Article II: Residence District Regulations
Chapter 3 - Residential Bulk Regulations in Residence Districts

Effective date of most recently amended section of Article II Chapter 3: 11/25/14
Chapter 3
Residential Bulk Regulations in Residence Districts

23-00
APPLICABILITY AND GENERAL PURPOSES

23-01
Applicability of This Chapter

The bulk regulations of this Chapter apply to any zoning lot or portion of a zoning lot located in any Residence District which contains any building or other structure, other than a community facility building or the community facility portion of a building used for both residential and community facility uses. The bulk regulations of Article II, Chapter 4, shall apply to a zoning lot containing a community facility building or to the community facility portion of a building used for both residential and community facility uses. In addition, the bulk regulations of this Chapter, or of specified Sections thereof, also apply in other provisions of this Resolution where they are incorporated by cross reference.

Existing buildings or other structures that do not comply with one or more of the applicable bulk regulations are non-complying buildings or other structures and are subject to the regulations set forth in Article V, Chapter 4.

Special regulations applying to large-scale residential developments or residential uses in large-scale community facility developments are set forth in Article VII, Chapter 8.

Special regulations applying only in Special Purpose Districts are set forth in Articles VIII, IX, X, XI, XII and XIII.

In Manhattan Community Districts 1, 2, 3, 4, 5 and 6, Brooklyn Community Districts 1, 2, 6 and 8, and Queens Community Districts 1 and 2, the conversion of non-residential floor area to residences in buildings erected prior to December 15, 1961 or January 1, 1977, as applicable, shall be subject to the provisions of Article 1, Chapter 5 (Residential Conversions...
within Existing Buildings), unless such conversions meet the requirements for residential developments of Article II (Residence District Regulations).

Special regulations applying in the waterfront area are set forth in Article VI, Chapter 2.

Special regulations applying in the flood zone are set forth in Article VI, Chapter 4.

(2/2/11)

23-011 Quality Housing Program

R5D R6A R6B R7A R7B R7D R7X R8A R8B R8X R9A R9D R9X R10A R10X

(a) In R6A, R6B, R7A, R7B, R7D, R7X, R8A, R8B, R8X, R9A, R9D, R9X, R10A or R10X Districts, any building or other structure shall comply with the applicable district bulk regulations set forth in this Chapter and any building containing residences shall also comply with the requirements of Article II, Chapter 8 (Quality Housing Program). However, the provisions of Article II, Chapter 8, shall not apply to buildings converted pursuant to Article I, Chapter 5.

In R5D Districts, only certain requirements of Article II, Chapter 8, shall apply as set forth in Section 28-01 (Applicability of this Chapter).

R6 R7 R8 R9 R10

(b) In the districts indicated without a letter suffix, the bulk regulations applicable to Quality Housing buildings may, as an alternative, be applied to zoning lots where buildings are developed or enlarged pursuant to all of the requirements of the Quality Housing Program. Such buildings may be subsequently enlarged only pursuant to the Quality Housing Program. In these districts, the Quality Housing bulk regulations may apply to developments or enlargements on zoning lots with existing buildings to remain, if:

(1) the existing buildings contain no residences and the entire zoning lot will comply with the floor area ratio and density standards applicable to Quality Housing buildings; or

(2) the existing buildings contain residences, and such
buildings# comply with the maximum base heights and maximum building heights listed in the tables in Sections 23-633 or 35-24 for the applicable district, and the entire zoning lot# will comply with the floor area ratio#, lot coverage# and density standards applicable to Quality Housing buildings#.

R6 R7 R8 R9 R10

(c) In the districts indicated without a letter suffix, the optional Quality Housing bulk# regulations permitted as an alternative pursuant to paragraph (b) of this Section, shall not apply to:

(1) Article VII, Chapter 8 (Large Scale Residential Developments);

(2) Special Purpose Districts, except the following:

   #Special 125th Street District#;

   #Special Downtown Brooklyn District#;

   #Special Downtown Jamaica District#;

   #Special Grand Concourse Preservation District#;

   #Special Limited Commercial District#;

   #Special Long Island City Mixed Use District#;

   #Special Lower Manhattan District#, as modified in Section 91-05;

   #Special Ocean Parkway District#;

   #Special Transit Land Use District#; or

   #Special Tribeca Mixed Use District#;

(3) zoning lots# in R6 or R7 Districts within the study areas set forth in this paragraph, (c)(3), and occupied, as of August 14, 1987, by a single-, two- or three-family detached or semi-detached residence where 70 percent or more of the aggregate length of the block# fronts in residential use# on both sides of the street# facing each other are occupied by such residences#. For any building# on such zoning lot#, the floor area ratio# and density requirements of the underlying district shall apply. On a narrow street# that intersects with a wide
street#, the 70 percent residential use requirement on a narrow street shall be measured from a distance of 100 feet from its intersection with a wide street.

The study areas are:

In the Borough of The Bronx:

Soundview Area

The area bounded by Story Avenue, the Bronx River, Westchester Avenue, Bronx River Avenue and Rosedale Avenue.

Castle Hill Area

The area bounded by Castle Hill Avenue, Westchester Avenue and East Tremont Avenue.

In the Borough of Brooklyn:

Midwood Area

The area bounded by Avenue M, Coney Island Avenue, Avenue O, and a line midway between East 10th Street and Coney Island Avenue.

Brighton Beach Area

The area bounded by Shore Parkway, NYCTA Brighton Right-of-Way, Brighton Beach Avenue and Ocean Parkway.

In the Borough of Queens:

Elmhurst/Corona Area

The area bounded by Roosevelt Avenue, 114th Street, 34th Avenue and 112th Street.

Forest Hills Area

The area bounded by Queens Boulevard, Union Turnpike, Austin Street and 76th Road.

Flushing Area

The area bounded by 35th Avenue, 149th Street, Northern Boulevard, 147th Street, Ash Avenue, Parsons Boulevard, Franklin Avenue, Bowne Avenue, Cherry Avenue, Kissena Boulevard, Elder Avenue, Main Street, Dahlia Avenue, Saull Street, Maple Avenue, Frame Place, 41st Avenue, College Point
23-012
Lower density growth management areas

For areas designated as lower density growth management areas pursuant to Section 12-10 (DEFINITIONS), the underlying district regulations shall apply. Such regulations are superseded or supplemented as set forth in the following Sections:

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

Section 12-10 (DEFINITIONS - Floor area; Lower density growth management area; Private road)

Section 22-14 (Use Group 4 - Ambulatory diagnostic or treatment health care facilities)

Section 23-12 (Permitted Obstructions in Open Space)

Section 23-141 (Open space and floor area regulations in R1, R2, R3, R4 or R5 Districts)

Section 23-32 (Minimum Lot Area or Lot Width for Residences)

Section 23-33 (Special Provisions for Existing Small Lots)

Section 23-35 (Special Provisions for Zoning Lots Containing Certain Community Facility Uses in Lower Density Growth Management Areas)

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

Section 23-462 (Side yards for all other residential buildings)

Section 23-532 (Required rear yard equivalents)

Section 23-631 (Height and setback in R1, R2, R3, R4 and R5 Districts)

Section 23-711 (Standard minimum distance between
buildings)

Section 23-881  (Minimum distance between lot lines and building walls in lower density growth management areas)

Section 24-011  (Exceptions to the bulk regulations of this Chapter)

Section 24-04  (Modification of Bulk Regulations in Certain Districts)

Section 25-028  (Applicability of regulations to certain community facility uses in lower density growth management areas)

Section 25-22  (Requirements Where Individual Parking Facilities Are Provided)

Section 25-23  (Requirements Where Group Parking Facilities Are Provided)

Section 25-31  (General Provisions)

Section 25-331  (Exceptions to application of waiver provisions)

Section 25-62  (Size and Location of Spaces)

Section 25-621  (Location of parking spaces in certain districts)

Section 25-622  (Location of parking spaces in lower density growth management areas)

Section 25-624  (Special parking regulations for certain community facility uses in lower density growth management areas)

Section 25-631  (Location and width of curb cuts in certain districts)

Section 25-632  (Driveway and curb cut regulations in lower density growth management areas)

Section 25-64  (Restrictions on Use of Open Space for Parking)

Section 25-66  (Screening)
Section 26-00  (APPLICABILITY OF THIS CHAPTER)
Section 26-30  (SPECIAL REGULATIONS FOR DEVELOPMENTS WITH PRIVATE ROADS IN LOWER DENSITY GROWTH MANAGEMENT AREAS), inclusive
Section 32-11  (Use Groups 1 and 2)
Section 32-433  (Ground floor use in C1, C2 and C4 Districts in the Borough of Staten Island)
Section 37-10  (APPLICABILITY OF ARTICLE II, CHAPTER 6, TO DEVELOPMENTS WITH PRIVATE ROADS)
Section 37-20  (SPECIAL REGULATIONS FOR LOWER DENSITY GROWTH MANAGEMENT AREAS IN THE BOROUGH OF STATEN ISLAND, inclusive
Section 54-313  (Single- or two-family residences with non-complying front yards or side yards)
Section 105-702  (Applicability of lower density growth management area regulations)
Section 107-412  (Special bulk regulations for certain community facility uses)
Section 107-421  (Minimum lot area and lot width for zoning lots containing certain community facility uses)
Section 107-464  (Side yards for permitted non-residential use)
Section 107-62  (Yard, Court and Parking Regulations)
Section 119-05  (Applicability of Parking Location Regulations)
Section 119-214  (Tier II requirements for driveways and private roads)
Section 128-052  (Applicability of Article I, Chapter 2)

(3/1/06)

23-013
Harassment
Within the Greenpoint-Williamsburg #anti-harassment areas# in Community District 1, Borough of Brooklyn, as shown in the diagrams in this Section, the provisions of paragraphs (a) through (d), inclusive, of Section 93-90 (Harassment) shall apply as modified in this Section.

For the purposes of this Section, the following definitions in Section 93-90, paragraph (a), shall be modified:

Anti-harassment area

“Anti-harassment area” shall mean the Greenpoint-Williamsburg #anti-harassment areas# as shown in the diagrams:
Greenpoint-Williamsburg Anti-Harassment Areas (23-013.2)

Referral date

“Referral date” shall mean October 4, 2004.

In addition, Section 93-90, paragraph (d)(3), is modified as follows:

No portion of the #low income housing# required under this Section shall qualify to:

(i) increase the #floor area ratio# pursuant to the provisions of Sections 23-90 or 62-352 (Inclusionary Housing); or
(ii) increase the maximum height of a building or the height above which the gross area per residential story of a building is limited pursuant to the provisions of Section 62-354 (Special height and setback regulations), paragraphs (b)(2) and (d); or

(iii) satisfy an eligibility requirement of any real property tax abatement or exemption program with respect to any multiple dwelling that does not contain such low income housing.

(8/14/87)

23-02
General Purposes of Residential Bulk Regulations

The following bulk regulations are adopted in order to protect residential areas against congestion and to encourage the development of desirable and stable residential neighborhoods. In order to achieve these purposes, a direct control of density as well as of the physical volume of buildings is established.

(2/2/11)

23-03
Street Tree Planting in Residence Districts

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, the following shall provide street trees in accordance with Section 26-41 (Street Tree Planting):

(a) developments, or enlargements that increase the floor area on a zoning lot by 20 percent or more. However, street trees shall not be required for enlargements of single- or two-family residences, except as provided in paragraphs (b) and (c) of this Section;

(b) enlargements of single- or two-family residences by 20 percent or more within the following special purpose districts:

Special Bay Ridge District;

Special Clinton District;

Special Downtown Brooklyn District;
#Special Downtown Jamaica District#;
#Special Grand Concourse District#;
#Special Hillsides Preservation District#;
#Special Long Island City Mixed Use District#;
#Special Ocean Parkway District#;
#Special South Richmond Development District#;

(c) #enlargements#, pursuant to the Quality Housing Program, of #single-# or #two-family residences# by 20 percent or more;

(d) #conversions# of 20 percent or more of the #floor area# of a #building# to a #residential use#; or

(e) construction of a detached garage that is 400 square feet or greater.

(2/2/11)

23-04
Planting Strips in Residence Districts

R1 R2 R3 R4 R5

In the districts indicated, the following shall provide and maintain a planting strip in accordance with Section 26-42:

(a) #developments#, or #enlargements# that increase the #floor area# on a #zoning lot# by 20 percent or more. However, planting strips shall not be required for #enlargements# of #single-# or #two-family residences#, except as provided in paragraph (b) of this Section;

(b) #enlargements# of #single-# or #two-family residences# by 20 percent or more within the following special purpose districts:

#Special Bay Ridge District#;
#Special Downtown Jamaica District#;
#Special Hillsides Preservation District#;
#Special Ocean Parkway District#;
# Special South Richmond Development District #

(c) # conversions# of 20 percent or more of the # floor area# of a # building# to a # residential use#; or

(d) construction of a detached garage that is 400 square feet or greater.

(12/15/61)

23-10
OPEN SPACE AND FLOOR AREA REGULATIONS

(8/18/87)

23-11
Definitions

Words in italics are defined in Section 12-10 (DEFINITIONS) or, if applicable exclusively in this Chapter, in this Section.

(4/30/12)

23-12
Permitted Obstructions in Open Space

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

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

(a) Air conditioning condensation units, # accessory #, for # single-# or # two-family residences #, provided that such units, if located between a # street wall #, or prolongation thereof, and a # street line #, are not more than 18 inches from a # street wall #, and fully screened from the # street # by vegetation;

(b) Awnings and other sun control devices. However, when located at a level higher than the first # story #, excluding a # basement #, all such devices:

(1) shall be limited to a maximum projection from a # building# wall of 2 feet, 6 inches; and
(2) shall have solid surfaces that, in aggregate, cover an area no more than 30 percent of the area of the building wall (as viewed in elevation) from which they project;

(c) Balconies, unenclosed, subject to the provisions of Section 23-13;

(d) Breezeways;

(e) Driveways, private streets, open accessory off-street parking spaces, unenclosed accessory bicycle parking spaces or open accessory off-street loading berths, provided that the total area occupied by all these items does not exceed the percentages set forth in Section 25-64 (Restrictions on Use of Open Space for Parking);

(f) Eaves, gutters or downspouts, projecting into such open space not more than 16 inches or 20 percent of the width of such open space, whichever is the lesser distance;

(g) Exterior wall thickness, where such wall thickness is added to the exterior face of a building wall existing on April 30, 2012, provided the added wall thickness has a thermal resistance (R-value) of at least 1.5 per inch, and is limited to one inch of thickness for every foot of existing open space width, up to a maximum thickness of eight inches;

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

(i) Solar energy systems:

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

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

(j) Swimming pools, accessory, above-grade structures limited to a height not exceeding eight feet above the level of the rear
(k) Terraces, unenclosed, fire escapes or planting boxes, provided that no such items project more than six feet into or over such open space.

However, any such open space that is part of a required yard, rear yard equivalent or court may contain an obstruction listed in this Section only where such obstruction is permitted, pursuant to Sections 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents) or 23-87 (Permitted Obstructions in Courts), as applicable.

(8/14/87)

23-13
Balconies

(2/2/11)

23-131
Balconies in R1 through R5 Districts

R1 R2 R3 R4 R5

In the districts indicated, balconies that are:

(a) unenclosed except for a parapet not exceeding 3 feet, 8 inches in height, or a railing not less than 50 percent open and not exceeding 4 feet, 6 inches in height; and

(b) located at or above the floor level of the second story provided that such balcony is not lower than seven feet above curb level or adjacent natural grade, whichever is higher;

may, as permitted in this Section, project into or over any required open area set forth in the following Sections:

(1) front yards, as defined in Section 12-10 (DEFINITIONS);

(2) rear yards or rear yard equivalents, as defined in Section 12-10;

(3) open space, as defined in Section 12-10, excluding:

   (i) side yards, as defined in Section 12-10;
(ii) required minimum dimensions of \textit{courts}, as defined in Section 12-10; and as set forth in Section 23-80 (COURT REGULATIONS AND MINIMUM DISTANCE BETWEEN WINDOWS AND WALLS OR LOT LINES); and

(iii) required distances between \textit{buildings}, as set forth in Section 23-71 (Minimum Distance between Buildings on a Single Zoning lot).

If the depth of the \textit{front yard} is greater than 12 feet, balconies may project six feet into such \textit{front yard} provided that, in R1, R2 or R3 Districts, the aggregate width of such balconies does not exceed 50 percent of the width at that level of the plane surface of the \textit{building} wall from which they project and, in R4 or R5 Districts, such aggregate width does not exceed 67 percent.

If the depth of the \textit{front yard} is 12 feet or less, balconies may project to a distance equal to one-half the depth of such \textit{front yard} provided the aggregate width of such balconies does not exceed 50 percent of the width at that level of the plane surface of the \textit{building} wall from which they project.

Balconies may, by a distance not to exceed eight feet, project into a \textit{rear yard} or other \textit{open space} not specifically excluded in paragraphs (2) and (3) of this Section. At the level of the second \textit{story}, the aggregate width of such balconies is not limited but at the level of the third \textit{story} or higher such aggregate width shall not exceed 50 percent of the width at that level of the plane surface of the \textit{building} wall from which the balconies project.

In addition, balconies may be enclosed by \textit{building} walls provided that at least 33 percent of the perimeter of such balcony is unenclosed except for a parapet not exceeding 3 feet, 8 inches in height, or a railing not less than 50 percent open and not exceeding 4 feet, 6 inches in height. The portion of a balcony enclosed by \textit{building} walls shall not exceed six feet in depth.

(2/2/11)

23-132
Balconies in R6 through R10 Districts

R6 R7 R8 R9 R10

In the districts indicated, balconies may project into or over any required open area within a \textit{publicly accessible open area}, a \textit{rear yard}, an \textit{initial setback distance}, any open areas not occupied by
towers, any required side or rear setbacks, or any required open space, provided that such balcony shall:

(a) not project by a distance greater than seven feet as measured from the plane surface of the building wall from which it projects;

(b) not project into the minimum required distance between buildings on the same zoning lot;

(c) not cover more than ten percent of the area designated as outdoor recreation space pursuant to Section 28-30 (RECREATION SPACE AND PLANTING AREAS);

(d) be unenclosed except for a parapet not exceeding 3 feet, 8 inches in height or a railing not less than 50 percent open and not exceeding 4 feet, 6 inches in height. However, such balconies may be recessed into a building wall up to a maximum depth of six feet provided that at least 33 percent of the perimeter of such balcony is unenclosed except for a parapet or railing;

(e) be located at or higher than the floor level of the third story of a building or at least 20 feet above curb level, except that for buildings containing residences not more than 32 feet in height, such balcony may be located at or higher than the floor level of the second story provided that such balcony is located not lower than seven feet above curb level or seven feet above natural grade, whichever is higher; and

(f) have an aggregate width, at the level of any story, not exceeding 50 percent of the width at that level of the plane surface of the building wall from which it projects.

(2/2/11)

23-14
Minimum Required Open Space, Open Space Ratio, Maximum Lot Coverage and Maximum Floor Area Ratio

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, except as otherwise provided in Section 23-17 (Special Provisions for Zoning Lots Divided by District Boundaries), for any zoning lot, the minimum required open space or open space ratio shall not be less than set forth in this Section, and the maximum lot coverage shall not exceed the
"lot coverage" as set forth in this Section. Any given "lot area" or area of "open space" shall be counted only once in determining the "floor area ratio", the amount of "open space" or the "open space ratio".

In addition to complying with the provisions of this Section, all "zoning lots" shall be subject to the provisions set forth in Section 23-22 (Maximum Number of Dwelling Units or Rooming Units) as well as all other applicable "bulk" regulations as set forth in this Chapter.

(2/2/11)

23-141
Open space and floor area regulations in R1, R2, R3, R4 or R5 Districts

R1 R2 R3 R4 R5

Except as otherwise provided in paragraph (a) of Section 23-147 (For non-profit residences for the elderly), in the districts indicated, the minimum required "open space" or "open space ratio", the maximum "lot coverage" and the maximum "floor area ratio" for any "zoning lot" shall be as set forth in the following tables:

(a)

<table>
<thead>
<tr>
<th>District</th>
<th>Minimum Required #Open Space Ratio#</th>
<th>Maximum #Floor Area Ratio#</th>
</tr>
</thead>
<tbody>
<tr>
<td>R1* R2*</td>
<td>150.0</td>
<td>0.50</td>
</tr>
</tbody>
</table>

* R1-2A, R2A and R2X are subject to the provisions of paragraph (b) of this Section

(b)

<table>
<thead>
<tr>
<th>District</th>
<th>Maximum #Lot Coverage# (in percent)</th>
<th>Minimum #Open Space# (in percent)</th>
<th>Maximum #Floor Area Ratio#</th>
</tr>
</thead>
<tbody>
<tr>
<td>R1-2A</td>
<td>30</td>
<td>70</td>
<td>.50</td>
</tr>
<tr>
<td>R2A</td>
<td>30</td>
<td>70</td>
<td>.50</td>
</tr>
<tr>
<td>R2X</td>
<td>governed by #yard# requirements</td>
<td></td>
<td>.85</td>
</tr>
<tr>
<td>R3-1 R3-2</td>
<td>35</td>
<td>65</td>
<td>.50</td>
</tr>
<tr>
<td>R3A R3X</td>
<td>governed by #yard# requirements</td>
<td></td>
<td>.50</td>
</tr>
</tbody>
</table>
In addition, the following rules shall apply:

(1) In R2X, R3, R4, R4A and R4-1 Districts, except R3, R4A and R4-1 Districts within lower density growth management areas, the floor area ratio in the table in this paragraph, (b), may be increased by up to 20 percent provided that any such increase in floor area is located directly under a sloping roof which rises at least three and one half inches in vertical distance for each foot of horizontal distance and the structural headroom of such floor area is between five and eight feet.

(2) In R3, R4A and R4-1 Districts in lower density growth management areas, the floor area ratio in the table in this Section may be increased by up to 20 percent provided that any such increase in floor area is located in any portion of a building covered by a sloping roof that rises at least seven inches in vertical distance for each foot of horizontal distance.

(3) In R3, R4 and R5 Districts, the permitted floor area of a single- or two-family detached or semi-detached residence developed after June 30, 1989, may be increased by up to 300 square feet if at least one enclosed accessory off-street parking space is provided in a garage located, wholly or partly, in the side lot ribbon pursuant to Sections 23-12 (Permitted Obstructions in Open Space), paragraph (e), 23-441 (Location of garages in side yards of corner lots) or 23-442 (Location of garages in side yards of other zoning lots).

(4) In R1-2A Districts and in R3, R4A and R4-1 Districts within lower density growth management areas, the permitted floor area of a single- or two-family detached or semi-detached residence may be increased by up to 300 square feet for one parking space and up to 500 square feet for two parking spaces provided such spaces
(c) The maximum #floor area ratio# and #lot coverage# and the minimum required #open space# for any #zoning lot# utilizing the special optional regulations of a #predominantly built-up area# are set forth in the following table:

<table>
<thead>
<tr>
<th>District</th>
<th>Maximum Lot Coverage (in percent)</th>
<th>Minimum Required Open Space (in percent)</th>
<th>Maximum Floor Area Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>R4</td>
<td>55</td>
<td>45</td>
<td>1.35</td>
</tr>
<tr>
<td>R5</td>
<td>55</td>
<td>45</td>
<td>1.65</td>
</tr>
</tbody>
</table>

(d) In R3 Districts, except for #zoning lots# containing #single-#, #two-#, or three-#family residences#, 50 percent of the required #open space# on a #zoning lot#, except such #open space# in a #front yard#, shall have a minimum dimension of 12 feet and shall not be used for driveways, private streets, open or enclosed #accessory# off-street parking spaces or open or enclosed #accessory# off-street loading berths.

(e) In R4 and R5 Districts, except for #zoning lots# containing #single-#, #two-# or three-#family residences#, 33 percent of the required #open space# on a #zoning lot#, except such #open space# in a #front yard# or, in R5D Districts, open area between the #street line# and #street wall# of a #building# or its prolongation, shall have a minimum dimension of 12 feet and shall not be used for driveways, private streets, open or enclosed #accessory# off-street parking spaces, or open or enclosed #accessory# off-street loading berths.

(11/13/12)
Except as otherwise provided in the following Sections:

Section 23-144 (In designated areas where the Inclusionary Housing Program is applicable)

Section 23-145 (For Quality Housing buildings)

Section 23-146 (Optional provisions for certain R5 and R6 Districts in Brooklyn)

Section 23-147 (For non-profit residences for the elderly);

Section 23-148 (For tower-on-a-base buildings in R9 Districts);

and

Section 23-149 (Special floor area regulations for certain sites in Community District 9, Borough of Manhattan).

In the districts indicated, the minimum required open space ratio and the maximum floor area ratio for any zoning lot shall be as set forth in the following table for zoning lots with the height factor indicated in the table.

**MINIMUM REQUIRED OPEN SPACE RATIO AND MAXIMUM FLOOR AREA RATIO**

<table>
<thead>
<tr>
<th>For zoning lots with a height factor of</th>
<th>In R6 Districts</th>
<th>In R7 Districts</th>
<th>In R8 Districts</th>
<th>In R9 Districts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Min. Req. open space ratio#</td>
<td>Max. floor area ratio#</td>
<td>Min. Req. open space ratio#</td>
<td>Max. floor area ratio#</td>
<td>Min. Req. open space ratio#</td>
</tr>
<tr>
<td>1</td>
<td>27.5</td>
<td>0.78</td>
<td>15.5</td>
<td>0.87</td>
</tr>
<tr>
<td>2</td>
<td>28.0</td>
<td>1.28</td>
<td>16.0</td>
<td>1.52</td>
</tr>
<tr>
<td>3</td>
<td>28.5</td>
<td>1.62</td>
<td>16.5</td>
<td>2.01</td>
</tr>
<tr>
<td>4</td>
<td>29.0</td>
<td>1.85</td>
<td>17.0</td>
<td>2.38</td>
</tr>
<tr>
<td>5</td>
<td>29.5</td>
<td>2.02</td>
<td>17.5</td>
<td>2.67</td>
</tr>
</tbody>
</table>
For high buildings in R6, R7, R8 or R9 Districts

R6 R7 R8 R9

Except as otherwise provided in paragraph (a) of Section 23-147 (For non-profit residences for the elderly), in the districts indicated, for #zoning lots# with #height factors# greater than 21, the minimum required #open space ratio# shall be as set forth in the following table:

<table>
<thead>
<tr>
<th>District</th>
<th>Minimum Required #Open Space Ratio# at #Height Factor# of 21</th>
<th>Additional Required #Open Space Ratio# for each Additional #Height Factor#</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
For such #zoning lots#, the maximum #floor area ratio# shall be such as can be attained at the required #open space ratio# for the #height factor#.*

* The #floor area ratio# attainable at a given #height factor# and a given #open space ratio# may be computed from the following formula:

\[
\frac{1}{F.A.R.} = \frac{O.S.R.}{100} + \frac{1}{H.F.}
\]

(11/13/12)

23-144
In designated areas where the Inclusionary Housing Program is applicable

In #Inclusionary Housing designated areas#, the maximum permitted #floor area ratios# shall be as set forth in Section 23-952 (Floor area compensation in Inclusionary Housing designated areas). The locations of such areas are specified in **APPENDIX F** (Inclusionary Housing Designated Areas) of this Resolution.

(2/2/11)

23-145
For Quality Housing buildings

R6 R7 R8 R9 R10

In the districts indicated, the maximum #residential lot coverage# and the maximum #floor area ratio# for a #zoning lot# where #Quality Housing buildings# are #developed# or #enlarged# shall be as set forth in the following table. The maximums for #zoning lots#, or portions thereof, located within 100 feet of a #wide street# in R6, R7 or R8 Districts without a letter suffix outside the #Manhattan Core#, shall be as designated by the same district with an asterisk.
In an R6 District inside the #Manhattan Core# located within 100 feet of a #wide street#, the maximums shall be indicated by the same district with a double asterisk.

