



CITY PLANNING COMMISSION

September 11, 2013 / Calendar No. 12

N 130331(A) ZRY

IN THE MATTER OF an application by the Department of City Planning pursuant to Section 201 of the New York City Charter for an amendment of the Zoning Resolution of the City of New York, pertaining to enabling flood resilient construction within flood zones.

An application for an amendment to the Zoning Resolution, N 130331 ZRY, was filed by the Department of the City Planning on May 15, 2013 to encourage flood-resilient building construction throughout designated flood zones. On July 19, 2013, pursuant to Section 2-06 (c) of the Uniform Land Use Review Procedure rules, the Department filed an application to modify the proposed amendment to the Zoning Resolution. A revised application (N130331(A) ZRY) was filed to address additional issues identified during the public review process concerning dry-floodproofing in commercial corridors of lower-density districts, broadening the applicability of streetscape standards, applying relaxed parking location rules to more types of elevated single- and two-family residences, and additional flexibility for mechanical systems in low density districts and for the reconstruction of single- and two-family residences.

BACKGROUND

This proposal is one part of a wide range of efforts by the City to recover from Hurricane Sandy, promote rebuilding, and increase the city's resilience to climate-related events, including coastal flooding and storm surge. The proposal is needed in order to remove regulatory barriers that would hinder or prevent the reconstruction of storm-damaged properties. It is also needed to enable new and existing buildings to comply with new, higher flood elevations issued by the Federal Emergency Management Agency (FEMA), and to new requirements in the New York City Building Code ("Building Code"). Constructing to these new standards will reduce

vulnerability to future flood events, as well as help property owners avoid higher flood insurance premiums.

New Flood Maps and New Building Code Standards

Beginning in January 2013, FEMA issued advisory flood maps, providing the first new data on flood risk in New York City following the hurricane. These maps included higher flood elevations and a larger 100-year (1-percent annual chance) flood zone, containing roughly twice as many buildings as before. In June 2013, FEMA issued “preliminary work maps” which established the next generation of improved flood maps. FEMA will soon issue preliminary Flood Insurance Rate Maps (preliminary FIRMs), which will undergo a public appeal process and eventually be adopted as official FIRMs, replacing the current ones. FEMA estimates that this process will be complete in 2015.

On January 31, 2013, the Commissioner of Buildings issued an emergency rule modifying the Building Code to match New York State Building Code standards for flood protection, requiring buildings to protect to a level typically one or two feet higher than the FEMA-designated flood elevation, depending on building type. Single- and two-family homes are now required to provide two feet of extra protection (commonly called “freeboard”) above flood elevation, and most other buildings are required to provide one foot of freeboard.

The implication of new flood maps and code changes is that more buildings will be located within the flood zone and, in order to adhere to flood-resistant construction standards, buildings will need to be elevated several feet higher than previously practiced for new construction.

New buildings, buildings that were destroyed or substantially damaged during the storm, and buildings that are substantially improved (as such terms are defined in the Building Code) will need to adhere to the flood-resistant construction standards of Building Code. In addition, building owners may voluntarily choose to make their buildings comply with these new standards for flood-resistant construction, to reduce their vulnerability to future flood events, as well as to avoid higher flood insurance premiums. However, in many instances, zoning regulations or conflicts between zoning and Building Code requirements would make it difficult, or in some cases impossible, for owners to rebuild or retrofit to these standards.

Zoning Relief Provided by Executive Order

The Mayor’s emergency Executive Order No. 230 (the “EO”), issued on January 31, 2013, took an important first step to enable property owners to build more resiliently. The EO suspended zoning height limitations that would have prevented buildings from rebuilding to more flood-resilient standards. It allowed all new buildings to measure their height from a new “zero point” based on the new FEMA flood elevations and the additional freeboard elevation required by Building Code. The EO also allowed certain non-conforming and non-complying buildings damaged by the storm to rebuild to a higher elevation. The EO is by nature an interim measure which is renewed every five days and will expire, and must be followed by a zoning text amendment.

Regulatory Framework

In order to understand why changes to the Zoning Resolution are required, it is important to understand the different regulations that are applicable within flood zones. In many cases, compliance with these regulations could either conflict with or be hindered by current zoning regulations. At the federal level, FEMA creates and issues flood maps and sets national standards for flood-resistant construction. Local governments such as New York City must establish requirements for flood-resistant construction that meet FEMA standards in order for property owners to be eligible to participate in the National Flood Insurance Program. New York City’s flood-resistant construction requirements are contained in Appendix G of the Building Code. These requirements apply to all new construction, and to buildings that are substantially damaged (the cost of repairs exceeds 50 percent of the pre-storm market value of the building) or substantially improved (the cost of improvements exceeds 50 percent of pre-storm value).

FEMA and Building Code do not allow living space in new or substantially improved residential buildings below the level of the 100-year flood, and any space below flood levels must be constructed of materials that can withstand flooding without sustaining significant damage. Water must be allowed to enter and exit these spaces, to avoid the buildup of hydrostatic pressure, which can compromise structures. In a purely residential building, the only uses

allowed below flood levels are access, storage, and parking. Basements or cellars that are below-grade on all sides are also not allowed in residential buildings.

For non-residential spaces, FEMA and Building Code allow two options: elevate floors above flood levels, or locate floors below flood levels with systems in place to keep the water out (this is known as “dry flood-proofing”). Door and window openings can be dry flood-proofed using temporary flood barriers that can be deployed prior to a storm and removed after the danger has passed.

Modified Application (“A” Text)

The original application (N 130331 ZRY) was referred out for public review on May 20, 2013. The Department of City Planning amended the application in response to comments received during the public review period and filed a revised application (N 130331(A) ZRY) on July 19, 2013. The revised application (N 130331 (A) ZRY) is the subject of this report.

Overview of Proposed Text Amendment

Like the Executive Order, the proposed Flood Resilience Text Amendment modifies zoning to enable flood-resilient construction. It also introduces regulations to mitigate potential negative effects of flood-resistant construction on the streetscape and public realm. Issues addressed by the text amendment include:

- Measuring building height with respect to flood elevations
- Accommodating building access from grade
- Locating mechanical systems above flood levels
- Accommodating off-street parking above grade
- Accommodating ground floor use requirements
- Improving streetscape

The proposal applies in the 100-year (1% annual chance) flood zone identified on the most recent FEMA flood maps, to all buildings that meet flood-resistant construction standards using the most recent FEMA flood elevations. In addition, all buildings in the 100-year flood zone

would be subject to rules to mitigate the potential negative effect of higher first floors on the public experience of the street.

This proposal addresses urgent issues for which solutions can be applied throughout the flood zone. Additional local planning will be necessary to address other complex and neighborhood-specific issues in areas severely affected by Hurricane Sandy.

The proposed text amendment will enable buildings to be designed and constructed based on the most recent flood maps released by FEMA, which represent the best currently available data on flood risk. This will enable property owners today to plan and build to likely future standards.

In order to distinguish the elevation of previous flood-resistant standards from new standards, the proposal uses a new term, “flood-resistant construction elevation,” or FRCE. This term combines the new higher elevations from the interim flood maps with the new Building Code requirements to require buildings to protect to a level one or two feet higher than flood elevation, depending on building type (“freeboard”).

FEMA expects to issue final FIRMs by 2015. Within a year after the City adopts the new FIRMs, the Department of City Planning expects to advance a second zoning text amendment to address any further flood zone issues resulting from the new maps, and further fine-tune the regulations as warranted.

Measuring Building Height

Currently, zoning measures heights in two ways, depending on zoning district:

1. The base plane method measures building height from the flood elevation of the adopted FIRMs (which are in the process of being replaced). This method of measuring building height also does not take into account the additional height now required by Building Code.
2. The sky exposure plane method measures building height from ground level. This method of measuring building height does not account for any requirements of flood-resistant construction.

The existing rules for measuring building height do not adequately allow buildings to elevate to meet federal flood standards. The proposal is to measure all building heights from the flood-resistant construction elevation. This would enable buildings to elevate to the new standards while maintaining the same allowable building envelope. The floor space of a story would count towards “floor area” calculations if it was more than half above flood-resistant construction elevation.

Building Access from Grade

Due to new flood-resistant construction standards, first floors will typically be elevated higher above grade than buildings constructed previously in flood zones. This results in issues related to building access, including longer stairs or ramps and the potential need for lifts for persons with disabilities. Where dry flood-proofing is allowed, doorways at grade and window openings below flood-resistant construction elevation will need to be protected by temporary flood barriers erected before a storm event. Under the current regulations, elevated buildings must either locate stairs and ramps outside the building, or lose usable floor space if these features are located inside the building.

The proposal would allow interior stairs and ramps to be discounted from floor area calculations at a ratio proportional to the height of the first floor above grade. In higher density Commercial districts, where the entire street wall is required to be located on the street line, this requirement would be reduced to 70 percent to allow flexibility to provide stairs and ramps outside of the building. Mechanical lifts for those with disabilities and flood protection barriers for dry flood-proofing would be allowed as permitted obstructions in yards and other required open spaces. In cases where an existing house is too close to the front lot line to provide access after it is elevated above flood levels, the house would be allowed to be relocated away from the front lot line, even if that results in a rear yard smaller than what is normally allowed.

Locating Mechanical Systems above Flood Levels

Generally, the most reliable and cost-effective way of protecting a building’s mechanical equipment from flood damage is to elevate it above flood levels, although sealing the equipment in a water-tight enclosure is also allowed. Protecting mechanical equipment from flood damage

is often the first step to take in retrofitting an existing building to greater flood resilience. However, current zoning limits the options that property owners have to retrofit and to design new buildings with mechanical equipment above flood levels.

For existing single- and two-family homes, the proposal would allow mechanical equipment as permitted obstructions in side and rear yards, either screened and adjacent to a building wall, or within a detached garage with a height limit of 14 feet to the midpoint of a sloping roof. The Department modified the proposal in response to comments from the Staten Island Chapter of the American Institute of Architects to allow mechanical systems above the roof of a detached garage, provided that the mechanicals and required screening do not exceed a height of 12 feet above grade. This additional option provides an important alternative for mechanical systems that have significant ventilation needs and cannot easily be located below the roof of a garage.

For all buildings other than single- and two-family homes, both existing and new, mechanical equipment would be permitted to heights allowed for parking garages and other permitted obstructions in rear yards: 10 feet in lower density Residence Districts, 14 feet in middle and higher density Residence Districts, and 23 feet in Commercial and Manufacturing Districts. In lower density districts, where the amount of floor area deductible for mechanical space is limited by zoning, the proposal would allow all necessary mechanical space to be deducted, as it is for all other zoning districts in the city.

The proposal also would allow greater flexibility to locate mechanical equipment on the roofs of buildings. For multi-family buildings in R3-2 and R4 Districts, the proposal would allow mechanical equipment and elevator and stair bulkheads to penetrate height limits, based on guidelines for how this is permitted for all other medium and high-density districts throughout the city. For buildings in R5 through R10 and equivalent districts, the percentage of a roof permitted to be covered by elevator and stair bulkheads and mechanical equipment would be increased from 20 percent to 30 percent. For existing buildings in these districts, because existing buildings are designed to carry weight in portions of roofs already occupied by mechanical equipment, there would be an option to retain the coverage limit of 20 percent, but

allow an additional 8 feet of height for relocated mechanical equipment. For existing buildings greater than 120 feet in height, the additional height would be 15 feet.

Parking

The proposal includes special parking rules for existing buildings that are retrofitted to comply with flood-resistant construction standards. The owners of existing residential buildings that choose to comply with FEMA flood-resistant construction standards would need to relocate parking that is currently below grade. Regulations regarding curb cuts, front yard parking, and front yard planting would be modified to allow parking to be relocated on site, either in front of the building or in a side lot ribbon. In some cases, even with these modified rules, there will be no way to retain parking on site, in which case the proposal would allow the DOB Commissioner to waive parking requirements.

Where flood levels require buildings to be elevated a full story above grade (where the FRCE is 9 feet or more above curb level), parking location and curb cut regulations that would otherwise restrict the ability to park under buildings would be modified to allow this space to be used for parking, since FEMA flood-resistant construction standards restrict the use of this space to parking, storage, and building access. The Department subsequently modified the proposal to facilitate parking below single- and two-family residences not just where the FRCE is 9 feet above curb level, but also where the FRCE is between 6 and 9 feet above curb level and the residence opts to measure height from a point 9 feet above curb level, as permitted by other provisions of the proposal. Residences designed pursuant to this rule will also likely seek to provide parking spaces below the building and in many cases would need the additional height to provide these spaces. In addition, gravel driveways would be permitted in flood zones for lots with a single- or two-family residence.

