

# ZONING RESOLUTION Web Version

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## THE CITY OF NEW YORK



THE CITY OF NEW YORK  
Bill de Blasio, Mayor

CITY PLANNING COMMISSION  
Carl Weisbrod, Chairman

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

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(2/2/11)

**Chapter 3**  
**Residential Bulk Regulations in Residence Districts**

(12/15/61)

**23-00**  
**APPLICABILITY AND GENERAL PURPOSES**

(3/22/16)

**23-01**  
**Applicability of this Chapter**

The #bulk# regulations of this Chapter apply to any #zoning lot# or portion of a #zoning lot# located in any #Residence District# which contains any #residential building or other structure#, or to the #residential# portion of a #building or other structure# used for both #residential# and #community facility uses#. The #bulk# regulations of Article II, Chapter 4, shall apply to any #zoning lot# or portion of a #zoning lot# containing a #community facility building# or to the #community facility# portion of a #building# used for both #residential# and #community facility uses#, except as set forth in Section 24-012 (Exceptions to the bulk provisions of this Chapter). In addition, the #bulk# regulations of this Chapter, or of specified Sections thereof, also apply in other provisions of this Resolution where they are incorporated by cross reference.

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

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

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

In Manhattan Community Districts 1, 2, 3, 4, 5 and 6, Brooklyn Community Districts 1, 2, 6 and 8, and Queens Community Districts 1 and 2, the #conversion# of non-#residential floor area# to #residences# in #buildings# erected prior to December 15, 1961 or January 1, 1977, as applicable, shall be subject to the provisions

of Article I, Chapter 5 (Residential Conversions within Existing Buildings), unless such #conversions# meet the requirements for #residential developments# of Article II (Residence District Regulations).

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

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

(3/22/16)

### **23-011**

#### **Quality Housing Program**

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

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

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

R6 R7 R8 R9 R10

- (b) In the districts indicated without a letter suffix, the #bulk# regulations applicable to #Quality Housing buildings# may, as an alternative, be applied to #zoning lots# where #buildings# are #developed# or #enlarged# pursuant to all of the requirements of the Quality Housing Program. Such #buildings# may be subsequently #enlarged# only pursuant to the Quality Housing Program. In these districts, the Quality Housing #bulk# regulations may apply to #developments# or #enlargements# on #zoning lots# with existing #buildings# to remain, if:
- (1) the existing #buildings# contain no #residences# and the entire #zoning lot# will comply with the #floor area ratio# and density standards applicable to #Quality Housing buildings#; or

- (2) the existing #buildings# contain #residences#, and:
- (i) such #buildings# comply with the maximum base heights and maximum #building# heights listed in the tables in Section 23-662 for the applicable district, and the entire #zoning lot# will comply with the #floor area ratio# and #lot coverage# standards applicable to #Quality Housing buildings#; or
  - (ii) for #developments# or #enlargements# on #zoning lots# meeting the criteria set forth in paragraph (a) of Section 23-664 (Modified height and setback regulations for certain Inclusionary Housing buildings or affordable independent residences for seniors):
    - (a) the entire #zoning lot# will comply with the #floor area ratio# set forth in Sections 23-154 (Inclusionary Housing) or 23-155 (Affordable independent residences for seniors), as applicable;
    - (b) the entire #zoning lot# will comply with the #lot coverage# regulations for the applicable zoning district set forth in Section 23-153 (For Quality Housing buildings); and either:
      - (1) the entire #zoning lot# will comply with the height and setback requirements of the applicable zoning district set forth in paragraph (b) of Section 23-664; or
      - (2) in R6 through R8 Districts, where the #zoning lot# is located within 150 feet of the types of transportation infrastructure listed in paragraphs (c)(1) through (c)(4) of Section 23-664, the entire #zoning lot# will comply with the height and setback requirements of the applicable zoning district set forth in paragraph (c) of Section 23-664. Such 150-foot measurement shall be measured perpendicular to the edge of such infrastructure.

All #Quality Housing buildings# shall also comply with additional provisions set forth in Article II, Chapter 8.

R6 R7 R8 R9 R10

(c) In the districts indicated without a letter suffix, the

optional Quality Housing #bulk# regulations permitted as an alternative pursuant to paragraph (b) of this Section, shall not apply to:

- (1) Article VII, Chapter 8 (Large Scale Residential Developments);
- (2) Special Purpose Districts

However, such optional Quality Housing #bulk# regulations are permitted as an alternative to apply in the following Special Purpose Districts:

- #Special 125th Street District#;
- #Special Downtown Brooklyn District#;
- #Special Downtown Jamaica District#;
- #Special Grand Concourse Preservation District#;
- #Special Limited Commercial District#;
- #Special Long Island City Mixed Use District#;
- #Special Lower Manhattan District#, as modified in Section 91-05;
- #Special Ocean Parkway District#;
- #Special Transit Land Use District#; or
- #Special Tribeca Mixed Use District#.

R6 R7 R8 R9 R10

- (d) In the districts indicated, for #Quality Housing buildings# in which at least 50 percent of the #dwelling units# are #income-restricted housing units#, or at least 50 percent of the total #floor area# is a #long-term care facility# or philanthropic or non-profit institution with sleeping accommodation, the applicable #bulk# regulations of this Chapter may be modified for #zoning lots# with irregular site conditions or site planning constraints by special permit of the Board of Standards and Appeals, pursuant to Section 73-623 (Bulk modifications for certain Quality Housing buildings on irregular sites).

R6 R7 R8 R9 R10

(e) In the districts indicated, where a Special Purpose District modifies the #bulk# regulations for #Quality Housing buildings# set forth in this Chapter, the additional provisions for #Quality Housing buildings# set forth in Article II, Chapter 8 shall continue to apply. In addition, where any Special Purpose District that requires elements of Article II, Chapter 8 to apply to non-#Quality Housing buildings#, all associated #floor area# exemptions shall apply.

(3/22/16)

## **23-012**

### **Lower density growth management areas**

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

Section 11-45	(Authorizations or Permits in Lower Density Growth Management Areas)
Section 12-10	(DEFINITIONS - Floor area; Lower density growth management area; Private road)
Section 22-14	(Use Group 4 - Ambulatory diagnostic or treatment health care facilities)
Section 23-12	(Permitted Obstructions in Open Space)
Section 23-14	(Open Space and Floor Area Regulations in R1 through R5 Districts)
Section 23-32	(Minimum Lot Area or Lot Width for Residences)
Section 23-33	(Special Provisions for Existing Small Lots)
Section 23-35	(Special Provisions for Zoning Lots Containing Certain Community Facility Uses in Lower Density Growth Management Areas)
Section 23-44	(Permitted Obstructions in Required Yards or Rear Yard Equivalents)
Section 23-462	(Side yards for all other buildings containing residences)