MAXIMUM LOT COVERAGE AND FLOOR AREA RATIO
FOR QUALITY HOUSING BUILDINGS
(in percent)

<table>
<thead>
<tr>
<th>District</th>
<th>Maximum #Lot Coverage#</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>#Corner Lot#</td>
</tr>
<tr>
<td>R6</td>
<td>80</td>
</tr>
<tr>
<td>R6**</td>
<td>80</td>
</tr>
<tr>
<td>R6* R6A R7B</td>
<td>80</td>
</tr>
<tr>
<td>R6B</td>
<td>80</td>
</tr>
<tr>
<td>R7</td>
<td>80</td>
</tr>
<tr>
<td>R7* R7A</td>
<td>80</td>
</tr>
<tr>
<td>R7D</td>
<td>80</td>
</tr>
<tr>
<td>R7X</td>
<td>80</td>
</tr>
<tr>
<td>R8 R8A R8X</td>
<td>80</td>
</tr>
<tr>
<td>R8*</td>
<td>80</td>
</tr>
<tr>
<td>R8B</td>
<td>80</td>
</tr>
<tr>
<td>R9 R9A</td>
<td>80</td>
</tr>
<tr>
<td>R9D R9X</td>
<td>80</td>
</tr>
<tr>
<td>R10</td>
<td>100</td>
</tr>
</tbody>
</table>

(2/2/11)

23-146
Optional provisions for certain R5 and R6 Districts in Brooklyn

R5 R6
Within the area bounded by 39th Street, Dahill Road, Ditmas Avenue,
McDonald Avenue, Bay Parkway, 61st Street and Fort Hamilton Parkway in Community Board 12, in the Borough of Brooklyn, special optional regulations as set forth in this Section are applicable for zoning lots containing buildings used exclusively as one-, two- or three-family residences, provided such zoning lot complies with all of the provisions of this Section. Except as modified by the express provisions of this Section, the regulations of R5 and R6 Districts remain in effect.

(a) Floor area, lot coverage, open space, density and height factor regulations

The regulations of Article II, Chapter 3, relating to floor area ratio, open space, density and height factor are hereby made inapplicable. In lieu thereof, the maximum floor area ratio for a corner lot shall not exceed 1.65 and the maximum floor area ratio for an interior or through lot shall not exceed 1.8 in R5 Districts and 1.95 in R6 Districts. Notwithstanding the definition of floor area in Section 12-10, the lowest story shall be included in the definition of floor area, and floor space used for accessory off-street parking spaces shall be included in the definition of floor area unless such spaces are located in a cellar. The lot coverage for a corner lot shall not exceed 55 percent and the lot coverage for an interior or through lot shall not exceed 60 percent in R5 Districts and 65 percent in R6 Districts.

(b) Building height

No building shall exceed a height of 35 feet above curb level, or three stories, whichever is less. The regulations of Article II, Chapter 3, relating to height and setback, are hereby made inapplicable.

(c) Front yards

In R5 Districts, the following front yard regulations are applicable. A front yard shall be provided with a depth of not less than five feet, provided that for corner lots, one front yard with a depth of not less than 10 feet is required. If the depth of the front yard exceeds 10 feet, such front yard shall have a depth of not less than 18 feet. In R6 Districts, a front yard is not required.

(d) Side yards

In R5 Districts, the following side yard regulations shall apply:
(1) Where an existing #building# on an adjacent #zoning lot# is located on the common #side lot line#, no #side yard# is required. However, if an open area extending along such common #side lot line# is provided, it shall be at least eight feet wide.

(2) Where an existing #building# on an adjacent #zoning lot# is located less than eight feet from, but not on, the common #side lot line#, a #side yard# at least four feet wide is required. However, in no case shall the distance between a new or #enlarged building# and an existing #building# across a common #side lot line# on an adjacent #zoning lot# be less than eight feet.

(3) Where an adjacent #zoning lot# is vacant or where an existing #building# on an adjacent #zoning lot# is located more than eight feet from the common #side lot line#, a #side yard# at least four feet wide is required.

(4) In R6 Districts, a #side yard# is not required. However, when a #building# is 62 feet in depth or more, an eight foot #side yard# or an #outer court# as set forth in paragraph (f) of this Section is required.

(5) Notwithstanding the provisions of paragraphs (d)(1) and (d)(3), #detached# one-, #two-# and three-#family residences# on #corner lots# shall provide #side yards# of five feet and 20 feet. #Semi-detached# one-, #two-# and three-#family residences# on #corner lots# shall provide one #side yard# of 20 feet.

(e) #Rear yards#

#Single-# or #two-family residences# consisting of #detached#, #semi-detached# or #zero lot line buildings# may project up to ten feet into a required #rear yard# or #rear yard equivalent#, provided that there is a #side yard# of at least eight feet for such #semi-detached# or #zero lot line buildings#, and that the total width of #side yards# for a #detached building# is at least eight feet.

(f) #Outer court# and minimum distance between #legally required windows# and walls or #lot lines#

In R6 Districts, the #outer court# provisions of Section 23-84 are modified as follows: an #outer court# shall have a minimum width of 10 feet and a depth of not more than twice the width.

Where a #building# is attached, along a common #side lot line#, to a portion of an existing or new #building# on an adjacent
#zoning lot#, there may be a joint #outer court# across such common #side lot line# with a minimum width of 10 feet. The requirements of Section 23-86 are hereby made inapplicable.

(g) Off-street parking in R5 and R6 Districts

No #accessory# off-street parking is required in R5 and R6 Districts.

(2/2/11)

23-147
For non-profit residences for the elderly

R3 R4 R5 R6 R7

(a) In the districts indicated, except R5D Districts, the minimum required #open space ratio# and the maximum #floor area ratio# for #non-profit residences for the elderly# shall be as set forth in the following table:

<table>
<thead>
<tr>
<th>Maximum #Floor Area Ratio#</th>
<th>Minimum #Open Space Ratio#</th>
<th>Districts</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.95</td>
<td>66.5</td>
<td>R3</td>
</tr>
<tr>
<td>1.29</td>
<td>39.4</td>
<td>R4</td>
</tr>
<tr>
<td>1.95</td>
<td>23.1</td>
<td>R5</td>
</tr>
<tr>
<td>3.90</td>
<td>17.7</td>
<td>R6</td>
</tr>
<tr>
<td>5.01</td>
<td>12.8</td>
<td>R7</td>
</tr>
</tbody>
</table>

In R5D Districts, the #open space# and #floor area# regulations set forth in Section 23-141 shall apply to #non-profit residences for the elderly#.

However, in R6 or R7 Districts, the minimum required #open space ratio# shall not apply to #non-profit residences for the elderly# that are #Quality Housing buildings#. Such #buildings# shall be subject to the requirements of R6A or R7A Districts, respectively, as set forth in paragraph (b) of this Section.
(b) In the districts indicated, the maximum #lot coverage# and the maximum #floor area ratio# for #non-profit residences for the elderly# shall be as set forth in the following table:

MAXIMUM LOT COVERAGE AND FLOOR AREA RATIO
FOR
NON-PROFIT RESIDENCES FOR THE ELDERLY
(in percent)

<table>
<thead>
<tr>
<th>Maximum #Lot Coverage#</th>
<th>Maximum #Floor Area Ratio#</th>
<th>District</th>
</tr>
</thead>
<tbody>
<tr>
<td>#Corner Lot#</td>
<td>#Interior Lot# or #Through Lot#</td>
<td></td>
</tr>
<tr>
<td>80</td>
<td>65</td>
<td>3.90</td>
</tr>
<tr>
<td>80</td>
<td>60</td>
<td>2.00</td>
</tr>
<tr>
<td>80</td>
<td>70</td>
<td>5.01</td>
</tr>
</tbody>
</table>

(2/2/11)

23-148
For tower-on-a-base buildings in R9 Districts

In R9 Districts, for #zoning lots# where #buildings# are #developed# or #enlarged# pursuant to the tower-on-a-base provisions of Section 23-651, the maximum #floor area ratio# shall be 7.52, and the maximum #lot coverage# shall be 80 percent on a #corner lot# and 70 percent on an #interior lot#.

(11/13/12)

23-149
Special floor area regulations for certain sites in Community District 9, Borough of Manhattan

Within the boundaries of Community District 9 in the Borough of Manhattan, all #buildings# located in R8 Districts north of West 125th Street shall be #developed# or #enlarged# pursuant to the Quality Housing Program and are subject to the #floor area# regulations set forth in Section 23-145 (For Quality Housing buildings).
23-15
Maximum Floor Area Ratio in R10 Districts

In the district indicated, except in Inclusionary Housing designated areas, the floor area ratio on a zoning lot shall not exceed 10.0, except as provided in Section 23-17 (Special Provisions for Zoning Lots Divided By District Boundaries) and Section 23-90 (INCLUSIONARY HOUSING), inclusive.

Notwithstanding any other provision of this Resolution, the maximum floor area ratio shall not exceed 12.0. However, within the boundaries of Community District 7 in the Borough of Manhattan, in R10 Districts, except R10A or R10X Districts, the maximum floor area ratio shall be 10.0.

23-16
Existing Public Amenities for Which Floor Area Bonuses Have Been Received

(a) Elimination or reduction in size of non-bonused open area on a zoning lot containing a bonused amenity

In all districts, any existing open area for which a floor area bonus has not been utilized that occupies the same zoning lot as an existing publicly accessible open area or other public amenity, open or enclosed, for which a floor area bonus has been utilized, may be reduced in size or eliminated only upon certification of the Chairperson of the City Planning Commission that all bonused amenities comply with the standards under which such floor area bonus was granted.

(b) Nighttime closing of existing public open areas

In all Residence Districts, the City Planning Commission may, upon application, authorize the closing during certain nighttime hours of an existing publicly accessible open area for which a floor area bonus has been received, pursuant to Section 37-727 (Hours of access).

(c) Elimination or reduction in size of existing public amenities
In all districts, no existing publicly accessible open area, arcade or other public amenity, open or enclosed, for which a floor area bonus has been utilized, shall be eliminated or reduced in size except by special permit of the City Planning Commission, pursuant to Section 74-761 (Elimination or reduction in size of bonused public amenities).

Regulations Applying in Special Situations

(2/2/11)

23-17
Special Provisions for Zoning Lots Divided by District Boundaries or Subject to Different Bulk Regulations

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, whenever a zoning lot is divided by a boundary between districts or is subject to bulk regulations resulting in different minimum required open space ratios, different maximum floor area ratios or different lot coverages on portions of the zoning lot, the provisions set forth in Article VII, Chapter 7, shall apply.

(7/26/01)

23-20
DENSITY REGULATIONS

(2/2/11)

23-21
Required Floor Area per Dwelling Unit or Floor Area per Rooming Unit

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

This Section shall apply to existing buildings in which the number of rooming units or dwelling units is increased as well as to all new development.

Any given floor area shall be counted only once in meeting the floor area requirements.

In all districts, as indicated, the floor area requirement per
#dwelling unit# or #rooming unit# shall not be less than as set forth in this Section, except as provided in Sections 23-24 (Special Provisions for Buildings Used Partly for Non-Residential Uses) or Section 23-25 (Special Provisions for Existing Small Zoning Lots).

(2/2/11)

23-22
Maximum Number of Dwelling Units or Rooming Units

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, the maximum number of #dwelling units# or #rooming units# shall equal the maximum #residential floor area# permitted on the #zoning lot# divided by the applicable factor in the following table. In R1 through R5 Districts, no #rooming units# shall be permitted and any #dwelling unit# shall be occupied by only one #family#. Fractions equal to or greater than three-quarters resulting from this calculation shall be considered to be one #dwelling unit# or #rooming unit#.

For the purposes of this Section, where a #floor area ratio# is determined pursuant to Sections 23-142 or 23-143, notwithstanding the #height factor# of the #zoning lot#, the maximum #residential floor area ratio# shall be 2.43 in an R6 District within 100 feet of a #wide street#, 3.44 in an R7 District, and 6.02 in an R8 District. In an R6 District beyond 100 feet of a #wide street#, the maximum #residential floor area ratio# shall be as specified in Sections 23-142 or 23-143, or 2.2, whichever is greater.

<table>
<thead>
<tr>
<th>District</th>
<th>Factor for #Dwelling Units#</th>
<th>Factor for #Rooming Units#</th>
</tr>
</thead>
<tbody>
<tr>
<td>R1-1</td>
<td>4,750</td>
<td></td>
</tr>
<tr>
<td>R1-2</td>
<td>2,850</td>
<td></td>
</tr>
<tr>
<td>R2, R2A</td>
<td>1,900</td>
<td></td>
</tr>
<tr>
<td>R2X</td>
<td>2,900</td>
<td></td>
</tr>
<tr>
<td>R3-1</td>
<td></td>
<td>625</td>
</tr>
<tr>
<td>R3-2*</td>
<td></td>
<td>710</td>
</tr>
<tr>
<td>R3-2</td>
<td></td>
<td>870</td>
</tr>
<tr>
<td>R4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>R4-1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>R4B</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

FACTOR FOR DETERMINING MAXIMUM NUMBER OF DWELLING UNITS OR ROOMING UNITS
R3X 1,000
R4A 1,280
R4** R5** R5B 900
R5, R5D 760
R5A 1,560
R5B*** 1,350
R6 R7 R8B 680 500
R8 R8A R8X R9 R9A 740 530
R9-1 R9X R10 790 600

* for #single-# and #two-family detached# and #semi-detached residences#

** for #residences# in a #predominantly built-up area#

*** for #zoning lots# with less than 40 feet of #street# frontage and existing on the effective date of establishing such districts on the #zoning maps#

(6/29/06)

23-221
Maximum number of dwelling units or rooming units for non-profit residences for the elderly

R3-2 R4 R5 R6 R7

In the districts indicated, except R4-1, R4A, R4B and R5A Districts, the maximum number of #dwelling units# or, where permitted, #rooming units# for #non-profit residences for the elderly#, shall equal the maximum #residential floor area# permitted on the #zoning lot# divided by the applicable factor in the following table. No #rooming units# shall be permitted in R3-2, R4 or R5 Districts. Fractions equal to or greater than three-quarters resulting from this calculation shall be considered to be one #dwelling unit# or #rooming unit#.

FACTOR FOR DETERMINING MAXIMUM NUMBER OF DWELLING UNITS OR ROOMING UNITS

<table>
<thead>
<tr>
<th>Factor for</th>
<th>Factor for</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>District</td>
<td>#Dwelling Units#</td>
</tr>
<tr>
<td>----------</td>
<td>------------------</td>
</tr>
<tr>
<td>R3-2</td>
<td>680</td>
</tr>
<tr>
<td>R4 R5B</td>
<td>680</td>
</tr>
<tr>
<td>R5 R5D</td>
<td>700</td>
</tr>
<tr>
<td>R6 R7</td>
<td>710</td>
</tr>
</tbody>
</table>

(2/2/11)

23-23
Minimum Size of Dwelling Units

R3 R4 R5

(a) In the districts indicated, for all #buildings# other than #non-profit residences for the elderly#, each #dwelling unit# shall contain at least 300 square feet of #floor area#.

R3 R4A R4-1

(b) In the districts indicated, for all two-family #detached# and, where permitted, two-family #semi-detached# and #zero lot line buildings#, one #dwelling unit# shall contain at least 925 square feet.

Regulations Applying in Special Situations

(7/26/01)

23-24
Special Provisions for Buildings Used Partly for Non-Residential Uses

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, if a #building# is used partly for #residences# and partly for non-#residential uses# (other than #community facility uses#, the provisions for which are set forth in Article II, Chapter 4), the maximum number of #dwelling units# or #rooming units# permitted on the #zoning lot# shall equal the total #residential floor area# permitted on the #zoning lot# after deducting any non-#residential floor area#, divided by the applicable factor in Section 23-22 (Maximum Number of Dwelling Units...
or Rooming Units).

(7/26/01)

23-25
Special Provisions for Existing Small Zoning Lots

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, notwithstanding the provisions of Section 23-22 (Maximum Number of Dwelling Units or Rooming Units), one #single-family detached residence# or, where permitted, one #single-family residence#, may be built upon a #zoning lot# consisting entirely of a tract of land that was owned separately and individually from all other adjoining tracts of land, both on December 15, 1961, and on the date of application for a building permit.

(2/2/11)

23-26
Special Provisions for Zoning Lots Divided by District Boundaries

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, whenever a #zoning lot# is divided by a boundary between districts or is subject to other regulations resulting in different requirements for density, the provisions set forth in Article VII, Chapter 7, shall apply.

(12/15/61)

23-30
LOT AREA AND LOT WIDTH REGULATIONS

Definitions and General Provisions

(2/20/64)

23-31
Definitions
Basic Regulations

(6/29/06)

23-32
Minimum Lot Area or Lot Width for Residences

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, except as provided in Section 23-33 (Special Provisions for Existing Small Lots), no #residence# is permitted on a #zoning lot# with a total #lot area# or #lot width# less than as set forth in the following table:

<table>
<thead>
<tr>
<th>Type of Residence#</th>
<th>Minimum Lot Area# (in sq. ft.)</th>
<th>Minimum Lot Width# (in feet)</th>
<th>District</th>
</tr>
</thead>
<tbody>
<tr>
<td>#Single-family detached#</td>
<td>9,500</td>
<td>100</td>
<td>R1-1</td>
</tr>
<tr>
<td></td>
<td>5,700</td>
<td>60</td>
<td>R1-2</td>
</tr>
<tr>
<td></td>
<td>3,800</td>
<td>40</td>
<td>R2 R2A</td>
</tr>
<tr>
<td></td>
<td>2,850</td>
<td>30</td>
<td>R2X</td>
</tr>
<tr>
<td>#Single-# or #two-family detached# or #zero lot line# where permitted</td>
<td>3,800</td>
<td>40</td>
<td>R3-1 R3-2</td>
</tr>
<tr>
<td></td>
<td>3,325</td>
<td>35</td>
<td>R4-R10</td>
</tr>
<tr>
<td></td>
<td>2,850</td>
<td>30</td>
<td>R3X</td>
</tr>
<tr>
<td></td>
<td>2,375</td>
<td>25</td>
<td>R4A* R5A</td>
</tr>
<tr>
<td>Any other permitted</td>
<td>1,700</td>
<td>18</td>
<td>R3-R10*</td>
</tr>
</tbody>
</table>

* In #lower density growth management areas#, for #two-family detached# and #two-family zero lot line residences#, where permitted, in R3A, R4A and R4-1 Districts, and for #two-
family semi-detached residences in R3-1, R3-2 and R4-1 Districts, the minimum lot area shall be 3,135 square feet and the minimum lot width shall be 33 feet.

However, in lower density growth management areas in the Borough of Staten Island, the following rules shall apply:

(a) Where two or more buildings that are single- or two-family detached or semi-detached residences are located on a zoning lot, the applicable minimum lot area requirement set forth in the table in this Section shall be multiplied by the number of such buildings on the zoning lot.

(b) The lot width requirements set forth in this Section shall be applied as set forth in the definition of lot width in Section 12-10, provided that the applicable lot width, in feet, set forth in the table shall be met along at least one street line of the zoning lot or, for corner lots, along each intersecting street line. No residence, or portion thereof, shall be permitted between opposing side lot lines where such lot lines would be nearer to one another at any point where such residence is located than the applicable minimum lot width, in feet, set forth in the table.

Regulations Applying in Special Situations

(2/2/11)

23-33
Special Provisions for Development of Existing Small Lots

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, either one single-family detached residence or, where permitted, one single- or two-family residence may be developed upon a zoning lot that:

(a) has less than the prescribed minimum lot area or lot width or, in lower density growth management areas in the Borough of Staten Island, does not comply with the provisions of Section 23-32 (Minimum Lot Area or Lot Width for Residences);

(b) was owned separately and individually from all other adjoining tracts of land, both on December 15, 1961, and on the date of application for a building permit or, in R2X, R3A, R3X or R4A Districts, both on the effective date of establishing such district on the zoning maps and on the date of application for a building permit or, in lower density growth management
areas#, both on December 8, 2005, and on the date of application for a building permit; and

(c) if #developed# as a #two-family residence#, meets the applicable density requirement of the zoning district in which such #zoning lot# is located.

(12/15/61)

23-34
Special Provisions for Zoning Lots Divided by District Boundaries
R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, whenever a #zoning lot# is divided by a boundary between districts with different requirements for minimum #lot area# or #lot width# for #residences#, the provisions set forth in Article VII, Chapter 7, shall apply.

(1/18/11)

23-35
Special Provisions for Zoning Lots Containing Certain Community Facility Uses in Lower Density Growth Management Areas

In R1, R2, R3-1, R3A, R3X, R4-1 and R4A Districts in #lower density growth management areas#, the minimum #lot area# and #lot width# regulations of this Section shall apply to any #zoning lot# containing #buildings# used for:

(a) ambulatory diagnostic or treatment health care facilities, as listed in Section 22-14 (Use Group 4), except where such #zoning lot# contains #buildings# used for hospitals or nursing homes as defined in the New York State Hospital Code; and

(b) child care service, as listed under the definition of #school# in Section 12-10 (DEFINITIONS), except where such #zoning lot# contains #buildings# used for houses of worship or, for #zoning lots# that do not contain #buildings# used for houses of worship, where the amount of #floor area# used for child care services is equal to 25 percent or less of the amount of #floor area# permitted for #community facility use# on the #zoning lot#.

The minimum #lot area# for such #zoning lots# containing ambulatory diagnostic or treatment health care facilities shall be 5,700 square feet, and the minimum #lot area# for such #zoning lots# containing
child care services shall be 10,000 square feet. Where such #uses# are located in the same #building#, the minimum #lot area# shall be 10,000 square feet. In addition, each such #zoning lot# shall have a minimum #lot width# of 60 feet. Such #lot width# shall be applied as set forth in the definition of #lot width# in Section 12-10, provided that such #lot width# shall also be met along at least one #street line# of the #zoning lot#. No #building#, or portion thereof, shall be permitted between opposing #side lot lines# where such #lot lines# would be nearer to one another at any point than 60 feet.

(12/15/61)

23-40
YARD REGULATIONS

Definitions and General Provisions

(9/19/85)

23-41
Definitions

Words in italics are defined in Section 12-10 (DEFINITIONS) or, if applicable exclusively to this Section, in this Section.

(12/15/61)

23-42
Level of Yards

In all #Residence Districts#, the level of a #yard# or of a #rear yard equivalent# shall not be higher than #curb level#, except that natural grade level need not be disturbed in order to comply with this requirement. No #building or other structure# shall be erected above ground level in any required #yard# or #rear yard equivalent#, except as otherwise provided in Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents).

(12/15/61)

23-43
Measurement of Yard Width or Depth

In all #Residence Districts#, the width or depth of a #yard# or #rear yard equivalent# shall be measured perpendicular to #lot lines#.

(4/30/12)

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

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

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

   (1) Air conditioning condensation units, #accessory#, for #single-# or #two-family residences#, provided that such units, if located between a #street wall#, or prolongation thereof, and a #street line#, are not more than 18 inches from a #street wall#, and fully screened from the #street# by vegetation;

   (2) Arbors or trellises;

   (3) Awnings and other sun control devices, provided that when located at a level higher than the first #story#, excluding a #basement#, all such awnings and other sun control devices:

      (i) shall be limited to a maximum projection from a #building# wall of 2 feet, 6 inches; and

      (ii) shall have solid surfaces that, in aggregate, cover an area no more than 30 percent of the area of the #building# wall (as viewed in elevation) from which they project;

   (4) Balconies, unenclosed, of a #building# containing #residences# subject to the applicable provisions of Section 23-13. Such balconies are not permitted in required #side yards#;

   (5) Canopies;

   (6) Chimneys, projecting not more than three feet into, and not exceeding two percent of the area of, the required #yard# or #rear yard equivalent#;
(7) Eaves, gutters or downspouts projecting into such yard or rear yard equivalent not more than 16 inches or 20 percent of the width of such yard or rear yard equivalent, whichever is the lesser distance;

(8) Exterior wall thickness, where such wall thickness is added to the exterior face of a building wall existing on April 30, 2012, provided the added wall thickness has a thermal resistance (R-value) of at least 1.5 per inch, and is limited to one inch of thickness for every foot of existing yard width, up to a maximum thickness of eight inches. When an open area is provided along a common lot line, then such exterior wall thickness is limited to one inch for every foot of existing open area on the zoning lot;

Where buildings that have added exterior wall thickness, pursuant to this Section, are enlarged, such enlarged portion may similarly encroach upon required yards in order to align with the exterior walls of the existing building, provided such enlargement contains less floor area than the existing building, and there is no encroachment of floor area into a required yard;

(9) Fences, not exceeding four feet in height above adjoining grade in any front yard, except that for corner lots, a fence may be up to six feet in height within that portion of one front yard that is between a side lot line and the prolongation of the side wall of the residence facing such side lot line;

(10) Fire escapes, projecting into a front yard, only in such cases where the fire escape is required for the conversion of a building in existence before December 15, 1961;

(11) Flagpoles;

(12) Overhanging portions of a building in R4 and R5 Districts, except R4A, R4-1, R4B, R5A, R5B or R5D Districts, which are above the first story including the basement and which project not more than three feet into the required 18 foot front yard. In no case shall the lowest level of the projected portion be less than seven feet above the level of the front yard at the face of the building. Supports for the projected portion of any building are permitted obstructions within the required front yard, provided that the total area occupied by such supports does not exceed 15 percent of the area
underneath the projected portion. No support may extend beyond the three-foot projection;

(13) Parking spaces for automobiles or bicycles, off-street, open, #accessory#, within a #side# or #rear yard#;

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

(i) in R1, R2, R3A, R3X, R3-1, R4A, R4-1 and R5A Districts, except in #lower density growth management areas#, such spaces meet all the requirements of paragraph (a) of Section 25-621 (Location of parking spaces in certain districts);

(ii) in R3-2 Districts, R4 Districts other than R4A, R4-1 and R4B Districts, and R5 Districts other than R5A, R5B and R5D Districts, such spaces meet all the requirements of paragraph (b) of Section 25-621;

(iii) in #lower density growth management areas#, such spaces are non-required and are located in a driveway that accesses parking spaces that are located behind the #street wall# of the #building# or prolongation thereof;

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

(15) Ramps for persons with physical disabilities;

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

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

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

(19) Terraces or porches, open;

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

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

(1) Balconies, unenclosed, subject to the provisions of Section 23-13;

(2) Breezeways;

(3) Fire escapes;

(4) Greenhouses, non-commercial, #accessory#, limited to one #story# or 14 feet in height above adjoining grade, whichever is less, and limited to an area not exceeding 25 percent of a required #rear yard#;

(5) Parking spaces, off-street, #accessory#, for automobiles or bicycles, provided that:

(i) if #accessory# to a #single-# or #two-family residence#, the height of a #building# containing such parking spaces shall not exceed ten feet in height above the adjoining grade and such #building# shall be #detached# from such #residence#. Furthermore, if located in an R1 District, such #building# may not be nearer than five feet to a #rear lot line# or #side lot line#. In R2A Districts, detached garages shall be included in #lot coverage#. In addition, solar energy systems, limited to 18 inches in height, as measured perpendicular to the roof surface, shall be permitted upon the roof of such #accessory building# within the #rear yard#;

(ii) if #accessory# to any other kind of #building# containing #residences#, the height of a #building#, or portion thereof, containing such parking spaces within the #rear yard#, shall not exceed ten feet above adjoining grade, including the apex of a
pitched roof in R3, R4 or R5 Districts, or fourteen feet above #curb level# or #base plane#, as applicable, in R6, R7, R8, R9 or R10 Districts. In addition, decks, parapet walls, roof thickness, skylights, vegetated roofs, and weirs, as set forth in Section 23-62 (Permitted Obstructions), and solar energy systems, limited to 18 inches in height, as measured perpendicular to the roof surface, shall be permitted upon the roof of such #accessory building# within the #rear yard#;

(iii) enclosed #accessory# parking spaces for bicycles shall be #accessory# to a #residence# other than a #single-# or #two-family residence#, attached to a #building#, and the area dedicated to such spaces shall not exceed the area of bicycle parking spaces permitted to be excluded from #floor area# pursuant to Section 25-85 (Floor Area Exemption);

(6) Recreational or drying yard equipment;

(7) Sheds, tool rooms or other similar #accessory buildings or other structures# for domestic or agricultural storage, with a height not exceeding 10 feet above the level of the #rear yard# or #rear yard equivalent#;

(8) Water-conserving devices required in connection with air conditioning or refrigeration systems in #buildings# existing prior to May 20, 1966, if located not less than eight feet from any #lot line#.

