



Zoning Resolution

THE CITY OF NEW YORK

Eric Adams, Mayor

CITY PLANNING COMMISSION

Daniel R. Garodnick, Chair

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

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

73-00 - SPECIAL PERMIT USES AND MODIFICATIONS

LAST AMENDED
12/19/2017

73-01 - General Provisions

LAST AMENDED
4/22/2009

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

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

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

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

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

73-02 - Further Requirements

LAST AMENDED
12/15/1961

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

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

LAST AMENDED

6/6/2024

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

- (a) The Board shall make all of the findings required in the applicable sections of this Chapter with respect to each such special permit #use# or modification of #use#, parking or #bulk# regulations and shall find that, under the conditions and safeguards imposed, the hazards or disadvantages to the community at large of such special permit #use# or modification of #use#, parking or #bulk# regulations at the particular site are outweighed by the advantages to be derived by the community by the grant of such special permit. In each case the Board shall determine that the adverse effect, if any, on the privacy, quiet, light and air in the neighborhood of such special permit #use# or modification of #use#, parking or #bulk# regulations will be minimized by appropriate conditions governing location of the site, design and method of operation.
- (b) In all cases the Board shall deny a special permit whenever such proposed special permit #use# or modification of #use#, parking or #bulk# regulations will interfere with any public improvement project (including housing, highways, public #buildings# or facilities, redevelopment or renewal projects, or right-of-way for sewers, transit or other public facilities) which is approved by or pending before the Board of Estimate, Site Selection Board or the City Planning Commission as determined from the calendars of each such agency issued prior to the date of the public hearings before the Board of Standards and Appeals.
- (c) When under the applicable findings the Board is required to determine whether the special permit #use# or modification of #use#, parking or #bulk# regulations is appropriately located in relation to the #street# system, the Board shall in its discretion make such determination on the basis of the Master Plan of Arterial Highways and Major Streets on the official City Map. Whenever the Board is required to make a finding on the location of a proposed special permit #use# or modification of #use#, parking or #bulk# regulations in relation to secondary or local #streets# and such classification of #streets# is not shown on the Master Plan, the Board in its discretion shall request the City Planning Commission to establish a report on the appropriate classification of such #street#.
- (d) For applications relating to Sections [73-311](#) (Drive-through facilities), [73-47](#) (Exceptions to Maximum Size of Accessory Group Parking Facilities) and [73-48](#) (Roof Parking), the Board in its discretion shall request from the Department of Transportation a report with respect to the anticipated traffic congestion resulting from such special permit #use# or modification of #use#, parking or #bulk# regulations in the proposed location. If such a report is requested, the Board shall in its decision or determination give due consideration to such report and further shall have the power to substantiate the appropriate finding solely on the basis of the report of the Department of Transportation with respect to the issue referred.
- (e) The following shall apply regarding terms of years for special permits:
 - (1) For special permit #uses# issued by the Board of Standards and Appeals prior to June 6, 2024, such permit may continue pursuant to the terms established at the time such permit was granted, as applicable.

For special permit #uses# granted after June 6, 2024, except for #uses# in Use Groups III or IV, the Board may issue permits not to exceed 10 years. For a #use# where a special permit has previously been granted, the term may exceed 10 years at the discretion of the Board.

- (2) For other special permits, if a term of years is specified in the applicable section, the Board shall establish a term of years not to exceed such maximum. For those special permit #involving a modification of #use#, parking or #bulk# regulations for which a maximum term has not been specified, the Board may fix an appropriate term for any such special permit.
- (f) Any violation of the terms of a special permit may be grounds for its revocation.
- (g) On application for renewal of any such special permit authorized in this Chapter, the Board shall determine whether the circumstances warranting the original grant still obtain. In addition, the Board shall ascertain whether the applicant has complied with the conditions and safeguards theretofore described by the Board during the prior term. In the event that the Board shall find the applicant has been in substantial violation thereof, it shall deny the application for renewal.
- (h) The Board may permit the #enlargement# or #extension# of any existing #use#, which, if new, would be permitted by special permit in the specified districts under the provisions of Section [73-01](#) and other applicable provisions of this Chapter, provided that before granting any such permit for #enlargement# or #extension# within the permitted districts, the Board shall make all of the required findings applicable to the special permit #use#, except that:
- (1) in the case of colleges or universities in R1 or R2 Districts, the Board may waive all such required findings set forth in Section [73-132](#) (Colleges or universities); and
 - (2) in the case of public utility #uses#, the Board may waive all such required findings set forth in Sections [73-14](#) (Public Service Facilities and Infrastructure), inclusive.

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

73-04 - Conditions and Safeguards

LAST AMENDED

6/6/2024

The Board of Standards and Appeals may prescribe such conditions and safeguards to the grant of special permit (uses) as it may deem necessary in the specific case, in order to minimize the adverse effects of such special permit upon other property and the community at large. Such conditions and safeguards may include, but shall not be limited to, environmental considerations, traffic and parking mitigations, landscaping and buffering measures, hours of operation limitations, safety measures, or programs for continuing maintenance. Such conditions and safeguards shall be incorporated in the building permit and certificate of occupancy. Failure to comply with such conditions or restrictions shall constitute a violation of this Resolution, and may constitute the basis for denial or revocation of a building permit or certificate of occupancy and for all other applicable remedies.

73-10 - SPECIAL PERMIT USES

LAST AMENDED

6/6/2024

Subject to the general findings required by Section [73-03](#) and in accordance with the provisions contained in Sections [73-10](#) to [73-20](#), inclusive, the Board of Standards and Appeals shall have the power to permit special permit #uses#, and shall have the power to impose appropriate conditions and safeguards thereon.

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

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

From Use Group V

Overnight camps

From Use Group IV

Public utility or public service facilities

Radio and television towers, non-#accessory#

From Use Group VIII

Outdoor day camps

Riding academies or stables.