Section 23-532	(Required rear yard equivalents)
Section 23-63	(Height and Setback Requirements in R1 Through R5 Districts)
Section 23-711	(Standard minimum distance between buildings)
Section 23-881	(Minimum distance between lot lines and building walls in lower density growth management areas)
Section 24-011	(Exceptions to the bulk regulations of this Chapter)
Section 24-04	(Modification of Bulk Regulations in Certain Districts)
Section 25-028	(Applicability of regulations to certain community facility uses in lower density growth management areas)
Section 25-22	(Requirements Where Individual Parking Facilities Are Provided)
Section 25-23	(Requirements Where Group Parking Facilities Are Provided)
Section 25-31	(General Provisions)
Section 25-331	(Exceptions to application of waiver provisions)
Section 25-62	(Size and Location of Spaces)
Section 25-621	(Location of parking spaces in certain districts)
Section 25-622	(Location of parking spaces in lower density growth management areas)
Section 25-624	(Special parking regulations for certain community facility uses in lower density growth management areas)
Section 25-631	(Location and width of curb cuts in certain districts)
Section 25-632	(Driveway and curb cut regulations in lower

	density growth management areas)
Section 25-64	(Restrictions on Use of Open Space for Parking)
Section 25-66	(Screening)
Section 26-00	(APPLICABILITY OF THIS CHAPTER)
Section 26-30	(SPECIAL REGULATIONS FOR DEVELOPMENTS WITH PRIVATE ROADS IN LOWER DENSITY GROWTH MANAGEMENT AREAS), inclusive
Section 32-11	(Use Groups 1 and 2)
Section 32-433	(Ground floor use in C1, C2 and C4 Districts in the Borough of Staten Island)
Section 37-10	(APPLICABILITY OF ARTICLE II, CHAPTER 6, TO DEVELOPMENTS WITH PRIVATE ROADS)
Section 37-20	(SPECIAL REGULATIONS FOR LOWER DENSITY GROWTH MANAGEMENT AREAS IN THE BOROUGH OF STATEN ISLAND, inclusive
Section 54-313	(Single- or two-family residences with non-complying front yards or side yards)
Section 105-702	(Applicability of lower density growth management area regulations)
Section 107-412	(Special bulk regulations for certain community facility uses)
Section 107-421	(Minimum lot area and lot width for zoning lots containing certain community facility uses)
Section 107-464	(Side yards for permitted non-residential use)
Section 107-62	(Yard, Court and Parking Regulations)
Section 119-05	(Applicability of Parking Location Regulations)
Section 119-214	(Tier II requirements for driveways and private roads)
Section 128-052	(Applicability of Article I, Chapter 2)

(3/1/06)

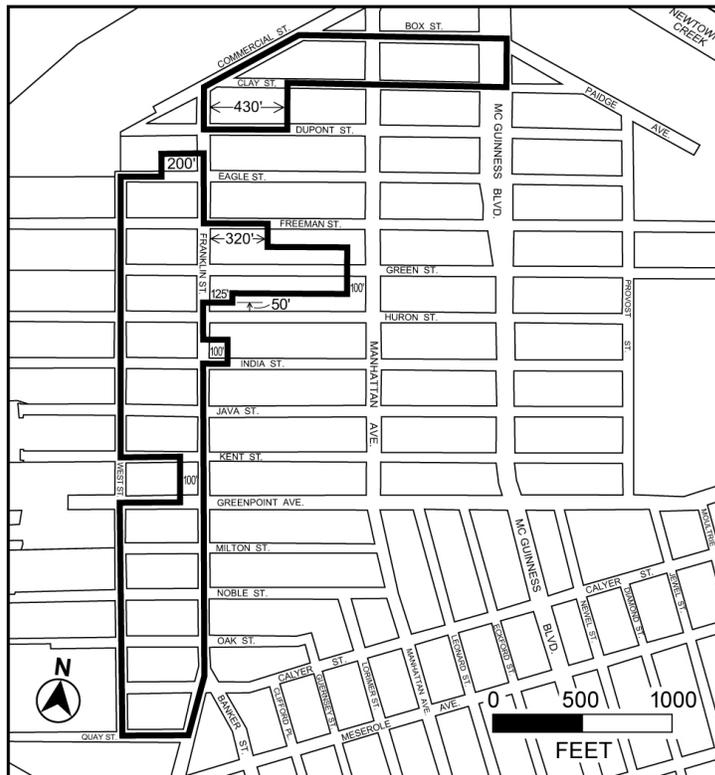
**23-013  
Harassment**

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

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

Anti-harassment area

“Anti-harassment area” shall mean the Greenpoint-Williamsburg #anti-harassment areas# as shown in the diagrams:



**— Anti-harassment area**

(23-013.1)



— Anti-harassment area

Greenpoint-Williamsburg Anti-Harassment  
Areas (23-013.2)

Referral date

“Referral date” shall mean October 4, 2004.

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

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

- (i) increase the #floor area ratio# pursuant to the provisions

of Sections 23-90 or 62-352 (Inclusionary Housing); or

- (ii) increase the maximum height of a #building# or the height above which the gross area per #residential story# of a #building# is limited pursuant to the provisions of Section 62-354 (Special height and setback regulations), paragraphs (b) (2) and (d); or
- (iii) satisfy an eligibility requirement of any real property tax abatement or exemption program with respect to any #multiple dwelling# that does not contain such #low income housing#.

(8/14/87)

### **23-02**

#### **General Purposes of Residential Bulk Regulations**

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

(2/2/11)

### **23-03**

#### **Street Tree Planting in Residence Districts**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

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

- (a) #developments#, or #enlargements# that increase the #floor area# on a #zoning lot# by 20 percent or more. However, #street# trees shall not be required for #enlargements# of #single-# or #two-family residences#, except as provided in paragraphs (b) and (c) of this Section;
- (b) #enlargements# of #single-# or #two-family residences# by 20 percent or more within the following special purpose districts:
  - #Special Bay Ridge District#;
  - #Special Clinton District#;

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

- (c) #enlargements#, pursuant to the Quality Housing Program, of #single-# or #two-family residences# by 20 percent or more;
- (d) #conversions# of 20 percent or more of the #floor area# of a #building# to a #residential use#; or
- (e) construction of a detached garage that is 400 square feet or greater.

(2/2/11)

## **23-04**

### **Planting Strips in Residence Districts**

R1 R2 R3 R4 R5

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

- (a) #developments#, or #enlargements# that increase the #floor area# on a #zoning lot# by 20 percent or more. However, planting strips shall not be required for #enlargements# of #single-# or #two-family residences#, except as provided in paragraph (b) of this Section;
- (b) #enlargements# of #single-# or #two-family residences# by 20 percent or more within the following special purpose districts:  
#Special Bay Ridge District#;  
#Special Downtown Jamaica District#;  
#Special Hillside Preservation District#;

#Special Ocean Parkway District#;

#Special South Richmond Development District#;

- (c) #conversions# of 20 percent or more of the #floor area# of a #building# to a #residential use#; or
- (d) construction of a detached garage that is 400 square feet or greater.

(3/22/16)

## **23-10**

### **OPEN SPACE AND FLOOR AREA REGULATIONS**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, the #open space# and #floor area# provisions for a #building or other structure# shall be as set forth in this Section, inclusive.

The regulations for permitted obstructions in required #open space# in all districts are set forth in Section 23-12. The regulations for balconies in all districts are set forth in Section 23-13.

#Open space# and #floor area# regulations applicable to R1 through R5 Districts are set forth in Section 23-14. #Open space# and #floor area# regulations applicable to R6 through R10 Districts are set forth in Section 23-15.

Special #open space# and #floor area# provisions are set forth in Section 23-16 (Special Floor Area and Lot Coverage Provisions for Certain Areas) for tower-on-a-base #buildings# in R9 Districts, as well as for certain areas in Community District 7 and Community District 9 in the Borough of Manhattan, and Community District 12 in the Borough of Brooklyn. Additional provisions are set forth in Sections 23-17 (Existing Public Amenities for Which Floor Area Bonuses Have Been Received) and 23-18 (Special Provisions for Zoning Lots Divided by District Boundaries or Subject to Different Bulk Regulations).

