Zoning Resolution

THE CITY OF NEW YORK
Zohran K. Mamdani, Mayor

CITY PLANNING COMMISSION
Sideya Sherman, Chair

11-40 - EXCEPTIONS, VARIANCES, AUTHORIZATIONS OR PERMITS

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11-40 - EXCEPTIONS, VARIANCES, AUTHORIZATIONS OR PERMITS

LAST AMENDED
7/18/1995

11-41 - Exceptions, Variances or Permits Previously Authorized Pursuant to the 1916 Zoning Resolution

LAST AMENDED
7/18/1995

Whenever under the provisions of the 1916 Zoning Resolution as amended, either the Board of Standards and Appeals or the City Planning Commission with the approval of the Board of Estimate or the City Council, has authorized any #use# to locate in a district in which it is not permitted as-of-right by issuing a variance, exception or permit, such existing #use# established pursuant to such grant may be continued, changed, #extended#, #enlarged# or structurally altered only as provided in this Section or in Article VII, Chapter 3 or 4, provided that the #lot area# of the #zoning lot# occupied by such #use# is not increased.

11-411 - Renewals

LAST AMENDED
12/15/1961

Where no limitation as to duration of the #use# was imposed at the time of authorization, such #use# may be continued. Where such #use# was authorized subject to a term of years, such #use# may be

continued until the expiration of the term, and thereafter, the agency which originally authorized such #use# may, in appropriate cases, extend the period of continuance for one or more terms of not more than 10 years each. The agency may prescribe appropriate conditions and safeguards to minimize adverse effects of such #use# on the character of the neighborhood.

11-412 - Alterations, extensions or enlargements

LAST AMENDED
12/5/1991

Repairs or #incidental alterations# may be made and in appropriate cases the authorizing agency may permit structural alterations, #extensions# or #enlargements# limited to the #zoning lot# that was granted a variance, exception or permit prior to December 15, 1961. However, the #use# of any #building or other structure# shall not be #extended#, and the #building or other structure# shall not be #enlarged#, in excess of 50 percent of the #floor area# of such #building# (or size of such structure) occupied or utilized by the #use# on December 15, 1961, and, except as otherwise provided in Article VII, no structural alterations, #extensions# or #enlargements# shall be authorized for a new #non-conforming use# authorized under the provisions of Section 11-413 (Change of use).

11-413 - Change of use

LAST AMENDED
10/25/1967

Such #use# may be changed to a conforming #use# and in appropriate cases the authorizing agency may permit such #use# to be changed to another #non-conforming use# which would be permitted

under the provisions applicable to #non-conforming uses# as set forth in Sections 52-31 to 52-36, inclusive, relating to Change of Non-Conforming Use, provided that the authorizing agency finds that such change of #use# will not impair the essential character or the future use or development of the surrounding area.

In permitting a change to another #non-conforming use#, such authorizing agency may impose appropriate conditions and safeguards to minimize any adverse effects upon the character of the surrounding area.

For the purposes of this Section, a change of #use# is a change to another #use# listed in the same or any other Use Group. A change in ownership or occupancy shall not, by itself, constitute a change of #use#.

11-42 - Lapse of Authorization or Special Permit Granted by the City Planning Commission Pursuant to the 1961 Zoning Resolution

LAST AMENDED
12/5/2024

(a) Except as otherwise provided in paragraphs (b), (c) or (d) of this Section, any authorization or special permit granted by the City Planning Commission under the provisions of the 1961 Zoning Resolution shall automatically lapse if substantial construction, in accordance with the plans for which such special permit or authorization was granted, has not been completed within four years from the effective date of such permit or authorization. Substantial construction shall mean, in the case of a new #building# or #buildings#, the substantial construction of at least one #building#.

(b) Any authorization or special permit for a site that is part of an urban renewal area or other government-sponsored or government-assisted project shall automatically lapse within four

years from the date of the applicant's possession of the site, or sites, or the effective date of an authorization or special permit, whichever is later; or

(c) Upon a showing that a longer time period for substantial construction is required for a phased construction program of a multi-#building# complex, the Commission may, at the time of granting an authorization or special permit, extend the period set forth in paragraph (a) of this Section to a period not to exceed 10 years; or

(d) In the event judicial proceedings have been instituted to review the decision to grant any authorization or special permit, the lapse period set forth in paragraph (a), (b) or (c) of this Section, whichever is applicable, shall commence upon the date of entry of the final order in such proceedings, including appeals.

11-43 - Renewal of Authorization or Special Permit

LAST AMENDED
7/18/1995

Any authorization or special permit granted by the City Planning Commission, except one granted with a 10 year lapse period, that would automatically lapse as set forth in Section 11-42 (Lapse of Authorization or Special Permit Granted by the City Planning Commission Pursuant to the 1961 Zoning Resolution) may be renewed without public hearing, for two additional three-year terms, provided that the Commission finds that the facts upon which the authorization or special permit was granted have not substantially changed. However, all special permits or authorizations granted by the Commission shall lapse after a total of 10 years from the date of their original granting if substantial construction has not taken place at such time. An application for a renewal of authorization or special permit shall be filed with the Commission before it lapses.