However, no portion of a #rear yard equivalent# which is also a required #front yard# or required #side yard# may contain any obstructions not permitted in such #front yard# or #side yard#.

(2/2/11)

23-441
Location of garages in side yards of corner lots

In all #Residence Districts#, on #corner lots#, enclosed #accessory# off-street parking spaces shall be considered permitted obstructions in any portion of a #side yard# which is within 30 feet of both #side lot lines#, provided that, in an R1 or R2A District, on a #corner lot# whose mean width is 45 feet or more, no structure used for such purposes shall be less than five feet from any #side lot line#. In R2A Districts, detached garages shall be included in #lot coverage#.


(2/2/11)

23-442
Location of garages in side yards of other zoning lots

In all #Residence Districts#, on #zoning lots# other than #corner lots#, where no #rear yard# is required under the provisions of Sections 23-541 (Within one hundred feet of corners) or 23-542 (Along short dimension of block), enclosed #accessory# off-street parking spaces shall be considered permitted obstructions in any portion of a #side yard# that is within 30 feet of the #rear lot line#.

Basic Regulations - Front Yards

(2/2/11)

23-45
Minimum Required Front Yards

R1 R2 R3 R4 R5

(a) In the districts indicated, #front yards# shall be provided as set forth in the following table, except that for a #corner lot# in an R1-2 District, one #front yard# may have a depth of 15 feet and, for a #corner lot# in an R3 District, one #front yard# may have a depth of 10 feet.

<table>
<thead>
<tr>
<th>Front Yard</th>
<th>District</th>
</tr>
</thead>
<tbody>
<tr>
<td>20 feet</td>
<td>R1</td>
</tr>
<tr>
<td>20 feet*</td>
<td>R1-2A</td>
</tr>
<tr>
<td>15 feet</td>
<td>R2 R2X R3-1 R3-2</td>
</tr>
<tr>
<td>15 feet*</td>
<td>R2A</td>
</tr>
<tr>
<td>10 feet*</td>
<td>R3A R3X R4-1 R4A R5A</td>
</tr>
<tr>
<td>10 feet**</td>
<td>R4 R5</td>
</tr>
<tr>
<td>5 feet*</td>
<td>R4B R5B R5D</td>
</tr>
</tbody>
</table>

* Except as provided in paragraphs (b) and (c) of this
If the depth of a front yard exceeds 10 feet, the depth of the front yard shall be at least 18 feet. Furthermore, developments or enlargements pursuant to the optional regulations applicable in a predominantly built-up area shall provide a front yard with a depth of at least 18 feet. However, on a corner lot, if one front yard has a depth of at least 18 feet, the other front yard shall have a depth of at least 10 feet.

Furthermore, if an opening to an accessory off-street parking space is located within the street wall of a building containing residences, there shall be an open area between the opening and the street line which is at least 8 and 1/2 feet in width by 18 feet in depth, except this provision shall not apply in R5D Districts.

For developments or enlargements, projections into the required front yard are permitted provided that the width of...
all projections at the level of any #story# does not exceed 33 percent of the width of the #building#. The depth of such projections shall not exceed three feet into the #front yard#. However, balconies shall be subject to the provisions of Sections 23-13 (Balconies) and 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents).

(c) The provisions of paragraph (b) of this Section determining the depth of a #front yard# by the location of a #front yard# on an adjacent #zoning lot#, are modified as follows:

(1) on #corner lots#, these provisions shall apply on only one #street# frontage; and

(2) these provisions shall not apply to:

   (i) any #street# frontage of a #zoning lot# where such frontage has a length of at least 150 feet along such #street#;

   (ii) any #zoning lot# located in historic districts designated by the Landmarks Preservation Commission; or

   (iii) a frontage of any #zoning lot# where the depths of 50 percent of the #front yards# within 150 feet of the #side lot lines# of such #zoning lot# are shallower by more than two feet than the shallowest of the adjacent #front yards#.

R1 R2 R3 R4 R5

(d) For any #zoning lot# located in a Historic District designated by the Landmarks Preservation Commission, the provisions of paragraphs (a) and (b) of this Section are modified as follows:

The depth of the #front# yard may vary between the requirements of paragraph (a) of this Section, or as modified in any applicable Special District, and the depth of the #front yard# of any adjacent #zoning lot#.

(4/14/10)

23-451
Planting requirement

R1 R2 R3 R4 R5
In the districts indicated, a minimum percentage of the area of the #front yard# shall be planted, which shall vary by #street# frontage of the #zoning lot# as set forth in the following table. For the purposes of this Section, the #front yard# shall include the entire area between all #street walls# of the #building# and their prolongations and the #street line#. Planted areas shall be comprised of any combination of grass, groundcover, shrubs, trees or other living plant material, and shall have a minimum dimension of one foot, exclusive of any bounding walls. Any planted area within a driveway or parking space shall not qualify towards meeting the minimum planting requirements of this Section. For #through lots# or #corner lots#, the planting requirement of this Section shall be applied separately to each #street# frontage. For #corner lots#, planted areas of overlapping portions of #front yards# shall only be counted towards the planting requirement of one #front yard#. For #zoning lots# with multiple #building segments#, the planting requirement of this Section shall be applied separately to the entire area between the #street wall# of each #building segment# and the #street line#.

Where multiple #buildings# on a single #zoning lot# front upon the same #street#, the planting requirements of this Section shall be determined by the #street# frontage allocated to the area occupied by each such #building# and applied separately to the entire area between the #street line# and the #street wall# of each #building# and its prolongation. The allocation of planting requirements to open areas between #buildings# shall be determined by dividing such open area evenly, with an equal portion attributed to each #building# on both sides of such open area.

Any #zoning lot# occupied by a #building# constructed after April 30, 2008, shall provide planted areas in accordance with the provisions of this Section. Any #zoning lot# occupied by a #building# constructed prior to such date shall not be altered in any way that will either create new #non-compliance# or increase the degree of #non-compliance# with the provisions of this Section.

<table>
<thead>
<tr>
<th>#street# frontage of #zoning lot#, #street wall# width of #building segment#, or #street# frontage allocated to each of multiple #buildings# on a single #zoning lot#, as applicable.</th>
<th>Percentage of #front yard# to be planted (minimum)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 20 feet</td>
<td>20</td>
</tr>
<tr>
<td>20 to 34 feet</td>
<td>25</td>
</tr>
<tr>
<td>35 to 59 feet</td>
<td>30</td>
</tr>
</tbody>
</table>
Basic Regulations - Side Yards

(2/2/11)

23-46
Minimum Required Side Yards

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, #side yards# shall be provided on any #zoning lot# as specified in this Section, except as otherwise provided in the following Sections:

Section 23-48 (Special Provisions for Existing Narrow Zoning Lots)
Section 23-49 (Special Provisions for Side Lot Line Walls)
Section 23-51 (Special Provisions for Yards Adjacent to R1 through R5 Districts)

(4/30/12)

23-461
Side yards for single- or two-family residences

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

(a) #Detached# and #zero lot line buildings#

In all districts, as indicated, for #zoning lots# containing only #single-family detached residences# or, where permitted, for #two-family detached residences# or #single-# or #two-family residences# in #zero lot line buildings#, or any combination thereof, #side yards# shall be provided as set forth in the table in this paragraph, except that on #corner lots# in R1, R2, R3, R4 and R5 Districts, one #side yard# shall be at least 20 feet in width:

MINIMUM REQUIRED SIDE YARDS
<table>
<thead>
<tr>
<th>Number Required</th>
<th>Required Total Width (in feet)</th>
<th>Required Minimum Width of any #Side Yard# (in feet)</th>
<th>District</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>35</td>
<td>15</td>
<td>R1-1</td>
</tr>
<tr>
<td>2</td>
<td>20</td>
<td>8</td>
<td>R1-2</td>
</tr>
<tr>
<td>2</td>
<td>13</td>
<td>5</td>
<td>R2 R2A R3-1 R3-2 R4-R10</td>
</tr>
<tr>
<td>2</td>
<td>10*</td>
<td>2*</td>
<td>R2X R3X R4A R5A</td>
</tr>
<tr>
<td>1</td>
<td>8*</td>
<td>0*</td>
<td>R3A R4-1 R4B R5B R5D</td>
</tr>
</tbody>
</table>

* Additional regulations apply pursuant to paragraph (c) of this Section

R3-1 R3-2 R4 R4-1 R4B R5

(b) #Semi-detached buildings#

In the districts indicated, for #zoning lots# containing only #single-# or #two-family semi-detached residences#, a #side yard# shall be provided as set forth in the table in this paragraph, except that on #corner lots#, one #side yard# shall be at least 20 feet in width:

MINIMUM REQUIRED SIDE YARD

<table>
<thead>
<tr>
<th>Feet</th>
<th>District</th>
</tr>
</thead>
<tbody>
<tr>
<td>8</td>
<td>R3-1 R3-2 R4 R5</td>
</tr>
<tr>
<td>4*</td>
<td>R4-1 R4B R5B R5D</td>
</tr>
</tbody>
</table>

* Additional regulations apply pursuant to paragraph (c) of this Section

(c) Additional regulations

(1) Eight foot open area required between #buildings# containing #residences#
An open area with a minimum total width of eight feet is required between buildings containing residences on adjacent zoning lots. Such open area must be parallel to the side lot line and may be located on either one or both sides of such common side lot line. (See Figure A)

![Figure A](image)

(2) When side yards total more than 13 feet

However, where such open area requirements result in side yards totaling more than 13 feet on the subject zoning lot, the width of such side yards may be reduced to not less than five feet, provided that the total width of both side yards on the subject zoning lot is at least 13 feet. (See Figure B)
(3) Permitted obstructions in open areas between #buildings#

Only air conditioning condensation units, chimneys, downspouts, eaves, exterior wall thickness, gutters, open #accessory# off-street parking spaces, ramps for access by people with disabilities, and steps as set forth in paragraph (a) of Section 23-44 shall be permitted obstructions in open areas required pursuant to paragraphs (c)(1) and (c)(2) of this Section, provided such obstructions, not including #accessory# off-street parking spaces, may not reduce the minimum width of the open area by more than three feet.

(4) Minimum #side yard# requirements for #zoning lots# adjacent to certain #side yards#

A #side yard# at least five feet wide shall be provided on any #zoning lot# along the common #side lot line# of any adjacent #zoning lot# with an existing #detached residence# whose #side yards# total at least 13 feet in width, with both #side yards# on such adjacent #zoning lot# at least five feet in width, or with an existing #semi-detached residence# with a #side yard# at least eight feet in width. (See Figure C)
Side yards for all other buildings containing residences

In the districts indicated, except as set forth in Section 23-461 (Side yards for single- or two-family residences) or Section 23-49 (Special Provisions for Side Lot Line Walls), side yards shall be provided for all zoning lots with buildings containing residences as provided in this Section:

(a) In the districts indicated, except R4B, R5B or R5D Districts, two side yards, each with a minimum required width of eight feet, shall be provided. However, if the aggregate width of street walls of a residential building is more than 80 feet or, for abutting buildings if the combined aggregate width of street walls of all such abutting buildings on a zoning lot is more than 80 feet, then two side yards shall be
provided, each equal to not less than 10 percent of such aggregate width of street walls. For zoning lots where no such buildings exceed a height of two stories and a basement, side yards need not exceed 15 feet in width.

However, on all corner lots in lower density growth management areas, one side yard shall be at least 20 feet in width.

R4B R5B R5D

(b) In the districts indicated, no side yards are required; however, where a building containing residences on an adjacent zoning lot has a side yard, an open area with a minimum width of eight feet and parallel to the side lot line is required along the common side lot line between such buildings. Obstructions permitted pursuant to paragraph (c)(3) of Section 23-461 (Side yards for single- or two-family residences) shall be permitted in such open areas.

R6 R7 R8 R9 R10

(c) In the districts indicated, no side yards are required. However, if any open area extending along a side lot line is provided at any level, it shall measure at least eight feet wide for the entire length of the side lot line. Obstructions permitted pursuant to paragraph (a) of Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents) shall be permitted in such open areas.

(2/2/11)

23-463
Maximum aggregate width of street walls

R3-2 R4 R5

In the districts indicated, except R4B, R5B or R5D Districts, the aggregate width of street walls of a building containing residences or, for abutting buildings the combined aggregate width of street walls of all such abutting buildings on a zoning lot, shall not exceed the width set forth in the following table:
MAXIMUM
AGGREGATE WIDTH OF STREET WALLS

<table>
<thead>
<tr>
<th>Feet</th>
<th>District</th>
</tr>
</thead>
<tbody>
<tr>
<td>125</td>
<td>R3-2</td>
</tr>
<tr>
<td>185</td>
<td>R4 R5</td>
</tr>
</tbody>
</table>

However, the City Planning Commission may authorize, in R4 and R5 Districts, the aggregate width of street walls in excess of 185 feet, provided the Commission finds that:

1. The street wall is adequately articulated by such design features as variable setbacks, stoops, bay windows or changes in the heights of the buildings;
2. The development or enlargement will not be incompatible with buildings on the surrounding blocks.

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

(12/5/90)

23-464
Side yards for buildings used for permitted non-residential uses

R1 R2 R3 R4 R5

(a) In the districts indicated, if a building used for permitted non-residential uses has an aggregate width of street walls equal to 60 feet or less, two side yards shall be provided, each with a minimum required width of eight feet. If such building has an aggregate width of street walls equal to more than 60 feet, two side yards shall be provided, each equal to not less than 15 percent of the aggregate width of street walls.

R6 R7 R8 R9 R10

(b) In the districts indicated, no side yards are required. However, if any open area extending along a side lot line is provided at any level, it shall be at least eight feet wide.
Basic Regulations - Rear Yards

(4/30/08)

23-47
Minimum Required Rear Yards

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, a #rear yard# with a depth of not less than 30 feet shall be provided at every #rear lot line# on any #zoning lot# except as otherwise provided in Sections 23-52 (Special Provisions for Shallow Interior Lots), 23-53 (Special Provisions for Through Lots) or 23-54 (Other Special Provisions for Rear Yards). #Rear yards# shall also be provided along portions of #side lot lines# as set forth in Section 23-471 (Beyond one hundred feet of a street line).

(4/30/08)

23-471
Beyond one hundred feet of a street line

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, for #interior# or #through lot# portions of #corner lots#, and for #zoning lots# bounded by two or more #streets# that are neither #corner lots# nor #through lots#, the portion of a #side lot line# beyond 100 feet of the #street line# that it intersects shall be considered a #rear lot line# and the following rules shall apply along such #rear lot line#: 
(a) In all districts, a #rear yard# with a minimum depth of 30 feet shall be provided where such #rear lot line# coincides with a #rear lot line# of an adjoining #zoning lot#.
(b) In R1 through R5 Districts, a rear yard with a minimum depth of eight feet shall be provided where such rear lot line coincides with a side lot line of an adjoining zoning lot.

ZONING LOT BOUNDED BY TWO OR MORE STREETS
(NEITHER A CORNER LOT NOR A THROUGH LOT)
(23-471b)

(c) In R6 through R10 Districts, no rear yard shall be required where such rear lot line coincides with a side lot line of an adjoining zoning lot.

Regulations Applying in Special Situations
Side Yards
(2/2/11)
23-48
Special Provisions for Existing Narrow Zoning Lots
R1 R2 R3 R4 R5 R6 R7 R8 R9 R10
In all districts, as indicated, except R2X, R3A, R3X, R4A, R4-1, R4B, R5A, R5B or R5D Districts, the required total width of side yards for a single-family detached or two-family detached residence may be reduced by four inches for each foot by which the width of a zoning lot is less than that required under the provisions of Section 23-32 (Minimum Lot Area or Lot Width for Residences) if such zoning lot:

(a) has less than the prescribed minimum lot width; and

(b) was owned separately and individually from all other adjoining tracts of land, both on December 15, 1961 and on the date of application for a building permit.

However, in no event shall the required width of a side yard be less than five feet.

In R5D Districts, no side yards shall be required for any zoning lot having a width of less than 30 feet along a street and existing on the effective date of establishing such district on the zoning map.

(2/2/11)

23-49
Special Provisions for Side Lot Line Walls

R3-1 R3-2 R4 R5

In the districts indicated, except R4A and R5A Districts, a building containing residences may:

(a) abut an existing building located along a side lot line, where such building was existing on December 15, 1961 or lawfully erected under the terms of this Resolution, provided that walls of the building containing residences and walls of the existing building shall abut for a length equal to or greater than one half of the distance between the street wall line and rear wall line of the existing building. For the purposes of this paragraph, (a), an “existing building” shall not include an accessory building located on an interior or through lot;

(b) abut other buildings containing residences being erected at the same time on an adjoining zoning lot or zoning lots.

For such buildings containing residences, the side yard requirements shall be waived along the side lot line of the
#zoning lot# coincident with the #abutting buildings#, and one #side yard# shall be provided along any #side lot line# of the #zoning lot# without an #abutting building# with a width of at least eight feet in R3-1, R3-2, R4 or R5 Districts, and four feet in R4-1, R4B or R5B Districts.

(2/2/11)

23-51
Special Provisions for Yards Adjacent to R1 through R5 Districts

R6 R7 R8 R9 R10

In the districts indicated, the provisions of this Section shall apply to #zoning lots# located, wholly or partially, within an R6, R7, R8, R9 or R10 District that are adjacent to a #zoning lot# located wholly or partially within an R1, R2, R3, R4 or R5 District.

A #side yard# at least eight feet wide shall be provided along the entire length of the common #side lot line#. Such #side yard# may be used for #accessory# parking.

Rear Yards

(2/2/11)

23-52
Special Provisions for Shallow Interior Lots

R3 R4 R5 R6 R7 R8 R9 R10

In the districts indicated, if an #interior lot#:

(a) was owned separately and individually from all other adjoining tracts of land, both on December 15, 1961 and on the date of application for a building permit; and

(b) is less than 70 feet deep at any point;

the depth of a required #rear yard# for such #interior lot# may be reduced by one foot for each foot by which the maximum depth of such #zoning lot# is less than 70 feet. On any #interior lot# with a maximum depth of 50 feet or less, the minimum depth of a required #rear yard# shall be ten feet.
23-53
Special Provisions for Through Lots

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, the regulations of this Section shall apply to all through lots, except as provided in Section 23-471 (Beyond one hundred feet of a street line). In the case of a zoning lot occupying an entire block, no rear yard or rear yard equivalent shall be required.

(2/2/11)
23-531
Excepted through lots

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

(a) In all districts, as indicated, no rear yard regulations shall apply to any through lots that extend less than 110 feet in maximum depth from street to street.

R6 R7 R8 R9 R10

(b) In the districts indicated, for zoning lots containing Quality Housing buildings, no rear yard regulations shall apply to any zoning lot that includes a through lot portion that is contiguous on one side to two corner lot portions and such zoning lot occupies the entire block frontage of a street.

(2/2/11)
23-532
Required rear yard equivalents

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, on any through lot that is 110 feet or more in maximum depth from street to street, one of the following rear yard equivalents shall be provided:

(a) an open area with a minimum depth of 60 feet, midway (or within
five feet of being midway) between the two #street lines# upon which such #through lot# fronts;

(b) two open areas, each adjoining and extending along the full length of a #street line# and each with a minimum depth of 30 feet measured from such #street line#, except the depth of such required open area along one #street line# may be decreased, provided that:

(1) a corresponding increase in the depth of the open area along the other #street line# is made; and

(2) any required #front yards# or front setback areas are maintained; or

(c) an open area adjoining and extending along the full length of each #side lot line# with a minimum width of 30 feet measured from each such #side lot line#.

However, in #lower density growth management areas# and in R5D, R6A, R6B, R7A, R7B, R7D, R7X, R8A, R8B, R8X, R9A, R9D, R9X, R10A and R10X Districts, and for #Quality Housing buildings# in other R6 through R10 Districts, on any #through lot# at least 180 feet in maximum depth from #street# to #street#, a #rear yard equivalent# shall be provided only as set forth in paragraph (a) of this Section.

Any such #rear yard equivalent# shall be unobstructed from its lowest level to the sky, except as provided in Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents).

(12/15/61)

23-54
Other Special Provisions for Rear Yards

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, the #rear yard# requirements set forth in Section 23-47 (Minimum Required Rear Yards) shall be modified as set forth in this Section.

(4/30/08)

23-541
Within one hundred feet of corners
In the districts indicated, no rear yard shall be required within 100 feet of the point of intersection of two street lines intersecting at an angle of 135 degrees or less.

(4/30/08)

23-542
Along short dimension of block

In the districts indicated, whenever a front lot line of a zoning lot coincides with all or part of a street line measuring less than 230 feet in length between two intersecting streets, no rear yard shall be required within 100 feet of such front lot line.

(4/30/08)

23-543
For zoning lots with multiple rear lot lines

In all districts, as indicated, for zoning lots with multiple rear lot lines, if a rear yard extends from a rear lot line away from the street line which is used to determine such rear lot line, the following rules shall apply along such rear lot line:
(a) In all districts, a *rear yard* with a minimum depth of 30 feet shall be provided where such *rear lot line* coincides with a *rear lot line* of an adjoining *zoning lot*.

\[\text{(23-543a)}\]
(b) In R1 through R5 Districts, a #rear yard# with a minimum depth of eight feet shall be provided where such #rear lot line# coincides with a #side lot line# of an adjoining #zoning lot#.

(c) In R6 through R10 Districts, no #rear yard# shall be required where such #rear lot line# coincides with a #side lot line# of an adjoining #zoning lot#. 
(d) In all districts, for portions of through lots that have multiple rear lot lines and such portions are not subject to interior lot regulations, the street line bounding the zoning lot closest to such rear lot line shall be used to determine compliance with this Section.

(23-543d)

(6/30/89)

23-544
In certain districts

R2X

In the district indicated, a residential building may extend ten feet into a required rear yard or rear yard equivalent pursuant to the provisions of Section 23-631 (Height and setback in R1, R2, R3, R4 or R5 Districts).

All Yards

(8/14/87)

23-55
Special Provisions for Zoning Lots Divided by District Boundaries
In all districts, as indicated, whenever a zoning lot is divided by a boundary between districts or is subject to other regulations resulting in different yard regulations on portions of the zoning lot, the provisions set forth in Article VII, Chapter 7, shall apply.

(4/30/08)

23-56
Modifications of Rear Yard Regulations

In all districts, as indicated, the regulations set forth in Section 23-543 (For zoning lots with multiple rear lot lines) may be modified in accordance with the provisions of Section 73-69 (Rear Yard Modifications).

(12/15/61)

23-60
HEIGHT AND SETBACK REGULATIONS

Definitions and General Provisions

(10/25/93)

23-61
Definitions

Words in italics are defined in Section 12-10 (DEFINITIONS) or, if applicable exclusively to this Section, in this Section.

(4/30/12)

23-62
Permitted Obstructions

In all Residence Districts, except as provided in Section 23-621
(Permitted obstructions in certain districts), the obstructions listed in paragraphs (a) through (r) in this Section shall be permitted to penetrate a maximum height limit or #sky exposure plane# set forth in Sections 23-63 (Maximum Height of Walls and Required Setbacks), 23-64 (Alternate Front Setbacks) or 23-69 (Special Height Limitations):

(a) Awnings and other sun control devices, provided that when located at a level higher than the first #story#, excluding a #basement#, all such awnings and other sun control devices:

(1) shall be limited to a maximum projection from a #building# wall of 2 feet, 6 inches, except when located on the first #story# above a setback;

(2) shall have solid surfaces that, in aggregate, cover an area no more than 30 percent of the area of the #building# wall (as viewed in elevation) from which they project; and

(3) may rise above the permitted #building# height, up to the height of a parapet wall or guardrail permitted in accordance with paragraph (j) of this Section.

When located on the first #story# above a setback, awnings and other sun control devices shall be limited to a projection of 50 percent of the depth of the required setback, and shall be limited, in total, to 50 percent of the width of the #building# wall from which they project;

(b) Balconies, unenclosed, subject to the provisions of Section 23-13;

(c) #Building# columns, having an aggregate width equal to not more than 20 percent of the #aggregate width of street walls# of a #building#, to a depth not exceeding 12 inches, in an #initial setback distance#, optional front open area, or any other required setback distance or open area set forth in Sections 23-63, 23-64 or 23-65 (Tower Regulations);

(d) Chimneys or flues, with a total width not exceeding 10 percent of the #aggregate width of street walls# of a #building# at any level;

(e) Decks, and other surfaces for recreational activities, not more than 3 feet, 6 inches in height, as measured from the maximum height limit, or the finished level of the roof as it existed on April 30, 2012, whichever is higher;

(f) Dormers having an #aggregate width of street walls# equal to not more than 50 percent of the width of the #street wall# of a
(#detached# or #semi-detached single-# or #two-family residence#);

(g) Elevator or stair bulkheads (including shafts; and vestibules not larger than 60 square feet in area providing access to a roof), roof water tanks and #accessory# mechanical equipment (including enclosures), other than solar or wind energy systems, provided that:

(1) such obstructions shall be located not less than 10 feet from the #street wall# of a #building#, except that such obstructions need not be set back more than 25 feet from a #narrow street line# or more than 20 feet from a #wide street line#. However, such restrictions on location shall not apply to elevator or stair bulkheads (including shafts or vestibules), provided the #aggregate width of street walls# of such bulkheads within 10 feet of a #street wall#, facing each #street# frontage, times their average height, in feet, does not exceed an area equal to four times the width, in feet, of the #street wall# of the #building# facing such frontage;

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

(3) such obstructions and screening are contained within a volume that complies with one of the following:

   (i) the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, shall not exceed an area equal to eight feet times the width, in feet, of the #street wall# of the #building# facing such frontage; or

   (ii) the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#, and where the maximum permitted height of a #building# is less than 120 feet, such obstructions are limited to a maximum height of 25 feet, and where the maximum permitted height of a #building# is 120 feet or greater, such obstructions are limited to a maximum height of 40 feet.

