



## Zoning Resolution

THE CITY OF NEW YORK

Eric Adams, Mayor

CITY PLANNING COMMISSION

Daniel R. Garodnick, Chair

# **32-40 - SUPPLEMENTARY USE REGULATIONS**

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## 32-40 - SUPPLEMENTARY USE REGULATIONS

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LAST AMENDED  
12/15/1961

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### 32-41 - Enclosure Within Buildings

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LAST AMENDED  
6/6/2024

C1 C2 C3 C4 C5 C6 C7 C8

In the districts indicated, except as otherwise specifically provided in the Use Groups permitted in such districts and in Sections [36-11](#) (General Provisions) and [36-61](#) (Permitted Accessory Off-street Loading Berths), all permitted #uses# which are created by #development#, or which are #enlarged# or #extended#, or which result from a change of #use# shall be subject to the provisions of this Section with respect to enclosure within #buildings#. With respect to the #enlargement# or #extension# of an existing #use#, such provisions shall apply to the #enlarged# or #extended# portion of such #use#.

#Accessory# #uses# may be open or enclosed, notwithstanding any limitations on the principal #use#, provided that any open #accessory# #uses# are customarily found in connection with such principal #use#.

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### 32-411 - In C1, C5, C6-5 or C6-7 Districts

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LAST AMENDED  
2/24/2022

C1 C5 C6-5 C6-7

In the districts indicated, all such #uses# shall be located within #completely enclosed# #buildings# except for store fronts or store windows, associated with eating and drinking establishments, which may be opened to serve customers outside the #building# upon the adoption of initial rules governing the Permanent Open Restaurants program by an authorized agency following authorizing legislation by the City Council.

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### 32-412 - In other Commercial Districts

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LAST AMENDED  
6/6/2024

C2 C3 C4 C6-1 C6-2 C6-3 C6-4 C6-6 C6-8 C6-9 C7 C8

In the districts indicated, all such #uses# shall be located within #completely enclosed# #buildings# or within #buildings# which are #completely enclosed# except for store fronts or store windows which may be opened to serve customers outside the #building#.

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### 32-413 - Drive-through facilities

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LAST AMENDED  
6/6/2024

In C1 through C7 Districts, #accessory# drive-through facilities for any #use# listed in Use Group VI, as set forth in Section [32-](#)

[16](#) (Use Group VI – Retail and Services), may be permitted by special permit of the Board of Standards and Appeals, in accordance with Section [73-311](#) (Drive-through facilities).

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## **32-42 - Location Within Buildings**

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LAST AMENDED

12/15/1961

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### **32-421 - Limitation on floors occupied by commercial uses**

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LAST AMENDED

6/6/2024

C1 C2 C3

In the districts indicated, in any #building#, or portion of a #building#, not more than two #stories# may be occupied by #commercial# #uses# listed in Use Groups VI through X.

However, for #buildings# containing #residences#:

- (a) no #conversion# shall be permitted from #dwelling units# to such #commercial uses# on a second #story#:
  - (1) in a #building# constructed before September 17, 1970 and located in C1 or C2 Districts mapped within, or with an equivalent of, an R9 or R10 District; or
  - (2) in a #building# constructed before June 6, 2024, in all other districts;
- (b) the environmental requirements set forth in Section [32-423](#) shall be met, where applicable;
- (c) such #commercial uses# may be permitted on the same #story# as #residences#, provided that no access exists between such #uses# at any level containing #dwelling units#;
- (d) no #commercial uses# shall be located above any #story# containing #dwelling units#; and
- (e) in C1 or C2 Districts that are #select commercial overlays# the following #commercial uses# shall not be permitted on the second #story# where such #story# also contains #dwelling units#:

From Use Group VIII

All #uses# listed under Amusement and Recreation Facilities

#Accessory# mechanical equipment serving #commercial# #uses# listed in such use groups shall not be subject to the location restrictions of this Section.

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### **32-422 - Location of floors occupied by commercial uses**

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LAST AMENDED

6/6/2024

C4 C5 C6

In the districts indicated, in any #building# containing #residences#, #commercial# #uses# may be permitted on the same #story# as a #residential use#, or on a #story# higher than that occupied by #residential uses#, provided that:

- (a) no #conversion# shall be permitted from #dwelling units# to such #commercial# #uses# in a #building# constructed before June 6, 2024;
- (b) the environmental requirements set forth in Section [32-423](#) shall be met, where applicable;
- (c) no access exists between such #uses# at any level containing #dwelling units#; and
- (d) the following #commercial# #uses# shall not be permitted on a #story# above #dwelling units#:

From Use Group VI:

Eating or drinking establishments, in locations outside of the Borough of Manhattan;

From Use Group VIII

All #uses# listed under Amusement and Recreation Facilities.

#Accessory# mechanical equipment serving #commercial uses# listed in such Use Groups shall not be subject to the location restrictions of this Section.