73-11 - Agriculture and Open Uses

LAST AMENDED

6/6/2024

73-111 - Outdoor racket courts and skating rinks

LAST AMENDED

6/6/2024

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

The Board shall prescribe the following conditions:

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

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

73-112 - Sand, gravel or clay pits

LAST AMENDED

6/6/2024

In all districts, the Board of Standards and Appeals may permit the extraction of sand, gravel, or clay listed under Use Group I from a #zoning lot# which is limited in size to a maximum of 50 acres and which is located not less than 1,000 feet from the

nearest boundary of any #zoning lot# 10 acres or more in area used for such extraction, provided that the Board finds that such #use# is so located as not to impair the essential character or the future use or development of the surrounding area, and provided that the following conditions are met:

- (a) that the applicant submits a site plan showing the proposed extent and depth of the area to be excavated, together with the certification of the Department of Buildings that the proposed method of operations and the final elevation of the pit will not undermine or cause settlement to nearby #streets#, sewers, #buildings or other structures#, or installations;
- (b) that the applicant submits a plan for the rehabilitation of the #zoning lot# to be undertaken after the completion of the excavation operations which is satisfactory to the Board, and posts a bond, in an amount to be determined by the Board, for the performance of such rehabilitation;
- (c) that the entire perimeter of the #zoning lot#, except for necessary truck roads, is fenced, including locked gates, so as to prevent children from gaining access to the excavated areas;
- (d) that one #accessory# off-street parking space is provided for every 2,000 square feet of #lot area# or for every three employees, whichever shall require a lesser number of spaces;
- (e) that the performance standards for M1 Districts shall apply to such operations in all districts other than M2 or M3 Districts, where the applicable performance standards shall govern;
- (f) that all drilling, blasting, or excavation operations shall be limited to Mondays through Fridays between the hours of 8:00 a.m. and 5:00 p.m.;
- (g) that the emission of process dust either from the area of operations or from the excavated materials themselves shall be minimized by frequent watering or by such other means as the Board shall direct;
- (h) that the warning notices respecting unlawful entry shall be posted on the fence, and that a watchman shall be stationed on the premises to police the entire area after normal working hours and on weekends and holidays; and
- (i) that excavation operations shall be undertaken in such manner as to avoid the creation of undrained pockets and the formation of stagnant pools. When topographical conditions make such compliance impossible, all pools of water resulting from surface drainage shall be sprayed in accordance with the requirements of the Department of Health to eliminate breeding places for mosquitoes or other insects.

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

73-12 - Residences

LAST AMENDED

6/6/2024

73-13 - Community Facilities

LAST AMENDED

6/6/2024

73-131 - College or school student dormitories or fraternity or sorority student houses

LAST AMENDED
6/6/2024

The Board of Standards and Appeals may permit college or school student dormitories or fraternity or sorority student houses listed under Use Group III(A) in R1 or R2 Districts, provided that the following findings are made:

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

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

73-132 - Colleges or universities

LAST AMENDED
6/6/2024

The Board of Standards and Appeals may permit colleges or universities including professional schools, but excluding business colleges or trade schools, as listed under Use Group III(B), in R1 or R2 Districts, provided that the following findings are made:

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

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

73-133 - Schools

LAST AMENDED
6/6/2024

In C8 or M1 Districts, the Board of Standards and Appeals may permit #schools# which have no #residential# accommodations except #accessory# accommodations for a caretaker, as listed under Use Group III(B), provided that the following findings are made:

- (a) that within the neighborhood to be served by the proposed #school# there is no practical possibility of obtaining a site of adequate size located in a district wherein it is permitted as of right, because appropriate sites in such districts are occupied by substantial improvements;
- (b) that such #school# is located not more than 400 feet from the boundary of a district wherein such #school# is permitted as-of-right;

- (c) that an adequate separation from noise, traffic and other adverse effects of the surrounding non-#Residential Districts# is achieved through the use of sound-attenuating exterior wall and window construction or by the provision of adequate open areas along #lot lines# of the #zoning lot#; and
- (d) that the movement of traffic through the #street# on which the #school# is located can be controlled so as to protect children going to and from the #school#. The Board shall refer the application to the Department of Traffic for its report with respect to vehicular hazards to the safety of children within the block and in the immediate vicinity of the proposed site.

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

73-134 - Ambulatory diagnostic or treatment health care facilities

LAST AMENDED

6/6/2024

In R3-1, R3A, R3X, R4-1, R4A or R4B Districts, the Board of Standards and Appeals may permit ambulatory diagnostic or treatment health care facilities listed under Use Group III(B), limited in each case to a maximum of 10,000 square feet of #floor area#, provided that the Board finds that:

- (a) outside of #lower density growth management areas#, the amount of open area and its distribution on the #zoning lot# conform to standards appropriate to the character of the neighborhood; or
- (b) in #lower density growth management areas#, such facilities are located on #zoning lots# that comply with the minimum #lot area# and #lot width# regulations of Section [23-35](#) (Special Provisions for Zoning Lots Containing Certain Community Facility Uses in Lower Density Growth Management Areas).

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

73-135 - Non-commercial clubs

LAST AMENDED

6/6/2024

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

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

- (e) that the amount of #open space# provided and its distribution on the #zoning lot# conform to standards appropriate to the character of the neighborhood.

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

73-136 - Welfare centers

LAST AMENDED

6/6/2024

The Board of Standards and Appeals may permit welfare centers listed under Use Group III(B) in R1 or R2 Districts, provided that the following findings are made:

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

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

73-14 - Public Service Facilities and Infrastructure

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LAST AMENDED

6/6/2024

73-141 - Radio or Television Towers

LAST AMENDED

6/6/2024

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

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

73-142 - Telephone exchanges or other communications equipment structures

LAST AMENDED

6/6/2024

In all #Residence Districts#, the Board of Standards and Appeals may permit telephone exchanges or other communications equipment structures listed under Use Group IV(B), provided that the Board finds that:

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

The Board may prescribe appropriate conditions or safeguards to minimize adverse effects on the character of the surrounding area, including requirements that such #use# shall be landscaped.

73-143 - Electric or gas utility substations

LAST AMENDED
6/6/2024

The Board of Standards and Appeals may permit electric or gas utility substations listed under Use Group IV(B) pursuant to either paragraph (a) or (b) of this Section, as applicable.