Accommodating Flood-Resistant Construction Standards on Ground Floors

For many existing residential buildings that are attached or too large to elevate easily, the only feasible way to retrofit to flood-resistant construction standards may be to vacate the existing ground floor, and convert the living space to an accessory use that is allowed to be wet flood-

proofed, such as parking, storage, or access. However, in situations where the lot already has the maximum floor area permitted, zoning would prevent a property owner from replacing the living space elsewhere on the lot, even if it fits within the bulk envelope. The proposed rules would exempt from floor area calculations spaces below flood levels that are converted to storage, access or parking when the building is made compliant with Appendix G of the Building Code. This will allow replacement space to be constructed, provided that the replacement space must fit within the bulk envelope on the lot.

Existing buildings in Commercial Districts with non-residential space below the flood elevation have the additional option of dry flood-proofing the ground floor. However, dry flood-proofing can be particularly difficult and costly for existing buildings in lower-density districts, because smaller buildings generally lack the thick walls and building mass that are effective in resisting lateral and buoyancy pressures when surrounded by water. To help preserve commercial and community facility services and the character of these Commercial Districts, the Department modified the proposal to allow a building to dry flood-proof and retain an active use on the street while still receiving the same kind of zoning benefits as the wet flood-proofing option. The dry flood-proofing option would be available in lower- and middle-density Commercial Districts, with an R6 equivalent or less. This option would treat dry flood-proofed floors the same way that wet flood-proofed floors are treated – they would be exempted from floor area calculations, allowing for the construction of new floor area equivalent to the area that has been dry flood-proofed, provided that the replacement space must fit within the bulk envelope on the lot.

Zoning regulations currently pose a barrier to elevating houses built using a rule that exempts the ground floor from floor area calculations where it contains a garage. This rule currently applies in R1 and R2 districts, but it previously applied in other low-density districts. When the garage is separated from the elevated house, the conditions allowing the floor space to be exempt from floor area calculations are no longer present, and the building would likely exceed the permitted floor area on the lot. The proposal would continue to exempt floor area for homes that were constructed using this rule, even when the first floor is elevated and separated from the garage.

Streetscape

A set of rules would address the unique streetscape issues created by buildings that are elevated above grade in accordance with flood-resistant construction standards.

Streetscape Rules that Provide Design Flexibility

Raising a yard can offer a line of defense against flooding, and limited increases in yard levels can help make a more visually appealing transition from street level to an elevated building. Current zoning regulations do not allow the grade of required front, side and rear yards to be raised above curb level.

The proposed rules would allow the grade in yards to be raised above curb level, provided that the slope, beginning from a point 30 inches above the lot line, does not exceed two feet vertical to five feet horizontal, and retaining walls are limited to no more than 30 inches in height. In C8 and Manufacturing Districts, where rear yards are the only required yards, these yards could be raised to the flood-resistant construction elevation (buildings are already allowed to rise to 23 feet in these rear yards, far higher than any flood-resistant construction elevation in the city). In cases where rear yards are adjacent to Residence Districts, the grading controls would apply.

In addition, to provide another option to improve the streetscape in flood zones, roofed porches would be allowed as permitted obstructions in front yards, provided the porch floor is a step below the habitable floor, to enable a softening of facades and a smoother visual transition from grade to the elevated first floor. Currently, zoning regulations do not allow porches with roofs as permitted obstructions in yards. Balconies located directly over a porch would also be allowed by the modified proposal as a permitted obstruction in yards.

Special transparency requirements apply in various special districts, some of which are in flood zones. These transparency requirements are typically measured from two feet above the sidewalk. With higher flood levels, these rules may be infeasible. Therefore, the proposed rules allow an option to measure transparency requirements from flood elevations, instead of from a point above the sidewalk.

In Commercial Districts on Staten Island and in some Special Purpose Districts, zoning regulations require the first floor of commercial or community facility establishments to be located within a certain distance above the sidewalk. These requirements may become impractical in flood zones, especially where the flood elevation is high above the sidewalk. The proposed rules would allow these uses to be elevated to the minimum extent necessary above flood levels, instead of below flood levels and close to the sidewalk.

Streetscape Standards

The proposal would require certain mitigation elements where the first floor of buildings is elevated more than a certain distance above grade.

For new or elevated single- and two-family residences in R1 through R5 Districts, where the first habitable floor is five feet or more above grade, proposed rules would be require at least one item from a menu of options including elevated yards, open porches, porches with roofs, stair direction change, or trees and shrubs at least three feet high. Where the first floor is nine feet or more above grade, two items would be required to mitigate the higher first floor. A porch with a roof would count as two items, because the horizontal mass of the roof helps to visually break up the additional height of the building. The modified proposal would allow porches with a trellis or arbor, instead of a roof, to be considered the same as a porch with a roof. The modified proposal extended also extended this streetscape mitigation requirement to single- and two-family detached and semi-detached residences in R6 Districts.

For other buildings in Residence Districts, where the first occupiable floor is five feet or more above grade, the modified proposal would require trees or shrubs at least three feet high. Where the first occupiable floor is 10 feet or more above grade, a ground floor lobby would also be required with minimum width and transparency requirements. Wherever the flood-resistant construction elevation is five feet or more above grade, any parking below the building would be required to be screened with materials at least 50 percent opaque.

In Commercial Districts, where the flood-resistant construction elevation is 10 feet or more above grade, an area with the same minimum width as the lobby required above would be

required to be glazed with transparent materials, and the same screening requirements for parking below the building would apply.

Streetscape Incentives

For new or elevated single- and two-family residences, where the flood-resistant construction elevation is six feet or more above grade, the proposal would allow height measurements to be taken from a point nine feet above grade to allow for usable space for storage, parking or access beneath a house, provided that two visual mitigation elements are provided.

For other buildings in Residence Districts, high flood elevations make ramping and stairs awkward and very space-intensive. The most effective solution is often to provide a full-height ground floor at the sidewalk level that serves primarily as a lobby, with all habitable floors above. Therefore, where flood-resistant construction elevation is five feet or more above grade, the proposal would allow the height measurements to be taken from a point 10 feet above grade to allow at-grade building entrances and, where appropriate, screened parking beneath the building. Buildings utilizing this incentive would be required to provide wide at-grade lobbies and planting described above.

In Commercial Districts, the same problems with ramps and stairs occur, but the negative effects are potentially even more significant, because commercial streets need a closer connection between ground floor uses and the street. There are a variety of effective solutions for this situation, all of which manage to provide show windows close to street level. Where flood-resistant construction elevation is 5 or more feet above grade, the proposal would allow height measurements to be adjusted to begin 12 feet above grade, provided that ground floor transparency requirements of 50 percent are met, measured from 2 feet above grade.

Waterfront Regulations

The proposal would modify regulations applicable to waterfront blocks to allow waterfront yards to be raised, provided that grades connect to existing grade at lot lines, and do not exceed a three percent slope extending inward from lot lines, or the grades allowed for shore public walkways, as applicable. The height of visual corridors would be modified to begin three feet above curb

level, instead of at curb level, and to extend to either the shoreline or the height of the raised waterfront yard. These changes would allow additional flexibility for grading and landscaping of waterfront sites to increase flood resilience.

Grandfathering Rules

Some buildings damaged or destroyed during the storm would not be able to be rebuilt either because zoning regulations do not allow the reconstruction of buildings completely destroyed that did not comply with zoning rules, or because standards for flood-resistant construction would conflict with zoning regulations. For single- and two-family homes, the proposal would allow new non-compliances to height limits to the extent necessary to elevate the first habitable floor of the home to the flood-resistant construction elevation. The modified proposal would also allow, in V zones, as designated on FEMA flood maps, homes to exceed height limits to the extent necessary to elevate the bottom of the horizontal structural members supporting first habitable floor of the home to the flood-resistant construction elevation. The modified proposal would also extend the time limit for single- and two-family homes to rebuild. By interpretation, the Department of Buildings requires that a replacement of a non-complying single- or two-family home must be vested within two years of its demolition. The modified proposal would extend this time frame to 10 years after the adoption of new Flood Insurance Rate Maps. These rules for single- and two-family homes are consistent with long-standing policy to protect the ability of home owners to replace destroyed homes.

For all other buildings, the proposal would allow the reactivation of non-conforming uses and the reconstruction of non-complying buildings severely damaged by Hurricane Sandy, within a limited time-frame sufficient to accommodate the needs of affected owners. For buildings located on waterfront blocks, the proposal would eliminate the requirements for certification, visual corridor and public access for reconstructed buildings not larger than 20,000 square feet that were severely damaged by Hurricane Sandy, and would be available only if construction documents have been approved within a year of the adoption of the new flood maps. In the Special South Richmond Development District, the proposal would eliminate the need for certifications for developments or site alterations on zoning lots with designated open space or where a waterfront esplanade is mapped, provided there is no increase in the building footprint.

This would also be available only if construction documents have been approved within a year of the adoption of the new flood maps.

New Special Permit from the Board of Standards and Appeals

Finally, the proposal includes a new Board of Standards and Appeals special permit, which would waive certain bulk regulations (but not floor area) to the minimum extent necessary to comply with the flood-resistant construction standards of Appendix G of the Building Code. This will make possible the resolution of other potential conflicts between zoning and Building Code that have not been addressed within the proposed text amendment.

Sunset Provision

This proposal is an emergency action that is immediately necessary on a limited and temporary basis to enable construction based on the best available flood hazard data. The proposed text amendment would sunset within one year of the adoption of official Flood Insurance Rate Maps. This provision will ensure that the Department of City Planning pursues a long term zoning solution based on the officially adopted maps.

ENVIRONMENTAL REVIEW

This application (N 130331 ZRY) was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 13DCP135Y. The lead is the City Planning Commission.

The Department of City Planning, on behalf of the City Planning Commission as CEQR Lead Agency, has determined that the Flood Resilience Text Amendment is an "emergency action that [is] immediately necessary on a limited and temporary basis for the protection or preservation of life, health, property or natural resources," and accordingly is a Type II action pursuant to NYCRR Part 617.5 (c)(33). The application (N 130331 (A) ZRY) was revised on July 19, 2013, and a Revised Type II Action was issued on July 19, 2013.

PUBLIC REVIEW

This application (N 130331 ZRY) was duly referred on May 20, 2013, to all affected community boards, borough presidents and borough boards in accordance with the procedure for referring non-ULURP matters. The recommendations issued by Community Boards, Borough Presidents, and Borough Boards are all based on review of the original application. On July 19, 2013, a revised application (N 130331(A) ZRY) was referred to all affected community boards, borough presidents and borough boards for information and review.

Community Board Review

Bronx

Community Board 4: On June 25, 2013, Community Board 4 voted in support of the application.

Community Board 8: On July 23, 2013, Community Board 8 voted in support of the application by a vote of 25 in favor, 1 opposed and 1 abstention.

Community Board 9: On July 8, 2013, Community Board 9 voted in support of the application.

Community Board 10: On June 20, 2013, Community Board 10 voted unanimously in support of the application.

Community Board 11: On June 27, 2013, Community Board 11 voted in support of the application.

Brooklyn

Community Board 1: On June 25, 2013, Community Board 1's Land Use, ULURP and Landmarks Committee voted unanimously to endorse the application incorporating the comments of the Brooklyn Borough President. The Executive Committee reviewed the committee's report and supports the recommendations.

Community Board 2: On June 24, 2013, the Executive Committee of Community Board 2 voted unanimously in support of the application by a vote of 9 in favor, none opposed and none abstaining. The full Board authorized the Executive Board to act on its behalf while the Board is on summer recess.

Community Board 6: On June 12, 2013, Community Board 6 voted unanimously in support of the application.

Community Board 10: On June 17, 2013, Community Board 10 voted unanimously in support of the application by a vote of 42 in favor, none opposed and 1 abstention.

Community Board 15: voted in support of the application. The Board requested that a requirement for additional “green space” as a percentage be added to the proposal.

Manhattan

Community Board 1: On June 25, 2013, Community Board 1 voted unanimously in support of the application by a vote of 34 in favor, none opposed and no abstentions, with the following conditions:

- a) The proposal does not place unnecessary burdens on small businesses and residents, and
- b) The proposal conforms to the Special Initiative for Rebuilding and Resiliency (SIRR) report.

Community Board 3: On July 8, 2013, Community Board 3 voted in support of the application.

Community Board 4: On July 31, 2013, Community Board 4 voted in support of the application, with the following conditions:

- a) In special districts, height limits should not be adjusted to measure from the FRCE, but should remain the same;
- b) Mechanical systems should be controlled as to noise and screened from view to maintain the contextual character of neighborhoods;
- c) Flood control barriers in courts and other open areas should be required to be temporary, to be removed when flooding recedes;
- d) Dry floodproofing should be required on commercial streets in special districts; and
- e) Planting requirements should be required in commercial districts where the FRCE is 10 or more feet above grade.

Community Board 6: On June 12, 2013, Community Board 6 voted unanimously in support of the application by a vote of 41 in favor, none opposed and no abstentions.