(8/18/87)

## **23-11**

### **Definitions**

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

(4/30/12)

## 23-12

### Permitted Obstructions in Open Space

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

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

- (a) Air conditioning condensation units, #accessory#, for #single-# or #two-family residences#, provided that such units, if located between a #street wall#, or prolongation thereof, and a #street line#, are not more than 18 inches from a #street wall#, and fully screened from the #street# by vegetation;
- (b) Awnings and other sun control devices. However, when located at a level higher than the first #story#, excluding a #basement#, all such devices:
  - (1) shall be limited to a maximum projection from a #building# wall of 2 feet, 6 inches; and
  - (2) shall have solid surfaces that, in aggregate, cover an area no more than 30 percent of the area of the #building# wall (as viewed in elevation) from which they project;
- (c) Balconies, unenclosed, subject to the provisions of Section 23-13;
- (d) Breezeways;
- (e) Driveways, private streets, open #accessory# off-street parking spaces, unenclosed #accessory# bicycle parking spaces or open #accessory# off-street loading berths, provided that the total area occupied by all these items does not exceed the percentages set forth in Section 25-64 (Restrictions on Use of Open Space for Parking);
- (f) Eaves, gutters or downspouts, projecting into such #open space# not more than 16 inches or 20 percent of the width of such #open space#, whichever is the lesser distance;
- (g) Exterior wall thickness, where such wall thickness is added to

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

- (h) Parking spaces, off-street, enclosed, #accessory#, not to exceed one space per #dwelling unit#, when #accessory# to a #single-family#, #two-family# or three-#family residence#, provided that the total area occupied by a #building# used for such purposes does not exceed 20 percent of the total required #open space# on the #zoning lot#. However, two such spaces for a #single-family residence# may be permitted in #lower density growth management areas# and in R1-2A Districts;
- (i) Solar energy systems:
  - (1) on the roof of an #accessory building#, limited to 18 inches in height as measured perpendicular to the roof surface; or
  - (2) on walls existing on April 30, 2012, projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects;
- (j) Swimming pools, #accessory#, above-grade structures limited to a height not exceeding eight feet above the level of the #rear yard# or #rear yard equivalent#;
- (k) Terraces, unenclosed, fire escapes or planting boxes, provided that no such items project more than six feet into or over such #open space#.

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

(8/14/87)

**23-13**  
**Balconies**

(2/2/11)

## **23-131**

### **Balconies in R1 through R5 Districts**

R1 R2 R3 R4 R5

In the districts indicated, balconies that are:

- (a) unenclosed except for a parapet not exceeding 3 feet, 8 inches in height, or a railing not less than 50 percent open and not exceeding 4 feet, 6 inches in height; and
- (b) located at or above the floor level of the second #story# provided that such balcony is not lower than seven feet above #curb level# or adjacent natural grade, whichever is higher;

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

- (1) #front yards#, as defined in Section 12-10 (DEFINITIONS);
- (2) #rear yards# or #rear yard equivalents#, as defined in Section 12-10;
- (3) #open space#, as defined in Section 12-10, excluding:
  - (i) #side yards#, as defined in Section 12-10;
  - (ii) required minimum dimensions of #courts#, as defined in Section 12-10; and as set forth in Section 23-80 (COURT REGULATIONS AND MINIMUM DISTANCE BETWEEN WINDOWS AND WALLS OR LOT LINES); and
  - (iii) required distances between #buildings#, as set forth in Section 23-71 (Minimum Distance between Buildings on a Single Zoning lot).

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

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

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

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

(3/22/16)

### **23-132**

#### **Balconies in R6 through R10 Districts**

R6 R7 R8 R9 R10

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

- (a) not project by a distance greater than seven feet as measured from the plane surface of the #building# wall from which it projects;
- (b) not project into the minimum required distance between #buildings# on the same #zoning lot#;
- (c) not cover more than ten percent of the area designated as outdoor recreation space pursuant to Section 28-20 (RECREATION SPACE AND PLANTING AREAS);
- (d) be unenclosed except for a parapet not exceeding 3 feet, 8 inches in height or a railing not less than 50 percent open and not exceeding 4 feet, 6 inches in height. However, such balconies may be recessed into a #building# wall up to a maximum depth of six feet provided that at least 33 percent of the perimeter of such balcony is unenclosed except for a parapet or railing;

- (e) be located at or higher than the floor level of the third #story# of a #building# or at least 20 feet above #curb level#, except that for #buildings# containing #residences# not more than 32 feet in height, such balcony may be located at or higher than the floor level of the second #story# provided that such balcony is located not lower than seven feet above #curb level# or seven feet above natural grade, whichever is higher; and
- (f) have an aggregate width, at the level of any #story#, not exceeding 50 percent of the width at that level of the plane surface of the #building# wall from which it projects.

(3/22/16)

## **23-14**

### **Open Space and Floor Area Regulations in R1 through R5 Districts**

R1 R2 R3 R4 R5

In the districts indicated for any #zoning lot#, the minimum required #open space# or #open space ratio# shall not be less than set forth in this Section, and the maximum #lot coverage# shall not exceed the #lot coverage# as set forth in this Section. Any given #lot area# or area of #open space# shall be counted only once in determining the #floor area ratio#, the amount of #open space# or the #open space ratio#.

In R1 and R2 Districts without a letter suffix, the #floor area# and #open space# provisions of Section 23-141 shall apply. In R1 and R2 Districts with a letter suffix, and R3, R4 and R5 Districts, the provisions of Section 23-142 shall apply.

In R4 and R5 Districts without a letter suffix, the provisions of Section 23-143 shall apply to #buildings# utilizing the optional provisions for a #predominantly built-up area#. In R3-2, R4 and R5 Districts without a letter suffix, the provisions of Section 23-144 shall apply to #affordable independent residences for seniors#.

For #zoning lots# with #buildings# containing multiple #uses# or multiple #buildings# with different #uses#, the maximum #floor area ratio# for each #use# shall be as set forth in the applicable provisions of this Section, inclusive, or Section 24-10 (FLOOR AREA AND LOT COVERAGE REGULATIONS), inclusive, provided the total of all such #floor area ratios# does not exceed the greatest #floor area ratio# permitted for any such #use# on the #zoning lot#. However, for #zoning lots# providing #affordable independent residences for seniors# and other #residential uses#, the sum of all #floor area#

allocated to #uses# other than #affordable independent residences for seniors# on the #zoning lot# shall not exceed the maximum #floor area ratio# permitted for #residential uses# set forth in Sections 23-142 or 23-143, as applicable.

Where #floor area# in a #building# is shared by multiple #uses#, the #floor area# for such shared portion shall be attributed to each #use# proportionately, based on the percentage each #use# occupies of the total #floor area# of the #zoning lot#, less any shared #floor area#.

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

(3/22/16)

**23-141**

**Open space and floor area regulations in R1 and R2 Districts without a letter suffix**

R1 R2

In the districts indicated, except R1-2A, R2A and R2X Districts, the minimum required #open space ratio# shall be 150.0, and the maximum #floor area ratio# shall be 0.50.