- (a) In all #Residence Districts#, the Board may permit electric or gas utility substations, limited in each case to a site of between 4,500 square feet and not more than 10,000 square feet, provided that the Board finds that:
 - (1) such #use# will serve the residential area within which it is proposed to be located; and
 - (2) there are serious difficulties in locating it in a district wherein it is permitted as of right and from which it could serve the residential area, which make it necessary to locate such #use# within a #Residence District#.

The Board may prescribe appropriate conditions or safeguards to minimize adverse effects on the character of the surrounding area, including requirements that such substations shall be landscaped and surrounded with fences, barriers, or other safety devices; and that electric utility substations shall meet the performance standards for an M1 District.

- (b) In all #Residence# and #Commercial Districts#, and in M1 Districts in the #Special Downtown Jamaica District#, the Board may permit electric utility substations (including transformers, switches, or auxiliary apparatus), limited in each case to a site of between 10,000 square feet and not more than 40,000 square feet, provided that the Board finds that:
 - (1) such #use# will serve either the residential community within which it is proposed to be located or the residential community immediately adjacent, and that there are serious difficulties in locating such #use# in a nearby district where it is permitted as-of-right;
 - (2) the site for such #use# is so located in #Residence Districts# as to minimize the adverse effects on the integrity of existing and future development, or is so located in #Commercial Districts# as to minimize the interruption of the continuity of retail frontage;
 - (3) the architectural and landscaping treatment of such #use# will blend harmoniously with the rest of the area; and
 - (4) such #use# will conform to the performance standards applicable to M1 Districts.

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

73-144 - Public utility stations or terminal facilities

LAST AMENDED

6/6/2024

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

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

73-145 - Water pumping stations

LAST AMENDED

6/6/2024

In all #Residence Districts#, the Board of Standards and Appeals may permit potable water pumping stations listed under Use Group IV(B), on sites with a minimum #lot area# of at least 4,500 square feet, provided that the Board finds that:

- (a) such #use# will serve the residential area within which it is proposed to be located; and
- (b) there are serious difficulties in locating such #use# in a district where it is permitted as of right and from which it could serve the residential area, that make it necessary to locate such #use# within a #Residence District#.

The Board may prescribe appropriate conditions or safeguards to minimize adverse effects on the character of the surrounding area, including requirements that such pumping stations shall be landscaped and surrounded with fences, barriers, or other safety devices.

73-146 - Public transit or railroad electric substations

LAST AMENDED

6/6/2024

In all #Residence# and #Commercial Districts#, and in M1 Districts in the #Special Downtown Jamaica District#, the Board of Standards and Appeals may permit public transit or railroad electric substations listed under Use Group IV(B), limited in each case to a site of between 4,500 and not more than 40,000 square feet, and a minimum frontage of 50 feet, provided that the following findings are made:

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

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

apparatus, or for landscaping.

73-147 - Energy infrastructure equipment

LAST AMENDED

6/6/2024

In all #Residence Districts#, the Board of Standards and Appeals may permit #energy infrastructure equipment# listed under Use Group IV(C), without size restriction, provided that the Board finds that:

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

The Board may prescribe appropriate conditions or safeguards to minimize adverse effects on the character of the surrounding area, including requirements that such #use# shall be landscaped.

73-15 - Transient Accommodations

LAST AMENDED

6/6/2024

73-151 - Overnight camps

LAST AMENDED

6/6/2024

In all #Residence Districts#, and in C1, C2 or C3 Districts, the Board of Standards and Appeals may permit overnight camps, whether commercial or philanthropic, as listed under Use Group V, provided that the Board finds that such #use# will not cause excessive traffic congestion.

The Board shall prescribe the following conditions:

- (a) that a minimum of 150 square feet of #lot area# is provided for each child enrolled in the camp;
- (b) that along any #rear# or #side lot lines#, #yards# are provided, each with a minimum depth (or width) of 40 feet, within which no camp equipment is affixed to the land; and
- (c) that in #Residence Districts# or C3 Districts the #zoning lot# is screened along the #rear# and #side lot lines#, and in C1 or C2 Districts along any #rear# or #side lot line# adjoining a #Residence District#, by a strip at least four feet wide, densely planted with shrubs or trees which are at least four feet high at the time of planting and which are of a type which may be expected to form a year-round dense screen at least six feet high within three years.

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

73-16 - Retail and Services

LAST AMENDED

6/6/2024

73-161 - Retail and service uses

LAST AMENDED

6/6/2024

In all #Commercial Districts# and #Manufacturing Districts#, the Board of Standards and Appeals may permit modifications to #uses# listed under Use Group VI, as set forth in Sections [32-16](#) and [42-16](#) (Use Group VI – Retail and Services), pursuant to paragraph (a) of this Section, provided that the findings in paragraph (b) are met.

- (a) For #uses# listed under Use Group VI, other than those #uses# for which another permit exists pursuant to Section [73-16](#), inclusive, the Board may permit:
- (1) modifications to a size limitation, denoted in the Use Group table with an “S”, provided that the increase does not exceed 200 percent of the amount set forth in Use Group VI;
 - (2) modifications to supplementary #use# regulations, including enclosure and location within #buildings# provisions; or
 - (3) modifications to additional conditions, denoted in the Use Group table with a “P”, including environmental standards, geographic limitations, or other measures.
- (b) In order to grant such permit, the Board shall find that:
- (1) such #use# will not impair the character or the future use or development of the surrounding area;
 - (2) such #use# will not create or contribute to serious traffic congestion and will not unduly inhibit surface traffic and pedestrian flow; and
 - (3) the modifications are necessary to support the operation of such #use#; and

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

73-162 - Eating or drinking establishments

LAST AMENDED

6/6/2024

In C1 Districts that are not #select commercial overlays#, in all other #Commercial Districts# and in #Manufacturing Districts#, the Board of Standards and Appeals may permit modifications to the underlying regulations for eating or drinking establishments listed under Use Group VI set forth in Sections [32-16](#) and [42-16](#) (Use Group VI – Retail and Services), pursuant to paragraph (a) of this Section, provided that the findings in paragraph (b) are met.