Community Board 7: On July 16, 2013, Community Board 7 voted unanimously in support of the application by a vote of 36 in favor, none opposed and no abstentions.

Community Board 8: On July 17, 2013, Community Board 8 voted unanimously in support of the application by a vote of 32 in favor, none opposed and no abstentions.

Community Board 11: On July 29, 2013, Community Board 11 sent a letter indicating that the board was in support of the application. The Community Board voted in support of the application by a vote of 33 in favor, 1 opposed and 1 abstention.

Queens

No recommendations were received from the Queens Community Boards.

Staten Island

Community Board 1: On June 11, 2013, Community Board 1 voted in support of the application by a vote of 29 in favor, 1 opposed and 1 abstention with the condition that the special permit provisions be reviewed and administered by the City Planning Commission as opposed to the Board of Standards and Appeals.

Community Board 2: On June 18, 2013, Community Board 2 voted in support of the application by a vote of 27 in favor, none opposed and no abstentions.

Community Board 3: On June 26, 2013, Community Board 3 supported the application with the exception of section 64-92, pertaining to the ability of the Board of Standards and Appeals to grant waivers of certain bulk provisions of the Zoning Ordinance. The Board believes that the community would be better served if City Planning were authorized to grant waivers if necessary, and not the BSA.

Borough Board Review

On July 9, 2013, the Brooklyn Borough Board voted unanimously in support of the application by a vote of 21 in favor, none opposed and no abstentions; subject to the condition that the text be modified according to the following:

- a) Regarding ZR 64-321 and ZR 64-61, incorporate the appropriate City Code that requires grading to be executed in a manner that would contain storm water on site.
- b) Regarding ZR 64-61, reorder the sections to make clear that homes within 3 feet of the street line do not require streetscape mitigation and to expand the applicability of this section.
- c) Regarding ZR 64-61 and 64-322, allow roofed porch structure to incorporate outdoor balcony/deck space as an added amenity and allow a trellis as a roof option.
- d) Regarding ZR 64-322 (c), required screening should only pertain to the mechanical equipment, not the structure in which the equipment is housed.
- e) Regarding ZR 64-421, allow substandard lots to provide mechanical equipment within five feet of a lot line.
- f) Regarding ZR 64-322, the Department should further evaluate limitations on bulkheads.
- g) Regarding ZR 64-332 and ZR 64-432, change the point at which higher bulkheads are allowed from 120 feet or greater, to greater than 120 feet.
- h) Regarding ZR 64-51, expand parking relaxations to single- and two-family residences in all districts (other than R4B and R5B) where a building is either raised or removes habitable use.
- i) Regarding ZR 64-52, allow gravel driveways in R6 districts.
- j) Regarding ZR 64-62, apply lobby requirements at higher density/larger lot width. Clarify from where the height of a shrub being at least three feet in height is measured and clarify the minimum street frontage spacing of trees.
- k) Regarding ZR 64-723, clarify that reconstruction is not required to be exactly above the existing foundation but rather permit a shift in the placement of the building.
- l) Regarding ZR 64-82, establish a percentage of the waterfront yard that might be graded to exceed three percent.
- m) Take steps to sufficiently minimize the financial burden for those property owners that seek to either modify their homes/buildings to conform to the flood-resistant construction standards or for those that are unable to make such building alterations, financially assist those that might be exposed to higher flood insurance premiums or compelled to obtain flood insurance.

On July 25, 2013, the Bronx Borough Board voted unanimously in support of the application.

The Queens Borough Board issued a recommendation disapproving the application on August 8, 2013 by a vote of 16 opposed, one in favor, and five abstentions. Board members were concerned about the cost of elevating single- and two-family homes to the elevation of the new flood maps plus the freeboard required by Building Code.

No recommendations were received from the Manhattan or the Staten Island Borough Board.

Borough President Review

The Bronx Borough President recommended approval of the application on July 25, 2013. The recommendation was without conditions, but included the following comments:

- a) Encourage consideration of the 500-year flood zone as an area within which flood-resilient zoning regulations may be applied.
- b) Recommend increasing transparency requirements for commercial buildings from 50 percent to 66 percent.
- c) A question regarding the purpose and implementation of the screening requirement for parking areas below a building.
- d) A question regarding how the proposal would affect Lower Density Growth Management Areas.

No recommendations were received from the Manhattan, Brooklyn, Queens or Staten Island Borough Presidents.

City Planning Commission Public Hearing

On July 24, 2013 (Calendar Nos. 9 and 10), the City Planning Commission scheduled August 7, 2013, for a public hearing on this application (N 130331 (A) ZRY). The hearing was duly held on August 7, 2013 (Calendar Nos. 21 and 22). There were four speakers in favor of the application and no speakers in opposition.

A representative of the Citizens Housing and Planning Council spoke in support of the proposal and asked that future study by the Department of City Planning examine the following issues that may be encountered by owners and developers seeking to flood-proof various types of properties:

- a) Legalization of basement or cellar apartments in the flood zone in ways that minimizes the loss of such housing stock;
- b) Potential need for further relief from building envelope controls, such as flexibility for small homes in relation to side yard requirements;
- c) Allow a multi-lot approval process through the proposed Board of Standards and Appeals special permit.

A representative of the New York Chapter of the American Institute of Architects spoke in support of the proposal and requested that future study by the Department of City Planning examine the following issues:

- a) Allow the new proposed regulations to apply beyond the 100-year floodplain to the 500-year flood plain, and allow use of the elevation of the 500-year floodplain to encourage more flood resilience in expectation of increased sea level rise;
- b) For existing buildings, provide more options to replace the floor area of floors are below the flood elevation through horizontal or vertical enlargements;
- c) Allow modification of street wall alignment and rear yard setback requirements in relation to the need for accessible entrances to elevated buildings; and
- d) Allow modification of side yard requirements for building replacement on narrow lots.

A representative of the Queens Chapter of the American Institute of Architects spoke in support of the proposal and recommended that the City examine the manner in which Building Code regulations may hinder flood-resilient retrofits due to higher costs when elevating single- and two-family homes.

A representative of Manhattan Community Board 7 spoke in support of the proposal.

Waterfront Revitalization Program Consistency Review

This application was reviewed by the Department of City Planning for consistency with the policies of the New York City Waterfront Revitalization Program (WRP), as amended, approved by the New York City Council on October 13, 1999 and by the New York State Department of State on May 28, 2002, pursuant to the New York State Waterfront Revitalization and Coastal Resources Act of 1981 (New York State Executive Law, Section 910 et seq.). The designated WRP number is 13-050. This action was determined to be consistent with the policies of the New York City Waterfront Revitalization Program.

CONSIDERATION

The Commission believes that the application for the zoning text amendment (N 130331 (A) ZRY), as modified, is appropriate.

The proposal will assist efforts to recover from Hurricane Sandy, promote rebuilding, and increase the city's resilience to climate-related events, including coastal flooding and storm surge. These changes are needed in order to remove regulatory barriers that would hinder or prevent the reconstruction of storm-damaged properties. The proposal is also needed to enable new and existing buildings to comply with new, higher flood elevations issued by the Federal Emergency Management Agency (FEMA), and with new requirements in Building Code. Building to these new standards will reduce vulnerability to future flood events, as well as help property owners avoid higher flood insurance premiums.

The Commission has carefully considered the recommendations made by Community Boards, Borough Boards, and Borough Presidents, and during the public hearing. In addition, the Department of City Planning solicited detailed comments on the proposal from practitioners in a variety of disciplines. Feedback during the public review process informed the modified application (N 130331 (A) ZRY) submitted by the Department.

The Commission observes that the revised application responds to many of the issues raised during public review. Many parties, including Brooklyn Community Board 1, Manhattan

Community Board 1, and the Brooklyn and Queens Borough Boards, voiced concern about the financial cost of retrofitting existing buildings to comply with the new FEMA flood maps and the new freeboard requirements in Building Code. The Commission recognizes the significance of cost as a concern for building owners, but observes that these costs are a product of Federal and State requirements, which are based on the best available data on coastal flood risks. The Commission also notes that the City is using federal disaster recovery funds to assist many owners through the “Build It Back” program.

Manhattan Community Board 4 recommended that building heights in special districts should not be modified to measure from the FRCE. The Commission notes that height limits in special districts respond to a range of locally specific conditions, but that the flood zone condition that provides the rationale for the proposed changes to height measurements exists in special districts just as it does outside them. However, the Commission is modifying the zoning text to clarify the ways in which height limit measurements are modified by the proposal, to clarify that measurements from the High Line bed are not affected.

Manhattan Community Board 4 recommended that mechanical systems should be controlled for noise and screened from view to maintain the contextual character of neighborhoods. The Commission notes that New York City Noise Code applies to all mechanical systems, both in flood zones and otherwise, and that the proposal requires screening of all mechanical systems in a manner that allows for necessary ventilation of some systems. The Community Board also recommended that dry flood-proofing should be required on commercial streets in special districts. The Commission notes that dry flood-proofing can involve significant engineering challenges and cost, depending on building type and the level of flood protection above grade. In addition, there are natural financial incentives for developers to locate a retail floor level close to the grade of the adjacent sidewalk, to better draw customers from the foot traffic on the sidewalk. The Commission finds that such a requirement would require additional study.

Manhattan Community Board 4 also recommended that planting requirements should be required in commercial districts where the FRCE is 10 or more feet above grade. The Commission notes that in general, zoning does not include planting requirements in Commercial Districts, other

than street trees. This is due to higher levels of foot traffic and other activity in the space between the sidewalk and the storefront. This issue would require study before further action is taken.

The Commission received recommendations from Staten Island Community Boards 1 and 3 recommending that the City Planning Commission, rather than the Board of Standards and Appeals, administer the proposed special permit to waive bulk provisions as needed to comply with flood resistant construction standards. The Commission notes that the Board of Standards and Appeals has the appropriate expertise to administer findings that relate to “practical difficulty” and providing relief “to the minimum extent necessary,” as these are characteristics of variances administered by the Board.

The Bronx Borough President expressed concern about the effect of the regulations on the character of Community District 10, which is protected by Lower Density Growth Management regulations. The Commission notes that the Community District where these rules apply is zoned R3 or R4, and these Districts already allow height measurements from base flood elevation. When new Flood Insurance Rate Maps are formally adopted, all building height measurements will automatically shift to the new elevations. Over the long term, then, the proposal results in a change which allows the additional one or two feet of required freeboard to be included in calculations of building height. The Commission believes the benefits of freeboard in adapting the community's building stock for future sea level rise outweigh any effect on the character of development in the area.

The Commission received a recommendation from the Bronx Borough President that streetscape incentives for properties in Commercial Districts should be conditioned on the provision of 66 percent transparency, instead of the proposed 50 percent. The Commission notes that many special purpose zoning districts, including the recently adopted Special Enhanced Commercial District, have transparency requirements of 50 percent minimum, which allow for structure and façade variation while achieving a high quality of urban design. In addition, flood resistant construction requires additional structure at the lower level, which can make higher levels of

transparency difficult or infeasible. The Commission believes that the requirement as proposed is appropriate.

The Bronx Borough President's recommendation and testimony from the New York Chapter of the American Institute of Architects suggested that the Department study future zoning changes to allow elevation of buildings based on the 500-year flood elevation, a more precautionary standard. The Commission notes that the Department intends to examine this issue in the study of a subsequent zoning text amendment that it will advance prior to the sunset of the currently proposed text amendment.

The Commission received a recommendation from the Brooklyn Borough Board regarding proposed section 64-61, to make streetscape mitigation requirements for single- and two-family homes applicable to areas outside R1 through R5 Districts that contain such homes. In response, the Department modified the proposal to require streetscape mitigation for new or elevated single- or two-family detached or semi-detached homes in R6 Districts. The Commission observes that detached or semi-detached residences in R6 Districts can appropriately incorporate one or more streetscape mitigation elements, and believes this modification is appropriate.

The Brooklyn Borough Board recommended that the Department should further evaluate the proposed 10 percent limitation on bulkheads for buildings in R3-2 and R4 Districts. The revised application includes a limit of 250 square feet or 10 percent of building coverage, whichever is greater, to accommodate the bulkhead needs of smaller buildings. The Commission finds these changes appropriate.

The Department revised the application to incorporate a recommendation from the Brooklyn Borough Board to allow a roofed porch structure to incorporate an outdoor balcony as an added amenity, and to allow a trellis as a roof option. The Commission believes these changes will help bring activity to the street and provide more design options for mitigating the vertical bulk of single- and two-family buildings in flood zones. The Borough Board also recommended that, regarding proposed section 64-62, lobby requirements should not apply to smaller lots at lower

residential densities. Rather than eliminating the requirement for smaller lots, the Department modified the proposal to allow a five-foot wide service area to be exempt from lobby requirements for lots with less than 25 feet of frontage. The Commission believes that these changes will encourage the construction of lobbies to help activate the streetscape while acknowledging the program and design issues of smaller properties.