(3/22/16)

**23-142**

**Open space and floor area regulations in R1 and R2 Districts with a letter suffix and R3 through R5 Districts**

R1 R2 R3 R4 R5

In R1 and R2 Districts with a letter suffix and R3 through R5 Districts, the maximum #lot coverage#, minimum #open space# and maximum #floor area ratio# shall be as set forth in the following table:

	Minimum	Maximum
	Required #Open	Maximum

District	#Lot Coverage# (in percent)	Space# (in percent)	#Floor Area Ratio#
R1-2A	30	70	.50
R2A	30	70	.50
R2X	N/A governed by #yard# requirements		.85
R3-1 R3-2	35	65	.50
R3A R3X	N/A governed by #yard# requirements		.50
R4	45	55	.75
R4-1 R4A	N/A governed by #yard# requirements		.75
R4B	55	45	.90
R5	55	45	1.25
R5A	N/A governed by #yard# requirements		1.10
R5B	55	45	1.35
R5D	60*	40*	2.00

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 \* For #corner lots#, the maximum #lot coverage# shall be 80 percent and the minimum required #open space# shall be 20 percent

In addition, the following rules shall apply:

- (a) In R2X, R3, R4, R4A and R4-1 Districts, except R3, R4A and R4-1 Districts within #lower density growth management areas#, the #floor area ratio# in the table in this Section may be increased by up to 20 percent provided that any such increase in #floor area# is located directly under a sloping roof which rises at least three and one half inches in vertical distance for each foot of horizontal distance and the structural headroom of such #floor area# is between five and eight feet.
- (b) In R3, R4-1 and R4A Districts in #lower density growth management areas#, the #floor area ratio# in the table in this Section may be increased by up to 20 percent provided that any such increase in #floor area# is located in any portion of a #building# covered by a sloping roof that rises at least seven inches in vertical distance for each foot of horizontal distance.
- (c) In R3, R4 and R5 Districts, the permitted #floor area# of a #single-# or #two-family detached# or #semi-detached residence developed# after June 30, 1989, may be increased by up to 300 square feet if at least one enclosed #accessory# off-street parking space is provided in a garage located, wholly or partly, in the #side lot ribbon# pursuant to Sections 23-12 (Permitted Obstructions in Open Space), paragraph (e), 23-441 (Location of garages in side yards of corner lots) or 23-442

(Location of garages in side yards of other zoning lots).

- (d) In R1-2A Districts and in R3, R4-1 and R4A Districts within #lower density growth management areas#, the permitted #floor area# of a #single-# or #two-family detached# or #semi-detached residence# may be increased by up to 300 square feet for one parking space and up to 500 square feet for two parking spaces provided such spaces are in a garage located, wholly or partly, in the #side lot ribbon# pursuant to Sections 23-12, paragraph (e), 23-441 or 23-442, except that in R1-2A Districts, such parking spaces need not be located in the #side lot ribbon#.
- (e) In R2A Districts, the permitted #floor area# may be increased by up to 300 square feet for a detached garage located in a #rear yard#, except where a parking space is provided within a #building# containing #residences#.
- (f) In R3 Districts, except for #zoning lots# containing #single-#, #two-#, or three-#family residences#, 50 percent of the required #open space# on a #zoning lot#, except such #open space# in a #front yard#, shall have a minimum dimension of 12 feet and shall not be used for driveways, private streets, open or enclosed #accessory# off-street parking spaces or open or enclosed #accessory# off-street loading berths.
- (g) In R4 and R5 Districts, except for #zoning lots# containing #single-#, #two-# or three-#family residences#, 33 percent of the required #open space# on a #zoning lot#, except such #open space# in a #front yard# or, in R5D Districts, the open area between the #street line# and #street wall# of a #building# or its prolongation, shall have a minimum dimension of 12 feet and shall not be used for driveways, private streets, open or enclosed #accessory# off-street parking spaces, or open or enclosed #accessory# off-street loading berths.

(3/22/16)

## **23-143**

### **Optional regulations for predominantly built-up areas**

R4 R5

In the districts indicated without a letter suffix, the maximum #floor area ratio# and #lot coverage# and the minimum required #open space# for any #zoning lot# utilizing the special optional regulations of a #predominantly built-up area# are set forth in the following table:

---

District	Maximum #Lot Coverage# (in percent)	Minimum Required #Open Space# (in percent)	Maximum #Floor Area Ratio#
R4	55	45	1.35
R5	55	45	1.65

(3/22/16)

**23-144**

**Affordable independent residences for seniors**

R3-2 R4 R5

In the districts indicated, except R4-1, R4A, R4B, R5A, R5B and R5D Districts, the maximum #lot coverage# and maximum #floor area ratio# for #affordable independent residences for seniors# shall be as set forth in the following table.

In R5D Districts, the #open space# and #floor area# regulations set forth in Section 23-142 (Open space and floor area regulations in R1 and R2 Districts with a letter suffix and R3 through R5 Districts) shall apply to #affordable independent residences for seniors#.

MAXIMUM FLOOR AREA RATIO FOR  
AFFORDABLE INDEPENDENT RESIDENCES FOR SENIORS  
IN R3-2, R4 AND R5 DISTRICTS

District	Maximum #Lot Coverage# (in percent)	Maximum #Floor Area Ratio#
R3-2	35	0.95
R4	45	1.29
R5	55	1.95

(3/22/16)

**23-15**

## Open Space and Floor Area Regulations in R6 through R10 Districts

R6 R7 R8 R9 R10

In the districts indicated, for any #zoning lot#, the minimum required #open space# or #open space ratio# shall not be less than set forth in this Section, and the maximum #lot coverage# shall not exceed the #lot coverage# as set forth in this Section. Any given #lot area# or area of #open space# shall be counted only once in determining the #floor area ratio#, the amount of #open space# or the #open space ratio#.

In R6A, R6B, R7A, R7B, R7D, R7X, R8A, R8B, R8X, R9A, R9D, R9X, R10A or R10X Districts, any #building# containing #residences# shall comply with the #floor area ratio# and #lot coverage# regulations for #Quality Housing buildings# set forth in Section 23-153 (For Quality Housing buildings).

In R6, R7, R8, R9 and R10 Districts without a letter suffix, #buildings# containing #residences# may be #developed# or #enlarged# pursuant to the basic #floor area# and #open space# regulations set forth in Section 23-151 (Basic regulations for R6 through R9 Districts) or 23-152 (Basic regulations for R10 Districts), as applicable, or the regulations for #Quality Housing buildings# set forth in Section 23-153.

All #Quality Housing buildings# shall also comply with additional provisions set forth in Article II, Chapter 8.

The applicable #floor area ratio# for the district may be increased for #buildings# on #zoning lots# containing #affordable housing# or #affordable independent residences for seniors#, pursuant to Sections 23-154 (Inclusionary Housing) or 23-155 (Affordable independent residences for seniors), as applicable.

Special #lot coverage# provisions for shallow #zoning lots#, and #interior# or #through lots# within 100 feet of corners or located along the short dimension of the #block# are set forth in Section 23-156 (Special lot coverage provisions for certain interior or through lots).

For #zoning lots# with #buildings# containing multiple #uses# or multiple #buildings# with different #uses#, the maximum #floor area ratio# for each #use# shall be as set forth in the applicable provisions of this Section, inclusive, or Section 24-10 (FLOOR AREA AND LOT COVERAGE REGULATIONS), inclusive, provided the total of all such #floor area ratios# does not exceed the greatest #floor area ratio# permitted for any such #use# on the #zoning lot#.