For the purposes of this paragraph, (g), #abutting buildings# on a single #zoning lot# may be considered to be a single #building#;

(h) Exterior wall thickness, up to eight inches, where such wall thickness is added to the exterior face of a #building# wall existing on April 30, 2012, provided the added wall thickness
has a thermal resistance (R-value) of at least 1.5 per inch. Where buildings that have added exterior wall thickness pursuant to this Section are enlarged, such enlarged portion may similarly penetrate a maximum height limit in order to align with the exterior walls of the existing building, provided such enlargement contains less floor area than the existing building, and there is no penetration of floor area above a maximum height limit;

(i) Flagpoles or aerials;

(j) Parapet walls, not more than four feet in height, as measured from the maximum height limit, or the finished level of the roof as it existed on April 30, 2012, whichever is higher. A guardrail with a surface at least 70 percent open or with an opacity no more than 30 percent (as viewed in elevation), shall be permitted above a parapet wall or within two feet of a parapet wall, provided such guardrail is not more than four feet above the accessible level of a roof. Such restriction on guardrail height shall not apply when located beyond two feet from a parapet wall;

(k) Roof thickness, up to eight inches, to accommodate the addition of insulation, for buildings or portions of buildings constructed prior to April 30, 2012. For a building that has added roof thickness pursuant to this paragraph, an enlargement may align with the finished roof surface of such building, provided the enlarged portion does not exceed the maximum height limit by more than eight inches;

(l) Skylights, clerestories or other daylighting devices, not more than four feet in height, as measured from the maximum height limit, or the finished level of the roof as it existed on April 30, 2012, whichever is higher. Such devices shall be limited to a lot coverage not greater than 10 percent of the lot coverage of the roof and be located at least eight feet from the street wall edge. However, such devices shall not be permitted obstructions above a roof with a slope greater than 20 degrees;

(m) Solar energy systems:

(1) on the roof of a building, up to four feet in height, as measured from the maximum height limit, or the finished level of the roof, whichever is higher;

(2) on the roof of a building, greater than four feet in height, as measured from the maximum height limit, or the finished level of the roof, whichever is higher, provided that all such portions above four feet are set back at
least six feet from a #street wall#, limited to a #lot coverage# not greater than 25 percent of the #lot coverage# of the roof and do not exceed:

(i) in R1 through R5 Districts, a height of six feet;

(ii) in R6 through R10 Districts, a height of 15 feet; and

(iii) when located on a bulkhead or other obstruction pursuant to paragraph (g) of this Section, a height of six feet;

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

However, any installation on a roof with a slope greater than 20 degrees shall be limited to 18 inches in height, as measured perpendicular to the roof surface.

(n) Vegetated roofs, not more than 3 feet, 6 inches in height, excluding vegetation, as measured from the maximum height limit, or the finished level of the roof as it existed on April 30, 2012, whichever is higher. On roofs with slopes greater than 20 degrees, vegetated roofs shall be limited to a height of 12 inches measured perpendicular to such roof surface;

(o) Weirs, check dams and other equipment for stormwater management, not more than 3 feet, 6 inches in height, as measured from the maximum height limit, or the finished level of the roof as it existed on April 30, 2012, whichever is higher;

(p) Wind energy systems on portions of #buildings# with a height of 100 feet or greater, provided:

(1) the highest point of the wind turbine assembly does not exceed 55 feet;

(2) no portion of the wind turbine assembly is closer than 10 feet to any #lot line#; and

(3) the diameter of the swept area of the rotor does not exceed 15 feet;

(q) Window washing equipment mounted on a roof;

(r) Wire, chain link or other transparent fences.
Permitted obstructions in certain districts

R2A R2X R3 R4 R4A R4-1 R5A

(a) In the districts indicated, permitted obstructions are limited to chimneys, exterior wall thickness, flag poles or aerials, parapet walls, roof thickness, skylights, solar energy systems and vegetated roofs pursuant to Section 23-62.

(b) In R2X Districts, dormers may be considered permitted obstructions if:

(1) the aggregate width of dormers facing the street line is equal to not more than 50 percent of the width of the street wall line;

(2) the aggregate width of dormers facing the rear lot line is equal to not more than 50 percent of the width of the rear wall line;

(3) the aggregate width of dormers facing a side lot line is equal to not more than 50 percent of the width of a straight line connecting and perpendicular to the street wall line and the rear wall line; and

(4) on a corner lot, the aggregate width of dormers facing a side lot line is equal to not more than 50 percent of the width of the rear wall line facing such side lot line.

R6A R6B R7A R7B R7D R7X R8A R8B R8X R9A R9D R9X R10A R10X

(c) In the districts indicated, and for Quality Housing buildings in other R6, R7, R8, R9 and R10 Districts, the permitted obstructions set forth in Section 23-62 shall apply to any building or other structure, except that within a required front setback distance above a maximum base height, the following rules shall apply:

(1) Dormers shall be allowed as a permitted obstruction, provided that on any street frontage, the aggregate width of all dormers at the maximum base height does not exceed 60 percent of the width of the street wall of the highest story entirely below the maximum base height. For each foot above the maximum base height, the aggregate
width of all dormers shall be decreased by one percent of the #street wall# width of the highest #story# entirely below the maximum base height.

Dormer
(23-621c, 62-341d.2)

(2) Solar energy systems on a roof shall be limited to four feet or less in height, as measured from the maximum height limit, or the finished level of the roof, whichever is higher. However, on a roof with a slope greater than 20 degrees, such systems shall be limited to 18 inches in height as measured perpendicular to the roof surface.

(3) Wind energy systems shall not be allowed as permitted obstructions.

(4) Window washing equipment shall not be allowed as permitted obstructions.

(2/2/11)

23–63
Maximum Height of Walls and Required Setbacks

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10
In all districts, as indicated, the maximum height of a front wall or of any other portion of a building or other structure shall be set forth in this Section, except as otherwise provided in Sections 23-62 (Permitted Obstructions), 23-64 (Alternate Front Setbacks), 23-65 (Tower Regulations), 23-692 (Height limitations for narrow buildings or enlargements), 23-693 (Special provisions applying adjacent to R1 through R6B Districts) or 74-85 (Special Height and Setback Regulations).

(2/2/11)

23-631
Height and setback in R1, R2, R3, R4 and R5 Districts

R1 R2

(a) In the districts indicated, except R1-2A, R2A and R2X Districts, the front wall or any other portion of a building or other structure shall not penetrate the sky exposure plane set forth in the following table:
MAXIMUM HEIGHT OF FRONT WALL
AND REQUIRED FRONT SETBACKS

<table>
<thead>
<tr>
<th>Height above #Front Yard Line# (in ft.)</th>
<th>Vertical Distance</th>
<th>Horizontal Distance</th>
<th>District</th>
</tr>
</thead>
<tbody>
<tr>
<td>25</td>
<td>1 to</td>
<td>1</td>
<td>R1 R2</td>
</tr>
</tbody>
</table>

SKY EXPOSURE PLANE
(23-631a, 24-521)

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

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

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

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

<table>
<thead>
<tr>
<th>Height</th>
<th>Districts</th>
</tr>
</thead>
<tbody>
<tr>
<td>21 feet</td>
<td>R2A R2X R3 R4A</td>
</tr>
<tr>
<td>25 feet</td>
<td>R1-2A R4 R4-1 R5A</td>
</tr>
<tr>
<td>26 feet*</td>
<td>R3 R4A R4-1 within lower density growth management areas*</td>
</tr>
</tbody>
</table>

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

Above these heights, sloping planes control the maximum height of the building or other structure requiring either a setback or a pitched roof. These planes start at the maximum permitted height of the perimeter walls and meet at a ridge line of 35 feet above the base plane. The exact locations of these planes are flexible and are determined in the steps set forth in paragraphs (b)(1) through (b)(5), as follows:

(1) At a height of 35 feet above and parallel to the base plane, a plane is projected above the area enclosed by and including the perimeter walls of the building or other structure. A second plane (the perimeter wall plane) is projected in the same manner at a height of 21 or 25 feet above the base plane. (See Figure A)
(2) Each perimeter wall of the building or other structure with a horizontal dimension of eight feet or more which projects from an adjacent perimeter wall at least 18 inches may have an apex point directly above it on the 35 foot high plane. (See Figure B). The location of the apex point is flexible provided it is directly above its perimeter wall and provided a line drawn from the intersection of two perimeter walls to such an apex point does not exceed 80 degrees to the horizontal. An apex point is not required for each qualifying perimeter wall; however, the maximum number of apex points above each such wall is one.
(3) One "ridge line" is extended in a straight line from each apex point along the 35 foot high plane. Ridge lines which connect two apex points may cross other ridge lines. Otherwise, ridge lines which extend from only one apex point must terminate at a point of intersection with another ridge line. (See Figure C)

(4) Sloping planes are extended in a straight line outward and downward from each ridge line until they intersect the perimeter wall plane. Every sloping plane generated must intersect the perimeter wall plane for the full width of the ridge line from which it extends. (See Figure D). The maximum angle of pitch for any sloping plane may not exceed 80 degrees to the horizontal. Sloping planes extended from ridge lines perpendicular or within 45 degrees of being perpendicular to each other may intersect, in which case the higher plane defines the limit of the envelope. Sloping planes extended from ridge lines parallel or within 45 degrees of being parallel to each other must intersect the perimeter wall plane without intersecting each other.
(5) The perimeter walls are then extended vertically beyond the perimeter wall plane, up to the heights defined by the sloping planes generated in paragraph (4). (See Figure E). The perimeter walls of the building or other structure, the sloping planes and the perimeter wall extensions define the building envelope. (See Figure F). The building envelope may be penetrated above the maximum permitted perimeter wall height by those items set forth in Section 23-621 (Permitted obstructions in certain districts). Those items listed in Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents), and roofed porches and porticoes subject to all applicable provisions, may penetrate the building envelope below the maximum permitted perimeter wall height. Eaves may extend the roof lines 18 inches beyond the exterior walls.
(6) Special Situations

(i) For convex curved perimeter walls, the building or other structure must be within a plane curve tapering uniformly to a vertex located at a height of 35 feet. For concave curved perimeter walls, the building or other structure must lie within a plane curve extending from the maximum perimeter wall height to a ridge line parallel to the prolongation of the perimeter wall at the 35 foot level. Such plane curves may not exceed a pitch of 80 degrees in relation to a plane drawn parallel to the base plane at the maximum height of the permitted perimeter wall. (See Figure G).
(ii) In R2X Districts, at the 21 foot maximum permitted height of a perimeter wall, sloping planes are projected inwards and upwards. From a permitted front perimeter wall and from 21 feet above the base plane and 20 feet from and parallel to a rear lot line, such sloping plane shall not exceed a pitch of 45 degrees in relation to a plane drawn parallel to the base plane at a height of 21 feet. (See Figure H). Other sloping planes slope toward a ridge line at 35 feet and may not exceed a pitch of 80 degrees in relation to a plane drawn parallel to the base plane at a height of 21 feet.
(c) In the district indicated, no portion of the #building or other structure#, including the apex of a roof, shall penetrate a plane 24 feet in height above the #base plane# except for permitted obstructions as set forth in Section 23-62.

R5

(d) In the district indicated, except R5A, R5B and R5D Districts, no portion of a #building or other structure#, including the apex of a roof, may penetrate a plane 40 feet above the #base plane#. In addition, the maximum height of a #street wall# above the #base plane# shall be 30 feet. Above such height, a setback of 15 feet is required. Within the setback distance, no portion of the #building or other structure#, including the apex of a roof, may penetrate a plane rising from the maximum #street wall# height, at 20 degrees to the horizontal. On #corner lots#, the 30 foot maximum #street wall# height shall apply to only one #street# frontage. #Buildings or other structures# which utilize the optional regulations of Section 23-141 applying to a #predominantly built-up area# shall be subject to the height and setback regulations for an R5B District. The provisions of this paragraph may be modified pursuant to Section 23-62 and paragraphs (h) and (i) of this Section.

R5B

(e) In the district indicated, no portion of a #building or other structure#, including the apex of a roof, may penetrate a plane 33 feet above the #base plane#. In addition, the maximum height of a #street wall# above the #base plane# shall be 30 feet. Above such height, no portion of the #building or other structure# shall penetrate a plane rising from the maximum #street wall# height, at 20 degrees to the horizontal, to a maximum height of 33 feet above the #base plane#. On #corner lots#, the 30 foot maximum #street wall# height shall apply to only one #street# frontage. The provisions of this paragraph may be modified pursuant to Section 23-62 and paragraph (h) of this Section.

R5D

(f) In the district indicated, no portion of a #building or other structure# shall penetrate a plane 40 feet above the #base plane#.

R3A R4A R4-1 R4B R5B

(g) In the districts indicated, a second #story# line-up is required as follows:
Where at least 75 percent of the buildings containing residences within 150 feet of the side lot lines of the zoning lot have a first story front projection that is at least 50 percent of the width of the building, the street wall shall be no closer to the street line than the second story street wall of an adjacent building containing residences facing on the same street.

Projections from the first story street wall are permitted provided that such projections are no closer to the street line than an adjacent front yard line, and such projections are no higher than 13 feet above the street wall line level. Projections from the second story street wall are permitted provided that the width of all projections at that level does not exceed 33 percent of the width of the building at the second story, and the depth of the projections does not exceed three feet.

(h) The height and setback regulations of this Section are modified as follows:

1. In R3-1 and R3-2 Districts, single- or two-family detached residences on zoning lots of at least 9,500 square feet in area and at least 100 feet of frontage along a street may use the height and setback regulations applicable in an R2 District.

2. In R3 and R4A Districts, non-profit residences for the elderly may use the height and setback regulations applicable in an R4 District.

3. In R5 Districts, except R5A and R5D Districts, as an alternative front setback regulation for non-profit residences for the elderly, no portion of the building or other structure shall penetrate a sky exposure plane which begins at a height of 27 feet above an initial setback distance of 10 feet and rises over the zoning lot at a slope of one foot of vertical distance for each foot of horizontal distance to a maximum height of 40 feet above the base plane. On corner lots, the sky exposure plane shall apply to only one street frontage. The provisions of this subparagraph may be modified pursuant to Section 23-62 and paragraph (i) of this Section.

4. In the Special Ocean Parkway District, the Special Coney Island Mixed Use District, and the Special Hunters
Point Mixed Use District#, for #buildings or other structures# subject to the regulations of an R5 District other than an R5D District, no portion of a #building or other structure#, including the apex of a roof, may penetrate a plane 40 feet above the #base plane#. In addition, the maximum height of a #street wall# above the #base plane# shall be 32 feet. Above such height, a setback of 15 feet is required. Within the setback distance, no portion of the #building or other structure#, including the apex of a roof, may penetrate a plane rising from the maximum #street wall# height at 20 degrees to the horizontal. On #corner lots#, the 32 foot maximum #street wall# height shall apply to only one #street# frontage.

In these special districts, for #developments# or #enlargements# which utilize the optional regulations applicable to a #predominantly built-up area#, the maximum height of a #building# containing #residences# shall not exceed 32 feet above the #base plane#. Furthermore, for such #developments# or #enlargements# with pitched roofs, the midpoint of such pitched roof shall not exceed a height of 32 feet above the #base plane#. The provisions of this paragraph may be modified pursuant to Section 23-62 and paragraph (h) of this Section.

(5) In accordance with Section 78-31 (Location of Buildings, Distribution of Bulk and Open Space and Modification of Height and Setback), #buildings# within a #large-scale residential development# may use the alternate height and setback regulations set forth in Section 78-31, paragraphs (b)(1) through (b)(3).

R3-2 R4 R5

(i) In the districts indicated, except R4A, R4B, R4-1, R5A, R5B and R5D Districts, the City Planning Commission may authorize a #building or other structure# that penetrates the height and setback regulations set forth in paragraphs (b) and (d) of this Section, except for #buildings# utilizing the optional regulations for #predominantly built-up areas#. As a condition for granting such authorizations, the Commission shall find that:

(1) by concentrating permitted #floor area# in a #building# or #buildings# of greater height the preservation of an existing #building#, topography, vegetation, or view corridors having environmental, historic or aesthetic value to the public will be assured, and that such preservation would not be possible by careful siting of lower #buildings# containing the same permitted #floor
(2) such modification is the least modification required to achieve the purpose for which it is granted;

(3) the proposed modification does not impair the essential character of the surrounding area; and

(4) that the proposed modification will not have adverse effects upon light, air, and privacy of adjacent properties and of any existing buildings on the zoning lot.

Applications for authorizations shall be referred to the affected Community Board for a period of at least 30 days for comment. The City Planning Commission shall grant in whole or in part or deny the application within 60 days of the completion of the Community Board review period.

(2/2/11)

23-632
Front setbacks in districts where front yards are not required

R6 R7 R8 R9 R10

(a) In the districts indicated, except for Quality Housing buildings, and except as set forth in paragraph (b) of this Section, if the front wall or other portion of a building or other structure is located at the street line or within the initial setback distance set forth in the following table, the height of such front wall or other portion of a building or other structure shall not exceed the maximum height above curb level set forth in the following table. Above such specified maximum height and beyond the initial setback distance, the building or other structure shall not penetrate the sky exposure plane set forth in the following table:

MAXIMUM HEIGHT OF FRONT WALL AND REQUIRED FRONT SETBACKS

<table>
<thead>
<tr>
<th>Maximum Height of a Front</th>
<th>#Sky Exposure Plane#</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Slope over #Zoning Lot# (expressed as</td>
</tr>
<tr>
<td>#Initial Setback Distance# (in feet)</td>
<td>#Building or other structure within the</td>
</tr>
<tr>
<td>-----------------------------------</td>
<td>----------------------------------------</td>
</tr>
<tr>
<td>On #Narrow Street#</td>
<td>On #Wide Street#</td>
</tr>
<tr>
<td>R6 or R7 Districts</td>
<td></td>
</tr>
<tr>
<td>20</td>
<td>15</td>
</tr>
<tr>
<td>R8 R9 or R10 Districts</td>
<td></td>
</tr>
<tr>
<td>20</td>
<td>15</td>
</tr>
</tbody>
</table>

SKY EXPOSURE PLANE
R6 R7 R8 R9 R10 Districts
(23-632, 24-522, 33-432, 43-43)

R6A R6B R7A R7B R7D R7X R8A R8B R8X R9A R9D R9X R10A R10X

(b) In the districts indicated, for all #buildings or other structures#, and for #Quality Housing buildings# in other R6, R7, R8, R9 or R10 Districts, the provisions of this Section and
Sections 23-64 (Alternate Front Setbacks) and 23-65 (Tower Regulations) shall be inapplicable. In lieu thereof, the provisions of Section 23-633 (Street wall location and height and setback regulations in certain districts) shall apply.

(9/24/13)

23–633
Street wall location and height and setback regulations in certain districts

R6A R6B R7A R7B R7D R7X R8A R8B R8X R9A R9D R9X R10A R10X

In the districts indicated, #street wall# location and height and setback regulations are set forth in this Section. The height of all #buildings or other structures# shall be measured from the #base plane#. The provisions of Sections 23-64 (Alternate Front Setbacks) and 23-65 (Tower Regulations) shall not apply, except as otherwise set forth for #buildings# in R9D and R10X Districts.

(a) #Street wall# location

R6A R7A R7D R7X R9D

(1) In the districts indicated, for all #buildings#, and for #Quality Housing buildings# on #wide streets# in R6 or R7 Districts without a letter suffix, the #street wall# shall be located no closer to the #street line# than the closest #street wall# of an existing #building# to such #street line#, located on the same #block#, and within 150 feet of such #building#. However, a #street wall# need not be located further from the #street line# than 15 feet. On #corner lots#, these #street wall# location provisions shall apply along only one #street line#.

R6B R7B R8B

(2) In the districts indicated, for all #buildings#, and for #Quality Housing buildings# on #narrow streets# in R6 and R7 Districts without a letter suffix, the #street wall# of a #building# on a #zoning lot# with at least 50 feet of frontage along a #street line# shall be located no closer to the #street line# than the #street wall# of an adjacent existing #building#. On #zoning lots# with less than 50 feet of frontage along a #street line#, the #street wall# shall be located no closer to nor further from the #street line# than the #street wall# of an adjacent existing #building#. For all #zoning lots#, the #street wall# need
not be located further from a "street line" than 15 feet. On "corner lots", the "street wall" along one "street line" need not be located further from the "street line" than five feet.

R8A R8X R9A R9X R10A R10X

(3) In the districts indicated, for all "buildings", and for "Quality Housing buildings" in R8 or R9 Districts without a letter suffix, and in other R10 Districts, the following "street wall" location provisions shall apply along "wide streets" and along "narrow streets" within 50 feet of their intersection with a "wide street":

(i) the "street wall" shall extend along the entire "street" frontage of a "zoning lot";

(ii) at least 70 percent of the aggregate width of street walls shall be located within eight feet of the "street line" and extend to at least the minimum base height specified in the table in this Section or the height of the "building", whichever is less. The remaining 30 percent of the aggregate width of street walls may be recessed beyond eight feet of the "street line" provided any such recesses deeper than 10 feet along a "wide street" or 15 feet along a "narrow street" are located within an "outer court"; and

(iii) the "street wall" location provisions of paragraph (a)(3) of this Section, inclusive, shall not apply to houses of worship.

No "street wall" location provisions shall apply along any "narrow street" beyond 50 feet of their intersection with a "wide street".

For the purposes of applying the provisions of paragraph (a) of this Section, where the Administrative Code establishes restrictions on the location of "buildings" on lots fronting upon and within 30 feet of Eastern Parkway in Community Districts 8 and 9 in the Borough of Brooklyn, lines drawn 30 feet north of and 30 feet south of, and parallel to, Eastern Parkway shall be considered the northern and southern "street lines" of Eastern Parkway.

R6A R6B R7A R7B R7D R7X R8A R8B R8X R9A R9D R9X R10A R10X

(b) Setback regulations
In the districts indicated, for all #buildings or other structures#, and for #Quality Housing buildings# in other R6, R7, R8, R9 and R10 Districts, setbacks are required for all portions of #buildings or other structures# that exceed the maximum base height specified in the table in this Section. Such setbacks shall be provided in accordance with the following regulations:

1. At a height not lower than the minimum base height or higher than the maximum base height specified in the table in this Section, a setback with a depth of at least 10 feet shall be provided from any #street wall# fronting on a #wide street#, and a setback with a depth of at least 15 feet shall be provided from any #street wall# fronting on a #narrow street#, except such dimensions may include the depth of any permitted recesses in the #street wall#.

2. On #narrow streets#, where a #street wall# is required to be located further than 10 feet from a #street line# in accordance with paragraph (a) of this Section, the depth of the required setback above the minimum base height may be reduced one foot for every foot that the #street wall# is required to be located beyond 10 feet of the #street line#, but in no event shall a setback less than 10 feet in depth be provided above the minimum base height.

3. These setback provisions are optional for any #building# wall that is either located beyond 50 feet of a #street line# or oriented so that lines drawn perpendicular to it, in plan, would intersect a #street line# at an angle of 65 degrees or less. In the case of an irregular #street line#, the line connecting the most extreme points of intersection shall be deemed to be the #street line#. Furthermore, dormers provided in accordance with the provisions of Section 23-621 may penetrate a required setback area.

4. In R9D Districts, for #buildings or other structures# on #zoning lots# that front upon an elevated rail line, at a height between grade level and 25 feet, a setback with a depth of at least 20 feet shall be provided from the #street line# fronting on such elevated rail line. The depth of such setback may be reduced by one foot for every foot that the depth of the #zoning lot#, measured perpendicular to the elevated rail line, is less than 110 feet, but in no event shall a setback less than 10 feet in depth be provided.

(c) Maximum #building# height
No #building or other structure# shall exceed the maximum #building# height specified in the table in this Section, except as otherwise provided below:

R9D R10X

In the districts indicated, any #building or other structure#, or portions thereof, which in the aggregate occupies not more than 40 percent of the #lot area# of a #zoning lot# (or, for #zoning lots# of less than 20,000 square feet, the percentage set forth in the table in Section 23-651), above a height of 85 feet above the #base plane#, is hereinafter referred to as a tower. Dormers permitted within a required setback area pursuant to Section 23-621 (Permitted obstructions in certain districts) shall not be included in tower coverage. Such tower or towers may exceed a height limit of 85 feet above the #base plane# provided:

(1) at all levels, such tower is set back from the #street wall# of a base at least 15 feet along a #narrow street# and at least 10 feet along a #wide street#, except such dimensions may include the depth of any permitted recesses in the #street wall#;

(2) the base of such tower complies with the #street wall# location provisions of paragraph (a) of this Section and the setback provisions of paragraph (b) of this Section; and

(3) the minimum coverage of such tower above a height of 85 feet above the #base plane# is at least 33 percent of the #lot area# of the #zoning lot#; however, such minimum coverage requirement shall not apply to the highest 40 feet of such tower.

(4) In R9D Districts, the highest four #stories#, or as many #stories# as are located entirely above a height of 165 feet, whichever is less, shall have a #lot coverage# of at least 50 percent of the #story# immediately below such #stories#, and a maximum #lot coverage# of 80 percent of the #story# immediately below such #stories#. Such reduced #lot coverage# shall be achieved by one or more setbacks on each face of the tower, where at least one setback on each tower face has a depth of at least four feet, and a width that, individually or in the aggregate, is equal to at least 10 percent of the width of such respective tower face. For the purposes of this paragraph, (c)(4), each tower shall have four tower faces, with each face being the side of a rectangle within which the outermost walls of the highest #story# not subject to the reduced #lot
coverage provisions have been inscribed. The required setbacks shall be measured from the outermost walls of the building facing each tower face. Required setback areas may overlap.

(5) In R9D Districts, for towers fronting on elevated rail lines, the outermost walls of each story located entirely above a height of 85 feet shall be inscribed within a rectangle. The maximum length of any side of such rectangle that is parallel or within 45 degrees of being parallel to such elevated rail line shall be 125 feet, or 75 percent of the frontage of the zoning lot along such elevated rail line, whichever is less.

(d) Additional regulations

In the districts indicated, for all buildings, and for Quality Housing buildings in other R6, R7, R8, R9 and R10 Districts, the following additional regulations shall apply:

(1) Existing buildings may be vertically enlarged by up to one story or 15 feet without regard to the street wall location requirements of paragraph (a) of this Section.

(2) On through lots which extend less than 180 feet in maximum depth from street to street, the street wall location requirements of paragraph (a) of this Section shall be mandatory along only one street frontage.

(3) The street wall location and minimum base height provisions of paragraph (a) of this Section shall not apply along any street frontage of a zoning lot occupied by buildings whose street wall heights or widths will remain unaltered.

(4) The minimum base height provisions of paragraph (a) of this Section shall not apply to buildings developed or enlarged after February 2, 2011, that do not exceed such minimum base heights, except where such buildings are located on zoning lots with multiple buildings, one or more of which is developed, enlarged or altered after February 2, 2011, to a height exceeding such minimum base heights.

(5) The City Planning Commission may, upon application, authorize modifications in the required street wall location if the Commission finds that existing buildings, or existing open areas serving existing
#buildings# to remain on the #zoning lot#, would be adversely affected by the location of the #street walls# in the manner prescribed in this Section.

(6) For any #zoning lot# located in a Historic District designated by the Landmarks Preservation Commission, the minimum base height and #street wall# location regulations of this Section, or as modified in any applicable Special District, shall be modified as follows:

(i) The minimum base height of a #street wall# may vary between the height of the #street wall# of an adjacent #building# before setback, if such height is lower than the minimum base height required, up to the minimum base height requirements of this Section, or as modified in any applicable Special District.

(ii) The maximum base height of a #street wall# may vary between the height of the #street wall# of an adjacent #building# before setback, if such height is higher than the maximum base height allowed, and the maximum base height requirements of this Section, provided that such height not exceed 150 feet and provided such #zoning lot# is located within the area bounded by West 22nd Street, a line 100 feet west of Fifth Avenue, a line midway between West 16th Street and West 17th Street, and a line 100 feet east of Sixth Avenue.

(iii) The location of the #street wall# of any #building# may vary between the #street wall# location requirements of this Section, or as modified in any applicable Special District, and the location of the #street wall# of an adjacent #building# fronting on the same #street line#.

(7) In R9D Districts, where a #building# on an adjacent #zoning lot# has #dwelling unit# windows located within 30 feet of a #side lot line# of the #development# or #enlargement#, an open area extending along the entire length of such #side lot line# with a minimum width of 15 feet shall be provided. Such open area may be obstructed only by the permitted obstructions set forth in Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents).