The Brooklyn Borough Board recommended that the proposal amend waterfront regulations to allow the grade of a waterfront yard to have a slope exceeding three percent. The Commission recognizes that in some instances steeper slopes may provide coastal protection value or serve other purposes, and that such changes are permitted by authorization from the Commission; however, the possibility of adverse effects on waterfront access, visual corridors, or neighboring properties make a generic allowance challenging. The Commission believes that this issue warrants further study before such a modification could occur.

In addition, the Commission is making several additional modifications to the proposed text amendment (N130331 (A) ZRY) based on recommendations from the Department of City Planning. These modifications include clarification of vesting provisions; clarification that waterfront yards with shore public walkways are limited by the design requirements for public access areas, and that those without such walkways are limited by a maximum grade of three percent; and clarification of provisions allowing height measurements to be made from the FRCE instead of from curb level, grade, base flood elevation or other such measurement, which would also clarify that measurements related to the High Line bed and are not modified by the proposed amendments. The Commission has also modified a number of sections in the proposed text amendment to correct cross-references, grammar, and improve paragraph structure.

RESOLUTION

RESOLVED, that the City Planning Commission finds that the action described herein will have no significant impact on the environment; and be it further

RESOLVED, that the City Planning Commission, in its capacity as the City Coastal Commission, has reviewed the waterfront aspects of this application and finds that the proposed action is consistent with WRP policies; and be it further

RESOLVED, by the City Planning Commission, pursuant to Section 201 of the New York City Charter, that based on the environmental determination and consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:

Matter in underline is new, to be added.

Matter in ~~strikeout~~ is to be deleted.

Matter with # # is defined in Section 12-10.

* * * indicates where unchanged text appears in the Zoning Resolution.

ARTICLE I GENERAL PROVISIONS

* * *

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

* * *

11-339 Post-Hurricane Sandy construction

The provisions of this Section shall apply within the #flood zone#. The provisions of this Section are subject to all provisions of Title 28 of the Administrative Code of the City of New York and Appendix G of the Building Code of the City of New York, or its successors, including those pertaining to expiration, reinstatement, revocation and suspension. Changes in flood maps shall be considered an amendment of the Zoning Resolution pursuant to the provisions of Section 11-30 (Building Permits Issued Before Effective Date of Amendment).

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

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

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

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

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

This provision shall become effective only upon the expiration of Article VI, Chapter 4 (Special Regulations Applying in the Flood Hazard Area), adopted on (date of adoption). If an application for approval of construction documents has been approved on or before the expiration of the Flood Resilience Zoning Text Amendment, a building permit authorizing such construction may be issued pursuant to Article VI, Chapter 4, and such construction may continue until a date six years after the expiration of such Flood Resilience Zoning Text Amendment. After such date, the vesting provisions of Section 11-30 shall apply.

**Chapter 2
Construction of Language and Definitions**

* * *

**12-10
DEFINITIONS**

* * *

Base plane

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

* * *

Flood maps

“Flood maps” shall be the most recent advisory or preliminary maps or map data released by the Federal Emergency Management Agency (FEMA) after October 28, 2012, until such time as the City of New York adopts new final Flood Insurance Rate Maps. When new final Flood Insurance Rate Maps are adopted by the City of New York superseding the Flood Insurance Rate Maps in effect on October 28, 2012, “Flood maps” shall be such new adopted final Flood Insurance Rate Maps.

Flood zone

The “flood zone” is the area that has a one percent chance of flooding in a given year, as indicated on the effective Flood Insurance Rate Maps, plus any additional area that has a one percent chance of flooding in a given year, as indicated on the #flood maps#.

* * *

ARTICLE II RESIDENCE DISTRICT REGULATIONS

* * *

Chapter 3 Residential Bulk Regulations in Residence Districts

23-00
APPLICABILITY AND GENERAL PURPOSES

23-01
Applicability of This Chapter

* * *

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.

* * *

Chapter 4
Bulk Regulations for Community Facilities in Residence Districts

24-00
APPLICABILITY, GENERAL PURPOSES AND DEFINITIONS

24-01
Applicability of this Chapter

* * *

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.

* * *

Chapter 5
Accessory Off-Street Parking and Loading Regulations

* * *

25-029

Applicability of regulations in flood zones

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

* * *

**ARTICLE III
COMMERCIAL DISTRICT REGULATIONS**

* * *

**Chapter 2
Use Regulations**

**32-00
GENERAL PROVISIONS**

* * *

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.

* * *

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

**33-00
APPLICABILITY, DEFINITIONS AND GENERAL PROVISIONS**

**33-01
Applicability of this Chapter**

* * *

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.

* * *

**Chapter 4
Bulk Regulations for Residential Buildings in Commercial Districts**

**34-00
APPLICABILITY AND DEFINITIONS**

**34-01
Applicability of this Chapter**

* * *

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.

* * *

**Chapter 5
Bulk Regulations for Mixed Buildings in Commercial Districts**

**35-00
APPLICABILITY AND DEFINITIONS**

**35-01
Applicability of this Chapter**

* * *

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.

* * *

Chapter 6
Accessory Off-Street Parking and Loading Regulations

* * *

36-028
Applicability of regulations in flood zones

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

* * *

ARTICLE IV
MANUFACTURING DISTRICT REGULATIONS

* * *

Chapter 2
Use Regulations

42-00
GENERAL PROVISIONS

* * *

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.

* * *

Chapter 3
Bulk Regulations

43-00
APPLICABILITY AND GENERAL PROVISIONS

43-01

Applicability of this Chapter

* * *

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.

* * *

**Chapter 4
Accessory Off-Street Parking and Loading Regulations**

* * *

**44-02
Applicability**

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.

* * *

**ARTICLE V
NON-CONFORMING USES AND NON-COMPLYING BUILDINGS**

* * *

**Chapter 2
Non-Conforming Uses**

* * *

**52-02
Applicability of Article V, Chapter 2**

In the #flood zone#, the provisions of this Chapter are modified by the provisions of Article VI, Chapter 4.

* * *

**Chapter 4
Non-Complying Buildings**

* * *

**54-02
Applicability of Article V, Chapter 4**

In the #flood zone#, the provisions of this Chapter are modified by the provisions of Article VI, Chapter 4.

* * *

**ARTICLE VI
SPECIAL REGULATIONS APPLICABLE TO CERTAIN AREAS**

* * *

**Chapter 2
Special Regulations Applying in the Waterfront Area**

* * *

**62-13
Applicability of District Regulations**

The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4, the provisions of Article VI, Chapter 4 shall control.

In the event a Special Purpose District imposes a restriction on the height of a #building or other structure# that is lower than the height limit set forth in this Chapter, the lower height shall control. However, all heights shall be measured from the #base plane#.

The provisions of this Chapter shall not apply to the following Special Purpose Districts unless expressly stated otherwise in the special district provisions:

#Special Battery Park City District#

#Special Stapleton Waterfront District#.

The provisions of this Chapter shall not apply in the #Special Sheepshead Bay District# ~~shall be applicable~~, except that Section 94-061 (Uses permitted by right) shall be modified to permit all WD #uses# listed in Section 62-211 from Use Groups 6, 7, 9 and 14 in accordance with the underlying district regulations.

* * *

62-341

Developments on land and platforms

All #developments# on portions of a #zoning lot# landward of the #shoreline# or on #platforms# shall be subject to the height and setback provisions of this Section. However, when the seaward view from all points along the #shoreline# of a #zoning lot# is entirely obstructed by existing elevated roads, bridges or similar structures which are less than 50 feet above mean high water and within 200 feet of the #shoreline#, #developments# shall be exempt from the requirements of this Section. Height and setback regulations for #developments# on #piers# and #floating structures# are set forth in Sections 62-342 and 62-343.

- (a) For the purposes of applying the height and setback regulations of this Section, the following provisions shall apply:

* * *

- (3) Measurement of height

The height of all #buildings or other structures# on #waterfront blocks# shall be measured from the #base plane#, except where modified by the provisions of Article VI, Chapter 4. For #buildings# with pitched roofs, maximum #building# height shall be measured to the midpoint of such pitched roof, except for #buildings# subject to Section 23-631 (Height and setback in R1, R2, R3, R4 or R5 Districts).

- (4) Permitted obstructions

The obstructions permitted pursuant to Sections 23-62, 24-51, 33-42 or 43-42, and, where applicable, Sections 64-331, 64-332 or 64-432 shall apply. In addition, the following regulations regarding permitted obstructions shall apply:

* * *

Chapter 4
Special Regulations Applying in Flood Hazard Areas

64-00
GENERAL PURPOSES

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

- (a) to facilitate the development and alteration of buildings in flood zones consistent with the latest flood-resistant construction standards of the Federal government and the New York City Building Code;
- (b) to enable buildings to be constructed pursuant to flood resistant standards with a comparable amount of usable interior space to what is generally permitted within the applicable zoning district;
- (c) to mitigate the effects of elevated and flood-proofed buildings on the streetscape and pedestrian activity; and
- (d) to promote the most desirable use of land and thus conserve and enhance the value of land and buildings, and thereby protect the City's tax revenues.

64-10
GENERAL PROVISIONS

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

64-11
Definitions

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

Basement

For #buildings#, or portions thereof, that comply with #flood-resistant construction standards#, a "basement" is a #story# (or portion of a #story#) partly below #flood-resistant construction elevation#, with at least one-half of its height (measured from floor to ceiling) above #flood-resistant construction elevation#.

Cellar

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

Flood-resistant construction elevation

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

- (a) the "design flood elevation" determined pursuant to Appendix G of the New York City Building Code for a building's structural occupancy category; or
- (b) the base flood elevation indicated on the #flood maps#, plus the additional elevation required above base flood elevation for the applicable occupancy category when determining the Design Flood Elevation pursuant to Appendix G of the Building Code.

Flood-resistant construction standards

"Flood-resistant construction standards" shall:

- (a) comply with the standards of Appendix G of the Building Code for "Post-FIRM Construction," whether construction voluntarily complies with standards for "Post-FIRM Construction" or is required to comply; and
- (b) utilize the higher base flood elevation and the more stringent flood hazard area designation, as applicable, of the #flood maps# or the Flood Insurance Rate Maps in effect on October 28, 2012.

Lowest occupiable floor

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

Hurricane Sandy

A severe storm on October 28, 2012, causing heavy flooding, power outages, property damage, and disruption of public transportation and other vital services.

Predominant or predominantly

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

64-12 Applicability

The provisions of this Chapter shall apply only within the #flood zone#, as follows:

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

Section 64-10	GENERAL PROVISIONS
Section 64-20	SPECIAL USE REGULATIONS
Section 64-30	SPECIAL BULK REGULATIONS
Section 64-40	SPECIAL BULK REGULATIONS FOR BUILDINGS EXISTING ON OCTOBER 28, 2012
Section 64-50	SPECIAL PARKING REGULATIONS
Section 64-70	SPECIAL REGULATIONS FOR NON-CONFORMING USES AND NON-COMPLYING BUILDINGS

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

Section 64-90 SPECIAL APPROVALS

- (b) The provisions of Section 64-60 (DESIGN REQUIREMENTS) shall apply to all #developments#, all horizontal #enlargements# with new #street walls#, or alterations that increase the height of #street walls#, except that Section 64-65 (Design Requirements for Parking Areas Below Buildings) shall apply to all #buildings# as provided therein.
- (c) Where a #zoning lot# is located partially within a #flood zone#, the regulations of this Chapter shall apply where any portion of a #building# on such #zoning lot# is within such #flood zone#.

**64-13
Applicability of District Regulations**

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

**64-131
Measurement of height**

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

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

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

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

- (a) the #flood-resistant construction elevation# shall apply to the entire #building#;
- (b) the height of the portion of the #building# within the #flood zone# shall be measured from the #flood-resistant construction elevation#, and the height of the portion of the #building# outside of the #flood zone# shall be measured from an elevation determined in accordance with the underlying applicable regulations; or
- (c) the elevation of each such portion of the #building# from where height is measured shall be multiplied by the percentage of the total #lot coverage# of the #building# to which such elevation applies. The sum of the products thus obtained shall be the elevation from which the height of the entire #building is measured.

64-20 SPECIAL USE REGULATIONS

64-21 Ground Floor Use

- (a) In all districts, where compliance with the elevation and wet flood-proofing requirements of Appendix G of New York City Building Code would result in a #lowest occupiable floor# that is above a level required by the Zoning Resolution without the relief provided by this Section, such requirements shall be modified so that the level of such ground floor shall be the lowest level permitted for #uses# other than parking, storage and building access as if it were “Post-FIRM Construction,” as defined by Appendix G of Building Code, using elevation and wet flood-proofing techniques.
- (b) In C1, C2 and C4 Districts in the Borough of Staten Island, where #flood-resistant construction elevation# is more than 10 feet above #curb level#, the provisions of Section 32-433 (Ground floor use in C1, C2 and C4 Districts in the Borough of Staten Island) shall be modified to allow enclosed parking spaces, or parking spaces covered by a #building#, including such spaces #accessory# to #residences#, on the ground floor within 30 feet of the #street wall# of the #building#, provided that the standards of Section 64-641 (Design requirements) are met.