- (a) For eating or drinking establishments, the Board may permit:
- (1) modifications to a size limitation, denoted in the Use Group table with an “S”, provided that the increase does not exceed 200 percent of the amount set forth in Use Group VI;
 - (2) modifications to supplementary #use# regulations, including enclosure and location within #buildings# provisions; or

- (3) modifications to additional conditions, denoted in the Use Group table with a “P”, including environmental standards, geographic limitations, or other measures.
- (b) In order to grant such permit, the Board shall find that:
 - (1) such #use# will not cause undue vehicular or pedestrian congestion in local #streets# and that due consideration is given to the size and location of entrances and enclosed lobby areas;
 - (2) such #use# will not impair the character or the future use or development of the surrounding residential or mixed use neighborhoods;
 - (3) such #use# will not cause the sound level in any affected conforming #residential use#, #joint living-work quarters for artists# or #loft dwelling# to exceed the limits set forth in any applicable provision of the New York City Noise Control Code;
 - (4) the modifications are necessary to support the operation of such #use#; and
 - (5) the application is made jointly by the owner of the #building# and the operator of such eating or drinking establishment.

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

73-163 - Automotive service stations

LAST AMENDED
6/6/2024

In C2 Districts, and C4 through C7 Districts, the Board of Standards and Appeals may permit #automotive service stations# listed under Use Group VI and, in those districts and C8 Districts, may permit modification to the #accessory sign# regulations for such #use#, provided that the following findings are made:

- (a) that such #use# will not impair the character or the future use or development of the surrounding area and will cause minimal interruption to the continuity of surrounding retail frontages;
- (b) that such #use# will not create or contribute to serious traffic congestion and will not unduly inhibit surface traffic and pedestrian flow;
- (c) that the site for such #use# which is not located on an arterial highway or a major #street# has a maximum area of 15,000 square feet;
- (d) that any facilities for lubrication, minor repairs or washing are located within a #completely enclosed# #building#;
- (e) that the site is so designed as to provide, at maximum expected operation, reservoir space for five waiting automobiles within the #zoning lot# in addition to spaces available within an enclosed lubritorium or at the pumps;
- (f) that entrances and exits are so planned that, at maximum expected operation, vehicular movement into or from the #automotive service station# will cause a minimum of obstruction on #streets# or sidewalks;
- (g) that, along any #rear lot line# or #side lot line# adjoining a #Residence District#, the #zoning lot# is screened as the Board

may prescribe, by either of the following methods:

- (1) a strip at least four feet wide, densely planted with shrubs or trees at least four feet high at the time of planting and which are of a type which may be expected to form a year-round dense screen at least six feet high within three years; or
 - (2) a wall or barrier or uniformly painted fence of fire-resistant material at least six feet high, but not more than eight feet above finished grade. Such wall, barrier, or fence may be opaque or perforated, provided that not more than 50 percent of its face is open; and
- (h) that the modifications to #accessory sign# regulations are necessary for adequate advance identification of such #automotive service station# to motorists on heavily traveled #streets# in the interests of traffic safety. In no event shall such #signs# project across a #street line# more than four feet and modification to the surface area of #signs# shall be limited to C1 and C2 Districts and a maximum surface area of 150 square feet.

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

73-164 - Light motor vehicle repair and maintenance shops

LAST AMENDED
6/6/2024

In C2 Districts, and C4 through C7 Districts, the Board of Standards and Appeals may permit #light motor vehicle repair and maintenance shops# listed under Use Group VI, provided that the following findings are made:

- (a) such #use# will not impair the character or the future use or development of the surrounding area. In order to make such finding the Board shall consider the presence and concentration of existing #light motor vehicle repair and maintenance shops# within 500 feet of the proposed #use# and whether any increase in concentration would have impacts on the surrounding area;
- (b) such #use# will cause minimal interruption to, and will not be incompatible with, the continuity of surrounding retail frontages;
- (c) such #use# will not create or contribute to serious traffic congestion and will not unduly inhibit surface traffic and pedestrian flow;
- (d) any facilities used for repair or maintenance are located within a #completely enclosed building#; and
- (e) entrances and exits are so planned that, at maximum expected operation, vehicular movement into or from the #use# will cause a minimum of obstruction on #streets# or sidewalks.

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

73-17 - Offices and Laboratories

LAST AMENDED
6/6/2024

73-171 - Ground floor offices in the flood zone

LAST AMENDED

6/6/2024

In all #Residence Districts# in the #flood zone#, for #buildings# containing #residential uses#, the Board of Standards and Appeals may permit offices listed under Use Group VII, 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 listed under Use Group III(B), 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:

- (1) such office #use# will generate a minimum of vehicular traffic to and through local #streets# and will not create traffic congestion;
- (2) such office #use# will not produce objectionable effects; and
- (3) 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.

73-18 - Recreation, Entertainment and Assembly Spaces

LAST AMENDED

6/6/2024

73-181 - Recreation, entertainment and assembly space uses

LAST AMENDED

6/6/2024

In C1 or C2 Districts that are not #select commercial overlays#, in all other #Commercial Districts# and in #Manufacturing Districts#, the Board of Standards and Appeals may permit modifications to #uses# listed under Use Group VIII, as set forth in Sections [32-18](#) and [42-18](#) (Use Group VIII – Recreation, Entertainment and Assembly Spaces), pursuant to paragraph (a) of this Section, provided that the findings in paragraph (b) are met.

- (a) For #uses# listed under Use Group VIII, other than those #uses# for which another permit exists pursuant to Section [73-18](#), inclusive, the Board may permit:
- (1) modifications to a size limitation, denoted in the Use Group table with an “S”, provided that the increase does not exceed 200 percent of the amount set forth in Use Group VIII;
 - (2) modifications to supplementary #use# regulations, including enclosure and location within #buildings# provisions; or
 - (3) modifications to additional conditions, denoted in the Use Group table with a “P”, including environmental standards, geographic limitations, or other measures.
- (b) In order to grant such permit, the Board shall find that:
- (1) such #use# will not impair the character or the future use or development of the surrounding area;
 - (2) such #use# will not create or contribute to serious traffic congestion and will not unduly inhibit surface traffic and pedestrian flow; and
 - (3) the modifications are necessary to support the operation of such #use#.