11-44 - Special Permits Granted Prior to August 12, 2004

LAST AMENDED
8/12/2004

Within the area bounded by West 22nd Street, a line 100 feet west of Fifth Avenue, a line midway between West 16th Street and West 17th Street, and a line 100 feet east of Sixth Avenue, any special permit granted by the City Planning Commission may be started or continued, in accordance with the terms thereof, or as such terms may be subsequently modified, pursuant to the #bulk# regulations in effect at the time such special permit was granted, subject to the provisions of Sections 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).

11-45 - Authorizations or Permits in Lower Density Growth Management Areas

LAST AMENDED
8/15/2024

The provisions of this Section shall apply within #lower density growth management areas#.

(a) Notwithstanding the provisions of N 040414 ZRY, pertaining to #lower density growth management areas#, and subject to the provisions of Section 11-30 (BUILDING PERMITS ISSUED BEFORE EFFECTIVE DATE OF AMENDMENT) with respect to amendments of this Resolution other than N040414ZRY, Section 11-42 (Lapse of Authorization or Special Permit Granted by the City Planning Commission Pursuant to the 1961 Zoning Resolution) and Section 11-43 (Renewal of Authorization or Special Permit), the following provisions shall apply with respect to special permits and authorizations granted by the City Planning

Commission or for which certification or referral for public review has been made prior to August 12, 2004:

(1) Any #development# or #enlargement#, including minor modifications thereto, granted a special permit or authorization by the Commission and, where applicable, the City Council, prior to August 12, 2004, may be #developed# or #enlarged# pursuant to the terms of such permit or authorization and, to the extent not modified under the terms of such permit or authorization, in accordance with the regulations in effect at the time such permit or authorization was granted.

(2) Any application for a special permit certified by the Department of City Planning or application for an authorization referred by the Department of City Planning for public review prior to May 24, 2004, may be continued pursuant to the regulations in effect at the time of certification or referral and, if granted by the Commission and, where applicable, the City Council, may be #developed# or #enlarged# pursuant to the terms of such permit or authorization, including minor modifications thereto and, to the extent not modified under the terms of such permit or authorization, in accordance with the regulations in effect at the time such application was certified or referred for public review.

(b) Notwithstanding the provisions of N 040414 ZRY, the following provisions shall apply to certain #developments# within the #Special South Richmond Development District#:

(1) #Developments#, including minor modifications thereto, within the #Special South Richmond Development District# 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#, may be #developed# in accordance with the regulations in effect prior to August 12, 2004.

(2) #Developments# within the #Special South Richmond Development District# accessed, in part, by #private roads# and consisting, in part, of construction within #streets# that are unimproved, and for which a conservation easement has been granted to the City, and for which the Board of Standards and Appeals has granted a permit pursuant to Section 35 of the General City Law, or its successor, and an application for an authorization for such #development# has been filed pursuant to paragraph (a) of Section 26-27 (Waiver of Bulk Regulations Within Unimproved Streets) prior to May 1, 2004, may be #developed# in accordance with the regulations in effect prior to August 12, 2004.

11-46 - Special Vesting Provisions

LAST AMENDED
6/6/2024

If, before June 6, 2024, an application for a special permit #use# has been certified by the City Planning Commission or has been filed with the Board of Standards and Appeals, such application may continue pursuant to the regulations in effect at the time such special permit was certified by the Commission or filed with the Board. Such special permits, if granted by the Commission or Board, may be started or continued, in accordance with the terms thereof, or as such terms may be subsequently modified, pursuant to the regulations in effect at the time such special permits were certified by the Commission or filed with the Board.

11-47 - Applications for Certain Approvals Filed Prior to December 5, 2024

LAST AMENDED
12/5/2024

If, on or before December 5, 2024, an application for a certification has been filed with the Department of City Planning, an application for an authorization or special permit has been certified or referred by the City Planning Commission or an application for a project has been filed with the Board of Standards and Appeals, such application may continue pursuant to the rules in effect at the time such certification was filed with the Department, such authorization or special permit was certified or referred by the Commission or such project was filed with the Board. Such applications, if granted by the Chairperson, Commission or Board, as applicable, may be started or continued, in accordance with the terms thereof, or as such terms may be subsequently modified, pursuant to the regulations in effect at the time such certification was filed with the Department, such authorizations or special permits were certified or referred by the Commission or such project was filed with the Board.

Any certification granted by the Chairperson, authorization or special permit granted by the Commission, or application granted by the Board prior to December 5, 2024 may be started or continued, in accordance with the terms thereof, or as such terms may be subsequently modified, pursuant to the regulations in effect at the time such authorization or special permit was granted.