64-22 Transparency Requirements

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

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

64-30 SPECIAL BULK REGULATIONS

64-31 Special Floor Area Regulations

64-311 Entryways in single- and two-family residences

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

64-312 Entryways in all other buildings

For all #buildings# other than #single-# and #two-family residences#, with enclosed publicly accessible entryways below #flood-resistant construction elevation#, up to 100 square feet of such entryways may be excluded from the definition of #floor area# for each foot of difference between the #lowest occupiable floor# and #curb level#. This area may be excluded from the definition of #floor area# provided it is not greater than the total area at each publicly accessible entryway of ramps, stairs, lifts and elevators plus an initial entry area of no more than 100 square feet for each entryway.

64-313 Mechanical systems in low density districts

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

64-32

Special Yard Regulations

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

64-321

Level of required yards

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

- (a) In Residence Districts and C1 through C6 Districts, #yards# higher than #curb level# shall comply with the following standards:
 - (1) Final grade shall not penetrate a plane that begins 30 inches above #curb level# at each #lot line# and has a slope extending perpendicular to #lot lines# of one foot vertical for each 2.5 feet horizontal;
 - (2) Retaining walls shall be permitted above #curb level# in #yards# provided the maximum height of each wall above adjacent grade does not exceed 30 inches; and
 - (3) In Residence Districts, portions of fences greater than four feet above #curb level# shall be required to be no more than 50 percent opaque; and
- (b) In C7 and C8 Districts and in Manufacturing Districts, #yards# shall be permitted to a maximum grade equal to #flood-resistant construction elevation#. However, for portions of #zoning lots# where Sections 33-29 and 43-30 (Special Provisions Applying along District Boundaries) apply, #yards# are permitted above #curb level# only pursuant to paragraph (a) of this Section.

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

64-322

Permitted obstructions in required yards, courts and open space

- (a) For #single-# and #two-family residences#, where #flood-resistant construction elevation# is five feet or more above #curb level#, roofed porches shall be permitted obstructions in any #open space# required on the #zoning lot# and in #yards#. Balconies

for such #residences# may exceed the width and depth standards of 23-13 (Balconies) where such balconies are located directly above a porch.

- (b) For #single-# and #two-family residences#, lifts for persons with disabilities shall be permitted obstructions in any #open space# required on the #zoning lot# and in #courts#, #yards# and #rear yard equivalents#, provided that in #front yards#, such lifts are unenclosed.
- (c) For all #buildings#, except #single-# and #two-family residences#, #accessory# mechanical equipment shall be a permitted obstruction in #rear yards# and #rear yard equivalents#, provided that such equipment is:
 - (1) located above #flood-resistant construction elevation#;
 - (2) enclosed within a #building# or portion thereof, or within a #structure# that provides screening of such mechanical equipment on all sides by walls consisting of at least 50 percent opaque materials;
 - (3) in R3, R4 or R5 Districts, limited to a height of 10 feet above #flood-resistant construction elevation#, including the apex of a pitched roof;
 - (4) in R6, R7, R8, R9 or R10 Districts, limited to a height of 14 feet above #flood-resistant construction elevation#; or
 - (5) in Commercial or Manufacturing Districts, limited to a height of 23 feet above #flood-resistant construction elevation#;

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

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

64-323

Flood panels in required yards and open space

Temporary flood control devices and associated emergency egress systems that are assembled prior to a storm and removed thereafter shall be permitted obstructions in #yards# and #rear yard

equivalents#, #courts#, #open space#, #waterfront yards# as defined in Article VI, Chapter 2, #public plazas# and all other publicly accessible open areas during such storm event and for a reasonable period prior to and after such storm event, as determined by the Department of Buildings.

64-33 Special Height and Setback Regulations

64-331 Permitted obstructions for multi-family buildings in R3-2 and R4 Districts

R3-2 R4

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

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

- (a) such obstructions shall be located not less than 10 feet from the #street wall# of a #building#;
- (b) all mechanical equipment shall be screened on all sides;
- (c) the #lot coverage# of all such obstructions and screening does not exceed 250 square feet or 10 percent of the #lot coverage# of the #building#, whichever is greater; and
- (d) such obstructions are limited to a height of 15 feet above the maximum height of perimeter walls.

64-332 Permitted obstructions for buildings in medium and high density districts

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

In R5 through R10 Districts, and in all #commercial# and #manufacturing districts#, for all #buildings#, the underlying regulations governing permitted obstructions to height and setback

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

64-333

Street wall location in certain districts

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

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

- (a) Recesses, not to exceed five feet in depth from the #street line#, shall be permitted on the ground floor where required to provide access to the #building#; and
- (b) Up to 30 percent of the #aggregate width of street walls# may be recessed beyond the #street line#, provided any such recesses deeper than 10 feet along a #wide street#, or 15 feet along a #narrow street#, are located within an #outer court#. However, no recesses shall be permitted within 30 feet of the intersection of two #street lines#.

64-334

Alternative height measurement for single- and two-family residences

R1 R2 R3 R4 R5

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

64-335

Alternative height measurement for other buildings in Residence Districts

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

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

64-336

Alternative height measurement in Commercial and Manufacturing Districts

C1 C2 C3 C4 C5 C6

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

C1 C2 C3 C4 C5 C6 C7 C8 M1 M2 M3

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

64-40

SPECIAL BULK REGULATIONS FOR BUILDINGS EXISTING ON OCTOBER 28, 2012

The following provisions shall apply to #buildings# existing on October 28, 2012, and to the reconstruction of such #buildings#.

64-41

Special Floor Area Regulations for Buildings Existing on October 28, 2012

64-411

Floors below the flood-resistant construction elevation

(a) Dry flood-proofing

In C1 and C2 Districts mapped within R1 through R6 districts, and in C3, C4-1, C4-2 and C4-3 Districts, where the level of any finished floor above adjacent grade that existed on October 28, 2012, is below #flood-resistant construction elevation#, such floor space may be exempted from the definition of #floor area# provided that such floor space, as well as any space below such floor space, complies with the #flood-resistant construction standards# for dry flood-proofing. The certificate of occupancy, if required, shall note that such floor space has been dry flood-proofed and must comply with the provisions of Appendix G of the New York City Building Code, and that the number of #dwelling units# or #rooming units# shall be limited to no more than the number existing on October 28, 2012.

In addition, the following provisions shall apply:

- (1) such floor space exempted from the definition of #floor area# shall not exceed 10,000 square feet;
- (2) such floor space exempted from the definition of #floor area# shall be used for a #community facility use# or #commercial use# permitted by the underlying zoning district;
- (3) no floor space shall be exempted if parking spaces within such #building# are located within 30 feet of the #street wall#; and
- (4) the #building# shall contain no more #dwelling units# or #rooming units# than existed on October 28, 2012.

(b) Wet flood-proofing

This paragraph shall not apply to #buildings# containing non-#residential uses# where the #flood-resistant construction elevation# is less than two feet above the level of the first finished floor above #curb level#.

Where the level of any finished floor above adjacent grade that existed on October 28, 2012, is below #flood-resistant construction elevation#, such floor space may be exempted from the definition of #floor area# provided that such floor space, as well as any space below such floor space, complies with the #flood-resistant construction standards# for wet flood-proofing. The certificate of occupancy, if required, shall note that such floor space has been wet flood-proofed and must comply with the provisions of Appendix G of the Building Code.

The #floor area# which has been flood-proofed pursuant to the provisions of this Section need not be rebuilt prior to sign-off by the Department of Buildings or issuance of a certificate of occupancy for such alteration to the flood-proofed floor space in order for such #floor area# to be preserved as long as an application for construction documents for the reconstruction of such #floor area# has been approved by the Department of Buildings prior to the issuance of such sign-off or certificate of occupancy for the alteration associated with the flood-proofing. Such construction documents shall acknowledge that the #non-complying floor area# is being preserved and shall depict its use within the same #building# in a manner complying with #flood-resistant construction standards#.

64-412

Lowest story of a residential building

In all districts, where the #floor area# of a #single-or-two-family residence# existing on October 28, 2012, did not include the lowest #story# because such #story# complied with the criteria set forth in paragraph (9) of the definition of “floor area” in Section 12-10, any space used for dwelling purposes within such #story# shall continue to be exempt from the definition of #floor area#, notwithstanding such criteria, provided such #story# is elevated or reconstructed at or above the #flood-resistant construction elevation#.

64-42

Yards, Courts and Open Space for Buildings Existing on October 28, 2012

64-421

Permitted obstructions

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

- (a) For existing #single-# and #two-family residences#, and for the reconstruction of such #residences#, mechanical equipment including but not limited to #accessory# heating and cooling equipment and emergency generators, shall be permitted obstructions in #open space# required on the #zoning lot#, in any #side yard#, #rear yard# or #rear yard equivalent#, and in #courts#, provided such equipment is:
 - (1) located above #flood-resistant construction elevation#; and
 - (2) located at least five feet from any #lot line#; and
 - (3) screened on all sides by walls consisting of at least 50 percent opaque materials; and

- (4) in compliance with the standards of either paragraph (a)(5) or (a)(6) of this Section ; and
 - (5) the mechanical equipment and all structure and screening are located no more than seven feet from the wall of a #building# and limited to a height of no more than 10 feet above #flood-resistant construction elevation#; or
 - (6) the mechanical equipment is located within a detached garage or on the roof of a detached garage, provided that:
 - (i) where covered by a sloping roof that rises at least seven inches in vertical distance for each foot of horizontal distance, no portion of the roof shall exceed a height of 14 feet above the adjoining grade, measured to the midpoint of a sloping roof; or
 - (ii) for all other conditions, no portion of the garage, screening or the mechanical equipment shall exceed a height of 12 feet above the adjoining grade.
- (b) For existing #buildings#, except #single-# and #two-family residences#, #accessory# mechanical equipment shall be permitted obstructions in #courts# and #open space#, provided such equipment is:
- (1) located above #flood-resistant construction elevation#;
 - (2) within a #structure# that provides screening of such mechanical equipment on all sides by walls consisting of at least 50 percent opaque materials;
 - (3) limited to a height established in Section 64-322 (Permitted Obstructions in Required Yards, Courts and Open Space), paragraph (c), for mechanical equipment as permitted obstructions in a #rear yard#; and
 - (4) located at least 30 feet from any #legally required window#.
- (c) For existing #buildings#, except #single-# and #two-family residences#, lifts for persons with disabilities, where permitted pursuant to provisions of the New York City Building Code, shall be permitted obstructions in #yards#, #courts# and #open space#.

64-422
Front yard planting requirement

R1 R2 R3 R4 R5

In the districts indicated, the provisions of Section 23-451 (Planting requirement) are modified for existing #buildings#, where the distance between the #street wall# and the #street line# is six feet or less, to allow stairs, ramps or lifts that access the #lowest occupiable floor# to be counted as planted area for the purposes of fulfilling the requirements of such provisions.

64-43

Special Height and Setback Regulations for Buildings Existing on October 28, 2012

64-431

For existing single- and two-family residences

#Single-# and #two-family residences# existing on October 28, 2012, may be vertically elevated, or reconstructed to a higher elevation, in order to raise the lowest floor level containing habitable space, located at or above the adjoining grade as of October 28, 2012, to #flood-resistant construction elevation#, and in doing so, may create a #non-compliance# as to height and setback to the extent that such lowest floor level is elevated or reconstructed to #flood-resistant construction elevation#.

Where the elevation requirements of Appendix G of the New York City Building Code apply to the lowest horizontal structural member, #single-# and #two-family residences# existing on October 28, 2012, may be vertically elevated, or reconstructed to a higher elevation, in order to raise the lowest horizontal structural member supporting the lowest floor containing habitable space, located at or above the adjoining grade as of October 28, 2012, to #flood-resistant construction elevation#, and in doing so, may create a #non-compliance# as to height and setback to the extent that such lowest horizontal structural member is elevated or reconstructed to #flood-resistant construction elevation#.

This Section shall not preclude the construction of complying #enlargements# or other #complying structures# on the #zoning lot#.

#Buildings# that were complying on October 28, 2012, and vertically elevated or reconstructed to a higher elevation pursuant to this Section shall be considered legal #non-complying buildings#.