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

73-182 - Outdoor recreation and amusement facilities

LAST AMENDED

6/6/2024

In C3 Districts, the Board of Standards and Appeals may permit water-oriented outdoor #amusement and recreation facilities# listed under Use Group VIII, provided that the following findings are met:

- (a) such #use# will not impair the character or the future use or development of the surrounding area and will cause minimal interruption to the continuity of surrounding residential or retail frontages, as applicable;
- (b) such #use# and any #accessory# facilities affixed to the land is adequately separated from any #lot line#; and
- (c) that, along any #rear lot line# or #side lot line# adjoining a #Residence District#, the #zoning lot# is screened as the Board may prescribe, by either of the following methods:
 - (1) a strip at least four feet wide, densely planted with shrubs or trees at least four feet high at the time of planting and which are of a type which may be expected to form a year-round dense screen at least six feet high within three years; or

- (2) a wall or barrier or uniformly painted fence of fire-resistant material at least six feet high, but not more than eight feet above finished grade. Such wall, barrier, or fence may be opaque or perforated, provided that not more than 50 percent of its face is open.

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

73-183 - Outdoor amusement parks

LAST AMENDED
6/6/2024

In C7, C8 or M1 Districts, the Board of Standards and Appeals may permit #outdoor amusement parks# listed in Use Group VIII that exceed a #lot area# of 10,000 square feet, provided that the following findings are met:

- (a) such #use# will not impair the character or the future use or development of the surrounding area;
- (b) such #use# will not create or contribute to serious traffic congestion and will not unduly inhibit surface traffic and pedestrian flow; and
- (c) such #use# is adequately separated from surrounding residential areas.

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

73-184 - Outdoor day camps

LAST AMENDED
6/6/2024

In all #Residence Districts#, and in C1, C2 or C3 Districts, the Board of Standards and Appeals may permit outdoor day camps, whether commercial or philanthropic, as listed under Use Group VIII, provided that the Board finds that such #use# will not cause excessive traffic congestion.

The Board shall prescribe the following conditions:

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

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

surrounding area.

73-185 - Riding academies or stables

LAST AMENDED

6/6/2024

In all #Residence Districts#, and in C1 through C7 Districts, the Board of Standards and Appeals may permit riding academies or stables operated as a recreation service, as listed under Use Group VIII, provided that the following findings are met:

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

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

73-19 - Storage

LAST AMENDED

6/6/2024

73-191 - Micro-distribution facilities

LAST AMENDED

6/6/2024

In C1 or C2 Districts located outside of the Borough of Manhattan that are #select commercial overlays#, the Board of Standards and Appeals may permit micro-distribution facilities, as listed under Use Group IX(A), as set forth in Section [32-19](#) (Use Group IX - Storage), with a size limit of 5,000 square feet of #floor area# per establishment, and in other C1 or C2 Districts, as well as C4 through C7 Districts, the Board may permit modifications to a size limitation for micro-distribution facilities, denoted in the Use Group table with an “S”, provided that the increase does not exceed 200 percent of the amount set forth in paragraph (c) of Section [32-193](#) (Use Group IX – uses subject to size limitations).

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

- (a) such #use# will not impair the character or the future use or development of the surrounding area. In order to make such finding in locations where the #use# is being permitted, the Board shall consider the presence and concentration of existing micro-distribution facilities within 500 feet of the proposed #use# and whether any increase in concentration would have impacts on the surrounding area;
- (b) such #use# will cause minimal interruption to, and will not be incompatible with, the continuity of surrounding retail frontages;
- (c) such #use# will not create or contribute to serious traffic congestion and will not unduly inhibit surface traffic and pedestrian flow; and

(d) the modifications are necessary to support the operation of such #use#.

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

73-20 - ADDITIONAL SPECIAL PERMIT USES

LAST AMENDED

5/12/2021

73-21 - Production Uses

LAST AMENDED

6/6/2024

73-211 - Production uses

LAST AMENDED

6/6/2024

In all #Commercial Districts# and #Manufacturing Districts#, the Board of Standards and Appeals may permit modifications to #uses# listed under Use Group X, as set forth in Sections [32-20](#) and [42-20](#) (Use Group X – Production Uses), pursuant to paragraph (a) of this Section, provided that the findings in paragraph (b) are met.

- (a) For #uses# listed under Use Group X, other than those #uses# for which another permit exists pursuant to Section [73-21](#), inclusive, the Board may permit:
- (1) modifications to a size limitation, denoted in the Use Group table with an “S”, provided that the increase does not exceed 200 percent of the amount set forth in Use Group X;
 - (2) modifications to supplementary #use# regulations, including enclosure and location within #buildings# provisions; or
 - (3) modifications to additional conditions, denoted in the Use Group table with a “P”, including environmental standards, geographic limitations, or other measures.
- (b) In order to grant such permit, the Board shall find that:
- (1) such #use# will not impair the character or the future use or development of the surrounding area;
 - (2) such #use# will not create or contribute to serious traffic congestion and will not unduly inhibit surface traffic and pedestrian flow; and
 - (3) the modifications are necessary to support the operation of such #use#.

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

73-30 - MODIFICATIONS TO OTHER USE REGULATIONS

73-31 - Enclosure Regulations

73-311 - Drive-through facilities

In C1 through C7 Districts, the Board of Standards and Appeals may permit modification to the applicable enclosure regulations to allow #accessory# drive-through facilities serving a #use# listed under Use Group VI, as set forth in Section [32-16](#) (Use Group VI – Retail and Services), provided that the following findings are met:

- (a) the drive-through facility contains reservoir space within the #zoning lot#,:
 - (1) for not less than 10 automobiles where serving an eating or drinking establishment; or
 - (2) at a sufficient capacity for waiting automobiles, at maximum expected operation, where serving all other #uses#;
- (b) the drive-through facility will not create or contribute to serious traffic congestion and will not unduly inhibit surface traffic and pedestrian flow;
- (c) the character of the #Commercial District# #street# frontage within 500 feet of the subject premises reflects substantial orientation toward the motor vehicle, based upon the level of motor vehicle generation attributable to the existing #uses# contained within such area and to the subject #use#;
- (d) the drive-through facility shall not have an undue adverse impact on #residences# within the immediate vicinity of the subject premises. In order to make such finding the Board shall consider both the air quality impact of idling vehicles and the illumination from headlights on adjacent #residential uses#; and
- (e) there will be adequate buffering and screening between the drive-through facility and adjacent #residential uses#. Screening shall consist of densely planted vegetation and may additionally include walls, barriers or fences.