However, for #zoning lots# providing #affordable independent

residences for seniors# and other #residential uses#, the total #floor area# allocated to #uses# other than #affordable independent residences for seniors# on the #zoning lot# shall not exceed the maximum #floor area ratio# permitted for #residential uses# set forth in Sections 23-151 or 23-153, as applicable. Furthermore, for such #zoning lots# providing #affordable independent residences for seniors# and other #residential uses# within R10 Districts or within #Inclusionary Housing designated areas#, the maximum #floor area ratio# on the #zoning lot# shall not exceed the #floor area ratio# for the Inclusionary Housing Program set forth in Section 23-154, as applicable, and the maximum #floor area ratio# allocated to #affordable independent residences for seniors# shall not exceed the base #floor area ratio# specified in such Section, as applicable, except where such #affordable independent residences for seniors# meet the definition of #affordable housing# set forth in Section 23-911. #Zoning lots# with #buildings# used exclusively for #affordable independent residences for seniors# within R10 Districts or within #Inclusionary Housing designated areas# shall remain subject to the maximum #floor area ratios# set forth in Section 23-155.

#### Illustrative Example

The following example, although not part of the Zoning Resolution, is included to demonstrate the application of the #floor area# regulations to #zoning lots# with multiple #uses#, including #affordable independent residences for seniors#.

#### Example 1

**A #zoning lot# with a #lot area# of 50,000 square feet is being #developed# in an R7A District.** The owner would like to include #residential uses# (other than #affordable independent residences for seniors#), #community facility uses# and #affordable independent residences for seniors# on the #zoning lot#. Individually, the permitted #residential floor area ratio# (except for #affordable independent residences for seniors#) is 4.0, the permitted #community facility floor area ratio# is 4.0, and the permitted #floor area ratio# for #affordable independent residences for seniors# is 5.01. The highest permitted #floor area# on the #zoning lot#, 5.01, is assigned to #affordable independent residences for seniors#, meaning the maximum #floor area# on the #zoning lot# would be 250,500 square feet. In addition, when #residential uses# or #community facility uses# are mixed with #affordable independent residences for seniors# on the same #zoning lot#, the sum of the #floor area# allocated to #residential# and #community facility uses# cannot exceed the maximum #floor area ratio# for #residential uses#, which is 4.0, or 200,000 square feet. Based on these mixing rules, the following #development# is permitted on this #zoning lot#: a 50,500 square foot, or 1.01 #floor area ratio building# containing only an #affordable independent residence for seniors# and a 200,000 square foot #building# with 50,000 square feet, or 1.0 #floor area ratio#, allocated to #community facility uses#, and 150,000 square feet, or 3.0 #floor area ratio# of #residential uses# (other

than #affordable independent residences for seniors#).

In this second #building#, at a later time the #community facility floor area# could be #converted# to #residential floor area#, but under no conditions could the #building# containing #affordable independent residences for seniors# be changed to a #residence# not subject to the restrictions encompassed in the definition of #affordable independent residence for seniors# in Section 12-10.

Where #floor area# in a #building# is shared by multiple #uses#, the #floor area# for such shared portion shall be attributed to each #use# proportionately, based on the percentage each #use# occupies of the total #floor area# of the #zoning lot#, less any shared #floor area#.

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

(3/22/16)

**23-151**

**Basic regulations for R6 through R9 Districts**

R6 R7 R8 R9

In the districts indicated without a letter suffix, the minimum required #open space ratio# and the maximum #floor area ratio# for any #zoning lot# shall be determined by the #height factor# of such #zoning lot# as set forth in this Section.

MINIMUM REQUIRED OPEN SPACE RATIO  
AND MAXIMUM FLOOR AREA RATIO  
R6 through R9 Districts

	In R6 Districts		In R7 Districts		In R8 Districts		In R9 Districts	
For #zoning lots# with a #height factor# of	Min. Req. #open space ratio#	Max. #floor area ratio#	Min. Req. #open space ratio#	Max. #floor area ratio#	Min. Req. #open space ratio#	Max. #floor area ratio#	Min. Req. #open space ratio#	Max. #floor area ratio#

1	27.5	0.78	15.5	0.87	5.9	0.94	1.0	0.99
2	28.0	1.28	16.0	1.52	6.2	1.78	1.4	1.95
3	28.5	1.62	16.5	2.01	6.5	2.51	1.8	2.85
4	29.0	1.85	17.0	2.38	6.8	3.14	2.2	3.68
5	29.5	2.02	17.5	2.67	7.1	3.69	2.6	4.42
6	30.0	2.14	18.0	2.88	7.4	4.15	3.0	5.08
7	30.5	2.23	18.5	3.05	7.7	4.55	3.4	5.65
8	31.0	2.30	19.0	3.17	8.0	4.88	3.8	6.13
9	31.5	2.35	19.5	3.27	8.3	5.15	4.2	6.54
10	32.0	2.38	20.0	3.33	8.6	5.38	4.6	6.85
11	32.5	2.40	20.5	3.38	8.9	5.56	5.0	7.09
12	33.0	2.42	21.0	3.41	9.2	5.71	5.4	7.30
13	33.5	2.43	21.5	3.42	9.5	5.81	5.8	7.41
14	34.0	2.43	22.0	3.44	9.8	5.92	6.2	7.52
15	34.5	2.43	22.5	3.42	10.1	5.95	6.6	7.52
16	35.0	2.42	23.0	3.41	10.4	5.99	7.0	7.52
17	35.5	2.42	23.5	3.40	10.7	6.02	7.4	7.52
18	36.0	2.40	24.0	3.38	11.0	6.02	7.8	7.46
19	36.5	2.39	24.5	3.36	11.3	6.02	8.2	7.41
20	37.0	2.38	25.0	3.33	11.6	6.02	8.6	7.35
21	37.5	2.36	25.5	3.30	11.9	5.99	9.0	7.25

For #zoning lots# with #height factors# greater than 21, the minimum required #open space ratio# shall be as set forth in the following table:

OPEN SPACE RATIO FOR HIGH BUILDINGS

District	Minimum Required #Open Space Ratio# at #Height Factor# of 21	Additional Required #Open Space Ratio# for each Additional #Height Factor#
R6	37.5	0.5

R7	25.5	0.5
R8	11.9	0.3
R9	9.0	0.4

For these #zoning lots#, the maximum #floor area ratio# shall be such as can be attained at the required #open space ratio# for the #height factor#.\*

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

$$\frac{1}{\text{F.A.R.}} = \frac{\text{O.S.R.}}{100} + \frac{1}{\text{H.F.}}$$

(3/22/16)

**23-152**

**Basic regulations for R10 districts**

In R10 Districts, the #floor area ratio# on a #zoning lot# shall not exceed 10.0.

Notwithstanding any other provision of this Resolution, the maximum #floor area ratio# shall not exceed 12.0.

(3/22/16)

**23-153**

**For Quality Housing buildings**

R6 R7 R8 R9 R10

In the districts indicated, for #Quality Housing buildings#, the maximum #floor area ratio# and maximum #residential lot coverage# for #interior lots# or #through lots# shall be as set forth in the table in this Section. The maximum #residential lot coverage# for a #corner lot# shall be 100 percent.