64-432

Permitted obstructions for certain existing buildings

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

In R5 through R10 Districts, and in #Commercial# and #Manufacturing Districts#, for all existing #buildings#, the regulations for permitted obstructions to height and setback regulations

shall be modified to increase the permitted volume for elevator or stair bulkheads (including shafts; and vestibules not larger than 60 square feet in area providing access to a roof), roof water tanks and #accessory# mechanical equipment (including enclosures), other than solar or wind energy systems, as follows:

- (a) where the maximum #building# height is less than 120 feet, the maximum permitted height of such volume may be increased from 25 feet to 33 feet, provided that the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage of the #building#; and
- (b) where the maximum #building# height is 120 feet or greater, the maximum permitted height of such volume may be increased from 40 feet to 55 feet, provided that the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage of the #building#.

64-44

Special Minimum Distance Regulations for Buildings Existing on October 28, 2012

For #single-# and #two-family residences# existing on October 28, 2012, if such #buildings# are elevated, relocated or reconstructed pursuant to Sections 64-131 (Measurement of building height), 64-722 (Single- and two-family residences in required front yards) and 64-331 (Special height and setback provisions for single- and two-family residences), the provisions of Section 23-86 (Minimum Distance Between Legally Required Windows and Walls or Lot Lines) shall not apply.

64-50

SPECIAL PARKING REGULATIONS

Sections 64-51 (For Residential Buildings with Below-Grade Parking) and 64-52 (For Elevated Buildings) shall apply to #buildings# existing on October 28, 2012, and to the reconstruction of such #buildings#. Section 64-51 shall apply without requiring a #building# to comply with #flood-resistant construction standards# provided in paragraph (a) of Section 64-12 (Applicability).

Section 64-53 (Surfacing) shall apply to all #zoning lots# within the #flood zone#.

The underlying parking location, curb cut spacing, permitted obstruction and surfacing regulations are modified in accordance with the provisions of this Section.

64-51

For Residential Buildings with Below-Grade Parking

R1 R2 R3 R4 R5

In the districts indicated, other than R4B and R5B Districts, where below-grade garages within #residential buildings# are eliminated in order to comply with Appendix G of the New York City Building Code, #accessory# off-street parking spaces may be relocated from such garages to the side or rear of such #buildings#, or to the #front yard# driveway that accessed the former garage, or to a shared driveway along a common #side lot line#. Where such parking spaces are so relocated, each such space shall have a dimension at least 18 feet long and eight feet wide, and such spaces shall be allowed without regard to underlying parking location, curb cut spacing, or permitted obstruction regulations. No modifications of the number of curb cuts on a #zoning lot# or the minimum or maximum width of a curb cut shall be allowed. Where eliminated garages were accessed by a driveway less than 18 feet long, such driveway and curb cut shall be eliminated, and the former driveway planted to the extent necessary to comply, or increase compliance, with the provisions of Section 23-451 (Planting requirement) as if the #building# on the #zoning lot# was constructed after April 30, 2008.

In the event there is no way to arrange relocated required parking spaces on the #zoning lot# in compliance with the provisions of this Section, given that existing #buildings# will remain, the Commissioner of Buildings may waive such spaces.

64-52

For Elevated Buildings

R1 R2 R3 R4 R5

In the districts indicated, except R4B and R5B Districts, the provisions of this Section shall apply to #single-# or #two-family residences# with a #flood-resistant construction elevation# at least nine feet above #curb level#, and to other #single-# or #two-family residences# utilizing the provisions of Section 64-344 (Alternative height measurement for single- and two-family residences). For such #residences#, where at least two #accessory# off-street parking spaces are provided beneath the #lowest occupiable floor#, such spaces shall be allowed without regard to the underlying parking location, curb cut spacing or permitted obstruction regulations. However, no modification of the number of curb cuts on a #zoning lot# or the minimum or maximum width of a curb cut shall be allowed.

64-53

Surfacing

R1 R2 R3 R4 R5

In the districts indicated, Section 25-65 (Surfacing) shall be modified to allow dustless gravel driveways that access one #single-# or #two-family residence# on a #zoning lot#, provided that all portions of such driveway located between the curb and the #front lot line# shall be surfaced

with asphaltic or Portland cement concrete, or other hard-surfaced dustless material, at least four inches thick, and public sidewalks shall be constructed to Department of Transportation standards.

**64-60
DESIGN REQUIREMENTS**

The following Sections shall apply to all #developments# and to all horizontal #enlargements# with new #street walls# or alterations increasing the height of #street walls#, or as otherwise referenced within this Chapter:

- Section 64-61 Design Requirements for Single- and Two-family Residences
- Section 64-62 Design Requirements for Other Buildings in Residence Districts
- Section 64-63 Design Requirements for Residential Buildings in Commercial Districts
- Section 64-64 Design Requirements for Non-residential and Mixed Buildings in Commercial and Manufacturing Districts

Section 64-65 (Design Requirements for Parking Areas Within or Below Buildings) shall apply to any #zoning lot# occupied by a #building#, other than a #single-# or #two-family residence# constructed after (date of amendment). 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 Section 64-65.

**64-61
Design Requirements for Single- and Two-family Residences**

R1 R2 R3 R4 R5 R6

In R1, R2, R3, R4 and R5 Districts , for #single-# and #two-family residences# that have a #street wall# within 50 feet of the #street line#, and in R6 Districts, for #detached# and #semi-detached single-# and #two-family residences# that have a #street wall# within 50 feet of the #street line#, where the level of the #lowest occupiable floor# is five feet or more above #curb level#, at least one of the following visual mitigation elements shall be provided. For such #residences# where the level of the #lowest occupiable floor# is nine feet or more above #curb level#, at least two of the following visual mitigation elements shall be provided.

- (a) Porch

Where provided as a mitigating element, a porch shall have a finished floor at least six inches below the #lowest occupiable floor # and have a width at least 70 percent of the

aggregate width of all #street walls# within 25 feet of the #street line#. The depth of the porch must be at least five feet, and the porch may not be closer to the #street line# than five feet. Open porches shall count as one mitigating element and roofed porches shall count as two mitigating elements, provided that for such roofed porches, all structural elements shall have a minimum width or depth of at least three inches, and such roof shall have a depth of at least five feet measured perpendicular to the #street wall# and extend along at least 70 percent of the width of the #street wall#. A balcony directly above a porch and a trellis or arbor with structural members spaced no further than 30 inches on center that cover such porch may be considered a porch roof for the purposes of this Section.

(b) Stair direction change

Where provided as a mitigating element, stairs shall be constructed between grade and the #lowest occupiable floor# or porch, as applicable, which shall change direction at least 90 degrees in plan at a point no lower or higher than two feet from the beginning and end of the stair run.

(c) Raised front yard

Where provided as a mitigating element, the grade between the #street line# and #street walls# within 25 feet of the #street line#, and their prolongations, shall be elevated above #curb level# so that a line drawn midway between the #street line# and such #street walls# and prolongations is at least 18 inches above #curb level# at all points, except for pedestrian ways, vehicular access and off-street parking spaces permitted pursuant to Section 64-50 (SPECIAL PARKING REGULATIONS). The area with final grade above #curb level# must be greater than 50 percent of the total area between the #street line# and #street walls# within 25 feet of the #street line# and their prolongations. Such raised #yards# shall be planted to comply with Section 23-451 (Planting requirement).

(d) Trees or shrubs at least three feet high

Where provided as a mitigating element, trees or shrubs that attain a height of at least three feet shall be provided between the #street line# and #street walls# within 25 feet of the #street line# and their prolongations. Planting beds shall be at least three feet wide in plan, measured parallel and perpendicular to the #street line#. The length of each planted area shall be measured by inscribing each planted area within a rectangle and measuring the longest dimension of such rectangle. The total length of planted areas shall be greater than 60 percent of the #lot width#, and be planted to screen at least 50 percent of the length of the #street wall#.

However, no mitigation shall be required where more than 50 percent of the #street wall# of a #building# is within three feet of the #street line#.

64-62

Design Requirements for Other Buildings in Residence Districts

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In the districts indicated, for all #buildings#, except #single-# and #two-family residences#, where #street walls# are within 50 feet of the #street line#, the provisions of this Section, inclusive, shall apply.

64-621

Planting requirement

Where the level of the #lowest occupiable floor# is five or more feet above #curb level#, the area between the #street line# and all #street walls# of the #building# shall be planted at ground level, or in raised planting beds that are permanently affixed to the ground. Such planting shall consist of trees or shrubs within six feet of the #street wall# that attain a height of at least three feet. Such planting shall not be required at the entrances to and exits from the #building#, within driveways accessing off-street parking spaces located within, to the side, or rear of such #building#, or between #commercial uses# and the #street line#. Any such planted area shall have a depth of at least three feet. Where ramps or stairs are located parallel to a #street wall# and within six feet of such #street wall#, minimum planting beds shall be provided between such ramps or stairs and the #street line#.

However, where #street wall# location rules would require a #street wall# to be located such that planting beds would be less than three feet in width, the provisions of this Section shall not apply.

64-622

Lobby or non-residential use

Where the #flood-resistant construction elevation# is ten or more feet above #curb level#, a lobby with a minimum width of 20 feet shall be provided along the #street wall# at the level of the adjoining sidewalk or other publicly accessible open area, with a depth of at least 20 feet. For #buildings# with an #aggregate width of street wall# of more than 65 feet, such lobby width shall be at least 30 percent of the #aggregate width of street wall#, but need not be wider than 35 feet. For #zoning lots# with less than 25 feet of frontage along a #street#, a five-foot wide service corridor may be exempted from the requirements of this Section. Transparent glazing materials shall occupy at least 40 percent of the surface area of the #street wall# of the lobby, measured between a height of two feet above the level of the adjoining sidewalk or other publicly accessible open area and a height ten feet above the level of the first finished floor above #curb level#.

Any permitted #non-residential use#, other than #accessory# off-street parking or storage, may be substituted for lobby area required pursuant to this Section, provided that the required width, depth, and transparency shall apply to such #use#.

However, where #flood-resistant construction standards# prohibit glazing due to the location of the #building# in a zone subject to wave action as indicated on #flood maps#, the glazing requirements of this Section shall not apply.

64-63
Design Requirements for Residential Buildings in Commercial Districts

C1 C2 C3 C4 C5 C6

In the districts indicated, and in #Special Mixed Use Districts#, for all #residential buildings#, except #single-# and #two-family residences#, where #street walls# are within 50 feet of the #street line#, and where the level of the #lowest occupiable floor# is five feet or more above #curb level#, the provisions of Section 64-62 (Design Requirements for Other Buildings in Residence Districts) shall apply.

64-64
Design Requirements for Non-residential and Mixed Buildings in Commercial and Manufacturing Districts

64-641
Transparency requirements

C1 C2 C3 C4 C5 C6 C7 C8 M1 M2 M3

In the districts indicated, the provisions of this Section shall apply to all #buildings#, other than:

- (a) #residential buildings#; and
- (b) In C8 and Manufacturing Districts, other than #Special Mixed Use Districts#, #buildings# containing #predominantly# Use Group 16, 17 or 18 #uses#.

Where #street walls# are within 50 feet of the #street line#, and where #flood-resistant construction elevation# is ten feet or more above #curb level#, a portion of the #street wall# with a minimum of 20 feet in width shall provide transparent glazing materials occupying a minimum of 50 percent of the surface area of such #street wall# portion, measured between a height of two feet above the level of the adjoining sidewalk or other publicly accessible open area and a height 12 feet above the level of the first finished floor above #curb level#. The floor level behind such transparent glazing materials shall not exceed the level of the window sill for a depth of at least

four feet, as measured perpendicular to the #street wall#. For #buildings# with an #aggregate width of street wall# of more than 65 feet, such transparent portion of the #street wall# shall be at least 30 percent of the #aggregate width of street wall#, but need not be wider than 35 feet.

However, where #flood-resistant construction standards# prohibit glazing due to the location of the #building# in a zone subject to wave action as indicated on #flood maps#, the glazing requirements of this Section shall not apply.

64-642

Transparency requirements for buildings utilizing alternative height measurement

C1 C2 C3 C4 C5 C6 C7 C8 M1 M2 M3

In the districts indicated, for all #buildings# utilizing the provisions of Section 64-346 (Alternative height measurement in Commercial and Manufacturing Districts), paragraph (b),

#street walls# shall be glazed with transparent materials which may include #show windows#, transom windows or glazed portions of doors. Furthermore, such transparent glazing materials shall occupy at least 50 percent of the surface area of such #street wall#, measured between a height of two feet above the level of the adjoining sidewalk or other publicly accessible open area and a height of 12 feet above the level of the first finished floor above #curb level#. The floor level behind such transparent glazing materials shall not exceed the level of the window sill for a depth of at least 4 feet, as measured perpendicular to the #street wall#.

