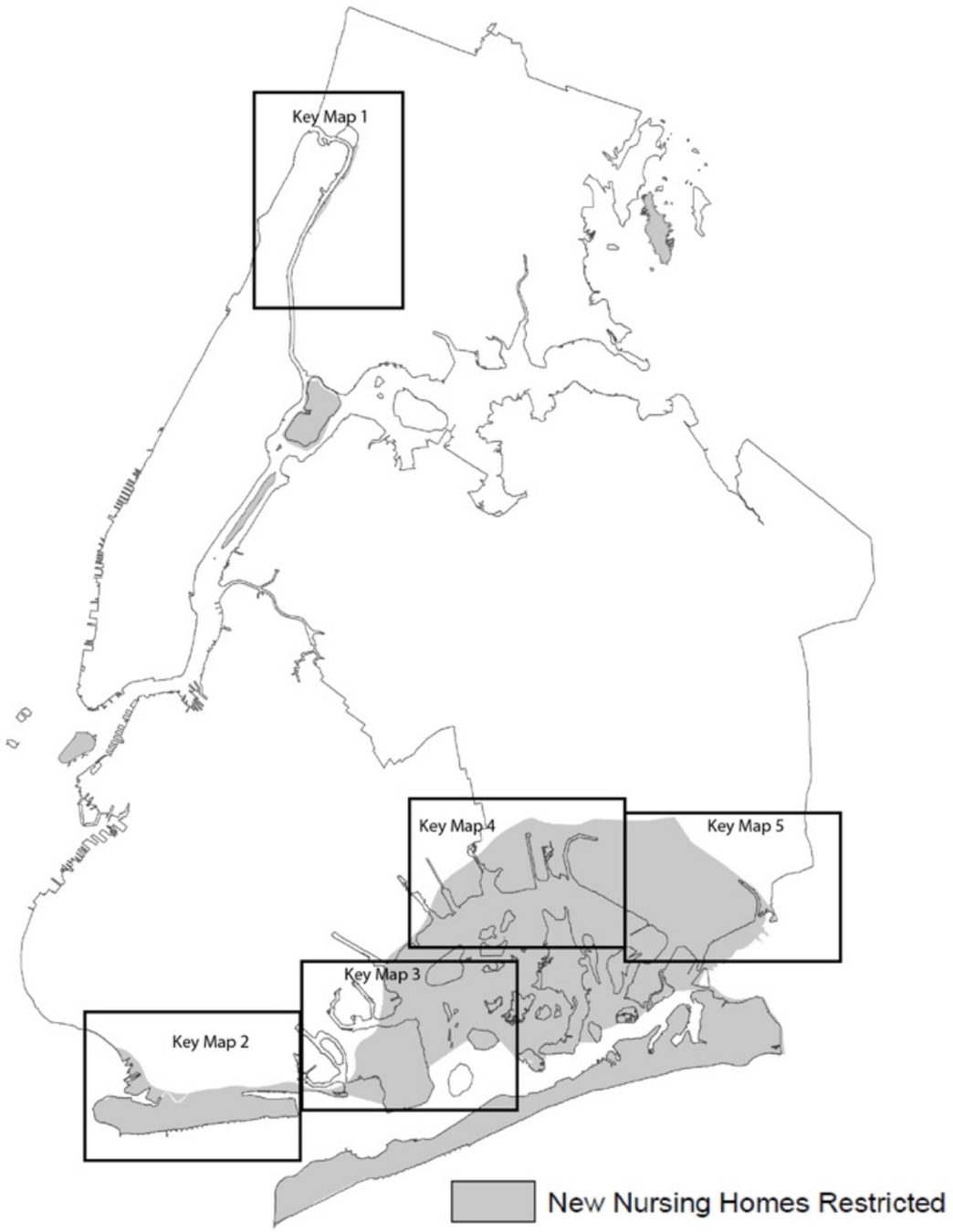
all of Queens Community District 14;

portions of The Bronx Community Districts 1, 4, 5, and 7;

portions of Brooklyn Community Districts 11, 13, 15 and 18;

portions of Queens Community Districts 10 and 13;

Portions of Community Districts located within areas with nursing home restrictions are shown on Maps 1 through 5 in this APPENDIX.