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

73-32 - Modification of Streetscape Regulations

In #Commercial Districts# and #Manufacturing Districts#, the Board of Standards and Appeals may permit modifications to the underlying streetscape regulations of Section [32-30](#), inclusive, including as such provisions are modified by a Special Purpose District or other special geography of this Resolution.

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

- (a) such modification is the minimum extent necessary;
- (b) such modification will not impair the character or the future use or development of the surrounding area; and
- (c) the modifications are necessary to support the operation of such #use#.

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

73-40 - MODIFICATIONS OF USE OR PARKING REGULATIONS

LAST AMENDED
7/22/1971

73-41 - General Provisions

LAST AMENDED
12/17/1987

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

73-42 - Enlargement of Uses Across District Boundaries

LAST AMENDED
1/28/1965

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

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

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

In every case where the Board permits such expansion, the #building or other structure#, or portion thereof, situated on the

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

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

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

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

73-43 - Reduction of Parking Spaces

LAST AMENDED

9/9/2004

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

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

LAST AMENDED

9/9/2004

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

- (a) the house of worship will be operated or utilized in such a manner as to reduce demand for on-site parking; and
- (b) such reduction is commensurate with the reduced demand for on-site parking.

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

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

LAST AMENDED

6/6/2024

In all #Commercial# and #Manufacturing Districts#, the Board of Standards and Appeals may permit a reduction in the number of #accessory# off-street parking spaces required under the provisions of Sections [25-31](#), [36-21](#) or [44-21](#) (General Provisions) for #uses# in parking requirement category B1 whenever such #uses# are located on the same #zoning lot# as other #uses#, proportionate to the extent that the Board finds:

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

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

LAST AMENDED 3/22/2016

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

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

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

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

LAST AMENDED 3/22/2016

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

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

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

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

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

LAST AMENDED 3/22/2016

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

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

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

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

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

73-44 - Reduction of Parking Spaces for Uses in Parking Requirement Category A3

LAST AMENDED
6/6/2024

In the districts indicated, the Board of Standards and Appeals may permit a reduction in the number of #accessory# off-street parking spaces required by the provisions of Section [36-21](#) or [44-21](#) (General Provisions) for #uses# in parking requirement category A3 to the applicable number of spaces specified in the table set forth at the end of this Section, provided that the Board finds that occupancy by #uses# in parking category A3 is contemplated in good faith on the basis of evidence submitted by the applicant. In such a case the Board shall require that the certificate of occupancy issued for the #building# within which such #use# is located shall state that no certificate shall thereafter be issued if the #use# is changed to a #use# listed in parking category A2 unless additional #accessory# off-street parking spaces sufficient to meet such requirements are provided on the site or within the permitted off-site radius.

REDUCED ACCESSORY OFF-STREET PARKING SPACES REQUIRED FOR USES IN PARKING REQUIREMENT CATEGORY A3

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

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

73-45 - Modification of Off-site Parking Provisions

LAST AMENDED
5/8/2013

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

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

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

73-451 - For residences

LAST AMENDED
2/2/2011

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

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

- (c) that where such spaces are located at a greater distance from the #zoning lot# than the maximum distance permitted by the district regulations, such distance is not greater than as shown in the following table for the specified districts; and

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

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

73-452 - For community facilities in Residence Districts

LAST AMENDED
6/27/1963

The Board of Standards and Appeals may permit off-street parking spaces #accessory# to a #community facility# #use# other than a #non-profit hospital staff dwelling#, which #use# is located in an R1, R2, R3 or R4 District, to be provided off-site and located in any district, or may permit off-street parking spaces #accessory# to a #community facility# #use# other than a #non-profit hospital staff dwelling#, which #use# is located in any other #Residence District#, to be provided off-site and located in an R1, R2, R3 or R4 District or located in any other #Residence District# at a greater distance from the #zoning lot# than the maximum distance specified in Section [25-53](#) (Off-site Spaces for Permitted Non-residential Uses), provided that in such instances, all such spaces shall be not further than 600 feet from the nearest boundary of the #zoning lot# containing such #use#, and provided further that the following special findings are made:

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

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

LAST AMENDED

6/27/1963

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

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

73-454 - For houses of worship

LAST AMENDED

9/9/2004

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

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

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

73-46 - Waiver of Requirements for Conversions

LAST AMENDED

2/2/2011

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

- (a) on the same zoning lot because of insufficient open space and the prohibitive cost of structural changes necessary to provide the required spaces within the building; nor

- (b) on a site located within 1,200 feet of the nearest boundary of the #zoning lot# because all sites within such radius are occupied by substantial improvements.

73-47 - Exceptions to Maximum Size of Accessory Group Parking Facilities

LAST AMENDED

6/6/2024

The Board of Standards and Appeals may permit #accessory# #group parking facilities# with more than 150 spaces in #Commercial# or #Manufacturing Districts# or for hospital and related facilities listed under Use Group III(B) in #Residence Districts# in accordance with the provisions of this Section provided that such provisions shall not apply to #accessory# off-street parking spaces provided in #public parking garages# in accordance with the provisions of Section [36-57](#) or [44-46](#) (Accessory Off-street Parking Spaces in Public Parking Garages).

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

73-471 - For hospitals and related facilities in Residence Districts

LAST AMENDED

6/6/2024

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

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

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

73-472 - In Commercial or Manufacturing Districts

LAST AMENDED

6/6/2024

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

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

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

73-48 - Roof Parking

LAST AMENDED

6/6/2024

In C1-1, C1-2, C1-3, C1-4, C2-1, C2-2, C2-3, C2-4, C4-1, C4-2, C4-3, C4-4, C7 outside the #expanded Transit Zone#, C8-1, C8-2, C8-3, M1-1, M1-2, M1-3, M2-1, M2-2 or M3-1 Districts, the Board of Standards and Appeals may permit the parking or storage of motor vehicles on the roof of a #public parking garage# with a total of 150 spaces or less and, in all districts, the Board may permit modifications of the applicable provisions of Sections [25-11](#), [36-11](#) or [44-11](#) (General Provisions) so as to permit #accessory# off-street parking spaces to be located on the roof of a #building#. As a condition of permitting such roof parking, the Board shall find that the roof parking is so located as not to impair the essential character or the future use or development of adjacent areas.