MINIMUM BASE HEIGHT, MAXIMUM BASE HEIGHT AND MAXIMUM BUILDING HEIGHT
<table>
<thead>
<tr>
<th>District(^5)</th>
<th>Minimum Base Height</th>
<th>Maximum Base Height</th>
<th>Maximum #Building or other Structure# Height</th>
</tr>
</thead>
<tbody>
<tr>
<td>R6B</td>
<td>30</td>
<td>40</td>
<td>50</td>
</tr>
<tr>
<td>R6(^2)</td>
<td>30</td>
<td>45</td>
<td>55</td>
</tr>
<tr>
<td>R6(^1) inside #Manhattan Core#</td>
<td>40</td>
<td>55</td>
<td>65</td>
</tr>
<tr>
<td>R6(^1) outside #Manhattan Core#</td>
<td>40</td>
<td>60</td>
<td>70</td>
</tr>
<tr>
<td>R6A</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>R7(^1) inside #Manhattan Core#</td>
<td>40</td>
<td>60</td>
<td>75</td>
</tr>
<tr>
<td>R7(^2) R7B</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>R7(^1) outside #Manhattan Core#</td>
<td>40</td>
<td>65</td>
<td>80</td>
</tr>
<tr>
<td>R7A</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>R7D</td>
<td>60</td>
<td>85</td>
<td>100</td>
</tr>
<tr>
<td>R7X</td>
<td>60</td>
<td>85</td>
<td>125</td>
</tr>
<tr>
<td>R8B</td>
<td>55</td>
<td>60</td>
<td>75</td>
</tr>
<tr>
<td>R8(^2)</td>
<td>60</td>
<td>80</td>
<td>105</td>
</tr>
<tr>
<td>R8(^1) R8A</td>
<td>60</td>
<td>85</td>
<td>120</td>
</tr>
<tr>
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<td>85</td>
<td>150</td>
</tr>
<tr>
<td>R9(^2) R9A(^2)</td>
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<td>135</td>
</tr>
<tr>
<td>R9A R9(^1)</td>
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<td>102</td>
<td>145</td>
</tr>
<tr>
<td>R9D</td>
<td>60</td>
<td>85(^4)</td>
<td>--(^3)</td>
</tr>
<tr>
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<td>60</td>
<td>120</td>
<td>160</td>
</tr>
<tr>
<td>R9X(^1)</td>
<td>105</td>
<td>120</td>
<td>170</td>
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<tr>
<td>R10(^2) R10A(^2)</td>
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<td>185</td>
</tr>
<tr>
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<td>150</td>
<td>210</td>
</tr>
<tr>
<td>R10X</td>
<td>60</td>
<td>85</td>
<td>--(^3)</td>
</tr>
</tbody>
</table>
1 For zoning lots or portions thereof within 100 feet of a wide street

2 For zoning lots on a narrow street except portions of such zoning lots within a distance of 100 feet from an intersection with a wide street and, for zoning lots with only wide street frontage, portions of such zoning lot beyond 100 feet of the street line

3 Buildings or other structures may exceed a maximum base height of 85 feet in accordance with paragraph (c) of this Section

4 For buildings or other structures that front upon an elevated rail line, the maximum base height shall be 25 feet

5 Where the New York City Administrative Code establishes restrictions on the location of buildings on lots fronting upon and within 30 feet of Eastern Parkway in Community Districts 8 and 9 in the Borough of Brooklyn, lines drawn 30 feet north of and 30 feet south of, and parallel to, Eastern Parkway shall be considered the northern and southern street lines of Eastern Parkway.

(2/2/11)

23-634 Special height and setback regulations in R10 Districts within Community District 7, Borough of Manhattan

Within the boundaries of Community District 7 in the Borough of Manhattan, all buildings or other structures located in R10 Districts, except R10A or R10X Districts, shall comply with the requirements of this Section.

The front building wall of all buildings on a zoning lot with any frontage on a wide street, shall extend along the entire wide street frontage of the zoning lot without a setback for a height of 125 feet above the curb level or the full height of the building, whichever is less. Above a height of 125 feet, the front building wall may be set back at least 10 feet on a wide street or 15 feet on a narrow street. Above a height of 150 feet, the front building wall shall be set back at least 10 feet. These mandatory front building wall requirements also apply to all buildings along all street lines of narrow streets within 50 feet of their intersection with the street lines of wide
streets#. For the next 20 feet along the #street line# of a #narrow street#, the mandatory front #building# wall requirements are optional. The height and setback regulations of the underlying district shall apply along #street lines#, or portions thereof, not subject to the front #building# wall requirements.

Front wall recesses are permitted above the level of the second #story# ceiling or 23 feet above #curb level#, whichever is less, provided that the aggregate width of all recesses at the level of any #story# does not exceed 50 percent of the width of the front wall. The depth of such recess shall not exceed 10 feet. No front wall recesses are permitted within 20 feet of the intersection of two #street lines#.

Front wall openings are permitted below the level of the second #story# ceiling, for entrances only.

The preceding #street wall# location provisions shall not apply along any #street# frontage of a #zoning lot# occupied by existing #buildings# whose #street walls# remain unaffected by alterations or #enlargements# to such existing #buildings#.

However, the provisions of this Section shall not apply to any #building# for which the City Planning Commission has granted a special permit pursuant to Section 74-95 (Housing Quality) nor shall it apply to any #building# located within the #Special Lincoln Square District# or within the former West Side Urban Renewal Area excluding frontages along Central Park West or to the #block# bounded by Frederick Douglass Circle, Cathedral Parkway, Manhattan Avenue, West 109th Street and Central Park West. On application, the City Planning Commission may grant special authorization for minor modifications of the mandatory front wall provisions of this Section involving an #enlargement#, upon a showing of compelling necessity. Such authorization, however, may in no event include modification of permitted #floor area# regulations.

(5/8/13)

23-635
Special bulk regulations for certain sites in Community District 4, Borough of Manhattan

Within the boundaries of Community District 4 in the Borough of Manhattan, excluding the #Special Clinton District#, for #developments# or #enlargements# in R8 Districts without a letter suffix, on #zoning lots# larger than 1.5 acres that include #residences# for which #public funding#, as defined in Section 23-911 (General definitions) is committed to be provided, the City
Planning Commission may authorize modifications of height and setback regulations, provided the Commission finds that such modifications will facilitate the provision of such residences, and such modifications will not unduly obstruct access of light and air to the detriment of the occupants or users of buildings on the zoning lot or nearby properties, open space or streets. Prior to issuing a building permit for any development or enlargement utilizing modifications granted by this authorization, the Department of Buildings shall be furnished with written notice of a commitment from the appropriate funding agency for the provision of such public funding.

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

(11/13/12)

23-636 Special height and setback regulations for certain sites in Community District 9, Borough of Manhattan

Within the boundaries of Community District 9 in the Borough of Manhattan, all buildings located in R8 Districts north of West 125th Street shall be developed or enlarged pursuant to the Quality Housing Program.

(2/2/11)

23-64 Alternate Front Setbacks

R6 R7 R8 R9 R10

(a) In the districts indicated, except for Quality Housing buildings, and except as set forth in paragraph (b) of this Section, if an open area is provided along the full length of the front lot line with the minimum depth set forth in the following table, the provisions of Section 23-63 (Maximum Height of Front Wall and Required Front Setbacks) shall not apply. The minimum depth of such an open area shall be measured perpendicular to the front lot line. However, in such instances, except as otherwise provided in Sections 23-62 (Permitted Obstructions) or 23-65 (Tower Regulations), no building or other structure shall penetrate the alternate sky exposure plane set forth in the following table, and the
The sky exposure plane shall be measured from a point above the street line.

In R9 or R10 Districts, the provisions of this Section shall be inapplicable to any development or enlargement with more than 25 percent of the total floor area of the building in residential use.
### ALTERNATE REQUIRED FRONT SETBACKS

<table>
<thead>
<tr>
<th>Depth of Optional Front Open Area (in feet)</th>
<th>Alternate #Sky Exposure Plane#</th>
<th>Slope over #Zoning Lot# (expressed as a ratio of vertical distance to horizontal distance)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>On #Narrow Street Line#</td>
<td>On #Wide Street Line#</td>
<td></td>
</tr>
<tr>
<td>R6 or R7 Districts</td>
<td></td>
<td></td>
</tr>
<tr>
<td>15</td>
<td>10</td>
<td>60</td>
</tr>
<tr>
<td>R8 R9 R10 Districts</td>
<td></td>
<td></td>
</tr>
<tr>
<td>15</td>
<td>10</td>
<td>85</td>
</tr>
</tbody>
</table>

**Diagram:**

- **a**: Horizontal distance
- **h**: Height of sky exposure plane above street line
- **s**: Depth of the optional front open area
- **v**: Vertical distance

**ALTERNATE SKY EXPOSURE PLANE**

R6 R7 R8 R9 R10 Districts

(23-64, 24-53, 33-442, 43-44)
(b) In the districts indicated, for all buildings or other structures, the provisions of this Section shall be inapplicable.

Supplementary Regulations

(2/2/11)

23-65
Tower Regulations

In the districts indicated, except for Quality Housing buildings, and except as set forth in paragraph (c) of this Section, any portion or portions of buildings which in the aggregate occupy not more than 40 percent of the lot area of a zoning lot, or for zoning lots of less than 20,000 square feet, the percentage set forth in the table below, may penetrate an established sky exposure plane in accordance with the provisions of this Section. Such portions of buildings that penetrate a sky exposure plane are hereinafter referred to as towers.

LOT COVERAGE OF TOWERS
ON SMALL ZONING LOTS

<table>
<thead>
<tr>
<th>Area of #Zoning Lot# (in square feet)</th>
<th>Maximum Percent of #Lot Coverage#</th>
</tr>
</thead>
<tbody>
<tr>
<td>10,500 or less</td>
<td>50</td>
</tr>
<tr>
<td>10,501 to 11,500</td>
<td>49</td>
</tr>
<tr>
<td>11,501 to 12,500</td>
<td>48</td>
</tr>
<tr>
<td>12,501 to 13,500</td>
<td>47</td>
</tr>
<tr>
<td>13,501 to 14,500</td>
<td>46</td>
</tr>
<tr>
<td>14,501 to 15,500</td>
<td>45</td>
</tr>
<tr>
<td>15,501 to 16,500</td>
<td>44</td>
</tr>
<tr>
<td>16,501 to 17,500</td>
<td>43</td>
</tr>
<tr>
<td>17,501 to 18,500</td>
<td>42</td>
</tr>
</tbody>
</table>
Buildings developed or enlarged with towers shall comply with either tower-on-a-base regulations or standard tower regulations, as follows:

(a) Applicability of tower-on-a-base regulations

The tower-on-a-base regulations of Section 23-651 shall apply to any such building that:

1. contains more than 25 percent of its total floor area in residential use; and
2. is located on a zoning lot that fronts upon a wide street and is either within 125 feet from such wide street frontage along the short dimension of the block or within 100 feet from such wide street frontage along the long dimension of the block;

If a portion of such building is developed or enlarged with a tower the entire zoning lot shall be subject to the provisions of Section 23-651 (Tower-on-a-base).

(b) Applicability of standard tower regulations

The standard tower regulations of Section 23-652 shall apply to any such building that does not meet the location and floor area criteria of paragraph (a) of this Section.

(c) Inapplicability of tower regulations

The provisions of this Section 23-65 shall not apply to any building:

1. located wholly or partly in a Residence District, that is within 100 feet of a public park with an area of one acre or more, or a street line opposite such a public park; or
2. located in a R9A, R9X, R10A or R10X District.

(2/2/11)

23-651
Tower-on-a-base

Any development or enlargement that meets the location and
a tower shall be constructed as a tower-on-a-base, in accordance with the regulations set forth in this Section. The height of all buildings or other structures shall be measured from the base plane.

(a) Tower regulations

(1) At any level above a building base (referred to hereinafter as a "base"), any portion or portions of a building (referred to hereinafter as a "tower") shall occupy in the aggregate:

(i) not more than 40 percent of the lot area of a zoning lot or, for a zoning lot of less than 20,000 square feet, the percentage set forth in the table in Section 23-65 (Tower Regulations); and

(ii) not less than 30 percent of the lot area of a zoning lot.

However, the highest four stories of the tower or 40 feet, whichever is less, may cover less than 30 percent of the lot area of a zoning lot if the gross area of each story does not exceed 80 percent of the gross area of that story directly below it.

(2) Any tower located above a base shall not be subject to the provisions of Sections 23-63 (Maximum Height of Walls and Required Setbacks).

(3) At least 55 percent of the total floor area permitted on the zoning lot shall be located in stories located either partially or entirely below a height of 150 feet.

When the lot coverage of the tower portion is less than 40 percent, the required 55 percent of the total floor area distribution, within a height of 150 feet, shall be increased in accordance with the following requirement:

<table>
<thead>
<tr>
<th>Percent of Lot Coverage of the Tower Portion</th>
<th>Minimum Percent of Total #Building Floor Area# Distribution Below the Level of 150 Feet</th>
</tr>
</thead>
<tbody>
<tr>
<td>40.0 or greater</td>
<td>55.0</td>
</tr>
<tr>
<td>39.0 to 39.9</td>
<td>55.5</td>
</tr>
<tr>
<td>38.0 to 38.9</td>
<td>56.0</td>
</tr>
</tbody>
</table>
(4) At all levels, such tower shall be set back from the #street wall# of a base at least 15 feet along a #narrow street# and at least 10 feet along a #wide street#, except that such dimensions shall include the depth of any permitted recesses in the #street wall#.

(5) No tower or portion thereof shall be located on a #narrow street# at a distance that is more than 100 feet from the intersection with a #wide street#.

Unenclosed balconies, subject to the provisions of Section 23-13 (Balconies), are permitted to project into or over open areas not occupied by towers.

For the purposes of determining the permitted tower coverage and the required minimum distance between #buildings# or portions thereof, that portion of a #zoning lot# located within 125 feet from the #wide street# frontage along the short dimension of a #block# shall be treated as if it were a separate #zoning lot#.

A tower proposed pursuant to Section 23-65 (Tower Regulations) that has been granted a special permit by the City Planning Commission prior to February 9, 1994, may be started or continued pursuant to that special permit.

(b) #building# base regulations

(1) #Street wall# location

(i) On a #wide street#, and on a #narrow street# within 125 feet of its intersection with a #wide street#, the #street wall# of the base shall occupy the entire #street# frontage of a #zoning lot# not occupied by existing #buildings#. At any height, at least 70 percent of the width of such #street wall#
shall be located within eight feet of the #street line#, and the remaining 30 percent of such #street wall# may be recessed beyond eight feet of the #street line# to provide #outer courts# or balconies.

However, no such recesses shall be permitted within 20 feet of an adjacent #building# fronting on the same #street line# or within 30 feet of the intersection of two #street lines#.

(ii) On a #narrow street# beyond 125 feet from its intersection with a #wide street#, no #street wall# of a base is required nor shall any #street wall# provided beyond 125 feet count toward the computation of any permitted recesses on such wall.

(iii) Where the #street wall# of an adjacent #building# fronting on the same #street line# is located within 10 feet of the #street line#, the #street wall# of the base shall be either located at the #street line# or aligned with the #street wall# of the adjacent #building# for a distance of not less than 20 feet measured horizontally from the side wall of such existing #building#.

(2) Height of #street wall#

All #street walls# of a base shall rise vertically without setback to a height of not less than 60 feet nor more than 85 feet except:

(i) On a #wide street#, if the height of the #street wall# of an adjacent #building# fronting on the same #street line# exceeds 60 feet and if such #street wall# is located within 10 feet of the #street line#, the #street wall# of the base shall match the height of the #street wall# of the adjacent #building# to a maximum height of 100 feet by either of three alternatives:

(a) the #street wall# of the base shall be extended vertically to the height of the adjacent #building# for a distance of not less than 20 feet measured horizontally from the side wall of such adjacent #building#;

(b) at least 50 percent of the width of the #street wall# of the base shall be extended vertically to the height of the adjacent #building#; or
(c) a dormer shall be provided pursuant to paragraph (b)(3) of this Section. Such dormer shall match the height of the adjacent building.

Such street wall of the base fronting on a wide street may be extended along a narrow street within 70 feet of its intersection with the wide street.

(ii) On a narrow street beyond 100 feet of its intersection with a wide street, the street wall of a base shall rise vertically to a height of at least 60 feet when the adjacent building is either less than 60 feet or greater than 85 feet, or match the height of the adjacent building when the height of such building is between 60 feet and 85 feet.

For the purposes of this paragraph, (b)(2), inclusive, the height of an adjacent building shall be the height of a street wall, before setback, if applicable, of that portion of an existing building nearest the development or enlargement, fronting on the same street line, and located on the same or an adjoining zoning lot.

(3) Dormer

For the purposes of this Section, a dormer shall be a vertical extension of the street wall of a base allowed as a permitted obstruction within a required front setback area. A dormer may be located anywhere on a wide street, and on a narrow street within 70 feet of its intersection with a wide street.

On any street frontage, the aggregate width of all dormers at the required initial setback level shall not exceed 60 percent of the width of the street wall of the highest story of the base. For each foot of height above the base, the aggregate width of all dormers at that height shall be decreased by one percent of the street wall width of the highest story of the base. Such dormer shall count as floor area but not as tower lot coverage.

(4) Open areas

All open areas at ground level, located between the street line and the street wall of a base shall be
landscaped except in front of entrances and exits to the building.

(c) Modification of tower coverage and floor area distribution requirements

The tower lot coverage and floor area distribution requirements set forth in paragraph (a)(3) of this Section shall be modified for buildings that provide articulation of a base in accordance with the following provisions:

(1) Recesses

Recesses shall occupy, in the aggregate, between 30 and 50 percent of the width of each eligible story of the base, and measure at least two feet in depth. In addition, the width of any individual recess provided within eight feet of the street line shall not exceed 25 percent of the width of the street wall of the base, unless such recess is provided in combination with an additional recess located beyond eight feet of the street line.

Furthermore, all recesses shall comply with the provisions of paragraph (b)(1) of this Section or paragraph (a)(1) of Section 35-63 (Special Tower Regulations for Mixed Buildings), as applicable. For each street frontage of a building with recesses provided in accordance with this paragraph, (c)(1), the percent of lot coverage of the tower portion of the building may be decreased by 0.5 percent, and the minimum percent of total building floor area distribution below a level of 150 feet may be reduced by 0.25 percent.

(2) Dormers

For each street frontage with dormers, provided in accordance with paragraph (b)(3) of this Section, that measure, at their lowest level, at least 50 percent of the width of the street wall of the highest story of the base, and measure, at their highest level, at least 25 percent of the width of the highest story of the base, and rise at least 25 feet above the base, the percent of lot coverage of the tower portion of the building may be decreased by 0.5 percent, and the minimum percent of total building floor area distribution below a level of 150 feet may be reduced by 0.25 percent.

(3) Matching provision

For each street frontage that provides an extension of
the street wall of a base that matches the height of an adjacent building in accordance with paragraph (b)(2)(i)(b) of this Section, the percent of lot coverage of the tower portion of the building may be decreased by 0.5 percent, and the minimum percent of total building floor area distribution below a level of 150 feet may be reduced by 0.25 percent.

However, the total percent of lot coverage of the tower portion of the building shall not be decreased by more than 2.0 percent, nor shall the minimum percent of total building floor area distribution below a level of 150 feet be reduced by more than 1.0 percent.

(2/2/11)

23-652

Standard tower

Any development or enlargement that does not meet the location and floor area criteria of paragraph (a) of Section 23-65 and includes a tower shall be constructed as a standard tower in accordance with the regulations set forth in this Section.

At all levels, a tower shall be located not less than 15 feet from the street line of a narrow street and not less than 10 feet from the street line of a wide street.

Unenclosed balconies, subject to the provisions of Section 23-13 (Balconies), are permitted to project into or over open areas not occupied by towers.

(4/30/12)

23-66

Required Side and Rear Setbacks

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, side and rear setbacks shall be provided as specified in this Section. Unenclosed balconies, subject to the provisions of Section 23-13 (Balconies), are permitted to project into or over any open areas required by the provisions of this Section. In addition, awnings and other sun control devices, decks, exterior wall thickness, parapet walls, roof thickness, solar energy systems up to four feet high, vegetated roofs, and weirs, are
permitted as set forth in Section 23-62 (Permitted Obstructions).

(2/2/11)

23-661
Required side and rear setbacks for tall buildings in low bulk districts

R1 R2 R5

In R1 and R2 Districts, any portion of a #building or other structure# bounding a #side yard# or a #rear yard# which is more than 30 feet above the mean level of adjacent natural grade shall be set back from such #side yard# line or #rear yard line# for a distance equal to one-half the height of that portion of the #building or other structure# which is higher than 30 feet above the mean level of adjacent natural grade.

In an R5 District, except R5A and R5D Districts, any portion of a #building or other structure# bounding a #side yard# or a #rear yard# which is more than 33 feet above the level of the #base plane# shall be set back from such #side yard# line or such #rear yard line# for a distance equal to one-half the height of that portion of the #building or other structure# which is higher than 33 feet above the level of the #base plane# (see illustration of Side Yard Setback).

The following are permitted to project into any open area required under the provisions of this Section:

(a) parapet walls not more than four feet high; and

(b) chimneys or flues with a total width not exceeding 10 percent of the width of the #building's# walls facing such open area.
23-662
**Required side and rear setbacks for permitted non-residential uses in low bulk districts**

R1 R2 R3 R4 R5

In the districts indicated, except R5D Districts, no portion of any building used for permitted non-residential uses which is more than 30 feet or more than three stories, whichever is less, above the level of a side yard or rear yard, shall be nearer to a side lot line or rear lot line bounding such yard than a distance equal to the height above yard level of such portion of the building.

The following are permitted to project into any open area required under the provisions of this Section:

(a) parapet walls not more than four feet high; and

(b) chimneys or flues with a total width not exceeding 10 percent of the width of the building's walls facing such open area.
(2/2/11)

23-663
Required rear setbacks for tall buildings in other districts

R6 R8 R9 R10

(a) In the districts indicated, except as provided in paragraph (b) of this Section, no portion of a building or other structure more than 125 feet above yard level shall be nearer to a rear yard line than 20 feet. However, this provision shall not apply to any portion of a building that qualifies as a tower under the provisions of Section 23-65 (Tower Regulations).

In the case of a through lot on which a rear yard equivalent is provided as set forth in paragraph (a) of Section 23-532, the requirements of this Section shall apply as if such rear yard equivalent were two adjoining rear yards. If a rear yard equivalent is provided as set forth in paragraphs (b) or (c) of Section 23-532, the requirements of this Section shall not apply.

REAR SETBACK
(23-663, 24-552)
(b) In the districts indicated, for all buildings or other structures, and for Quality Housing buildings in other R6 through R10 Districts, no portion of a building or other structure that exceeds the applicable maximum base height specified in Section 23-633 (Street wall location and height and setback regulations in certain districts) shall be nearer to a rear yard line than 10 feet.

In the case of a through lot on which a rear yard equivalent is provided as set forth in paragraph (a) of Section 23-532, the requirements of this Section shall apply as if such rear yard equivalent were two adjoining rear yards. If a rear yard equivalent is provided as set forth in paragraph (b) of Section 23-532, the requirements of this Section shall not apply.

Regulations Applying in Special Situations

(7/23/08)

23–67
Special Provisions Relating to Specified Streets

(7/23/08)

23–671
Special provisions for zoning lots directly adjoining public parks

In all districts, as indicated, a public park with an area of between one and fifteen acres shall be considered a wide street for the purpose of applying the regulations set forth in Section 23–63 (Maximum Height of Front Wall and Required Front Setbacks) to any building or other structure on a zoning lot adjoining such public park. However, the provisions of this Section shall not apply to a public park more than 75 percent of which is paved.

(7/23/08)

23–672
Special provisions for certain streets in Community District 6 in the Borough of Brooklyn

In Community District 6 in the Borough of Brooklyn, the following #streets# shall be considered #narrow streets# for the purposes of applying height and setback regulations: Second, Carroll and President Streets, between Smith and Hoyt Streets; First Place, Second Place, Third Place and Fourth Place.

(8/14/87)

23-68
Special Provisions for Zoning Lots Divided by District Boundaries

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, whenever a #zoning lot# is divided by a boundary between districts, or is subject to other regulations resulting in different height and setback regulations, or whenever a #zoning lot# is divided by a boundary between a district to which the provisions of Section 23-65 (Tower Regulations) apply and a district to which such provisions do not apply, the provisions set forth in Article VII, Chapter 7, shall apply.

(6/29/94)

23-69
Special Height Limitations

(6/29/94)

23-691
Limited Height Districts

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, wherever such districts are located within a #Limited Height District#, the maximum height of a #building or other structure#, or portion thereof, shall be as shown in the following table:

<table>
<thead>
<tr>
<th>Limited Height Level</th>
<th>Maximum Height above Curb</th>
</tr>
</thead>
<tbody>
<tr>
<td>#Limited Height Level# or #Base Plane#, as</td>
<td></td>
</tr>
</tbody>
</table>
District# | Applicable
--- | ---
LH-1 | 50 feet
LH-1A | 60 feet
LH-2 | 70 feet
LH-3 | 100 feet

(2/2/11)

**23-692**

**Height limitations for narrow buildings or enlargements**

R7-2 R7D R7X R8 R9 R10

In the districts indicated, portions of buildings with street walls less than 45 feet in width shall not be permitted above the following heights:

(a) For interior lots, and for through lots, which shall be treated as two separate interior lots of equal depth for the purposes of determining the height limitations of this Section, a height equal to the width of the street on which such street walls front or 100 feet, whichever is less;

(b) For corner lots bounded by only narrow streets, a height equal to the width of the narrowest of such streets on which such street walls front;

(c) For corner lots bounded by at least one wide street, a height equal to the width of the widest street on which it fronts, or 100 feet, whichever is less;

(d) Where such street walls abut an existing building with street walls that exceed the height permitted in paragraphs (a), (b) or (c) of this Section, such new street walls may reach the height of the tallest of such abutting building walls if they front on a wide street, or the lowest of such abutting building walls if they front on a narrow street, provided such new street walls are fully contiguous at every level with such abutting street walls.

In addition, the following rules shall apply:

(1) The front height and setback regulations and any height limitations of the underlying district shall apply, except that the alternate front setback and tower regulations of Sections
23-64, 23-65, 24-53, 24-54, 33-44 and 33-45 shall not apply. In the event of a conflict between the underlying regulations and the regulations of this Section, the more restrictive shall apply.

(2) The provisions of this Section shall not apply to #street walls# of permitted obstructions or #street walls# located beyond 100 feet of a #street line#.

(3) For the purposes of determining the width of a #street wall#:

(i) the width shall be the sum of the maximum widths of all #street walls# of a #building# at every level. The width of a #street wall# shall be the length of the #street line# from which, when viewed directly from above, lines perpendicular to the #street line# may be drawn to such #street wall#;

(ii) #abutting buildings# on a single #zoning lot# may be considered a single #building#, except as set forth in paragraph (6) of this Section.

(4) For #buildings# with #street walls# less than 45 feet in width that front only on a #narrow street# and #abut# two existing #buildings#, the #street wall# of such #building# shall be no closer to the #street line# than the #street wall# of the #abutting building# that is closest to the #street line#.

(5) On a #through lot# containing #buildings# with #street walls# less than 45 feet in width, the provisions of paragraphs (b) and (c) in Section 23-532 (Required rear yard equivalents) shall not apply.