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## **32-423 - Additional environmental standards for certain uses**

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LAST AMENDED

6/6/2024

Where #commercial uses# are located either on the same #story# as #dwelling units#, or on a higher #story#, pursuant to the applicable provisions of Section [32-421](#) and [32-422](#), the provisions of this Section shall apply to #uses# listed in Use Group VI, as set forth in Section [32-16](#) (Use Group VI – Retail and Services), inclusive, #uses# listed in Use Group VIII, as set forth in Section [32-18](#) (Use Group VIII – Recreation, Entertainment and Assembly Spaces), inclusive, #uses# listed in Use Group IX, as set forth in Section [32-19](#) (Use Group IX - Storage) and #uses# listed in Use Group X, as set forth in Section [32-20](#) (Use Group X – Production Uses).

- (a) Air quality

Where a #use# listed in Use Group X is required to install an emission stack by Federal, State or Local law, such stack shall exhaust above the height of #building# containing such #use#, or above the height of the immediately adjacent #buildings#, whichever is higher.

- (b) Noise

Above the level of the first #story#, where the applicable #commercial# #uses# are located on the same #story# as a #dwelling unit# or a #story# higher than a #dwelling unit#, such #uses# shall either:

- (1) be separated from #dwelling units# by a horizontal or vertical distance of at least 15 feet and includes at least two wall or ceiling partitions, as applicable; or

- (2) provide attenuation that will result in a sound level below 42 dBA for daytime and 35 dBA for nighttime, as measured from the interior of the closest #dwelling units#. Such measurement shall be verified by an acoustical engineer prior to the issuance of a certificate of occupancy by the Department of Buildings.

(c) Vibration

Above the level of the first #story#, where the applicable #commercial# #uses# are located on the same #story# as a #dwelling unit# or a #story# higher than a #dwelling unit#, such #uses# shall be subject to the provisions of Section [42-22](#) (Performance Standards Regulating Vibration) for an M1 District, except that the measurements for maximum vibration displacements shall be measured within the #building# instead of at the #lot line#. Such measurement shall be verified by a vibration or acoustical engineer prior to the issuance of a certificate of occupancy by the Department of Buildings.

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## **32-43 - Limitations on Business Entrances, Show Windows or Signs**

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LAST AMENDED  
6/6/2024

C1 C2 C3 C4 C5 C6 C7 C8

In all districts, as indicated, the location of primary business entrances, #show windows# or #signs# shall be subject to the provisions of this Section.

For the purposes of this Section, a lot of record or a group of contiguous lots of record held in single ownership or control at December 15, 1961, or any applicable amendment thereto shall be considered a single #zoning lot#, regardless of any subsequent subdivision.

For the purposes of this Section, a #corner lot# shall include the entire #zoning lot# notwithstanding the 100-foot limitation in the definition of #corner lots# in Section [12-10](#) (DEFINITIONS). All other #zoning lots# shall be considered #zoning lots# with single frontage.

The provisions of this Section shall not apply to:

- (a) vehicular entrances or exits for permitted drive-in #uses# or automotive service establishments or for permitted or required #accessory# off-street parking spaces or loading berths;
- (b) service entrances, or other entrances less than 3 feet, 6 inches in width;
- (c) windows other than #show windows#; or
- (d) ventilators, fire escapes or other appurtenances required by law.

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## **32-431 - For zoning lots with single frontage**

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LAST AMENDED  
6/6/2024

C1 C2 C3 C4 C5 C6 C7 C8

In all districts, as indicated, for #zoning lots# with single frontage, no primary business entrance, #show window# or #sign# shall be located on that portion of the #street# frontage within a distance of 20 feet from frontage on the same side of the #street# in a #Residence District#.

However, where the #street# frontage of such #zoning lot# or portion thereof within the #Commercial District# is less than 30 feet in length, the minimum distance shall be reduced to 10 feet. For #zoning lots# with a frontage of more than 30 feet, an application may be made to the Board of Standards and Appeals to reduce such minimum distance to 10 feet, as provided in Section [73-50](#) (Special Provisions Applying Along District Boundaries).

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## **32-432 - For corner lots**

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LAST AMENDED

6/6/2024

C1 C2 C3 C4 C5 C6 C7 C8

In all districts, as indicated, no primary business entrance, #show window#, or #sign# shall be located on that portion of the #street# frontage of a #corner lot# within 75 feet of frontage on the same side of the #street# in a #Residence District#.

However, primary business entrances, #show windows# or #signs# may be located on frontage less than 75 feet, but not less than 20 feet, from a #Residence District# boundary:

- (a) if the total length of the #block# face containing such frontage is less than 220 feet;
- (b) if such frontage adjoins frontage on a #corner lot# in a #Residence District#; or
- (c) if such frontage is separated from frontage in the #Residence District# by one or more #zoning lots# with single frontage.

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## **32-433 - Exceptions for integrated developments divided by district boundaries**

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LAST AMENDED

6/6/2024

C1 C2 C3 C4 C5 C6 C7 C8

In all districts, as indicated, primary business entrances, #show windows# or #signs# may be located on any frontage within a #Commercial District#, if the Commissioner of Buildings finds that the #zoning lot# on which the business entrance, #show window# or #sign# is to be located:

- (a) is divided by a boundary between the #Commercial District# and a #Residence District#; or
- (b) is currently in the same ownership as adjoining property located in a #Residence District# and no #building# in the #Residence District# exists, or will in the future be erected, within a distance of 75 feet from the #Commercial District#, as evidenced by deed restrictions filed in an office of record binding the owner and the owner's heirs and assigns.