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

73-50 - SPECIAL PROVISIONS APPLYING ALONG DISTRICT BOUNDARIES

LAST AMENDED

6/6/2024

In appropriate cases, for #zoning lots# with single frontage, the Board of Standards and Appeals may permit primary business entrances, #show windows#, or #signs# not otherwise permitted under the provisions of Section [32-43](#) or [42-53](#) (Limitations on Business Entrances, Show Windows or Signs), provided that in no case shall any such primary business entrance, #show window# or #sign# be permitted within 10 feet of a #Residence District# boundary.

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

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

73-51 - Modification of Supplementary Use Regulations

LAST AMENDED

8/22/1963

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

In addition, the Board may permit public utility antennas, microwave platforms and dishes or other radio or television equipment to penetrate the maximum height limit or the #sky exposure plane# set forth in Section [33-43](#) (Maximum Height of

Walls and Required Setbacks) or [33-44](#) (Alternate Front Setbacks) provided that such equipment shall not exceed 20 feet in height.

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

LAST AMENDED

6/25/1964

Whenever a #zoning lot# existing in single ownership on December 15, 1961, or on the effective date of any applicable subsequent amendment to the #zoning maps# is divided by a boundary between two or more districts in which different #uses# are permitted, the Board of Standards and Appeals may permit a #use# which is a permitted #use# in the district in which more than 50 percent of the #lot area# of the #zoning lot# is located to #extend# not more than 25 feet into the remaining portion of the #zoning lot#, where such #use# is not a permitted #use#, provided that the following findings are made:

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

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

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

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

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

LAST AMENDED

6/6/2024

- (a) In all districts, the Board of Standards and Appeals may modify #use# and #bulk# regulations to permit the #enlargement# or #extension# of #floor area# of a conforming or #non-conforming# #referenced commercial and manufacturing use#, provided that:
 - (1) such #use# is not subject to termination pursuant to Section [52-70](#), et seq.;
 - (2) the #use# for which such special permit is being sought has been lawfully located on the #zoning lot# on which the expansion is to occur, or a portion thereof, for five years or more;
 - (3) the #building# in which such #use# is located has not previously been #enlarged#, pursuant to Sections [11-412](#), [43-121](#) or [72-21](#);
 - (4) the #use# is not one listed in Use Group X and is permitted only in #Manufacturing Districts#; and
 - (5) in a #Residence District#, such #enlargement# or #extension# shall be permitted in existing #floor area# or on a vacant portion of a #zoning lot# only when no lawful #residential use# has occupied such #floor area# or vacant portion of a #zoning lot# at any time during the five years prior to the date of application for such special

permit.

(b) Any #enlargement# or #extension# permitted pursuant to this Section shall be subject to the following requirements:

(1) the permitted #enlargement# or #extension# may be the greater of:

(i) 45 percent of the #floor area# occupied by such #use# on December 17, 1987; or

(ii) 2,500 square feet additional to the #floor area# occupied by such #use# on December 17, 1987.

In no event shall the amount of #enlargement# or #extension# under paragraph (b)(i) of this Section exceed 10,000 square feet additional to the #floor area# occupied by such #use# on December 17, 1987;

(2) unless the #zoning lot# is located within an M2 or M3 District, more than 300 feet from a #Residence District# boundary, any #enlarged# or #extended# portion, or activity generated by such #enlargement# or #extension#, including storage and processing, shall be in #completely enclosed# #buildings#;

(3) in the case of a #non-conforming# #use#, such #enlarged# or #extended use# shall conform to all performance standards applicable in an M1 District located at the boundary with a #Residence District#; however, conforming #uses# shall conform to the applicable performance standards of the district in which they are located;

(4) no open #uses# of any kind, including storage or processing, shall be permitted within 30 feet of a #rear lot line# that is located within a #Residence District# or within 30 feet of the #rear lot line# that coincides with a #rear lot line# of a #zoning lot# in a #Residence District#;

(5) no #enlargement# or #extension# that exceeds 16 feet above #curb level# shall be permitted within 30 feet of the #rear lot line# that coincides with a #rear lot line# of a #zoning lot# in a #Residence District#;

(6) no #enlargement# or #extension# that exceeds 16 feet above #curb level# shall be permitted within eight feet of the #side lot line# that coincides with a #rear lot line# of a #zoning lot# in a #Residence District#;

(7) no open #uses# of any kind, including storage or processing, shall be permitted within eight feet of the #side lot line# that coincides with a #rear lot line# of a #zoning lot# in a #Residence District#;

(8) no #enlargement# or #extension#, or open #uses# of any kind, including storage or processing, shall be permitted within eight feet of the #lot line# which coincides with a #side lot line# of a #zoning lot# in an R1, R2, R3, R4 or R5 District; and

(9) no #side yard# shall be required in an R6, R7, R8, R9 or R10 District or in a #Commercial District# or #Manufacturing District#; however, if such #side yard# is provided, it must be at least eight feet in width.

(c) In granting such special permit, the Board shall find:

(1) that such #enlargement# or #extension# will not generate significant increases in vehicular or pedestrian traffic nor cause congestion in the surrounding area;

(2) that there will be adequate parking for any vehicles generated by such #enlargement# or #extension#;

(3) that any required #side yard# shall be suitably landscaped or fenced as the Board shall prescribe;

(4) that any #accessory# parking or loading generated by such #enlargement# or #extension# shall be suitably buffered from adjacent #uses# by methods that the Board shall prescribe; and

- (5) that the special permit, if granted, will not alter the essential character of the neighborhood or district in which the #use# is located, nor impair the future use or development of the surrounding area.

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

73-60 - MODIFICATIONS OF BULK REGULATIONS

LAST AMENDED
7/22/1971

73-61 - General Provisions

LAST AMENDED
5/13/1982

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

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

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

LAST AMENDED
2/2/2011

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

LAST AMENDED
2/2/2011

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

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

when such space is provided in the #building#.