The maximums for #zoning lots#, or portions thereof, located within 100 feet of a #wide street# in R6, R7 or R8 Districts without a letter suffix outside the #Manhattan Core#, shall be as designated

by the same district with an asterisk. In an R6 District inside the #Manhattan Core# located within 100 feet of a #wide street#, the maximums shall be indicated by the same district with a double asterisk.

MAXIMUM LOT COVERAGE AND FLOOR AREA RATIO  
FOR QUALITY HOUSING BUILDINGS

District	Maximum #Lot Coverage# for an #Interior Lot# or #Through Lot# (in percent)	Maximum #Floor Area Ratio#
R6	60	2.20
R6**	60	2.43
R6* R6A R7B	65	3.00
R6B	60	2.00
R7	65	3.44
R7* R7A	65	4.00
R7D	65	4.20
R7X	70	5.00
R8 R8A R8X	70	6.02
R8*	70	7.20
R8B	70	4.00
R9 R9A	70	7.52
R9D R9X	70	9.00
R10	70	10.00

(3/22/16)

**23-154**  
**Inclusionary Housing**

For #developments# or #enlargements# providing #affordable housing# pursuant to the Inclusionary Housing Program, as set forth in Section 23-90, inclusive, the maximum #floor area ratio# permitted in R10 Districts outside of #Inclusionary Housing designated areas# shall be as set forth in paragraph (a) of this Section, and the maximum #floor area ratio# in the #Inclusionary Housing designated areas# existing on March 22, 2016, shall be as set forth in paragraph (b) of this Section. Special provisions for specified #Inclusionary Housing designated areas# are set forth in paragraph (c) of this Section. Special #floor area# provisions for #zoning lots# in #Mandatory Inclusionary Housing areas# are set forth in paragraph (d) of this Section. The maximum #lot coverage# shall be as set forth in Section 23-153 (For Quality Housing buildings) for the applicable zoning district. For the purpose of this Section, defined terms include those set forth in Sections 12-10 and 23-911.

- (a) R10 Districts outside of #Inclusionary Housing designated areas#

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

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

OPTIONS

Without #public funding#	#New construction affordable housing# or #substantial rehabilitation affordable housing#	3.5
	#Preservation affordable housing#	2.0
With #public funding#	#New construction affordable housing#, #substantial rehabilitation affordable housing# or #preservation affordable housing#	1.25

(b) #Inclusionary Housing designated areas#

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

MAXIMUM RESIDENTIAL FLOOR AREA RATIO

District	Base #floor area ratio#	Maximum #floor area ratio#
R6B	2.00	2.20
R6 <sup>1</sup>	2.20	2.42
R6 <sup>2</sup> R6A R7-2 <sup>1</sup>	2.70	3.60
R7A R7-2 <sup>2</sup>	3.45	4.60
R7-3	3.75	5.0
R7D	4.20	5.60
R7X	3.75	5.00
R8	5.40	7.20
R9	6.00	8.00
R9A	6.50	8.50
R9D	7.5	10.0
R9X	7.3	9.70
R10	9.00	12.00

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

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

(c) Special provisions for specified #Inclusionary Housing

designated areas#

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

Within a #large-scale general development# in a C4-6 or C5 District, the special optional regulations as set forth in this paragraph (c)(1), inclusive, modify the provisions of paragraph (b) of this Section:

- (i) The #residential floor area# of a #development# or #enlargement# may be increased by 0.833 square feet for each one square foot of #moderate income floor area#, or by 0.625 square feet for each one square foot of #middle income floor area#, provided that for each square foot of such #floor area compensation# there is one square foot of #floor area compensation#, pursuant to paragraph (b) of this Section;
- (ii) However, the amount of #affordable housing# required to receive such #floor area compensation# need not exceed the amounts specified in this paragraph, (c)(1)(ii). If #affordable housing# is provided for both #low income# and #moderate income households#, the amount of #moderate income floor area# need not exceed 15 percent of the total #floor area#, exclusive of ground floor non-#residential floor area#, on the #zoning lot#, provided that the amount of #low income floor area# is at least 10 percent of the total #floor area#, exclusive of ground floor non-#residential floor area#, on the #zoning lot#. If #affordable housing# is provided for both #middle income households# and #low income households#, the amount of #middle income floor area# need not exceed 20 percent of the total #floor area#, exclusive of ground floor non-#residential floor area#, on the #zoning lot#, provided that the amount of #low income floor area# is at least 10 percent of the total #floor area#, exclusive of ground floor non-#residential floor area#, on the #zoning lot#.

For the purposes of this paragraph, (c)(1), inclusive, #low income floor area# may be considered #moderate income floor area# or #middle income floor area#, and #moderate income floor area# may be considered #middle income floor area#.

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

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

- (i) For #zoning lots#, or portions thereof, that are located within R6B, R7A or R7-3 Districts, the base #floor area ratio# set forth in paragraph (b) of this Section shall not apply. No #residential development# or #enlargement# shall be permitted unless #affordable floor area# is provided pursuant to the provisions of this paragraph. The amount of #low-income floor area# provided shall equal no less than 10 percent of the #floor area# on such #zoning lot#, excluding any ground floor #non-residential floor area#, #floor area# within a #school#, or any #floor area# increase resulting from the provision of a #FRESH food store# and the amount of #moderate-income floor area# provided shall equal no less than 15 percent of the #floor area# on such #zoning lot#, excluding any ground floor #non-residential floor area#, #floor area# within a #school#, or any #floor area# increase resulting from the provision of a #FRESH food store#. For the purposes of this paragraph (c)(2)(i), inclusive, #low income floor area# may be considered #moderate income floor area#; and
  - (ii) The amount of #affordable floor area# utilizing #public funding# that may count toward satisfying the #affordable floor area# required in paragraph (c)(2)(i) of this Section shall be determined in accordance with procedures prescribed by the City Planning Commission pursuant to the provisions of Section 74-743 (Special provisions for bulk modification).
- (3) Special provisions for #compensated zoning lots#

Special provisions shall apply to #compensated zoning lots# located within:

- (i) R6, R7-3 and R8 Districts on #waterfront blocks# in #Inclusionary Housing designated areas# within Community District 1, Borough of Brooklyn, as set forth in Section 62-352; or
- (ii) the #Special Hudson Yards District#, #Special Clinton District# and #Special West Chelsea District#, as set

forth in Sections 93-23, 96-21 and 98-26,  
respectively.

- (d) Special #floor area# provisions for #zoning lots# in #Mandatory Inclusionary Housing areas#

For #zoning lots# in #Mandatory Inclusionary Housing areas#, the following provisions shall apply:

- (1) Affordable housing requirement

Except where permitted by special permit of the Board of Standards and Appeals pursuant to Section 73-624 (Reduction or modification of Mandatory Inclusionary Housing requirements), or as provided in paragraph (d) (4) of this Section 23-154, no #residential development#, #enlargement# or #conversion# from non-#residential# to #residential use# shall be permitted unless #affordable housing#, as defined in Section 23-911 (General definitions) is provided or a contribution is made to the #affordable housing fund#, as defined in Section 23-911, pursuant to the provisions set forth in paragraph (d) (3) (i) through (d) (3) (v) and (d) (5) of this Section, inclusive.