64-65

Screening Requirements for Parking Within or Below Buildings

The provisions of this Section shall apply to all #buildings#, other than:

- (a) #single# or #two-family residences#; and
- (b) In C8 and Manufacturing Districts, other than #Special Mixed Use Districts#, #buildings# containing #predominantly# Use Group 16, 17 or 18 #uses#.

#Buildings# in existence prior to (date of amendment) shall not be altered in any way that will create a new #non-compliance# or increase the degree of #non-compliance# with the provisions of this Section.

Where the #flood-resistant construction elevation# is five or more feet above #curb level# and the #street wall# of a #building# is within 50 feet of the #street line#, for any level where off-street parking is provided within or below a #building#, such parking shall be screened from the #street line# with a #street wall# that is at least 50 percent opaque. Each one-foot square portion of such #street wall# shall comply individually with this requirement.

In case of a conflict between the provisions of this Section and the provisions of another Chapter, the more restrictive provisions shall apply.

64-70

SPECIAL REGULATIONS FOR NON-CONFORMING USES AND NON-COMPLYING BUILDINGS

64-71

Non-Conforming Uses

64-711

Reconstruction of buildings damaged more than 50 percent

Section 52-53 (Buildings or Other Structures in All Districts) shall be modified to allow the reconstruction of a #non-conforming use# where a #building# containing such #use# is damaged to the extent of 50 percent or more due to the effects of Hurricane Sandy, provided such reconstruction is the subject of an application for approval of construction documents that has been approved by the Department of Buildings no later than one year following the City's adoption of new Flood Insurance Rate Maps that supersede the Flood Insurance Rate Maps in effect on October 28, 2012. Construction pursuant to such approval may continue until a date six years after the adoption of such superseding Flood Insurance Rate Maps. After such date, the vesting provisions of Section 11-30 (Building Permits Issued Before Effective Date of Amendment) shall apply as if the change in #flood map# were a change in provisions of the Zoning Resolution.

However, this provision shall not apply to #non-conforming residences# in C8 Districts or #Manufacturing Districts#, or to #non-conforming manufacturing uses# located in #Residence Districts# or #Commercial Districts# other than C8 Districts.

64-712

Single- and two-family buildings

For #non-conforming single-# and #two-family residences#, except #non-conforming residences# in C8 Districts or #Manufacturing Districts#, reconstruction shall be permitted, provided such reconstruction is the subject of an application for approval of construction documents that has been approved by the Department of Buildings no later than six years following the City's adoption of new Flood Insurance Rate Maps that supersede the Flood Insurance Rate Maps in effect on October 28, 2012. Construction pursuant to such approval may continue until a date ten years after the adoption of such superseding Flood Insurance Rate Maps. After such date, the vesting provisions of Section 11-30 (Building Permits Issued Before

Effective Date of Amendment) shall apply as if the change in #flood map# were a change in provisions of the zoning resolution.

64-72

Non-Complying Buildings

64-721

Reconstruction of buildings damaged more than 75 percent

Section 54-40 (DAMAGE OR DESTRUCTION IN NON-COMPLYING BUILDINGS) shall be modified to allow the reconstruction of a #non-complying building# where such #building# is damaged to the extent of 75 percent or more due to the effects of Hurricane Sandy, provided such reconstruction is the subject of an application for approval of construction documents that has been approved by the Department of Buildings no later than one year following the City's adoption of new Flood Insurance Rate Maps that superseded the Flood Insurance Rate Maps in effect on October 28, 2012. Construction pursuant to such approval may continue until a date six years after the adoption of such superseding Flood Insurance Rate Maps. After such date, the vesting provisions of Section 11-30 (Building Permits Issued Before Effective Date of Amendment) shall apply as if the change in #flood map# were a change in provisions of the Zoning Resolution.

64-722

Single- and two-family residences in required front yards

The provisions of Article V, Chapter 4, shall be modified in order to accommodate stair access in a #front yard#. #Single-# and #two-family residences# with #non-complying front yards# existing on October 28, 2012, may be relocated or reconstructed in a location further from the #front lot line# on the same #zoning lot#, and thereby create or increase an encroachment in a #side yard#, #rear yard# or #rear yard equivalent#, provided that:

- (a) any encroachment or further encroachment into a required #side# or #rear yard# or #rear yard equivalent# at the rear of the original #building# location is limited to a depth equal to the reduction of encroachment of the #building#, excluding stairs in the #front yard#;
- (b) a distance of at least eight feet shall be maintained between the rear wall of the #building# and all other #residences# on the same or adjoining #zoning lots#; and
- (c) at least four feet of a #rear yard# shall be free of any encroachment, measured perpendicular to the #rear lot line#, or in a #rear yard equivalent#, at least eight feet shall be free of encroachment.

64-723

Non-complying single- and two-family residences

- (a) The provisions of Article V, Chapter 4 shall be modified to permit #single-# and #two-family residences# that are #non-complying# and existing on October 28, 2012, to be vertically elevated, or reconstructed to a higher elevation in order to raise the lowest floor level containing habitable space that was located at or above the adjoining grade as of October 28, 2012 to #flood-resistant construction elevation#.

Where the elevation requirements of Appendix G of the New York City Building Code apply to the lowest horizontal structural member, the provisions of Article V, Chapter 4, shall be modified to permit #single-# and #two-family residences# that are #non-complying# and existing on October 28, 2012, to be vertically elevated, or reconstructed to a higher elevation, in order to raise the lowest horizontal structural member supporting the lowest floor containing habitable space that was located at or above the adjoining grade as of October 28, 2012, to #flood-resistant construction elevation#.

Such vertical elevation or reconstruction may create a new #non-compliance# as to height and setback, or increase any existing #non-compliances# as to height and setback, required #open space# and #yard# regulations to the extent that such lowest floor level is elevated or reconstructed to #flood-resistant construction elevation#. However, all other provisions of Article V, Chapter 4, shall apply without modification.

This Section shall not preclude the construction of complying #enlargements# or other complying #buildings or other structures# on the #zoning lot#.

Furthermore, the provisions of Section 23-86 (Minimum Distance Between Legally Required Windows and Walls or Lot Lines) shall not apply to such elevated, relocated or reconstructed #buildings#.

- (b) For #non-complying single-# and #two-family residences#, reconstruction shall be permitted, provided such reconstruction is the subject of an application for approval of construction documents that has been approved by the Department of Buildings no later than six years following the City's adoption of new Flood Insurance Rate Maps that supersede the Flood Insurance Rate Maps in effect on October 28, 2012. Construction pursuant to such approval may continue until a date ten years after the adoption of such superseding Flood Insurance Rate Maps. After such date, the vesting provisions of Section 11-30 (Building Permits Issued before Effective Date of Amendment) shall apply as if the change in #flood map# were a change in provisions of the Zoning Resolution.

64-724

Special provisions for other buildings within flood zones

#Non-complying buildings# may be elevated or reconstructed to an increased height, which at all points does not exceed the difference between #flood-resistant construction elevation# and the applicable datum from which height is measured pursuant to the underlying regulations. Such elevation or reconstruction may create a new #non-compliance# or increase the degree of an existing #non-compliance#.

64-80

MODIFICATION OF SPECIAL REGULATIONS APPLYING IN WATERFRONT AREAS

The following regulations shall apply in #flood zones# and shall modify regulations set forth in Article VI, Chapter 2 (Special Regulations Applying in Waterfront Areas).

64-81

Modification of Waterfront Public Access and Visual Corridor Regulations for Substantially Damaged Buildings

Sections 62-50 (GENERAL REQUIREMENTS FOR VISUAL CORRIDORS AND WATERFRONT PUBLIC ACCESS AREAS), inclusive, and 62-811 shall not apply to the reconstruction of #buildings# that sustained substantial damage, as defined in Appendix G of the New York City Building Code, due to the effects of #Hurricane Sandy#, provided that:

- (a) such #buildings# had no more than 20,000 square feet of #floor area# prior to October 28, 2012;
- (b) the dimensions of the #building# footprint are no greater than the footprint that existed on October 28, 2012;
- (c) if such #building# is repositioned on the #zoning lot#, such repositioning does not newly encroach, or further encroach into a required #yard#, #rear yard equivalent#, #visual corridor# or existing #public access area#, as defined in Article VI, Chapter 2; and
- (d) the reconstruction does not result in a change of #use# from that existing on October 28, 2012.

The provisions of this Section shall apply to #buildings# that are the subject of an Application for Approval of Construction Documents that has been approved by the Department of Buildings no later than one year after the adoption of new Flood Insurance Rate Maps that supersede the maps in effect on October 28, 2012. Construction pursuant to such approval may continue until a date six years after the adoption of such superseding Flood Insurance Rate Maps. After such date, the vesting provisions of Section 11-30 (Building Permits Issued Before Effective Date of Amendment) shall apply as if the change in #flood map# were a change in provisions of the Zoning Resolution.

64-82

Modification of Waterfront Regulations Relating to Level of Yards, Visual Corridors and the Ground Floor

The provisions of paragraphs (a) and (b) of this Section shall apply to all #zoning lots#, without requiring a #building# to comply with #flood-resistant construction standards# as established in paragraph (a) of Section 64-12 (Applicability).

Within the area that has a one percent chance of flooding in a given year, as determined by FEMA in #Flood Maps# or by earlier adopted Flood Insurance Rate Maps, certain provisions regarding #waterfront yards# and visual corridors#, as defined in Section 62-11 (Definitions), and ground floor #uses#, are modified as follows:

(a) #Waterfront yards#

Section 62-332 (Rear yards and waterfront yards) shall be modified to allow the level of a #waterfront yard# to be raised above the elevation of the top of the adjoining existing bulkhead, existing stabilized natural shore or mean high water line, as applicable, provided that:

- (1) where a #waterfront yard# terminates at a #lot line#, the grade of the #waterfront yard# shall be no higher than the grade of the adjacent #street# or #zoning lot#, except that natural grade need not be disturbed to comply with this requirement;
- (2) for #zoning lots# without a #shore public walkway#, as defined in Section 62-11 (Definitions), the maximum grade of the #waterfront yard#, measured parallel to the #shoreline#, shall not exceed three percent; and
- (3) for #zoning lots# with a #shore public walkway#, as defined in Section 62-11 (Definitions), the maximum grade shall be determined by the maximum permitted grade of the circulation path and the provisions of Section 62-60 (DESIGN REQUIREMENTS FOR WATERFRONT PUBLIC ACCESS AREAS).

(b) #Visual corridors#

Section 62-512 (Dimensions of visual corridors) shall be modified as follows:

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

establishing a plane connecting an elevation three feet above #curb level# at the two points along the #lot line# from which the #visual corridor# emanates with the two points of intersection at the #shoreline#, stabilized natural shore, bulkhead, upland edge of a #waterfront yard# raised pursuant to the provisions of paragraph (a) of this Section, or the #base plane# of a #pier# or #platform#, whichever intersection occurs first.

(c) Ground floor #uses#

Section 62-341 (Developments on land and platforms), paragraph (c)(6), shall be modified as follows:

“Ground floor level” shall mean the lowest level permitted for habitable use as if it were “Post-FIRM Construction” as defined by Appendix G of the New York City Building Code, using elevation and wet flood-proofing techniques, provided that where such lowest permitted level would be less than five feet above the finished level of the adjacent sidewalk, such level need not be lower than five feet above the finished level of the adjacent sidewalk.

64-90

SPECIAL APPROVALS

64-91

Modification of Certain Certification Requirements in the Special South Richmond Development District

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

In the #Special South Richmond Development District#, Sections 107-22 (Designated Open Space), inclusive, and 107-23 (Waterfront Esplanade) shall not apply to the reconstruction or repair of #buildings# that were damaged due to the effects of Hurricane Sandy, provided that:

- (a) the dimensions of the #building# footprint are no greater than the footprint that existed on October 28, 2012; and
- (b) there is no increase in impervious surfaces on the #zoning lot#.

In addition, the provisions of Section 107-22, inclusive, shall not apply to a #site alteration# that is not a #development# or #enlargement# where the Commissioner of Buildings determines it is the minimum necessary to enable the reconstruction of a #building#.

These provisions shall not affect the terms of a certification previously made by the City Planning Commission. The provisions of this Section shall apply to #buildings# that are the subject of an Application for Approval of Construction Documents that has been approved by the

Department of Buildings no later than one year after the adoption of new Flood Insurance Rate Maps that supersede the maps in effect on October 28, 2012. Construction pursuant to such approval may continue until a date six years after the adoption of such superseding Flood Insurance Rate Maps. After such date, the vesting provisions of Section 11-30 (Building Permits Issued Before Effective Date of Amendment) shall apply as if the change in #flood map# were a change in provisions of the zoning resolution.