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

LAST AMENDED

5/12/2021

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

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

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

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

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

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

LAST AMENDED 3/22/2016

For #developments# or #enlargements# of #Quality Housing buildings# in which at least 50 percent of the #dwelling units# are #income-restricted housing units#, or at least 50 percent of its total #floor area# is a #long-term care facility# or philanthropic or

non-profit institution with sleeping accommodation, the Board of Standards and Appeals may modify the underlying #bulk# regulations, other than #floor area ratio#, provided that in no event shall such #building# height or the number of #stories# therein exceed those set forth in paragraph (b) of Section [23-664](#) (Modified height and setback regulations for certain Inclusionary Housing buildings or affordable independent residences for seniors), and provided that the Board finds that:

- (a) there are physical conditions, including irregularity, narrowness or shallowness of lot size or shape, or topographical features that create practical difficulties in complying with the #bulk# regulations for #Quality Housing buildings# and would adversely affect the #building# configuration or site plan;
- (b) the practical difficulties of developing on the #zoning lot# have not been created by the owner or by a predecessor in title;
- (c) the proposed modifications will not unduly obstruct access of light and air to adjoining properties or #streets#;
- (d) the proposed scale and placement of the #development# or #enlargement# relates harmoniously with the surrounding area; and
- (e) the requested modification is the least amount necessary to relieve such practical difficulties.

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

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

LAST AMENDED

3/22/2016

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

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

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

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

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

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

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

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

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

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

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

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

LAST AMENDED 12/15/2021

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

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

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

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

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

73-63 - Enlargement of Non-residential Buildings

LAST AMENDED

2/2/2011

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

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

73-64 - Modifications for Community Facility Uses

LAST AMENDED

6/6/2024

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

Such specified #community facility# #uses# include the following #uses# listed under Use Group III:

College or school student dormitories or fraternity and sorority student houses

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

Community centers

Houses of worship, rectories, parish houses or seminaries

Libraries, museums or non-commercial art galleries

Monasteries, convents or novitiates

#Non-profit hospital staff dwellings#

Non-profit or voluntary hospitals and related facilities

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

#Schools#.

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

LAST AMENDED

11/30/2017

For any such new #building# or #enlargement#, subject to the required findings set forth in this Section, the Board of Standards and Appeals may permit modifications of the applicable regulations in Sections [24-38](#), [33-28](#) or [43-28](#) (Special Provisions for Through Lots), or in Sections [24-50](#) through [24-55](#), inclusive, paragraphs (b) through (d) of Section [24-56](#), Sections [33-40](#) through [33-45](#), inclusive, or Sections [43-41](#) through [43-45](#), inclusive, relating to Height and Setback Regulations, or in Sections [24-61](#) through [24-65](#), inclusive, Section [33-51](#), or Section [43-51](#), relating to Court Regulations and Minimum Distance between Windows and Walls or Lot Lines, provided that on December 15, 1961, the applicant owned the #zoning lot# or any portion thereof, and continuously occupied and used one or more #buildings# located thereon for a specified #community facility# #use#, from December 15, 1961, until the time of application. However, for #Quality Housing buildings# utilizing the height and setback regulations of Article II, Chapter 3, as required by Sections [24-50](#) and [33-40](#), the Board shall not permit modification to the provisions of Sections [23-67](#) through [23-69](#), inclusive.

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

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

73-642 - Temporary failure to comply

LAST AMENDED

2/2/2011

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

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

73-643 - Community centers

LAST AMENDED

2/2/2011

In any such #development# or #enlargement# consisting of a community center serving primarily the residents of the #zoning lot#, the Board of Standards and Appeals may permit the density regulations set forth in Sections [24-20](#) (APPLICABILITY OF

DENSITY REGULATIONS TO ZONING LOTS CONTAINING BOTH RESIDENTIAL AND COMMUNITY FACILITY USES) or [35-40](#) (APPLICABILITY OF DENSITY REGULATIONS) to be modified, provided that the total number of #dwelling units# permitted by these Sections and all other applicable #bulk# regulations set forth in Articles II and III of this Resolution shall not be increased by more than 10 percent.

73-65 - Public Utilities and Special Infrastructure

†

LAST AMENDED
12/6/2023

73-651 - Enlargement of public utility facilities

†

LAST AMENDED
12/6/2023

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

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

Electric or gas utility substations;

Telephone exchanges or other communications equipment structures;

Water or sewage pumping stations; or

#Energy infrastructure equipment#.

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

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

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

area and shall require that the certificate of occupancy shall be limited to such #use#.

73-652 - Energy infrastructure equipment and mechanical equipment

†

LAST AMENDED

12/6/2023

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

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

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

73-66 - Height Regulations Around Airports

LAST AMENDED

7/23/1964

The Board of Standards and Appeals may permit the construction, #enlargement#, or reconstruction of a #building or other structure# in excess of the height limits established under Sections [61-21](#) (Restriction on Highest Projection of Building or Structure) or [61-22](#) (Permitted Projection Within any Flight Obstruction Area), provided that the applicant submits a site plan, with elevations, showing the proposed #building or other structure# in relation to such maximum height limits, and that the

Board finds that such proposed #building or other structure#, #enlargement#, or reconstruction would not constitute a hazard (either under the existing layout of the airport or under any planned reorientation or lengthening of the airport runways) to the safety of the occupants of such proposed #building#, to other #buildings# in the vicinity or to the safety of air passengers, and would not disrupt established airways.

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

73-67 - Additional Floor Space of Public Parking Garages

LAST AMENDED

10/29/2007

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

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

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

73-68 - Height and Setback and Yard Modifications

LAST AMENDED

2/2/2011

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

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

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

73-69 - Rear Yard Modifications

LAST AMENDED

4/30/2008

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

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

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

73-70 - ADDITIONAL MODIFICATIONS OF BULK REGULATIONS

LAST AMENDED
6/6/2024

73-71 - Bulk modifications for community facilities in lower density growth management areas

LAST AMENDED
6/6/2024

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

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

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

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

73-80 - SPECIAL PERMITS IN THE FLOOD ZONE

LAST AMENDED
6/6/2024

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

73-81 - Special Permit for Modification of Certain Zoning Regulations

LAST AMENDED

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.

73-90 - LAPSE OF PERMIT

LAST AMENDED

6/6/2024

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