- (2) Maximum #floor area ratio#

The maximum #floor area ratio# for the applicable zoning district in #Inclusionary Housing designated areas# set forth in paragraph (b) of this Section shall apply to any #MIH development#. However, in an R7-3 or R7X District, the maximum #floor area ratio# shall be 6.0 for any #MIH development#.

In addition, in R6, R7-1, R7-2, R8 and R9 Districts without a letter suffix, where the basic height and setback requirements are utilized pursuant to paragraph (c) of Section 23-952, the maximum #floor area ratio# shall be determined in accordance with the provisions of Section 23-151 (Basic regulations for R6 through R9 Districts).

For any #development#, #enlargement#, or #conversion# from non-#residential# to #residential use# that is subject to the provisions of paragraph (d) (4) of this Section, the maximum #floor area ratio# for the applicable district outside of #Inclusionary Housing designated areas# or #Mandatory Inclusionary Housing areas# shall apply.

- (3) Options for compliance with affordable housing requirement

Options for compliance with the affordable housing requirement of paragraph (d)(1) of this Section are set forth in the following paragraphs (d)(3)(i) through (d)(3)(v). These options shall be applicable within #Mandatory Inclusionary Housing areas# as indicated in [APPENDIX F](#) of this Resolution. The Deep Affordability Option or the Workforce Option shall only be made applicable in combination with Option 1 or Option 2. Regardless of whether every option specified in this paragraph (d)(3), inclusive, is included in a land use application for applicability to a proposed #Mandatory Inclusionary Housing area# or as a term or condition of a special permit pursuant to this Resolution, all affordability options available under the provisions of this paragraph (d)(3), inclusive, shall be part of the subject matter of each such application throughout the land use review process. The Workforce Option shall not be applicable within the #Manhattan Core#. A #development#, #enlargement# or #conversion# from non-#residential# to #residential use# shall comply with either Option 1, Option 2, the Deep Affordability Option, the Workforce Option, or the Affordable Housing Fund Option, as applicable.

When a #building# containing #residences# is #enlarged#, the following shall be considered part of the #enlargement# for the purposes of this paragraph (d)(3), inclusive: #residential floor area# that is reconstructed, or #residential floor area# that is located within a #dwelling unit# where the layout has been changed.

(i) Option 1

For #MIH developments# utilizing Option 1, an amount of #affordable floor area# for #qualifying households# shall be provided that is equal to at least 25 percent of the #residential floor area# within such #MIH development#. The weighted average of all #income bands# for #affordable housing units# shall not exceed 60 percent of the #income index#, and there shall be no more than three #income bands#. At least 10 percent of the #residential floor area# within such #MIH development# shall be affordable within an #income band# at 40 percent of the #income index#, and no #income band# shall exceed 130 percent of the #income index#.

(ii) Option 2

For #MIH developments# utilizing Option 2, an amount of #affordable floor area# for #qualifying households# shall be provided that is equal to at least 30 percent of the #residential floor area# within such #MIH development#. The weighted average of all #income bands# for #affordable housing units# shall not exceed 80 percent of the #income index#, and there shall be no more than three #income bands#. No #income band# shall exceed 130 percent of the #income index#.

(iii) Deep Affordability Option

For #MIH developments# utilizing the Deep Affordability Option, an amount of #affordable floor area# for #qualifying households# shall be provided that is equal to at least 20 percent of the #residential floor area# within such #MIH development#. The weighted average of all #income bands# for #affordable housing units# shall not exceed 40 percent of the #income index#, and there shall be no more than three #income bands#. No #income band# shall exceed 130 percent of the #income index#. No #public funding# shall be utilized for such #MIH development# except where #HPD# determines that such #public funding# is necessary to support a significant amount of affordable housing that is in addition to the #affordable floor area# satisfying the requirements of this Section.

(iv) Workforce Option

For #MIH developments# utilizing the Workforce Option, an amount of #affordable floor area# for #qualifying households# shall be provided that is equal to at least 30 percent of the #residential floor area# within such #MIH development#. The weighted average of all #income bands# for #affordable housing units# shall not exceed 115 percent of the #income index#, and there shall be no more than four #income bands#. No #income band# shall exceed 135 percent of the #income index#. At least 5 percent of the #residential floor area# within such #MIH development# shall be affordable within an #income band# at 70 percent of the #income index#, and in addition, at least five percent of the #residential floor area# within such #MIH development# shall be affordable within an #income band# at 90 percent of the #income index#. Such #MIH development# may not utilize #public funding#.

The Workforce Option shall expire within a #Mandatory Inclusionary Housing area# ten years after the effective date of the amendment establishing or renewing such option in a #Mandatory Inclusionary Housing area#, as indicated in [APPENDIX F](#) of this Resolution. However, the Workforce Option shall apply to an #MIH development# that has filed an #MIH application# for such option prior to expiration of such option, provided that the #MIH development# complies with all provisions of Section 11-33 (Building Permits for Minor or Major Development or Other Construction Issued before Effective Date of Amendment), inclusive. For the purposes of applying the provisions of Section 11-33, the effective date of applicable amendment shall be six months after the date of the expiration of the Workforce Option in such #Mandatory Inclusionary Housing area#.

The Workforce Option shall not be permitted to be utilized for any #development#, #enlargement#, or #conversion# from non-#residential# to #residential use# within the #Manhattan Core#.

(v) Affordable Housing Fund option

A #development#, #enlargement#, or #conversion# from non-#residential# to #residential use# that increases the number of #dwelling units# by no more than 25, and increases #residential floor area# on the #zoning lot# by less than 25,000 square feet, may satisfy the requirements of this Section by making a contribution to the #affordable housing fund#. The amount of such contribution shall approximate, using the best available data, the cost of providing the #affordable floor area# in the same Community District as the #MIH development#. A schedule setting forth the contribution amount for each affected Community District shall be established by #HPD# and shall be updated on an annual basis, as set forth in the #guidelines#.

(4) Exceptions

The requirements of paragraph (d) of this Section shall not apply to:

- (i) A single #development#, #enlargement#, or #conversion# from non-#residential# to #residential use# of not more than 10 #dwelling units# and not

more than 12,500 square feet of #residential floor area# on a #zoning lot# that existed on the date of establishment of the applicable #Mandatory Inclusionary Housing area#;

- (ii) a #development#, #enlargement#, or #conversion# from non-#residential# to #residential use# containing no #residences# other than #affordable independent residences for seniors#; or
  - (iii) a #development#, #enlargement#, or #conversion# from non-#residential# to #residential use# that is granted a full waiver of the requirements set forth in paragraph (d)(3), inclusive, of this Section by special permit of the Board of Standards and Appeals pursuant to Section 73-624 (Reduction or modification of Mandatory Inclusionary Housing requirements).
- (5) Additional requirements where #affordable housing# is provided off-site

When #affordable floor area# is provided on an #MIH site# that is not an #MIH zoning lot# pursuant to paragraph (a) of Section 23-96 (Requirements for Generating Sites or MIH Sites), the amount of #affordable floor area# required pursuant to paragraphs (d)(3)(i) through (d)(3)(iv) of this Section shall be increased by an amount equal to five percent of the #residential floor area# within such #MIH development#, multiplied by the percentage of the #affordable floor area# that is provided on an #MIH site# that is not an #MIH zoning lot#. Such additional #affordable floor area# shall be provided for #qualifying households# at income levels that comply with the average #income bands# specified in paragraphs (d)(3)(i) through (d)(3)(iv) of this Section, as applicable to the #MIH development#.