Map 1 – The Bronx, Community District 5 and 7



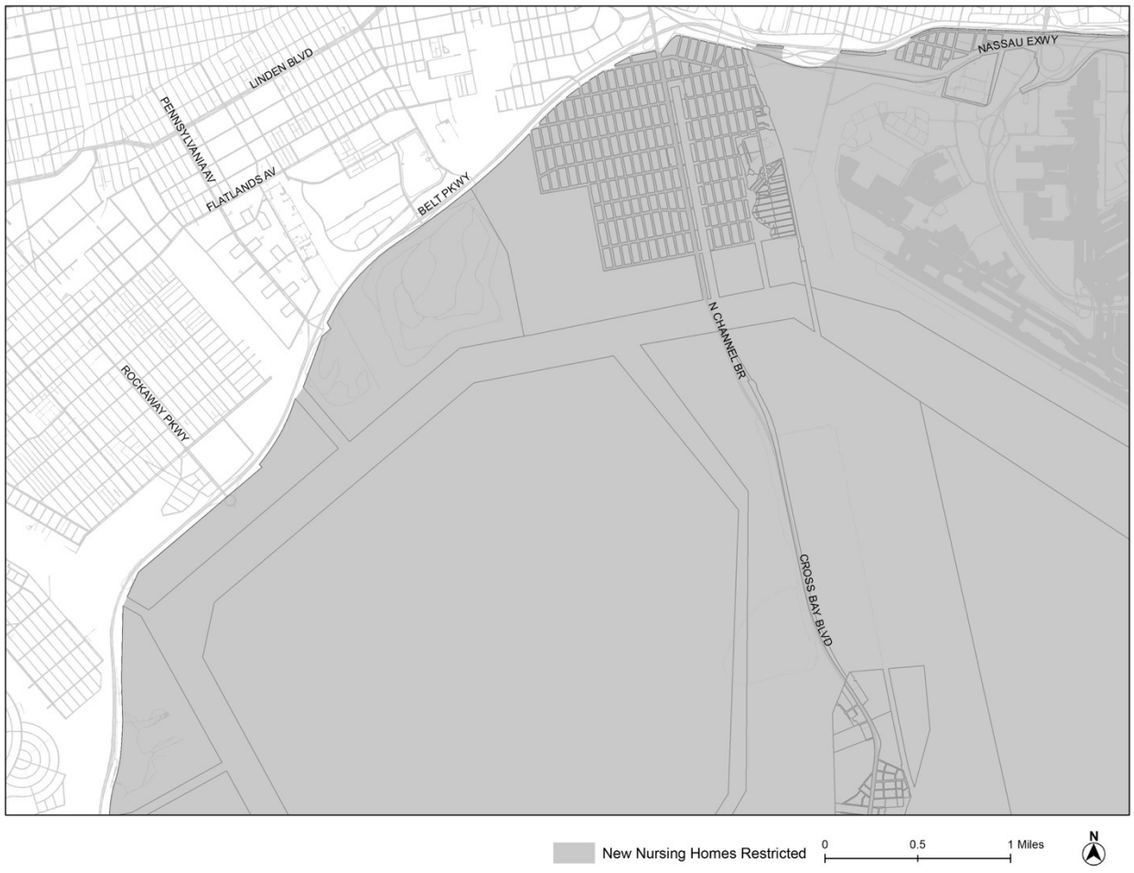
Map 2 – Brooklyn, Community District 11, 13, 15 and 18



Map 3 – Brooklyn, Community District 18



Map 4 – Queens, Community District 10



Map 5 - Queens, Community District 13



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DEPARTMENT OF CITY PLANNING
CITY OF NEW YORK

ENVIRONMENTAL ASSESSMENT AND REVIEW DIVISION

Marisa Lago, *Director*
Department of City Planning

May 10, 2019

POSITIVE DECLARATION

Project Identification
Zoning for Coastal Flood Resiliency
CEQR No. 19DCP192Y
ULURP No. Pending
SEQRA Classification: Type I

Lead Agency
City Planning Commission
120 Broadway
New York, NY 10271
Contact: Olga Abinader
(212) 720-3493

Name, Description and Location of Proposal:

Zoning for Coastal Flood Resiliency
The New York City Department of City Planning (DCP), the Applicant, is proposing a zoning text amendment (the "Proposed Action") to the Special Regulations Applying in Flood Hazard Areas (Article VI, Chapter 4, "Special Regulations Applying in Flood Hazard Areas,") of the New York City Zoning Resolution (ZR), to update and make permanent the provisions in the "Flood Resilience Zoning Text", adopted in 2013, and "Special Regulations for Neighborhood Recovery," adopted in 2015. These temporary measures were adopted on an emergency basis after Hurricane Sandy hit New York City in 2012 to advance the reconstruction of storm-damaged properties, and enable new and existing buildings to comply with flood-resistant construction standards set forth in Appendix G of the New York City Building Code. The Proposed Action affects New York City's 1% annual chance floodplain and 0.2% annual chance floodplain, and select provisions would be applicable citywide. The Proposed Action provides homeowners, business owners, and practitioners working in the City's floodplains the option to design or otherwise retrofit buildings to reduce damage from future flood events, become flood resilient in the long-term, and save on long-term flood insurance costs, and would improve the ability of the City's many flood-prone neighborhoods to withstand and recover quickly from future storms.

The Proposed Action includes a Zoning Text Amendment that would update the Special Regulations Applying in Flood Hazard Areas (Article XI Chapter 4) of the New York City Zoning Resolution (ZR). The Proposed Action would mostly affect the city's 1% annual chance floodplain and 0.2% annual chance floodplain, in addition to selected provisions that will be applicable citywide, affecting all five Boroughs and the City's 59 Community Districts.

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Current regulations applicable to buildings in the floodplain have, at times, posed conflicts with certain other zoning regulations, as they change the way most buildings in NYC are structurally designed and internally configured. Following Hurricane Sandy in October 2012, due to the urgency of removing these regulatory barriers to allow the city to rebuild, the Mayor signed an Executive Order No. 230, which suspended height and other restrictions to the extent necessary to allow buildings to be rebuilt to the latest flood-resistant construction standards. The Executive Order was by its nature an interim measure which needed to be codified by a zoning text amendment. This action was subsequently replaced by the 2013 Flood Text, which was adopted by the City Council on October 9, 2013.

The 2013 Flood Text amended zoning regulations in the ZR to remove obstacles to creating flood-resilient buildings by, for example, allowing height to be measured from the Design Flood Elevation (DFE) to allow buildings to meet flood-resistant construction standards. The Design Flood Elevation is the minimum elevation to which a structure must be elevated or floodproofed. The 2015 Recovery Text simplified the process for old buildings to document non-compliances with the Zoning Resolution, and established new rules that allow damaged homes located within narrow and small lots to be reconstructed. Both zoning changes were adopted on a temporary, emergency basis and are set to expire in the next few years. The 2013 Flood Text expires within one year of the adoption of new Flood Insurance Rate Maps (FIRMs), which is in the process of being revised by the Federal Emergency Management Agency (FEMA) in the near future. The 2015 Recovery Text is set to expire in 2020.

The Proposed Action would modify and improve upon existing provisions that the prior Flood Text amendments created. Once adopted, the updated regulations would be permanently amended to the ZR. The Proposed Action includes modifications to the applicable geography based on the updated floodplain, changes to building envelope and design, location of permitted uses within buildings, and placement of permitted obstruction regulations. The Proposed Action also includes provisions to modify existing special permits that are granted by the Board of Standards and Appeals (BSA) to facilitate resiliency investments in unique conditions, in addition to the creation of a new BSA special permit that would provide a wider range of use alternatives for the ground-floors of residential buildings. These future BSA approvals are being considered in a conceptual analysis. The Proposed Action would also include a provision for a future discretionary special permit that is authorized by the City Planning Commissions (CPC) to facilitate future recovery efforts. To address concerns regarding vulnerable uses in the floodplain, the Proposed Action may also limit nursing homes in a subject area.

In addition to the Proposed Action, DCP proposes neighborhood-specific zoning text and map changes in four neighborhoods (New Dorp Beach in Staten Island, Old Howard Beach in Queens and Gerritsen Beach and Sheepshead Bay in Brooklyn), intended to address resiliency challenges that are specific to the conditions in these areas. These applications are currently in the Pre-Certification process. These related actions will reach public review concurrently with the Proposed Action and their effects will be analyzed as part of separate environmental reviews.

The Proposed Action is not expected to cause a significant change in the overall amount, type, or location of development. This proposal is also not expected to induce development where it would not have occurred absent the Proposed Action.

The analysis year for the Proposed Action is 2029.