(6) #Quality Housing buildings# shall be exempt from the provisions of this Section provided the width of the #street wall# at the maximum base height specified in the applicable table in Section 23-633 or 35-24 is at least 45 feet. For such #buildings#, a #street wall# that is less than 45 feet wide may be constructed above such base. For the purposes of this paragraph (6), #abutting buildings# on a single #zoning lot# shall not be considered a single #building#. However, where all the requisite structural framing and all enclosing walls and roofs were completed for an #enlargement#, in accordance with a building permit issued prior to a September 11, 2007 Board of Standards and Appeals (67-07-A) ruling that resulted in the #enlargement# being ineligible for a certificate of occupancy, #abutting buildings# on a single #zoning lot# may be considered a single #building# provided such #zoning lot# is formed prior to August 2, 2011.
23-693
Special provisions applying adjacent to R1 through R6B Districts

R6 R7 R8 R9 R10

In the districts indicated, the #development# or #enlargement# of a #building#, or portions thereof, within 25 feet of an R1, R2, R3, R4, R5 or R6B District, shall:

(a) not exceed a height of 35 feet where such adjoining district is an R1, R2, R3, R4 or R5 District; and

(b) comply with the height and setback regulations of an R6B District where such adjoining district is an R6B District.

23-70
MINIMUM REQUIRED DISTANCE BETWEEN TWO OR MORE BUILDINGS ON A SINGLE ZONING LOT

23-71
Minimum Distance between Buildings on a Single Zoning Lot

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, the minimum distance between the portion of a #building# containing #residences# and any other #building# on the same #zoning lot# shall be as provided in this Section. For the purposes of this Section, #abutting buildings# on a single #zoning lot# may be considered a single #building#. However, these provisions do not apply:

(a) to the extent that such two #buildings# are separated from each other by a #rear yard equivalent# as set forth in Section 23-532 (Required rear yard equivalents); or

(b) to space between a #single-family#, #two-family#, or three-family #residence# and a garage #accessory# thereto.
23-711
Standard minimum distance between buildings

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, the required minimum distance between the portion of a #building# containing #dwelling units# and any other #building# on the same #zoning lot# shall vary according to the height of such #buildings# and the presence of #legally required windows# in facing #building# walls. Such minimum distance shall be, in feet, as indicated in the following table:

<table>
<thead>
<tr>
<th>Wall Condition*</th>
<th>Maximum #Building# Height above #Base Plane# or #Curb Level#, as Applicable (in feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>25  35  40  50  Over 50</td>
</tr>
<tr>
<td>Wall to Wall</td>
<td>20  25  30  35  40</td>
</tr>
<tr>
<td>Wall to Window</td>
<td>30  35  40  45  50</td>
</tr>
<tr>
<td>Window to Window</td>
<td>40  45  50  55  60</td>
</tr>
</tbody>
</table>

* Wall condition shall be defined as:

"wall to wall" is a condition where two walls of #buildings# face each other, and neither wall contains a #legally required window#;

"wall to window" is a condition where two walls of #buildings# face each other, and one wall contains a #legally required window# and the other wall does not contain a #legally required window#;

"window to window" is a condition where two walls of #buildings# face each other, and both walls contain a #legally required window#.

In addition, the following rules shall apply:

(a) the minimum distances set forth in this table shall be provided at the closest point between #buildings#;
(b) any portion of a #building# that qualifies as a #building segment# may be treated as a separate #building# for the purposes of determining the minimum distance required between such #building segment# and another #building# or #building segment#;

(c) where #buildings# of different heights face each other, the average of the heights of such #buildings# shall determine the minimum distance required between them;

(d) projections having a maximum height of 25 feet above adjoining grade, a maximum depth of five feet, and an aggregate width not exceeding 25 percent of the #building# wall from which they project, may penetrate the minimum spacing requirements;

(e) portions of #buildings# above 125 feet that exceed, in aggregate, a #lot coverage# of 40 percent, shall be spaced at least 80 feet apart;

(f) in R1, R2, R3, R4A and R4-1 Districts within #lower density growth management areas#, the provisions of this paragraph, (f), shall apply to any #zoning lot# with two or more #buildings# where at least 75 percent of the #floor area# of one #building# is located beyond 50 feet of a #street line# and the #private road# provisions do not apply. For the purposes of this paragraph, any #building# containing #residences# with no #building# containing #residences# located between it and the #street line# so that lines drawn perpendicular to the #street line# do not intersect any other #building# containing #residences# shall be considered a “front building,” and any #building# containing #residences# with at least 75 percent of its #floor area# located beyond the #rear wall line#, or prolongation thereof, of a “front building” shall be considered a “rear building.” The minimum distances set forth in the table in this Section shall apply, except that a minimum distance of 45 feet shall be provided between any such front and rear #buildings#; and

(g) for #buildings# existing on April 30, 2012, the minimum distances set forth in the table in this Section, and any #non-complying# distance greater than eight feet, may be reduced by up to eight inches of exterior wall thickness, provided the added wall thickness has a thermal resistance (R-value) of at least 1.5 per inch. A #non-complying# distance of eight feet or less shall be limited to a total reduction of one inch of wall thickness for each foot of such existing distance between buildings.
Supplementary Regulations

(12/15/61)

23-72
Subdivision of a Zoning Lot after Development

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts as indicated, after any portion of a #zoning lot# has been #developed# under the provisions of Section 23-71 (Minimum Distance between Buildings on a Single Zoning Lot), such #zoning lot# may be divided into smaller #zoning lots# only if each resulting #zoning lot# and #building# or #buildings# thereon comply with all the #bulk# regulations of the district in which they are located, except as provided in Article VII, Chapter 8.

(12/8/05)

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

Definitions and General Provisions

(12/15/61)

23-81
Definitions

Words in italics are defined in Section 12-10 (DEFINITIONS) or, if applicable exclusively to this Section, in this Section.

Basic Regulations

(2/2/11)

23-82
Building Walls Regulated by Minimum Spacing Requirements

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, at any level at which two portions
of a single #building# or #abutting buildings# on a single #zoning lot# are not connected one to the other, such portions shall be deemed to be two separate #buildings#, and the provisions set forth in Section 23-71 (Minimum Distance between Buildings on a Single Zoning Lot) shall apply. In applying such provisions, the height of the two portions shall be measured from the roof of the connecting portion of such #building# instead of from the #base plane# or #curb level#, as applicable.

(2/2/11)

23-83
Building Walls Regulated by Other than Minimum Spacing Requirements

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, to the extent that the provisions of Section 23-82 (Building Walls Regulated by Minimum Spacing Requirements) do not apply, the minimum distance between different walls of the same #building# shall conform to the regulations set forth in the following Sections:

Section 23-84 (Outer Court Regulations)
Section 23-85 (Inner Court Regulations)
Section 23-86 (Minimum Distance between Legally Required Windows and Walls or Lot Lines)
Section 23-87 (Permitted Obstructions in Courts).

For the purposes of these Sections, #abutting buildings# on a single #zoning lot# shall be considered a single #building#.

However, these regulations shall not apply to any #single-# or #two-family detached residence#.

A corner of a #court# may be cut off between walls of the same #building#, provided that the length of the wall of such cut-off does not exceed seven feet.

The Commissioner of Buildings may approve minor recesses, projections and architectural treatment of the outline of #courts# as long as these variations do not substantially change the depth or width of the #court#. 
23-84
Outer Court Regulations

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, #outer courts# shall be in compliance with the provisions of this Section.

(6/29/94)

23-841
Narrow outer courts

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, if an #outer court# is less than 30 feet wide, the width of such #outer court# shall be at least one and one-third the depth of such #outer court#.

However, in R3, R4 or R5 Districts, for #single-# and #two-family residences#, three #stories# or less in height, the width of such #outer court# shall be at least equal to the depth of such #outer court#.

(12/15/61)

23-842
Wide outer courts

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, if an #outer court# is 30 feet or more in width, the width of such #outer court# must be at least equal to the depth of such #outer court#, except that such width need not exceed 60 feet.

(12/15/61)

23-843
Outer court recesses

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10
In all districts, as indicated, the width of an #outer court recess# shall be at least twice the depth of the recess, except that such width need not exceed 60 feet.

(2/2/11)

23-844
Modification of court and side yard regulations in the area of the former Bellevue South Urban Renewal Plan in the Borough of Manhattan

In the Borough of Manhattan, in the area designated by the former Bellevue South Urban Renewal Plan, for a #development# or #enlargement# on a #zoning lot# that adjoins a #zoning lot# including a #building# containing #residences# with #non-complying courts# along the common #side lot line#, the #court# regulations of Section 23-80 and the open area requirements of paragraph (c) of Section 23-462 (Side yards for all other residential buildings) may be modified to allow an open area at least eight feet wide to extend along a portion of the #side lot line#.

(12/15/61)

23-85
Inner Court Regulations

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, #inner courts# shall be in compliance with the provisions of this Section.

(9/18/69)

23-851
Minimum dimensions of inner courts

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, the area of an #inner court# shall not be less than 1,200 square feet, and the minimum dimension of such #inner court# shall not be less than 30 feet. For the purposes of this Section, that portion of an open area not part of an #inner court# and over which, when viewed directly from above, lines perpendicular to a #lot line# may be drawn into such #inner court#,
shall be considered part of such inner court#. In R1, R2 and R3 Districts, the area of an inner court# shall not be less than 200 square feet and the minimum dimension of such inner court# shall not be less than 12 feet.

(12/15/61)

23-852
Inner court recesses

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, the width of an inner court recess# shall be at least twice the depth of the recess. However, if the recess opening is 60 feet or more in width, this provision shall not apply.

(2/2/11)

23-86
Minimum Distance Between Legally Required Windows and Walls or Lot Lines

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts as indicated, the minimum distance between legally required windows# and walls or lot lines# shall be as set forth in this Section, except that this Section shall not apply to legally required windows# in buildings# containing residences#:

(a) in R2X, R3, R4 or R5A Districts, with a maximum height of 35 feet and with a maximum of three units; and

(b) in other districts either:

(1) with a maximum height of 32 feet and with a maximum of three units; or

(2) with three stories# if the lowest story# is either a basement# or is excluded from floor area# by definition.

For the purposes of this Section, abutting buildings# on the same zoning lot# shall be considered a single building#.
23-861
General provisions

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, except as otherwise provided in Section 23-862 (Minimum distance between legally required windows and lot lines on small corner lots in R9 or R10 Districts) or Section 23-863 (Minimum distance between legally required windows and any wall in an inner court), the minimum distance between a legally required window and:

(a) any wall;

(b) a rear lot line, or vertical projection thereof; or

(c) a side lot line, or vertical projection thereof;

shall be 30 feet, measured in a horizontal plane at the sill level of, and perpendicular to, such window for the full width of the rough window opening; provided, however, that a legally required window may open on any outer court meeting the requirements of Section 23-84 (Outer Court Regulations).

In R3, R4 and R5 Districts, the minimum dimension between a legally required window and a side lot line shall be 15 feet. Such 15 foot dimension shall be measured in a horizontal plane perpendicular to the side lot line or vertical projection thereof. Furthermore, such area with a 15 foot dimension shall be open to the sky from ground level up for the entire length of the side lot line. Only air conditioning condensation units, chimneys, downspouts, eaves, exterior wall thickness, gutters, open accessory off-street parking spaces, ramps for access by the handicapped, and steps shall be permitted obstructions in such open area, subject to the conditions set forth in paragraph (a) of Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents), and provided such obstructions will not reduce the minimum width of the open area by more than three feet.

(4/30/12)

23-862
Minimum distance between legally required windows and lot lines on small corner lots in R9 or R10 Districts

R9 R10
In the districts indicated, on a corner lot less than 10,000 square feet in lot area, a legally required window may open on a yard bounded on one side by a front lot line and having a minimum width of 20 feet, provided that the provisions of Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents) shall not apply to such yard. However, awnings and other sun control devices, exterior wall thickness and solar energy systems on walls, as set forth in Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents), shall be permitted within such minimum distance.

(12/15/61)

23-863
Minimum distance between legally required windows and any wall in an inner court

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, the minimum horizontal distance between a legally required window opening on an inner court and any wall opposite such window on the same zoning lot shall not be less than 30 feet, nor shall any such wall be nearer to such window than a distance equal to one-half the total height of such wall above the sill level of such window. Such minimum distance need not exceed 60 feet.

Such minimum distance shall be measured in a horizontal plane at the sill level of, and perpendicular to, the legally required window for the full width of the rough window opening, between such window and a projection of such wall onto such horizontal plane.

(4/30/12)

23-87
Permitted Obstructions in Courts

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

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

(a) Arbors or trellises;
(b) Awnings and other sun control devices. However, when located at a level higher than the first story, excluding a basement, all such devices:

(1) shall be limited to a maximum projection from a building wall of 2 feet, 6 inches; and

(2) shall have solid surfaces that, in aggregate, cover an area no more than 30 percent of the area of the building wall (as viewed in elevation) from which they project;

(c) Eaves, gutters, downspouts, window sills, or similar projections extending into such court not more than four inches;

(d) Exterior wall thickness, where such wall thickness is added to the exterior face of a building wall existing on April 30, 2012, provided the added wall thickness has a thermal resistance (R-value) of at least 1.5 per inch, and is limited to one inch of thickness for every foot of existing court width, up to a maximum thickness of eight inches;

Where buildings that have added exterior wall thickness pursuant to this Section are enlarged, such portion may similarly encroach upon required courts in order to align with the exterior walls of the existing building, provided such enlargement contains less floor area than the existing building, and there is no encroachment of floor area into a required court;

(e) Fences;

(f) Fire escapes in outer courts;

Fire escapes in outer court recesses not more than five feet in depth;

Fire escapes in inner courts where such fire escapes are required as a result of alterations in buildings existing before December 15, 1961;

Fire escapes in outer court recesses more than five feet in depth where such fire escapes are required as a result of alterations in buildings existing before December 15, 1961;

(g) Flagpoles;

(h) Open terraces, porches, or steps;

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

In addition, for courts at a level higher than the first story, decks, skylights, parapet walls, roof thickness, solar energy systems up to four feet high, vegetated roofs, and weirs, as set forth in Section 23-62 (Permitted Obstructions), shall be permitted.

(4/30/08)

23-88
Minimum Distance between Lot Lines and Building Walls

(2/2/11)

23-881
Minimum distance between lot lines and building walls in lower density growth management areas

In R1, R2, R3, R4A and R4-1 Districts within lower density growth management areas, the provisions of this Section shall apply to any zoning lot with two or more buildings, where at least 75 percent of the floor area of one building is located beyond 50 feet of a street line and the private road provisions do not apply. For the purposes of this Section, any building containing residences with no building containing residences located between it and the street line so that lines drawn perpendicular to the street line do not intersect any other building containing residences shall be considered a “front building,” and any building containing residences with at least 75 percent of its floor area located beyond the rear wall line, or prolongation thereof, of a “front building” shall be considered a “rear building”. An open area with a minimum width of 15 feet shall be provided between any such “rear building” and the side lot line of an adjoining zoning lot, and an open area with a minimum width of 30 feet shall be provided between any such “rear building” and the rear lot line of an adjoining zoning lot. The permitted obstruction provisions of Section 23-44 for side yards shall apply where such open areas adjoin a side lot line, and the permitted obstruction provisions of Section 23-44 for rear yards shall apply where such open areas adjoin a rear lot line.
23-882
Minimum distance between lot lines and building walls in R1 through R5 Districts

R1 R2 R3 R4 R5

In the districts indicated, for corner lots with multiple buildings or building segments, an open area at least 30 feet in depth shall be provided between the side lot line and the rear wall line of any building or building segment that does not front upon two streets in its entirety.

23-89
Open Area Requirements for Residences

23-891
In R1 through R5 Districts

R1 R2 R3 R4 R5

In the districts indicated, except R4B and R5B Districts, the provisions of this Section shall apply to all zoning lots with two or more buildings or building segments containing residences. All such buildings or building segments shall provide open areas in accordance with this Section. Only those obstructions set forth in Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents) shall be allowed, except that parking spaces, whether enclosed or unenclosed, and driveways, shall not be permitted within such open areas.

(a) An open area shall be provided adjacent to the rear wall of each such building or building segment. For the purposes of this Section, the “rear wall” shall be the wall opposite the wall of each building or building segment that faces a street or private road. The width of such open area shall be equal to the width of each building or building segment, and the depth of such open area shall be at least 30 feet when measured perpendicular to each rear wall. No such open areas shall serve more than one building or building segment.
(b) For buildings or building segments that front upon two or more streets or private roads, and for buildings or building segments that do not face a street or private road, one wall of such building or building segment shall be designated the rear wall, and the open area provisions of this Section applied adjacent to such wall. However, for not more than one building or building segment located at the corner of intersecting streets or private roads, the depth of such required open area may be reduced to 20 feet.

(2/2/11)

23-892
In R6 through R10 Districts

R6A R6B R7A R7B R7D R7X R8A R8B R8X R9A R9D R9X R10A R10X

(a) In the districts indicated, the entire area of the zoning lot between the street line and all street walls of the building and their prolongations shall be planted at ground level, or in raised planting beds that are permanently affixed to the ground, except that such plantings shall not be required at the entrances to and exits from the building, within driveways accessing off-street parking spaces located within, to the side, or rear of such building, or between commercial uses and the street line. No zoning lot shall be altered in any way that will either create a new non-compliance or increase the degree of non-compliance with the provisions of this Section.

R6 R7 R8 R9 R10

(b) In the districts indicated without a letter suffix, on zoning lots containing a Quality Housing building, the entire area of the zoning lot between the street line and all street walls of the building and their prolongations shall be planted at ground level, or in raised planting beds that are permanently affixed to the ground, except that such plantings shall not be required at the entrances to and exits from the building within driveways accessing off-street parking spaces located within, to the side, or rear of such building, or between commercial uses and the street line.

(5/21/87)
23-90
INCLUSIONARY HOUSING

(7/29/09)

23-91
Definitions

For the purposes of this Section, inclusive, matter in italics is defined either in Section 12-10 (DEFINITIONS) or in this Section.

(2/2/11)

23-911
General definitions

The following definitions shall apply throughout Section 23-90 (INCLUSIONARY HOUSING), inclusive:

Administering agent

An “administering agent” is the entity responsible for ensuring, pursuant to a #regulatory agreement#, that:

(a) each subject rental #affordable housing unit# is rented in compliance with such #regulatory agreement# at #rent-up# and upon each subsequent vacancy; or

(b) each subject #homeownership affordable housing unit# is owned and occupied in compliance with such #regulatory agreement# at #sale# and upon each #resale#.

Affordable floor area

(a) Where all of the #dwelling units#, #rooming units# and #supportive housing units# in a #generating site#, other than any #super’s unit#, are #affordable housing units#, all of the #residential floor area#, or #community facility floor area# for a #supportive housing project#, in such #generating site# is “affordable floor area.”

(b) Where one or more of the #dwelling units# or #rooming units# in a #generating site#, other than any #super’s unit#, are not #affordable housing units#, the #affordable floor area# in such
#generating site# is the sum of:

(1) all of the #residential floor area# within the perimeter walls of the #affordable housing units# in such #generating site#; plus

(2) a figure determined by multiplying the #residential floor area# of the #eligible common areas# in such #generating site# by a fraction, the numerator of which is all of the #residential floor area# within the perimeter walls of the #affordable housing units# in such #generating site# and the denominator of which is the sum of the #residential floor area# within the perimeter walls of the #affordable housing units# in such #generating site# plus the #residential floor area# within the perimeter walls of the #dwelling units# or #rooming units# in such #generating site#, other than any #super’s unit#, that are not #affordable housing units#.

Affordable housing

“Affordable housing” consists of:

(a) #affordable housing units#; and

(b) #eligible common areas#.

Affordable housing plan

An “affordable housing plan” is a plan approved by #HPD# to #develop#, rehabilitate or preserve rental or #homeownership affordable housing#, pursuant to the provisions of Section 23-90, inclusive.

Affordable housing unit

An “affordable housing unit” is:

(a) a #dwelling unit#, other than a #super’s unit#, that is used for class A occupancy as defined in the Multiple Dwelling Law and that is or will be restricted, pursuant to a #regulatory agreement#, to occupancy by:

(1) #low income households#;

(2) where permitted by Section 23-953 (Special floor area compensation provisions in specified areas), either #low
income households# or a combination of low income households# and moderate income households# or middle income households#; or

(3) upon resale# of homeownership affordable housing units#, other eligible buyers#, as applicable;

(b) a rooming unit#, other than a super’s unit#, that is used for class B occupancy as defined in the Multiple Dwelling Law and that is or will be restricted, pursuant to a regulatory agreement#, to occupancy by low income households#; or

(c) a supportive housing unit# within a supportive housing project#.

Affordable housing units# that are restricted to homeownership#, as defined in Section 23-913, pursuant to a regulatory agreement#, must be dwelling units#.

Capital element

“Capital elements” are, with respect to any generating site#, the electrical, plumbing, heating and ventilation systems in such generating site#, any air conditioning system in such generating site# and all facades, parapets, roofs, windows, doors, elevators, concrete and masonry in such generating site# and any other portions of such generating site# specified in the guidelines#.

Compensated development

A “compensated development” is a development#, an enlargement# of more than 50 percent of the floor area# of an existing building# or, where permitted by the provisions of Section 98-262, a conversion# of a building#, or portion thereof, from non-residential use# to dwelling units#, that is located within a compensated zoning lot#.

Compensated zoning lot

A “compensated zoning lot” is a zoning lot# that contains a compensated development# and receives an increased floor area ratio#, pursuant to the provisions of Section 23-90, inclusive.

Completion notice

A “completion notice” is a notice from HPD# to the Department of
Buildings stating that the affordable housing in all or a portion of any generating site is complete and stating the affordable floor area of such affordable housing.

Eligible common area

“Eligible common area” includes any residential floor area in a generating site that is located within the perimeter walls of a super’s unit, and also includes any residential floor area in such generating site that is not located within the perimeter walls of any other dwelling unit or rooming unit, except any residential floor area for which a user fee is charged to residents of affordable housing units.

Floor area compensation

“Floor area compensation” is any additional residential floor area permitted in a compensated development, pursuant to the provisions of Section 23-90, inclusive.

Generating site

A “generating site” is a building or building segment containing either residential affordable floor area or a supportive housing project, which generates floor area compensation. Non-residential floor area on a generating site, other than a supportive housing project, may not generate floor area compensation.

Grandfathered tenant

A “grandfathered tenant” is any household that:

(a) occupied an affordable housing unit in preservation affordable housing or substantial rehabilitation affordable housing on the regulatory agreement date, pursuant to a lease, occupancy agreement or statutory tenancy under which one or more members of such household was a primary tenant of such affordable housing unit; and

(b) has not been certified by the administering agent to have an annual income below the low income limit, moderate income limit or middle income limit, as applicable to such affordable housing unit; or

(c) in homeownership preservation affordable housing or
#homeownersh# substantial rehabilitation affordable housing#, has been certified by the #administering agent# to have an annual income below the #low income limit#, #moderate income limit# or #middle income limit#, as applicable to such #affordable housing unit#, but has elected not to purchase such #affordable housing unit#.

Guidelines

The “guidelines” are the #guidelines# adopted by #HPD#, pursuant to paragraph (k) of Section 23-96 (Requirements for Generating Sites).

Household

Prior to #initial occupancy# of an #affordable housing unit#, a “household” is, collectively, all of the persons intending to occupy such #affordable housing unit# at #initial occupancy#. After #initial occupancy# of an #affordable housing unit#, a #household# is, collectively, all of the persons occupying such #affordable housing unit#.

HPD

“HPD” is the Department of Housing Preservation and Development or its successor agency or designee, acting by or through its Commissioner or his or her designee.

Income index

The “income index” is 200 percent of the Very Low-Income Limit established by the U.S. Department of Housing and Urban Development (HUD) for Multifamily Tax Subsidy Projects (MTSPs) in accordance with Internal Revenue Code Sections 42 and 142, as amended by Section 3009(a) of the Housing and Economic Recovery Act of 2008, as adjusted for household size. #HPD# shall adjust such figure for the number of persons in a #household# in accordance with such methodology as may be specified by HUD or in the #guidelines#. #HPD# may round such figure to the nearest 50 dollars or in accordance with such methodology as may be specified by HUD or in the #guidelines#. If HUD ceases to establish, or changes the standards methodology for the establishment of, such income limit for MTSPs or ceases to establish the methodology for adjusting such figure for #household# size, the standards and methodology for establishment of the #income index# shall be specified in the #guidelines#.
Initial occupancy

“Initial occupancy” is:

(a) in rental affordable housing, the first date upon which a particular household occupies a particular affordable housing unit as a tenant, and shall not refer to any subsequent renewal lease of the same affordable housing unit to the same tenant household; or

(b) in homeownership affordable housing, the first date upon which a particular household occupies a particular affordable housing unit as a homeowner.

For any household occupying an affordable housing unit of preservation affordable housing or substantial rehabilitation affordable housing on the regulatory agreement date, initial occupancy is the regulatory agreement date.

Low income floor area

The “low income floor area” is the affordable floor area that is provided for low income households or, upon resale as defined in Section 23-913, eligible buyers.

Low income household

A “low income household” is a household having an income less than or equal to the low income limit at initial occupancy, except that, with regard to low income floor area within preservation affordable housing or substantial rehabilitation affordable housing, a grandfathered tenant shall also be a low income household.

Low income limit

The “low income limit” is 80 percent of the income index.

Middle income floor area

The “middle income floor area” is the affordable floor area that is provided for middle income households or, upon resale as defined in Section 23-913, for eligible buyers.

Middle income household
A “middle income household” is a household having an income greater than the moderate income limit and less than or equal to the middle income limit at initial occupancy, except that, with regard to middle income floor area within substantial rehabilitation affordable housing, a grandfathered tenant shall also be a middle income household.

Middle income limit

The “middle income limit” is 175 percent of the income index.

Moderate income floor area

The “moderate income floor area” is the affordable floor area that is provided for moderate income households or, upon resale as defined in Section 23-913, for eligible buyers.

Moderate income household

A “moderate income household” is a household having an income greater than the low income limit and less than or equal to the moderate income limit at initial occupancy, except that, with regard to moderate income floor area within substantial rehabilitation affordable housing, a grandfathered tenant shall also be a moderate income household.

Moderate income limit

The “moderate income limit” is 125 percent of the income index.

New construction affordable housing

“New construction affordable housing” is affordable housing that:

(a) is located in a building or portion thereof that did not exist on a date which is 36 months prior to the regulatory agreement date;

(b) is located in floor area for which the Department of Buildings first issued a temporary or permanent certificate of occupancy on or after the regulatory agreement date; and

(c) complies with such additional criteria as may be specified by HPD in the guidelines.
Permit notice

A “permit notice” is a notice from #HPD# to the Department of Buildings stating that building permits may be issued to a compensated development to utilize floor area compensation from all or a portion of the affordable floor area on a generating site. Any permit notice shall:

(a) state the amount of low income floor area, moderate income floor area or middle income floor area attributable to such generating site;

(b) state whether the affordable housing comprising such low income floor area, moderate income floor area or middle income floor area is new construction affordable housing, substantial rehabilitation affordable housing or preservation affordable housing;

(c) state whether the affordable housing comprising such low income floor area, moderate income floor area or middle income floor area has utilized public funding; and

(d) specify the amount of such affordable housing that the compensated development may utilize to generate floor area compensation.

Preservation affordable housing

“Preservation affordable housing” is affordable housing that:

(a) is a generating site that existed and was legally permitted to be occupied on the regulatory agreement date, except as permitted in the guidelines; and

(b) complies with the provisions of Section 23-961, paragraph (e)(Special requirements for rental preservation affordable housing) or Section 23-962, paragraph (f)(Special requirements for homeownership preservation affordable housing), as applicable.