64-92

Special Permit for Modification of Certain Zoning Regulations

In order to allow for the alteration of existing #buildings# in compliance with #flood resistant construction standards# and for #developments# and #enlargements# in compliance with #flood-resistant construction standards#, the Board of Standards and Appeals may permit modification of Section 64-60 (DESIGN REQUIREMENTS), the #bulk# regulations of Sections 64-30 (SPECIAL BULK REGULATIONS), 64-40 (SPECIAL BULK REGULATIONS FOR BUILDINGS EXISTING ON OCTOBER 28, 2012) and 64-70 (SPECIAL REGULATIONS FOR NON-CONFORMING USES AND NON-COMPLYING BUILDINGS), as well as all other applicable #bulk# regulations of the Zoning Resolution, except #floor area ratio# regulations, provided the following findings are made:

- (a) that there would be a practical difficulty in complying with #flood-resistant construction standards# without such modifications, and that such modifications are the minimum necessary to allow for an appropriate #building# in compliance with #flood-resistant construction standards#;
- (b) that any modification of #bulk# regulations related to height is limited to no more than 10 feet in height or 10 percent of permitted height as measured from #flood-resistant construction elevation#, whichever is less; and
- (c) the proposed modifications will not alter the essential character of the neighborhood in which the #building# is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with #flood-resistant construction standards#.

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

* * *

ARTICLE VIII SPECIAL PURPOSE DISTRICTS

**Chapter 7
Special Harlem River Waterfront District**

* * *

**87-02
General Provisions**

In harmony with the general purpose and intent of this Resolution and the general purposes of the #Special Harlem River Waterfront District#, the regulations of the #Special Harlem River Waterfront District# shall apply. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas), the provisions of Article VI, Chapter 4, shall control.

* * *

**Chapter 8
Special Hudson Square District**

* * *

**88-02
General Provisions**

In harmony with the general purposes and intent of this Resolution and the general purposes of the #Special Hudson Square District#, the provisions of this Chapter shall apply within the #Special Hudson Square District#. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas), the provisions of Article VI, Chapter 4, shall control.

* * *

**ARTICLE IX
SPECIAL PURPOSE DISTRICTS**

**Chapter 1
Special Lower Manhattan District**

* * *

**91-01
General Provisions**

Except as modified by the express provisions of the #Special Lower Manhattan District#, the regulations of the underlying zoning districts shall remain in effect.

* * *

The provisions of Article VI, Chapter 2 (Special Regulations in the Waterfront Area), shall apply to all areas of the #waterfront area# within the #Special Lower Manhattan District#, except as otherwise provided in Section 91-60 (REGULATIONS FOR THE SOUTH STREET SEAPORT SUBDISTRICT) for Piers 9, 11, 13 and 14. Piers 9, 11, 13 and 14 are shown on Maps 1 and 6 in Appendix A.

In #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas), the provisions of Article VI, Chapter 4, shall control.

* * *

**Chapter 3
Special Hudson Yards District**

* * *

**93-02
General Provisions**

The provisions of this Chapter shall apply within the #Special Hudson Yards District#. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas), the provisions of Article VI, Chapter 4, shall control.

* * *

**Chapter 4
Special Sheepshead Bay District**

* * *

**94-02
General Provisions**

In harmony with the general purposes of the #Special Sheepshead Bay District# and in accordance with the provisions of this Chapter, certain specified regulations of the districts on which the #Special Sheepshead Bay District# is superimposed are made inapplicable and special regulations are substituted therefor. The City Planning Commission, by special permit, may grant certain #uses# and may authorize #bulk# modifications within the Special District as set forth in this Chapter. Except as modified by the express provisions of this Special District, the regulations of the underlying zoning districts remain in effect.

In the #waterfront area#, the provisions of the #Special Sheepshead Bay District# are modified in accordance with the provisions of Section 62-13 (Applicability of District Regulations).

In #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas), the provisions of Article VI, Chapter 4, shall control.

* * *

**Chapter 6
Special Clinton District**

* * *

**96-02
General Provisions**

Except as modified by the express provisions of this Chapter, the regulations of the underlying districts, or as modified by the #Special Midtown District#, remain in effect.

The #Special Midtown District# and its regulations, where applicable in the #Special Clinton District#, shall also apply and shall supplement or supersede regulations as set forth in this Chapter pursuant to Section 96-22 (Special Regulations for Eighth Avenue Perimeter Area). In the event of any conflict or discrepancy between the regulations, the more restrictive regulations shall apply in accordance with Section 11-22 (Application of Overlapping Regulations). This portion of the Special Purpose District is designated on the #zoning map# by the letters "CL-MiD."

In #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas), the provisions of Article VI, Chapter 4, shall control.

* * *

**Chapter 8
Special West Chelsea District**

**98-02
General Provisions**

The provisions of this Chapter shall apply to any #zoning lot#, or portion thereof, within the #Special West Chelsea District#, except that the provisions of Sections 98-11 (Special Regulations for Developments and Enlargements Above, Beneath or Adjacent to the High Line) and 98-17 (Air Space over a Railroad or Transit Right-of-way or Yard) shall also apply to any #zoning lot# south of the #Special West Chelsea District# over which the #High Line# passes. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas), the provisions of Article VI, Chapter 4, shall control.

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**ARTICLE X
SPECIAL PURPOSE DISTRICTS**

**Chapter 4
Special Manhattanville Mixed Use District**

* * *

**104-02
General Provisions**

In harmony with the general purposes and content of this Resolution and the general purposes of the #Special Manhattanville Mixed Use District#, the regulations of this Chapter shall apply within the Special District. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this

Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas), the provisions of Article VI, Chapter 4, shall control.

* * *

**104-30
SPECIAL HEIGHT AND SETBACK REQUIREMENTS**

In the #Special Manhattanville Mixed Use District#, the height and setback regulations of the underlying C6 Districts shall not apply. In lieu thereof, the height and setback provisions of this Section, inclusive, shall apply in C6 Districts. In Subdistrict B, special height regulations for the underlying M1-2 District are set forth in Section 104-31, et seq.

In Subdistrict A, the height of all #buildings or other structures# shall be measured from the #base plane#. However, the provisions for establishing #base planes# set forth in Section 12-10 (DEFINITIONS) shall not apply. In lieu thereof, #base planes# are specified for each Parcel as shown on Map 5 (Parcel Designation and Maximum Building Heights) in Appendix A of this Chapter. The level of the #base plane# is designated for each such Parcel in Appendix B of this Chapter. However, in #flood zones#, the level of the #base plane# shall be the #floodresistant construction elevation#.

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**Chapter 6
Special Coney Island Mixed Use District**

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**106-02
General Provisions**

In harmony with the general purpose and intent of this Resolution and the general purpose of the #Special Coney Island Mixed Use District# and in accordance with the provisions of this Chapter, regulations of the #Special Coney Island Mixed Use District# shall replace and supersede the existing district regulations. In #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas), the provisions of Article VI, Chapter 4, shall control.

* * *

**Chapter 7
Special South Richmond Development District**

* * *

**107-02
General Provisions**

In harmony with the general purpose and intent of this Resolution and the general purpose of the #Special South Richmond Development District#, the regulations of the districts upon which this Special District is superimposed are supplemented or modified in accordance with the provisions of this Chapter. Except as modified by the express provisions of this Chapter, the regulations of the underlying districts remain in effect. In #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas), the provisions of Article VI, Chapter 4, shall control.

* * *

**Chapter 8
Special Hunts Point District**

* * *

**108-01
General Provisions**

In harmony with the general purposes and content of this Resolution and the general purposes of the #Special Hunts Point District#, the provisions of this Chapter shall apply to all #developments# and #enlargements# within the #Special Hunts Point District#. The regulations of all other Chapters of this Resolution are applicable except as modified, supplemented or superseded by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas), the provisions of Article VI, Chapter 4, shall control.

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ARTICLE XI SPECIAL PURPOSE DISTRICTS

**Chapter 1
Special Tribeca Mixed Use District**

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111-02
General Provisions

The provisions of this Chapter shall apply to all #developments, enlargements, extensions#, alterations, #accessory uses#, open and enclosed, and changes in #uses# within the Special District.

Except as modified by the express provisions of the District, the regulations of the underlying districts remain in effect. In #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas), the provisions of Article VI, Chapter 4, shall control.

* * *

Chapter 3
Special Ocean Parkway District

113-01
General Provisions

In harmony with the general purposes of the #Special Ocean Parkway District# and in accordance with the provisions of this Chapter, certain specified regulations of the districts on which the #Special Ocean Parkway District# is superimposed are made inapplicable and special regulations are substituted therefor. Except as modified by the express provisions of the Special District, the regulations of the underlying districts remain in force. In #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas), the provisions of Article VI, Chapter 4, shall control.

* * *

Chapter 6
Special Stapleton Waterfront District

* * *

116-02
General Provisions

In harmony with the general purposes and content of this Resolution and the general purposes of the #Special Stapleton Waterfront District#, the provisions of this Chapter shall apply to all #developments#, #enlargements# and changes of #use# within the #Special Stapleton Waterfront District#. The regulations of all other Chapters of this Resolution are applicable except as modified, supplemented or superseded by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas), the provisions of Article VI, Chapter 4, shall control.

* * *

116-221
Special floor area regulations for mixed buildings

For #buildings# containing #residences#, the area in such #buildings# occupied by non-#residential uses# on the ground floor, or within two feet of the as-built level of the adjoining sidewalk, shall be excluded from the calculation of permitted #floor area# in the #building#. However, the area occupied by non-#residential uses# on the ground floor shall be included as #floor area# for other purposes including calculating:

- (a) requirements for #accessory# off-street parking spaces;
- (b) #accessory# off-street loading berths; and
- (c) limitations on #floor area# occupied by certain #uses#.

In #flood zones#, the #floor area# exclusion permitted by this Section shall also apply to the area occupied by non-#residential uses# on the #lowest occupiable floor#, as defined in Section 64-11.

* * *

Chapter 7
Special Long Island City Mixed Use District

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**117-02
General Provisions**

In harmony with the general purposes and content of this Resolution and the general purposes of the #Special Long Island City Mixed Use District#, the regulations of this Chapter shall apply within the #Special Long Island City Mixed Use District#. The regulations of all other Chapters of this Resolution are applicable, except as modified, supplemented or superseded by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas), the provisions of Article VI, Chapter 4, shall control.

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**ARTICLE XII
SPECIAL PURPOSE DISTRICTS**

**Chapter 3
Special Mixed Use District**

* * *

**123-10
GENERAL PROVISIONS**

The provisions of this Chapter shall apply within the #Special Mixed Use District#. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas), the provisions of Article VI, Chapter 4, shall control.

* * *

**Chapter 4
Special Willets Point District**

* * *

124-01
General Provisions

The provisions of this Chapter shall apply within the #Special Willets Point District#. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas), the provisions of Article VI, Chapter 4, shall control.

* * *

Chapter 5
Special Southern Hunters Point District

* * *

125-01
General Provisions

In harmony with the general purpose and intent of this Resolution and the general purposes of the #Special Southern Hunters Point District#, the regulations of this Chapter shall apply within the #Special Southern Hunters Point District#. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas), the provisions of Article VI, Chapter 4, shall control.

* * *

Chapter 6
Special College Point District

* * *

126-01
General Provisions

The provisions of this Chapter shall apply within the #Special College Point District#. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas), the provisions of Article VI, Chapter 4, shall control.

* * *

**Chapter 8
Special St. George District**

* * *

**128-02
General Provisions**

In harmony with the general purpose and intent of this Resolution and the general purposes of the #Special St. George District#, the regulations of this Chapter shall apply within the #Special St. George District#. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas), the provisions of Article VI, Chapter 4, shall control.

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**Article XIII
Special Purpose Districts**

**Chapter 1
Special Coney Island District**

* * *

**131-01
General Provisions**

The provisions of this Chapter shall apply within the #Special Coney Island District#. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas), the provisions of Article VI, Chapter 4, shall control.

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131-324

~~Special floor area ratio regulations for entrances to stories above the base flood elevation~~

~~Up to 300 square feet of an entranceway adjoining the #street wall# of a #building# that contains ramps, stairs or handicap accessible elevators providing access from a public sidewalk to the lowest #story# above the #base flood elevation# shall be exempt from the definition of #floor area#.~~

~~131-325-324~~

Lot coverage

* * *

The above resolution (N130331(A)ZRY), duly adopted by the City Planning Commission on September 11, 2013 (Calendar No. 12), is filed with the Office of the Speaker, City Council, and the Borough Presidents in accordance with the requirements of Section 197-d of the New York City Charter.

AMANDA M. BURDEN, FAICP, Chair
KENNETH J. KNUCKLES, Esq., Vice Chairman

RAYANN BESSER, IRWIN G. CANTOR, P.E.,
ALFRED C. CERULLO, III, BETTY Y. CHEN, MICHELLE R. DE LA UZ,
MARIA M. DEL TORO, JOSEPH I. DOUEK, RICHARD W. EADDY,
ANNA HAYES LEVIN, ORLANDO MARIN, Commissioners