Statement of Significant Effect:
On behalf of the CPC, the Environmental Assessment and Review Division has determined, pursuant to 6 NYCRR Part 617.7, that the proposed action may have a significant effect on the quality of the environment as detailed in the following environmental impacts, and that an environmental impact statement will be required:

1. The actions, as proposed, may result in significant adverse impacts related to land use, zoning and public policy.
2. The actions, as proposed, may result in significant adverse impacts related to socioeconomic conditions.
3. The actions, as proposed, may result in significant adverse impacts related to community facilities.
4. The actions, as proposed, may result in significant adverse impacts on publicly accessible open space.
5. The actions, as proposed, may result in significant adverse shadow impacts.
6. The actions, as proposed, may result in significant adverse impacts related to historic and cultural resources.
7. The actions, as proposed, may result in significant adverse impacts related to urban design and visual resources.
8. The actions, as proposed, may result in significant adverse impacts related to natural resources.
9. The actions, as proposed, may result in significant adverse impacts related to hazardous materials.
10. The actions, as proposed, may result in significant adverse impacts related to water and sewer infrastructure.
11. The actions, as proposed, may result in significant adverse impacts related to solid waste and sanitation services.
12. The actions, as proposed, may result in significant adverse impacts related to transportation.
13. The actions, as proposed, may result in significant adverse impacts related to energy demand.
14. The actions, as proposed, may result in significant adverse impacts to air quality.
15. The actions, as proposed, may result in significant adverse impacts to greenhouse gas emissions and climate change.
16. The actions, as proposed, may result in significant adverse noise impacts.
17. The actions, as proposed, may result in significant adverse public health impacts.
18. The actions, as proposed, may result in significant adverse impacts related to neighborhood character.
19. The actions, as proposed, may result in significant adverse construction-related impacts.

Supporting Statement:
The above determination is based on an Environmental Assessment Statement prepared for the action which finds that:

1. Land Use, Zoning and Public Policy – The proposed action would result in a change to zoning.

2. Socioeconomic Conditions – The proposed action could result in effects to socioeconomic conditions.
3. Community Facilities – The proposed action could result in effects to community facilities.
4. Open Space – The proposed action could result in effects to result in effects to open space.
5. Shadows – The proposed action could result in effects to shadows.
6. Historic and Cultural Resources – The proposed action could result in building enlargements within close proximity to known architectural or archaeological resources.
7. Urban Design and Visual Resources – The proposed action could change the urban design and visual character of the affected area.
8. Natural Resources - The proposed action could result in building enlargements within close proximity to natural resources.
9. Hazardous Materials – The proposed action could result in building enlargements and in-ground disturbance within the affected area.
10. Water and Sewer Infrastructure – The proposed action could result in increased water demand.
11. Solid Waste and Sanitation Services – The proposed action could result in increased solid waste and demand for sanitation services.
12. Energy – The proposed action could result in increased energy consumption.
13. Transportation – The proposed action could generate vehicular traffic and increase demand for parking, pedestrian traffic and subway and bus riders.
14. Air Quality – The proposed action could result in mobile and stationary air quality effects.
15. Greenhouse Gas Emissions and Climate Change– The proposed action could generate greenhouse gas emissions.
16. Noise – The proposed action could have the potential to result in mobile and stationary source noise impacts.
17. Public Health – The proposed action could result in effects related to air quality, hazardous materials or noise; Consequently public health may be affected.
18. Neighborhood Character – The proposed action could affect socioeconomic conditions, urban design and visual resources, historic and cultural resources, transportation and noise; consequently, the affected area's neighborhood character may be affected.
19. Construction – Potential significant adverse impacts related to architectural resources and transportation, air quality, noise, hazardous materials and natural resources could also result in construction impacts.
20. The Draft Environmental Impact Statement (DEIS) to be prepared for the proposed action will identify and describe any other potential effects on the environment.

Public Scoping:
The CEQR lead agency hereby requests that the applicant prepare or have prepared, at their option, a Draft Environmental Impact Statement (DEIS) in accordance with 6 NYCRR 617.9(b) and Sections 6-08 and 6-12 of Executive Order No. 91 of 1977 as amended (City Environmental Quality Review).

A public scoping meeting will be held on Thursday, June 13 at 3:30 PM at the New York City Department of City Planning, City Planning Commission Hearing Room, 120 Broadway, Concourse Level, New York, New York, 10271. Written comments will be accepted by the lead agency through Thursday, June 27, 2019.

This determination has been prepared in accordance with Article 8 of the Environmental Conservation Law.

Should you have any questions pertaining to this Positive Declaration, you may contact the Project Manager, Annabelle Meunier, at (212) 720-3426.

Olga Abinader, Acting Director
Environmental Assessment & Review Division
New York City Department of City Planning

May 10, 2019
Date