Public funding

“Public funding” is any grant, loan or subsidy from any Federal, State or local agency or instrumentality, including, but not limited to, the disposition of real property for less than market value, purchase money financing, construction financing, permanent
financing, the utilization of bond proceeds and allocations of low
income housing tax credits. Public funding shall not include the
receipt of rent subsidies pursuant to Section 8 of the United States
Housing Act of 1937, as amended, or an exemption or abatement of
real property taxes pursuant to Section 420-a, Section 420-c,
Section 421-a, Section 422, Section 488-a or Section 489 of the Real
Property Tax Law, Article XI of the Private Housing Finance Law or
such other programs of full or partial exemption from or abatement
of real property taxation as may be specified in the guidelines.

Regulatory agreement

A “regulatory agreement” is an agreement between HPD and the owner
of the affordable housing that requires compliance with all
applicable provisions of an affordable housing plan, Section 23-
90, inclusive, and the guidelines.

Regulatory agreement date

The “regulatory agreement date” is, with respect to any affordable
housing, the date of execution of the applicable regulatory
agreement. If a regulatory agreement is amended at any time, the
regulatory agreement date is the original date of execution of
such regulatory agreement, without regard to the date of any
amendment.

Regulatory period

The “regulatory period” is, with respect to any generating site,
the entire period of time during which any floor area compensation
generated by the affordable floor area on such generating site is
the subject of a permit, temporary certificate of occupancy or
permanent certificate of occupancy issued by the Department of
Buildings, or is otherwise under construction or in use in a
compensated development.

Substantial rehabilitation affordable housing

“Substantial rehabilitation affordable housing” is affordable
housing that:

(a) is a generating site that existed on the regulatory
agreement date; and

(b) complies with the provisions of Section 23-961, paragraph (f)
(Special requirements for rental substantial rehabilitation
affordable housing), or Section 23-962, paragraph (g) (Special requirements for homeownership substantial rehabilitation affordable housing), as applicable.

Super’s unit

A “super’s unit” is, in any generating site, not more than one dwelling unit or rooming unit that is reserved for occupancy by the superintendent of such building.

(7/29/09)

23-912
Definitions applying to rental affordable housing

The following definitions shall apply to rental affordable housing:

Legal regulated rent

A “legal regulated rent” is, with respect to any affordable housing unit, the initial monthly rent registered with the Division of Housing and Community Renewal at rent-up in accordance with paragraph (b) of Section 23-961 (Additional requirements for rental affordable housing).

Maximum monthly rent

The “maximum monthly rent” is:

(a) 30 percent of the low income limit for an affordable housing unit restricted to occupancy by low income households, divided by 12, minus the amount of any applicable utility allowance;

(b) 30 percent of the moderate income limit for an affordable housing unit restricted to occupancy by moderate income households, divided by 12, minus the amount of any applicable utility allowance; and

(c) 30 percent of the middle income limit for an affordable housing unit restricted to occupancy by middle income households, divided by 12, minus the amount of any applicable utility allowance.
Monthly rent

The “monthly rent” is the monthly amount charged, pursuant to paragraph (b) of Section 23-961 (Additional requirements for rental affordable housing), to a tenant in an affordable housing unit.

Rent stabilization

“Rent stabilization” is the Rent Stabilization Law of 1969 and the Emergency Tenant Protection Act of 1974 and all regulations promulgated pursuant thereto or in connection therewith. If the Rent Stabilization Law of 1969 or the Emergency Tenant Protection Act of 1974 is repealed, invalidated or allowed to expire, rent stabilization shall be defined as set forth in the guidelines.

Rent-up

“Rent-up” is the first rental of vacant affordable housing units on or after the regulatory agreement date, except that, where one or more affordable housing units in preservation affordable housing or substantial rehabilitation affordable housing were occupied by grandfathered tenants on the regulatory agreement date, rent-up shall have the same meaning as regulatory agreement date.

Rent-up date

The “rent-up date” is the date upon which leases for a percentage of vacant affordable housing units set forth in the guidelines have been executed, except that, where one or more affordable housing units in preservation affordable housing or substantial rehabilitation affordable housing were occupied by grandfathered tenants on the regulatory agreement date, the rent-up date is the regulatory agreement date.

Supportive housing project

A “supportive housing project” is a non-profit institution with sleeping accommodations, as specified in Section 22-13 (Use Group 3), where:

(a) 100 percent of the supportive housing units within such generating site, have been restricted to use as affordable housing for persons with special needs pursuant to a regulatory agreement;
(b) such generating site does not contain any dwelling unit or rooming unit that is not accessory; and

(c) such generating site is not a compensated development.

Supportive housing unit

A “supportive housing unit” is floor area in a supportive housing project that consists of sleeping quarters for persons with special needs and any private living space appurtenant thereto.

Utility allowance

A “utility allowance” is a monthly allowance set by HPD for the payment of utilities where the tenant of an affordable housing unit is required to pay all or a portion of the utility costs with respect to such affordable housing unit in addition to any payments of monthly rent.

(7/29/09)

23-913 Definitions applying to homeownership affordable housing

The following definitions shall apply to homeownership affordable housing, where homeownership is as defined in this Section:

Appreciated price

The “appreciated price” for any homeownership affordable housing unit is the product of the sale or resale price of such homeownership affordable housing unit on the previous sale date and the appreciation index applicable at resale as specified in the guidelines.

Appreciation cap

The “appreciation cap” is the resale price at which the combined cost of monthly fees, mortgage payments, utilities and property taxes to be paid by the homeowner would be equal to 30 percent of:

(a) 125 percent of the income index for a homeownership affordable housing unit that was restricted to occupancy by low income households at sale; or
(b) 175 percent of the income index for a homeownership affordable housing unit that was restricted to occupancy by moderate income households at sale; or

(c) 200 percent of the income index for a homeownership affordable housing unit that was restricted to occupancy by middle income households at sale.

Appreciation index

The “appreciation index” is 100 until August 1, 2010. On or after August 1, 2010, the appreciation index shall be a number greater than 100, representing the cumulative increase in resale price of a homeownership affordable housing unit permitted pursuant to the annual rates of increase established by HPD.

HPD shall set the annual rate of increase at the same rate as the percentage change in the Consumer Price Index for all urban consumers, as defined by the U.S. Bureau of Labor Statistics, for the 12 months ended on June 30 of that year, plus one percent per year, but the annual rate of increase shall be no less than one percent per year. HPD shall adjust the Consumer Price Index component of the appreciation index on August 1 of each calendar year, commencing on August 1, 2010, based on the percentage change in the Consumer Price Index for the 12 months ended on June 30 of that calendar year. For a fraction of a year, the components of the appreciation index shall be set as specified in the guidelines. HPD may adjust the methodology for calculating the appreciation index not more than once every two years in accordance with the guidelines.

Commencement date

The “commencement date” is the date upon which sales for a percentage of homeownership affordable housing units in a generating site set forth in the guidelines have been completed, except that, where one or more homeownership affordable housing units in preservation affordable housing or substantial rehabilitation affordable housing were occupied by grandfathered tenants on the regulatory agreement date, the commencement date is the regulatory agreement date.

Condominium association

A “condominium association” is an organization of condominium homeowners, with a form of governance specified in the
Cooperative corporation

A “cooperative corporation” is any corporation organized exclusively for the purpose of providing housing accommodations to shareholders who are persons or families entitled, by reason of ownership of shares in such corporation, to residential occupancy.

Down payment

The “down payment” is a payment that is not secured by any form of debt, made on or before the sale date by the eligible buyer approved by the administering agent to purchase a homeownership affordable housing unit.

Eligible buyer

An “eligible buyer” is a household that qualifies to buy a specific homeownership affordable housing unit. Such a household shall:

(a) except in the case of succession:

(1) be, at the time of application for an initial sale, a low income household, moderate income household or middle income household for which, at the initial price, the combined cost of monthly fees, mortgage payments, utilities and property taxes that would be paid for a homeownership affordable housing unit is not more than 35 percent and not less than 25 percent of such household's income. However, for a household that resided on a generating site on the date of submission of an affordable housing plan, HPD may waive the requirement that housing costs be not less than 25 percent of such household’s income;

(2) be, at the time of application for a resale, in the case of an affordable housing unit initially limited to sale to a low income household, moderate income household or middle income household, any household for which, at the maximum resale price, the combined cost of monthly fees, mortgage payments, utilities and property taxes that would be paid for a homeownership affordable housing unit is not more than 35 percent and not less than 25 percent of such household's income;
(3) have cash or equivalent assets that are at least equal to the required down payment for such affordable housing unit. However, HPD may waive this requirement for a household that resided on a generating site on the date of submission of an affordable housing plan to HPD; and

(4) meet such additional eligibility requirements as may be specified in the guidelines.

(b) in the case of succession:

(1) be, at the time of application, a household for which, at the maximum resale price, the combined cost of monthly fees, imputed mortgage payments, utilities and property taxes for the subject homeownership affordable housing unit is not less than 25 percent of such household's income; and

(2) meet such additional eligibility requirements as may be specified in the guidelines.

A grandfathered tenant is not an eligible buyer unless such grandfathered tenant has been certified by the administering agent to have an annual income at or below the low income limit, moderate income limit or middle income limit, as applicable to such homeownership affordable housing unit.

Family member

“Family member” shall have the meaning set forth in the guidelines.

Homeowner

A “homeowner” is a person or persons who:

(a) owns a condominium homeownership affordable housing unit and occupies such condominium homeownership affordable housing unit in accordance with owner occupancy requirements set forth in the guidelines; or

(b) owns shares in a cooperative corporation, holds a proprietary lease for an homeownership affordable housing unit owned by such cooperative corporation and occupies such homeownership affordable housing unit in accordance with owner occupancy requirements set forth in the guidelines.
Homeownership

“Homeownership” is a form of tenure for housing, including dwelling units occupied by either the owner as a separate condominium, a shareholder in a cooperative corporation pursuant to the terms of a proprietary lease, a grandfathered tenant or an authorized sublettor pursuant to the guidelines.

Imputed mortgage payment

An “imputed mortgage payment” is the maximum mortgage payment at prevailing interest rates for a qualifying mortgage that could be paid to purchase a homeownership affordable housing unit at the maximum resale price, calculated in accordance with the guidelines.

Initial price

The “initial price” is the price at which a homeownership affordable housing unit may be offered for sale for the first time, pursuant to a regulatory agreement.

Maximum resale price

The “maximum resale price” for a homeownership affordable housing unit is the lesser of the appreciated price or the appreciation cap for such homeownership affordable housing unit.

Monthly fees

The “monthly fees” are any payments charged to a homeowner by a cooperative corporation or condominium association to provide for the reimbursement of the applicable homeownership affordable housing unit’s share of the expenses of such cooperative corporation or condominium association, as permitted by the regulatory agreement.

Mortgage

A “mortgage” is a mortgage loan, or a loan to purchase shares in a cooperative corporation, that has been approved by the administering agent and that has a fixed rate of interest, a term of at least 30 years at every sale and resale, a value not
exceeding 90 percent of the #sale# price of such #homeownership affordable housing unit# at the time of the initial #sale# or 90 percent of the #maximum resale price# of such #homeownership affordable housing unit# at any time after the initial #sale#, and that is otherwise in compliance with the #guidelines#.

Mortgage payment

The “mortgage payment” is any monthly repayment of principal and interest on a #mortgage#.

Resale

A “resale” is any transfer of title to a condominium #homeownership affordable housing unit# after the first #sale# or any transfer of ownership of the shares in a #cooperative corporation# which are appurtenant to an #homeownership affordable housing unit# after the first #sale#.

Sale

A “sale” is the first transfer of title to a condominium #homeownership affordable housing unit# or the first transfer of ownership of the shares in a #cooperative corporation# which are appurtenant to an #homeownership affordable housing unit# on or after the #regulatory agreement date#.

Sale date

A “sale date” is the date of the #sale# or #resale# of any #homeownership affordable housing unit#. However, for #homeownership affordable housing units# in #preservation affordable housing# or #substantial rehabilitation affordable housing# occupied by #grandfathered tenants# on the #regulatory agreement date#, the initial #sale date# shall be the #regulatory agreement date#.

Succession

“Succession” is a #resale# from a #homeowner# to a #family member# of such #homeowner#.

(7/29/09)
23-92  
General Provisions  
The Inclusionary Housing Program is established to promote the creation and preservation of housing for residents with varied incomes in redeveloping neighborhoods and thus to promote the general welfare. The requirements of this program are set forth in Section 23-90 (INCLUSIONARY HOUSING), inclusive.  

Wherever the provisions of Section 23-90, inclusive, provide that approval is required, #HPD# may specify the form of such approval in the #guidelines#.

(7/29/09)

23-93  
Applicability  

(10/9/13)

23-931  
Lower income housing plans approved prior to July 29, 2009  
Any #lower income housing plan#, as defined by Section 23-93 prior to July 29, 2009, that has been approved by #HPD# prior to such date, and results, within one year after such approval, in the execution of a restrictive declaration pursuant to Section 23-95, paragraph (e), as such Section existed prior to July 29, 2009, shall be governed solely by the regulations in effect prior to July 29, 2009, unless a #regulatory agreement# with respect thereto specifically provides to the contrary. However, Section 23-955 (Additional requirements for compensated developments) shall apply to any permits or certificates of occupancy for #compensated developments# issued on or after July 29, 2009.

The #floor area ratio# of a #compensated development# may be increased in exchange for #lower income housing#, pursuant to a #lower income housing plan#, as both terms were defined by Section 23-93 prior to July 29, 2009, provided such #lower income housing# complies with all applicable provisions of Section 23-90 (INCLUSIONARY HOUSING) in effect prior to July 29, 2009, except as provided in this Section. Where such a #compensated development# is located in an R10 District outside of #Inclusionary Housing designated areas#, the provisions of Section 23-951 (Floor area compensation in R10 Districts other than Inclusionary Housing designated areas) shall not apply, and Section 23-941 (In R10
Districts other than Inclusionary Housing designated areas) as such Section existed prior to July 29, 2009, shall apply.

Any lower income housing plan#, as such term was defined prior to July 29, 2009, that has been approved by HPD# prior to such date, and any legal document related thereto, may be modified by HPD#, to apply the provisions of paragraph (b), (Monthly rent), of Section 23-961 to such lower income housing plan#.

(7/29/09)

23-932
R10 districts

The Inclusionary Housing Program shall apply in all R10 Districts located in Inclusionary Housing designated areas#, subject to the provisions of Section 23-952. The Inclusionary Housing Program shall apply in all other R10 Districts, subject to the provisions of Section 23-951 (Floor area compensation in R10 Districts other than Inclusionary Housing designated areas), as applicable.

(7/29/09)

23-933
Inclusionary housing designated areas

The Inclusionary Housing Program shall apply in Inclusionary Housing designated areas#.

The Inclusionary Housing Program shall also apply in special purpose districts when specific zoning districts or areas are defined as Inclusionary Housing designated areas# within the special purpose district.

Inclusionary Housing designated areas# are listed in APPENDIX F of this Resolution.

(7/29/09)

23-94
Methods of Providing Affordable Housing

(a) Affordable housing# shall be either new construction affordable housing#, substantial rehabilitation affordable
housing# or #preservation affordable housing#.

(b) When determining whether #affordable housing# is #new construction affordable housing#, #substantial rehabilitation affordable housing# or #preservation affordable housing# in order to calculate #floor area compensation#, or when making a determination of which #building# or #building segment# constitutes a #generating site#, #HPD# may separately consider each #building# or #building segment# on a #zoning lot#. Where any such #building# consists of two or more contiguous sections separated by walls or other barriers, #HPD# may consider all relevant facts and circumstances when determining whether to consider the sections of such #building# separately or collectively, including, but not limited to, whether such sections share systems, utilities, entrances, common areas or other common elements and whether such sections have separate deeds, ownership, tax lots, certificates of occupancy, independent entrances, independent addresses or other evidence of independent functional use.

(c) The amount of #affordable floor area# in any #generating site# shall be determined based upon plans for such #generating site# which have been approved by the Department of Buildings and which indicate thereon the amount of #floor area# devoted to #affordable housing# and the amount of #floor area# devoted to other #residential uses#. However, for #generating sites# where the Department of Buildings does not require #floor area# calculations, the amount of #affordable floor area# shall be determined by methods specified in the #guidelines#.

(d) The amount of #low income#, #moderate income# and #middle income floor area# in a #generating site# shall be determined in the same manner as the calculation of #affordable floor area#.

(e) #Affordable housing units# shall be either rental #affordable housing# or #homeownership affordable housing#.
Floor area compensation in R10 Districts other than Inclusionary Housing designated areas

The #residential floor area ratio# of a #compensated zoning lot# may be increased from 10.0 to a maximum of 12.0 at the rate set forth in this Section, if such #compensated zoning lot# provides #affordable housing# that is restricted to #low income floor area#.

For each square foot of #floor area# provided for a type of #affordable housing# listed in the table in this Section, the #floor area# of the #compensated zoning lot# may be increased by the number of square feet set forth in the table, as applicable. Any #generating site# for which #public funding# has been received within the 15 years preceding the #regulatory agreement date#, or for which #public funding# is committed to be provided subsequent to such date, shall be deemed to be provided with #public funding#.

OPTIONS

<table>
<thead>
<tr>
<th>Options</th>
<th>Compensation Factor</th>
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<td>Without #public funding#</td>
<td>#New construction affordable housing#, #substantial rehabilitation affordable housing#</td>
</tr>
<tr>
<td></td>
<td>#Preservation affordable housing#</td>
</tr>
<tr>
<td>With #public funding#</td>
<td>#New construction affordable housing#, #substantial rehabilitation affordable housing# or #preservation affordable housing#</td>
</tr>
</tbody>
</table>

(10/9/13)

23-952
Floor area compensation in Inclusionary Housing designated areas

The provisions of this Section shall apply in #Inclusionary Housing designated areas# set forth in APPENDIX F of this Resolution.

The #residential floor area# of a #zoning lot# may not exceed the base #floor area ratio# set forth in the table in this Section, except that such #floor area# may be increased on a #compensated zoning lot# by 1.25 square feet for each square foot of #low income floor area# provided, up to the maximum #floor area ratio# specified in the table. However, the amount of #low income floor area# required to receive such #floor area compensation# need not exceed 20 percent of the total #floor area#, exclusive of ground floor non-#residential floor area#, or any #floor area# increase for the
provision of a #FRESH food store#, on the #compensated zoning lot#.

Maximum #Residential Floor Area Ratio#

<table>
<thead>
<tr>
<th>District</th>
<th>Base #floor area ratio#</th>
<th>Maximum #floor area ratio#</th>
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</thead>
<tbody>
<tr>
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<td>R6¹</td>
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<tr>
<td>R6² R6A R7-2¹</td>
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<tr>
<td>R7A R7-2²</td>
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<td>R7-3</td>
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<td>R10</td>
<td>9.00</td>
<td>12.00</td>
</tr>
</tbody>
</table>

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1 for #zoning lots#, or portions thereof, beyond 100 feet of a #wide street#

2 for #zoning lots#, or portions thereof, within 100 feet of a #wide street#

(11/25/14)

23-953

Special floor area compensation provisions in specified areas

(a) Optional provisions for #large-scale general developments# in C4-6 or C5 Districts

Within a #large-scale general development# in a C4-6 or C5 District, the special optional regulations as set forth in this
paragraph, (a), inclusive, modify the provisions of Section 23-952 (Floor area compensation in Inclusionary Housing designated areas):

(1) The residential floor area of a development or enlargement may be increased by 0.833 square feet for each one square foot of moderate income floor area, or by 0.625 square feet for each one square foot of middle income floor area, provided that for each square foot of such floor area compensation, there is one square foot of floor area compensation, pursuant to Section 23-952;

(2) However, the amount of affordable housing required to receive such floor area compensation need not exceed the amounts specified in this paragraph, (a)(2). If affordable housing is provided for both low income and moderate income households, the amount of moderate income floor area need not exceed 15 percent of the total floor area, exclusive of ground floor non-residential floor area, on the zoning lot, provided that the amount of low income floor area is at least 10 percent of the total floor area, exclusive of ground floor non-residential floor area, on the zoning lot. If affordable housing is provided for both middle income households and low income households, the amount of middle income floor area need not exceed 20 percent of the total floor area, exclusive of ground floor non-residential floor area, on the zoning lot, provided that the amount of low income floor area is at least 10 percent of the total floor area, exclusive of ground floor non-residential floor area, on the zoning lot.

For the purposes of this paragraph, (a), inclusive, low income floor area may be considered moderate income floor area or middle income floor area, and moderate income floor area may be considered middle income floor area.

(b) Special provisions for large-scale general developments in Community District 1 in the Borough of Queens

Special provisions shall apply to zoning lots within a large-scale general development that contains R6B, R7A and R7-3 Districts within an Inclusionary Housing designated area, as follows:

(1) For zoning lots, or portions thereof, that are located within R6B, R7A or R7-3 Districts, the base floor area ratio set forth in Section 23-952 shall not apply. No residential development or enlargement shall be permitted unless affordable floor area is provided
pursuant to the provisions of this paragraph. The amount of low-income floor area provided shall equal no less than 10 percent of the floor area on such zoning lot, excluding any ground floor non-residential floor area, floor area within a school, or any floor area increase resulting from the provision of a FRESH food store and the amount of moderate-income floor area provided shall equal no less than 15 percent of the floor area on such zoning lot, excluding any ground floor non-residential floor area, floor area within a school, or any floor area increase resulting from the provision of a FRESH food store. For the purposes of this paragraph (b)(1), inclusive, low income floor area may be considered moderate income floor area; and

(2) The amount of affordable floor area utilizing public funding that may count toward satisfying the affordable floor area required in paragraph (b)(1) of this Section shall be determined in accordance with procedures prescribed by the City Planning Commission pursuant to the provisions of Section 74-743 (Special provisions for bulk modification).

(c) Special provisions for compensated zoning lots

Special provisions shall apply to compensated zoning lots located within:

(1) R6, R7-3 and R8 Districts on waterfront blocks in Inclusionary Housing designated areas within Community District 1, Borough of Brooklyn, as set forth in Section 62-352; or

(2) the Special Hudson Yards District, Special Clinton District and Special West Chelsea District, as set forth in Sections 93-23, 96-21 and 98-26, respectively.

(10/9/13)

23-954
Height and setback for compensated developments in Inclusionary Housing designated areas

In Inclusionary Housing designated areas, the compensated development shall comply with the height and setback regulations of Sections 23-633 (Street wall location and height and setback regulations in certain districts) or 35-24 (Special Street Wall Location and Height and Setback Regulations in Certain Districts),
as applicable, except that:

(a) in #Special Mixed Use Districts#, the #compensated development# shall comply with the provisions of paragraphs (a) or (b) of Section 123-662 (All buildings in Special Mixed Use Districts with R6, R7, R8, R9 and R10 District designations), as applicable. However, where the #Residence District# designation is an R6 District without a letter suffix, the #compensated development# shall comply with the height and setback regulations of Section 23-633, regardless of whether the #building# is #developed# or #enlarged# pursuant to the Quality Housing Program;

(b) in R10 Districts without a letter suffix, the #compensated development# shall comply with the underlying height and setback regulations for such district; and

(c) on #waterfront blocks# and in R7-3 Districts, the #compensated development# shall comply with the special regulations applying in the #waterfront area# set forth in Section 62-30 (SPECIAL BULK REGULATIONS), inclusive.

(10/9/13)

23–955
Additional requirements for compensated developments

(a) #Compensated development# building permits

(1) #HPD# may issue a #permit notice# to the Department of Buildings at any time on or after the #regulatory agreement date#. The Department of Buildings may thereafter issue building permits to a #compensated development# that utilizes #floor area compensation# based on the #affordable housing# described in such #permit notice#.

(2) If #HPD# does not receive confirmation that the #regulatory agreement# has been recorded within 45 days after the later of the #regulatory agreement date# or the date upon which #HPD# authorizes the recording of the #regulatory agreement#, #HPD# shall suspend or revoke such #permit notice#, notify the Department of Buildings of such suspension or revocation and not reinstate such #permit notice# or issue any new #permit notice# until #HPD# receives confirmation that the #regulatory agreement# has been recorded. Upon receipt of notice from #HPD# that a #permit notice# has been suspended or
revoked, the Department of Buildings shall suspend or revoke each building permit issued pursuant to such permit notice which is then in effect for any compensated development.

(b) Compensated development certificates of occupancy

(1) The Department of Buildings shall not issue a temporary or permanent certificate of occupancy for any portion of the compensated development that utilizes floor area compensation until HPD has issued a completion notice with respect to the affordable housing that generates such floor area compensation. However, where any story of a compensated development contains one or more affordable housing units, the Department of Buildings may issue any temporary or permanent certificate of occupancy for such story if such temporary or permanent certificate of occupancy either includes each affordable housing unit located in such story or only includes dwelling units or rooming units that are affordable housing units. Nothing in the preceding sentence shall be deemed to prohibit the granting of a temporary or permanent certificate of occupancy for a super's unit.

(2) HPD shall not issue a completion notice with respect to any portion of any generating site unless:

(i) the Department of Buildings has issued temporary or permanent certificates of occupancy for all affordable housing described in such completion notice and such certificates of occupancy have not expired, been suspended or been revoked; or

(ii) where a generating site contains affordable housing that had a valid certificate of occupancy on the regulatory agreement date and no new temporary or permanent certificate of occupancy is thereafter required for the creation of such affordable housing, HPD has determined that all renovation and repair work required by the applicable regulatory agreement has been completed and all obligations with respect to the creation of such affordable housing have been fulfilled in accordance with the applicable regulatory agreement.

(7/29/09)
23-96
Requirements for Generating Sites

Affordable housing in a generating site shall meet each of the requirements set forth in this Section for the entire regulatory period.

(a) Location of generating site and compensated zoning lot

Where a generating site is not located within the compensated zoning lot for which it generates floor area compensation:

1) the generating site and the compensated zoning lot shall be located within the same Community District; or

2) the generating site and the compensated zoning lot shall be located in adjacent community districts and within one-half mile of each other, measured from the perimeter of each zoning lot.

However, special rules for the location of a generating site and a compensated zoning lot apply in Community District 1, Borough of Brooklyn, where the provisions of paragraph (a)(2) of this Section shall apply only to adjacent community districts located in the Borough of Brooklyn; in the Special Clinton District, pursuant to the provisions of Section 96-21 (Special Regulations for 42nd Street Perimeter Area); in the Special Downtown Jamaica District, pursuant to the provisions of Section 115-211 (Special Inclusionary Housing regulations); and in the Special Southern Hunters Point District, pursuant to the provisions of Section 125-22 (Newtown Creek Subdistrict).

(b) Distribution of affordable housing units

In new construction affordable housing or substantial rehabilitation affordable housing, where one or more of the dwelling units or rooming units in a generating site, other than any super's unit, are not affordable housing units:

1) the affordable housing units shall be distributed on not less than 65 percent of the residential stories of such generating site or, if there are insufficient affordable housing units to comply with this requirement, the distribution of affordable housing units shall be as specified in the guidelines; and

2) not more than one-third of the dwelling units and
#rooming units# on any #story# of such #generating site# shall be #affordable housing units#, unless not less than one-third of the #dwelling units# and #rooming units# on each #residential story# of such #generating site# are #affordable housing units#. However, on a #residential story# with fewer than three #dwelling units# or #rooming units#, only one #dwelling unit# or #rooming unit# may be an #affordable housing unit#, unless not less than one #dwelling unit# or #rooming unit# on each floor is an #affordable housing unit#.

However, #HPD# may waive such distribution requirements for any #new construction affordable housing# that is participating in a Federal, State or local program where such #generating site# cannot comply with both the regulations of such Federal, State or local program and those of this Section. In addition, #HPD# may waive these requirements for #substantial rehabilitation affordable housing#, as specified in the #guidelines#.

(c) Bedroom mix of #affordable housing units#

(1) In #new construction affordable housing# and #substantial rehabilitation affordable housing#, where one or more of the #dwelling units# in a #generating site#, other than any #super’s unit#, are not #affordable housing units#, either:

   (i) the #dwelling units# in the #generating site# that are #affordable housing units# shall contain a bedroom mix at least proportional to the bedroom mix of the #dwelling units# in the #generating site#, other than any #super’s unit#, that are not #affordable housing units#; or

   (ii) not less than 50 percent of the #dwelling units# in the #generating site# that are #affordable housing units# shall contain two or more bedrooms and not less than 75 percent of the #dwelling units# in the #generating site# that are #affordable housing units# shall contain one or more bedrooms.

However, #HPD# may waive such distribution requirements for any #new construction affordable housing# that either is participating in a Federal, State or local program where such #generating site# cannot comply with both the regulations of such Federal, State or local program and those of this Section, or is located on an #interior lot# or #through lot# with less than 50 feet of frontage along any #street#. In addition, #HPD# may waive these requirements for #substantial rehabilitation affordable
housing#, as specified in the #guidelines#.

(2) Where all of the #dwelling units# in a #generating site#, other than any #super's unit#, in #new construction affordable housing# and #substantial rehabilitation affordable housing# are #affordable housing units#, not less than 50 percent of such #affordable housing units# shall contain two or more bedrooms and not less than 75 percent of such #affordable housing units# shall contain one or more bedrooms. However, #HPD# may waive these requirements for any #affordable housing# that is participating in a Federal, State or local program where such #generating site# cannot comply with both the regulations of such Federal, State or local program and those of this Section. In addition, #HPD# may waive these requirements for #substantial rehabilitation affordable housing#, as specified in the #guidelines#.

(3) All of the #supportive housing units# in a #generating site# shall be #affordable housing units# and shall contain such configuration as #HPD# shall require.

(4) For purposes of this paragraph, (c), inclusive, fractions equal to or greater than one-half resulting from any calculation shall be considered to be one #dwelling unit#.

(d) Size of #affordable housing units#

(1) In #new construction affordable housing# and #substantial rehabilitation affordable housing#, an #affordable housing unit# shall contain not less than:

(i) 400 square feet of #floor area# within the perimeter walls for a zero bedroom #dwelling unit#; or

(ii) 575 square feet of #floor area# within the perimeter walls for a one bedroom #dwelling unit#; or

(iii) 775 square feet of #floor area# within the perimeter walls for a two bedroom #dwelling unit#; or

(iv) 950 square feet of #floor area# within the perimeter walls for a three bedroom #dwelling unit#.

However, #HPD# may waive such distribution requirements for any #new construction affordable housing# that is participating in a Federal, State or local program where such #generating site# cannot comply with both the regulations of such Federal, State or local program and those of this Section. In addition, #HPD# may waive these
requirements for #substantial rehabilitation affordable housing# as specified in the #guidelines#.

(2) Where all of the #dwelling units# in a #generating site#, other than any #super’s unit#, in #new construction# or #substantial rehabilitation affordable housing# are #affordable housing units#, #HPD# may waive such square footage requirements for any #affordable housing unit# that is participating in a Federal, State or local program where such #generating site# cannot comply with both the regulations of such Federal, State or local program and those of this Section. In addition, #HPD# may waive such square footage requirements for #substantial rehabilitation affordable housing#, as specified in the #guidelines#.

(3) #Supportive housing units# shall comply with the size requirements specified by #HPD#.

(e) #Administering agent#

(1) #HPD# shall approve each #administering agent# and may revoke such approval at any time before or during the #regulatory period#.

(2) An #administering agent# shall be a not-for-profit entity and shall not be, or be an affiliate of, an owner or managing agent of the #generating site#, unless #HPD# approves such owner, managing agent or affiliate to serve as the #administering agent# upon a determination that either:

(i) the #affordable housing# is participating in a Federal, State or local program that provides adequate independent means of ensuring compliance with the #regulatory agreement#; or

(ii) the owner and any such managing agent or affiliate are not-for-profit entities and there are adequate safeguards to ensure that such entities comply with the #regulatory agreement#.

(3) For a period of time specified in the #guidelines#, the #administering agent# shall maintain all records setting forth the facts that form the basis of any affidavit submitted to #HPD#. The #administering agent# shall maintain such records, and such other records as #HPD# may require, at the offices of the #administering agent# or at such other location as may be approved by #HPD#. The #administering agent# shall make such records, and all
facets of the operations of the #administering agent#, available for inspection and audit by #HPD# upon request.

(f) #Regulatory agreement#

(1) The #regulatory agreement# shall require compliance with and shall incorporate by reference the #affordable housing plan# and the applicable provisions of this Zoning Resolution and the #guidelines# and shall contain such additional terms and conditions as #HPD# deems necessary.

(2) The #regulatory agreement# shall require that #HPD# be provided with documentation indicating the amount of #affordable floor area#. For #new construction affordable housing# or #substantial rehabilitation affordable housing#, such documentation shall include, but shall not be limited to, plans meeting the requirements of Section 23-94, paragraph (c).

(3) The #regulatory agreement# shall be recorded against all tax lots comprising the portion of the #zoning lot# within which the #generating site# is located and shall set forth the obligations, running with such tax lots, of the owner and all successors in interest to provide #affordable housing# in accordance with the #affordable housing plan# for the entire #regulatory period#.

(4) #Affordable housing# may serve to secure debt with the prior approval of #HPD#. Any lien securing such debt shall be subordinated to the #regulatory agreement#.

(5) The #regulatory agreement# may, but shall not be required to, provide that such #regulatory agreement# may be terminated prior to the issuance of a temporary or permanent certificate of occupancy for any #compensated development# by the Department of Buildings.

(6) Where all of the #dwelling units# or #supportive housing units# in a #generating site#, other than any #super's unit#, are #affordable housing units#, the #regulatory agreement# shall provide that, following a default and any applicable opportunity to cure, #HPD# may, in addition to any other remedies provided therein or by applicable law:

(i) appoint a receiver to manage such #generating site#;

or

(ii) take control of the board of directors of any housing development fund company or not-for-profit
corporation that owns, controls or operates such generating site.

(7) Where applicable in accordance with paragraph (b), (Monthly rent), of Section 23-961, the regulatory agreement shall provide that certain obligations shall survive the regulatory period.

(g) Housing standards

Upon the date that HPD issues the completion notice, the generating site shall be entirely free of violations of record issued by any City or State agency pursuant to the Multiple Dwelling Law, the Building Code, the Housing Maintenance Code and this Zoning Resolution, except as may be otherwise provided in the guidelines with respect to non-hazardous violations in occupied affordable housing units of preservation affordable housing or substantial rehabilitation affordable housing.

(h) Insurance

The affordable housing in a generating site shall at all times be insured against any damage or destruction in an amount not less than the replacement value of such affordable housing. Any insurance proceeds resulting from damage or destruction of all or part of the generating site containing such affordable housing shall be used first to restore any damaged or destroyed affordable housing, except that HPD may provide priority for lenders participating in the financing of affordable housing that is assisted under City, State or Federal programs.

(i) Duration of obligations

The obligation to provide and maintain a specified amount of affordable housing on a generating site shall run with the zoning lot containing such generating site for not less than the regulatory period. If any portion of such affordable housing is damaged or destroyed, no floor area shall be developed, reconstructed or repaired on such zoning lot, and no development, enlargement, extension or change of use shall occur on such zoning lot, unless

(1) the amount of such floor area devoted to affordable housing is not less than the floor area of the affordable housing that was damaged or destroyed; or

(2) 100 percent of such developed, reconstructed or repaired floor area is affordable housing.
(j) One generating site may satisfy requirements for multiple compensated zoning lots.

Any generating site may contain affordable housing that satisfies the requirements of Section 23-90, inclusive, for more than one compensated development, provided that no affordable floor area shall be counted more than once in determining the amount of floor area compensation for such compensated developments.

(k) Guidelines

HPD shall adopt and may modify guidelines for the implementation of the provisions of Section 23-90, inclusive.

(7/29/09)

23-961 Additional requirements for rental affordable housing

The additional requirements of this Section shall apply to rental affordable housing on a generating site for the entire regulatory period.

(a) Tenant selection

(1) Upon rent-up and any subsequent vacancy for the entire regulatory period, affordable housing units shall only be leased to and occupied by low income households, moderate income households and middle income households, as applicable. No lease or sublease of an affordable housing unit shall be executed, and no tenant or subtenant shall commence occupancy of an affordable housing unit, without the prior approval of the administering agent.

(2) A tenant may, with the prior approval of the administering agent, sublet an affordable housing unit for not more than a total of two years, including the term of the proposed sublease, out of the four-year period preceding the termination date of the proposed sublease. The aggregate payments made by any sublessee in any calendar month shall not exceed the monthly rent that could be charged to the sublessor in accordance with the regulatory agreement.

(3) A low income household may rent an affordable housing
unit# that is restricted to occupancy by #moderate income# or #middle income households#, provided that the #administering agent# determines that such #low income household# is able to utilize rent subsidies pursuant to Section 8 of the United States Housing Act of 1937, as amended, to afford the applicable #monthly rent#.

(b) Monthly rent

(1) The #regulatory agreement# shall provide that each #affordable housing unit# shall be registered with the Division of Housing and Community Renewal at the initial #monthly rent# established by #HPD# within 60 days following the #rent-up date# and shall thereafter remain subject to #rent stabilization# for the entire #regulatory period# and thereafter until vacancy. However, the #regulatory agreement# may permit an alternative date by which any #affordable housing units# that are vacant on the #rent-up date# shall be registered with the Division of Housing and Community Renewal at the initial #monthly rent# established by #HPD#.

(i) However, any #affordable housing unit# of #preservation affordable housing# or #substantial rehabilitation affordable housing# that is both occupied by a #grandfathered tenant# and subject to the Emergency Housing Rent Control Law on the #regulatory agreement date# shall remain subject to the Emergency Housing Rent Control Law until the first vacancy following the #regulatory agreement date# and shall thereafter be subject to #rent stabilization# as provided herein.

(ii) The #regulatory agreement# shall provide that upon each annual registration of an #affordable housing unit# with the Division of Housing and Community Renewal, the #legal regulated rent# for such #affordable housing unit# shall be registered with the Division of Housing and Community Renewal at an amount not exceeding the #maximum monthly rent#. However, the #regulatory agreement# shall provide that this requirement shall not apply to an #affordable housing unit# occupied by a #grandfathered tenant# until the first vacancy after the #regulatory agreement date#.

(2) The #regulatory agreement# shall provide that the #monthly rent# charged to the tenant of any #affordable housing unit# at #initial occupancy# and in each subsequent renewal lease shall not exceed the lesser of the #maximum
monthly rent or the legal regulated rent. However, the regulatory agreement shall provide that these requirements shall not apply to an affordable housing unit occupied by a grandfathered tenant, until the first vacancy after the regulatory agreement date.

(3) Within 60 days following the rent-up date, the administering agent shall submit an affidavit to HPD attesting that the monthly rent registered and charged for each affordable housing unit complied with the applicable monthly rent requirements at the time of initial occupancy.

(4) Each year after rent-up, in the month specified in the regulatory agreement or the guidelines, the administering agent shall submit an affidavit to HPD attesting that each lease or sublease of an affordable housing unit or renewal thereof during the preceding year complied with the applicable monthly rent requirements at the time of execution of the lease or sublease or renewal thereof.

(5) The regulatory agreement shall provide that the lessor of an affordable housing unit shall not utilize any exemption or exclusion from any requirement of rent stabilization to which such lessor might otherwise be or become entitled with respect to such affordable housing unit, including, but not limited to, any exemption or exclusion from the rent limits, renewal lease requirements, registration requirements, or other provisions of rent stabilization, due to:

(i) the vacancy of a unit where the legal regulated rent exceeds a prescribed maximum amount;

(ii) the fact that tenant income or the legal regulated rent exceeds prescribed maximum amounts;

(iii) the nature of the tenant; or

(iv) any other reason.

(6) The regulatory agreement and each lease of an affordable housing unit shall contractually require the lessor of each affordable housing unit to grant all tenants the same rights that they would be entitled to under rent stabilization without regard to whether such affordable housing unit is statutorily subject to rent stabilization. If any court declares that rent stabilization is statutorily inapplicable to an
such contractual rights shall thereafter continue in effect for the remainder of the regulatory period.

(7) The regulatory agreement shall provide that each affordable housing unit that is occupied by a tenant at the end of the regulatory period shall thereafter remain subject to rent stabilization for not less than the period of time that such tenant continues to occupy such affordable housing unit, except that any occupied affordable housing unit that is subject to the Emergency Housing Rent Control Law at the end of the regulatory period shall remain subject to the Emergency Housing Rent Control Law until the first vacancy.

(c) Income

(1) Each affordable housing unit shall be leased to and occupied by low income households, moderate income households or middle income households, as applicable, for the entire regulatory period.

(2) The administering agent shall verify the household income of the proposed tenant prior to leasing any vacant affordable housing unit in order to ensure that it is a low income household, moderate income household or middle income household, as applicable.

(3) Within 60 days following the rent-up date, the administering agent shall submit an affidavit to HPD attesting that each household occupying an affordable housing unit complied with the applicable income eligibility requirements at the time of initial occupancy.

(4) Each year after rent-up, in the month specified in the regulatory agreement or the guidelines, the administering agent shall submit an affidavit to HPD attesting that each household that commenced occupancy of a vacant affordable housing unit during the preceding year, and each household that subleased an affordable housing unit during the preceding year, complied with the applicable income eligibility requirements at the time of initial occupancy.

(d) Affordable housing plan

(1) An affordable housing plan shall designate the initial administering agent, include the agreement with the initial administering agent, state how administering
agents# may be removed, state how a new #administering agent# may be selected upon the removal or other departure of any #administering agent#, include the building plans, state the number and bedroom mix of the #affordable housing units# to be #developed#, rehabilitated or preserved, indicate how tenants will be selected at #rent-up# and upon each subsequent vacancy of an #affordable housing unit#., indicate how the #household# income of each prospective tenant will be verified prior to such #household#'s #initial occupancy# of an #affordable housing unit# and include such additional information as #HPD# deems necessary.

(2) An #affordable housing plan# shall demonstrate the feasibility of creating and maintaining #affordable housing# in accordance with Section 23-90 (INCLUSIONARY HOUSING), inclusive, including that:

(i) there will be sufficient revenue to provide for adequate maintenance, operation and administration of the #affordable housing#;

(ii) #affordable housing units# will be leased to eligible #households# by a responsible #administering agent# at #rent-up# and upon each subsequent vacancy; and

(iii) tenants will be selected in an equitable manner in accordance with laws prohibiting discrimination and all other applicable laws.

(3) A copy of any proposed #affordable housing plan# shall be delivered to the affected Community Board, which may review such proposal and submit comments to #HPD#. #HPD# shall not approve a proposed #affordable housing plan# until the earlier of:

(i) the date that the affected Community Board submits comments regarding such proposal to #HPD# or informs #HPD# that such Community Board has no comments; or

(ii) 45 days from the date that such proposal was submitted to the affected Community Board.

(e) Special requirements for rental #preservation affordable housing#

The additional requirements of this paragraph (e), shall apply to rental #preservation affordable housing#:

(1) all of the #dwelling units#, #rooming units# and
supportive housing units in the generating site, other than any super's unit, shall be affordable housing units that are leased to and occupied by low income households for the entire regulatory period;

(2) on the regulatory agreement date, the average of the legal regulated rents for all affordable housing units in the generating site that are occupied by grandfathered tenants shall not exceed 30 percent of the low income limit divided by 12;

(3) on the regulatory agreement date, HPD shall have determined that the condition of the generating site is sufficient, or will be sufficient after required improvements specified in the affordable housing plan and the regulatory agreement, to ensure that, with normal maintenance and normal scheduled replacement of capital elements, the affordable housing units will provide a decent, safe and sanitary living environment for the entire regulatory period;

(4) on the regulatory agreement date, HPD shall have determined either that no capital element is likely to require replacement within 30 years from the regulatory agreement date or that, with regard to any capital element that is likely to require replacement within 30 years from the regulatory agreement date, a sufficient reserve has been established to fully fund the replacement of such capital element;

(5) except with the prior approval of HPD, monthly rents charged for affordable housing units shall not be increased to reflect the costs of any repair, renovation, rehabilitation or improvement performed in connection with qualification as a generating site, even though such increases may be permitted by other laws; and

(6) such affordable housing shall comply with such additional criteria as may be specified by HPD in the guidelines.

(f) Special requirements for rental substantial rehabilitation affordable housing

The additional requirements of this paragraph, (f), shall apply to rental substantial rehabilitation affordable housing:

(1) such affordable housing shall be created through the rehabilitation of a generating site at a cost per completed affordable housing unit that exceeds a minimum
threshold set by #HPD# in the #guidelines#;

(2) on the #regulatory agreement date#, the average of the #legal regulated rents# for all #affordable housing units# in the #generating site# that are occupied by #grandfathered tenants# shall not exceed 30 percent of the #low income limit# divided by 12;

(3) on the #regulatory agreement date#, #HPD# shall have determined that the condition of such #generating site# is sufficient, or will be sufficient after required improvements specified in the #affordable housing plan# and the #regulatory agreement#, to ensure that, with normal maintenance and normal scheduled replacement of #capital elements#, the #affordable housing units# will provide a decent, safe and sanitary living environment for the entire #regulatory period#;

(4) on the #regulatory agreement date#, #HPD# shall have determined either that no #capital element# is likely to require replacement within 30 years from the #regulatory agreement date# or that, with regard to any #capital element# that is likely to require replacement within 30 years from the #regulatory agreement date#, a sufficient reserve has been established to fully fund the replacement of such #capital element#;

(5) except with the prior approval of #HPD#, #monthly rents# charged for #affordable housing units# shall not be increased to reflect the costs of any repair, renovation, rehabilitation or improvement performed in connection with qualification as a #generating site#, even though such increases may be permitted by other laws; and

(6) such #affordable housing# shall comply with such additional criteria as may be specified by #HPD# in the #guidelines#.

(4/6/11)

23-962
Additional requirements for homeownership affordable housing

The additional requirements of this Section shall apply to #homeownership affordable housing# on a #generating site# for the entire #regulatory period#.

(a) Homeowner selection
(1) Upon #sale#, #homeownership affordable housing units# shall only be occupied by #eligible buyers# that are #low income households#, #moderate income households# and #middle income households#, as applicable. Upon any subsequent #resale# for the entire #regulatory period#, #homeownership affordable housing units# shall be sold to and occupied by #eligible buyers# at or below the #maximum resale price# on the #sale date#, as applicable. No #homeownership affordable housing unit# shall be sold to or occupied by any #household# or any other person without the prior approval of the #administering agent#.

(2) A #homeowner# may, with the prior approval of the #administering agent#, sublet an #homeownership affordable housing unit# to another #low income household#, #moderate income household#, #middle income household#, or #eligible buyer#, as applicable, for not more than a total of two years, including the term of the proposed sublease, out of the four-year period preceding the termination date of the proposed sublease. The aggregate payments made by any sublessee in any calendar month shall not exceed the combined cost of #monthly fees#, #mortgage payments#, utilities and property taxes paid by the sublessor.

(3) A #homeowner# shall reside in the #homeownership affordable housing unit#, except as provided in paragraph (a)(2) of this Section.

(4) The restrictions in this paragraph, (a), on the ownership of #homeownership affordable housing units# shall not prevent the exercise of a valid lien by a #mortgage# lender, #cooperative corporation#, #condominium association# or any other entity authorized by the #regulatory agreement# to take possession of a #homeownership affordable housing unit# in the event of default by the #homeowner#. However, any #sale# or #resale# by such lien holder shall be to an #eligible buyer#, in accordance with this paragraph, (a), and the #guidelines#.

(b) Price

(1) The #initial price# or #maximum resale price# of any #homeownership affordable housing unit# shall be set assuming a #mortgage#, as defined in Section 23-913 (Definitions applying to homeownership generating sites).

(2) The #regulatory agreement# shall establish the #initial price# for each #homeownership affordable housing unit#. 
(#HPD#) shall set the #initial price# to ensure that the combined cost of #monthly fees#, #mortgage payments#, utilities and property taxes to be paid directly by the #homeowner# will not exceed 30 percent of the #low income limit#, #moderate income limit# or #middle income limit#, as applicable.

(3) Prior to any #resale# of a #homeownership affordable housing unit#, the #administering agent# shall set the #maximum resale price# for such #homeownership affordable housing unit#.

(4) The #administering agent# shall not approve any #resale# unless the selected #eligible buyer# provides a #down payment#, as specified in the #guidelines#.

(5) A #homeownership affordable housing unit#, or any shares in a #cooperative corporation# appurtenant thereto, shall not secure any debt unless such debt is a #mortgage# that has been approved by the #administering agent#.

c) Income

(1) The #administering agent# shall verify the #household# income of a proposed #homeowner#, in accordance with the #guidelines#, prior to the #sale date# of any #homeownership affordable housing unit# in order to ensure that, upon #sale#, it is a #low income household#, #moderate income household# or #middle income household#, as applicable, and that upon #resale#, it is to an #eligible buyer#.

(2) The #administering agent# shall meet reporting requirements on each #sale# and #resale#, as set forth in the #guidelines#.

(3) Each year after the #commencement date#, in the month specified in the #regulatory agreement# or the #guidelines#, the #administering agent# shall submit an affidavit to #HPD# attesting that each #resale# of a #homeownership affordable housing unit# during the preceding year complied with all applicable requirements on the #resale date#.

d) #Affordable housing plan#

(1) An #affordable housing plan# shall include the building plans, state the number and bedroom mix of the #homeownership affordable housing units# to be #developed#, rehabilitated or preserved, indicate how
#homeowners# will be selected upon each #sale# or #resale# of a #homeownership affordable housing unit#, indicate how the #household# income of #eligible buyers# will be verified prior to such #household’s initial occupancy# of a #homeownership affordable housing unit# and include such additional information as #HPD# deems necessary.

(2) An #affordable housing plan# shall demonstrate the feasibility of creating and maintaining #homeownership affordable housing#, including that:

(i) there will be sufficient revenue to provide for adequate maintenance, operation and administration of the #affordable housing#;

(ii) #affordable housing units# will be sold under the supervision of a responsible #administering agent# to #eligible buyers# at each #sale# and #resale#; and

(iii) #homeowners# will be selected in an equitable manner in accordance with laws prohibiting discrimination and all other applicable laws.

(3) The requirements of Section 23-961, paragraph (d)(3), shall apply.

(e) Housing standards

The requirements of Section 23-96, paragraph (g), shall apply. In addition, each #homeowner# shall be obligated to maintain each #homeownership affordable housing unit# in accordance with minimum quality standards set forth in the #guidelines#. Prior to any #resale#, #HPD#, or its designee as specified in the #guidelines#, shall inspect the #affordable housing unit# and shall either require the #homeowner# to remedy any condition that violates such minimum quality standards before the #sale date#, or require the retention of a portion of the #resale# proceeds to pay the cost of remedying such condition.

(f) Optional provisions for certain #new construction homeownership affordable housing#

In Community District 3, Borough of Manhattan, #HPD# may modify the requirements for #new construction homeownership affordable housing# to facilitate #development# on a site that has been disposed of pursuant to Article 16 of the General Municipal Law as set forth in this paragraph (f), inclusive.

(1) #HPD# may permit a #household# to occupy a #new construction homeownership affordable housing unit# as
rental #affordable housing# if:

(i) no more than 120 days prior to the #regulatory agreement date#, such #household# occupied a #dwelling unit# or #rooming unit# in a #building# located on the #zoning lot# of such #new construction homeownership affordable housing#, pursuant to a lease or occupancy agreement to which one or more members of such #household# was a party or pursuant to a statutory tenancy;

(ii) no more than 120 days prior to the #regulatory agreement date#, the average rent for all occupied #dwelling units# or #rooming units# in such #building# did not exceed 30 percent of the #low income limit# divided by 12; and

(iii) after the #regulatory agreement date#, such #building# is demolished and replaced with #new construction homeownership affordable housing#.

(2) #HPD# may permit a #household# that is not an #eligible buyer#, but that meets the requirements of paragraph (f)(1) of this Section, to purchase a #new construction homeownership affordable housing unit# at #sale#, provided that such #household# is a #low income household#, #moderate income household# or #middle income household#, as applicable.

Where a #new construction homeownership affordable housing unit# is purchased at a nominal price, the #appreciated price# for such #homeownership affordable housing unit# shall be the product of the #initial price# of such #homeownership affordable housing unit# and the #appreciation index# applicable at #resale# as specified in the #guidelines#.

(g) Special requirements for #homeownership preservation affordable housing#

The additional requirements in this paragraph, (f), shall apply to #homeownership preservation affordable housing#:

(1) on the #regulatory agreement date#, the #generating site# shall be an existing #building# containing #residences#;

(2) on the #regulatory agreement date#, the average of the #legal regulated rents#, as such term is defined in Section 23-912, for all #homeownership affordable housing units# in the #generating site# that are occupied by #grandfathered tenants# shall not exceed 30 percent of the #low income limit# divided by 12;
(3) where #grandfathered tenants# continue in residence subsequent to the #regulatory agreement date#, any #affordable housing unit# that is occupied by a #grandfathered tenant# shall be operated subject to the restrictions of Section 23-961 (Additional requirements for rental affordable housing) until such #affordable housing unit# is purchased and occupied by an #eligible buyer#;

(4) on the #regulatory agreement date#, #HPD# shall have determined that the condition of the #generating site# is sufficient, or will be sufficient after required improvements specified in the #affordable housing plan# and the #regulatory agreement#, to ensure that, with normal maintenance and normal scheduled replacement of #capital elements#, the #affordable housing units# will provide a decent, safe and sanitary living environment for the entire #regulatory period#;

(5) on the #regulatory agreement date#, #HPD# shall have determined either that no #capital element# is likely to require replacement within 30 years from the #regulatory agreement date# or that, with regard to any #capital element# that is likely to require replacement within 30 years from the #regulatory agreement date#, a sufficient reserve has been established to fully fund the replacement of such #capital element#; and

(6) such #affordable housing# shall comply with such additional criteria as may be specified by #HPD# in the #guidelines#.

(h) Special requirements for #homeownership substantial rehabilitation affordable housing#

The additional requirements in this paragraph, (g), shall apply to #homeownership substantial rehabilitation affordable housing#:

(1) on the #regulatory agreement date#, the #generating site# shall be an existing #building#;

(2) such #affordable housing# shall be created through the rehabilitation of such existing #building# at a cost per completed #homeownership affordable housing unit# that exceeds a minimum threshold set by #HPD# in the #guidelines#;

(3) on the #regulatory agreement date#, the average of the
#legal regulated rents# for all #homeownership affordable housing units# in the #generating site# that are occupied by #grandfathered tenants# shall not exceed 30 percent of the #low income limit# divided by 12;

(4) where #grandfathered tenants# continue in residence subsequent to the #regulatory agreement date#, any #affordable housing unit# that is occupied by a #grandfathered tenant# shall be operated subject to the restrictions of Section 23-961 until such #affordable housing unit# is purchased and occupied by an #eligible buyer#;

(5) on the #regulatory agreement date#, #HPD# shall have determined that the condition of such #generating site# is sufficient, or will be sufficient after required improvements specified in the #affordable housing plan# and the #regulatory agreement#, to ensure that, with normal maintenance and normal scheduled replacement of #capital elements#, the #affordable housing units# will provide a decent, safe and sanitary living environment for the entire #regulatory period#;

(6) on the #regulatory agreement date#, #HPD# shall have determined either that no #capital element# is likely to require replacement within 30 years from the #regulatory agreement date# or that, with regard to any #capital element# that is likely to require replacement within 30 years from the #regulatory agreement date#, a sufficient reserve has been established to fully fund the replacement of such #capital element#; and

(7) such #affordable housing# shall comply with such additional criteria as may be specified by #HPD# in the #guidelines#.