(3/22/16)

## **23-155**

### **Affordable independent residences for seniors**

R6 R7 R8 R9 R10

In the districts indicated, for #buildings# complying with the height and setback regulations for #Quality Housing buildings# set forth in Section 23-66, the maximum #floor area ratio# for #affordable independent residences for seniors# shall be as set

forth in the table in this Section, and the maximum #lot coverage# shall be as set forth in Section 23-153 (For Quality Housing buildings), as applicable.

For #buildings# in R6, R7, R8, R9 or R10 Districts without a letter suffix utilizing the basic #bulk# regulations, the maximum #floor area ratio# and #open space ratio# for #affordable independent residences for seniors# shall be as set forth for #residential uses# in Sections 23-151 (Basic regulations for R6 through R9 Districts) and 23-152 (Basic regulations for R10 Districts), as applicable.

MAXIMUM FLOOR AREA RATIO FOR  
AFFORDABLE INDEPENDENT RESIDENCES FOR SENIORS  
IN QUALITY HOUSING BUILDINGS

District	Maximum #Floor Area Ratio#
R6 R6A R7B	3.90
R6B	2.20
R7 R7A	5.01
R7D	5.60
R7X	6.00
R8 R8A R8X	7.20
R8B	4.00
R9	8.00
R9A	8.50
R9X	9.70
R9D	10.00
R10 R10A R10X	12.00

(3/22/16)

**23-156**

**Special lot coverage provisions for certain interior or through lots**

R6 R7 R8 R9 R10

In the districts indicated, the maximum #lot coverage# set forth in Section 23-153 (For Quality Housing buildings), may be increased for shallow #zoning lots# in accordance with paragraph (a) of this Section, and may be increased for #interior# or #through lots# within 100 feet of corners or located along the short dimension of the #block#, in accordance with paragraph (b) of this Section.

(a) Shallow #zoning lots#

The maximum #lot coverage# for shallow #interior# or #through lots# may be increased as follows:

(1) For shallow #interior lots#

In the districts indicated, if an #interior lot# was owned separately and individually from all other adjoining tracts of land, both on December 15, 1961, and on the date of application for a #building permit#, and is less than 90 feet deep at any point, the maximum #lot coverage# of such #zoning lot#, or portion thereof, may be increased by one percent for every five feet the depth of such #zoning lot#, or portion thereof, is less than 90 feet. Where the #front lot line# or #rear lot line# of a #zoning lot# intersects a #side lot line# at an angle other than 90 degrees, the depth of such #zoning lot#, or portion thereof, shall be measured at the midpoint of such irregularly angled #lot line#.

(2) For shallow #through lots#

In the districts indicated, if a #through lot# was owned separately and individually from all other adjoining tracts of land, both on December 15, 1961, and on the date of application for a #building permit#, and is less than 180 feet deep at any point, the maximum #lot coverage# of such #zoning lot#, or portion thereof, may be increased by one percent for every five feet the depth of such #zoning lot#, or portion thereof, is less than 180 feet. Where the #front lot line# or #rear lot line# of a #zoning lot# intersects a #side lot line# at an angle other than 90 degrees, the depth of such #zoning lot#, or portion thereof, shall be measured at the midpoint of such irregularly angled #lot line#.

(3) Special provisions for #zoning lots# created after December 15, 1961

Notwithstanding the provisions of paragraphs (a)(1) and (a)(2) of this Section, the special #lot coverage#

provisions of this Section may be applied to a #zoning lot#, or portion thereof, created after December 15, 1961, provided that the shallow lot condition was in existence on December 15, 1961, and subsequently such shallow lot condition on the #zoning lot#, or portion thereof, has neither increased nor decreased in depth.

(4) For #zoning lots# with shallow portions

Where a portion of a #zoning lot# is less than 90 feet for an #interior lot#, or 180 feet for a #through lot#, an adjusted maximum #lot coverage# shall be established for the #zoning lot# by multiplying the maximum percent of #lot coverage# permitted for the shallow portion of the #zoning lot# established pursuant to paragraphs (a)(1) or (a)(2) of this Section by the percentage such portion constitutes of the #lot area# of the #zoning lot#, and by multiplying the maximum percent of #lot coverage# permitted for the non-shallow portion of the #zoning lot# established pursuant to Section 23-153 (For Quality Housing buildings) by the percentage such portion constitutes of the #lot area# of the #zoning lot#. The sum of the areas of #lot coverage# thus obtained shall be the adjusted maximum percent of #lot coverage# for the #zoning lot#.

(5) Maximum coverage

In no event shall the maximum #lot coverage# of an #interior lot# or #through lot# exceed 80 percent. Shallow portions of a #zoning lot# may exceed such maximum, so long as the adjusted maximum #lot coverage# set forth in paragraph (a)(4) of this Section complies with such maximum.

(b) Within 100 feet of corners or along the short dimension of the #block#

The maximum #lot coverage# for #interior# or #through lots#, or portions thereof, within 100 feet of the corner, or located along the short dimension of the #block#, may be increased as follows:

(1) Within 100 feet of the corner

In the districts indicated, for #interior# or #through lots#, or portions thereof, within 100 feet of the point of intersection of two #street lines# intersecting at an angle of 135 degrees or less, the maximum #lot coverage# shall be 100 percent.

- (2) Along the short dimension of the block

In the districts indicated, whenever a #front lot line# of an #interior# or #through lot# coincides with all or part of a #street line# measuring less than 230 feet in length between two intersecting #streets#, the maximum #lot coverage# for such #zoning lot#, or portion thereof, shall be 100 percent within 100 feet of such #front lot line#.

(3/22/16)

## **23-16**

### **Special Floor Area and Lot Coverage Provisions for Certain Areas**

The #floor area ratio# provisions of Sections 23-14 (Open Space and Floor Area Regulations in R1 through R5 Districts) and 23-15 (Open Space and Floor Area Regulations in R6 through R10 Districts), inclusive, shall be modified for certain areas, as follows:

- (a) For tower-on-a-base buildings in R9 Districts

In R9 Districts, for #zoning lots# where #buildings# are #developed# or #enlarged# pursuant to the tower-on-a-base provisions of Section 23-651, the maximum #floor area ratio# shall be 7.52, and the maximum #lot coverage# shall be 100 percent on a #corner lot# and 70 percent on an #interior lot#.

- (b) For R10 Districts in Community District 7 in the Borough of Manhattan

Within the boundaries of Community District 7 in the Borough of Manhattan, in R10 Districts, except R10A or R10X Districts, the maximum #floor area ratio# shall be 10.0.

- (c) For R8 Districts in Community District 9 in the Borough of Manhattan

Within the boundaries of Community District 9 in the Borough of Manhattan, all #buildings# located in R8 Districts north of West 125th Street shall be #developed# or #enlarged# pursuant to the Quality Housing Program and are subject to the #floor area# regulations set forth in Section 23-153 (For Quality Housing buildings).

- (d) Optional provisions for certain R5 and R6 Districts in Community District 12 in the Borough of Brooklyn

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

- (1) #Floor area#, #lot coverage#, #open space#, density and #height factor# regulations

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

- (2) #Building# height

No #building# shall exceed a height of 35 feet above #curb level#, or three #stories#, whichever is less. Where the optional provisions of this Section are applied, the regulations of Article II, Chapter 3, relating to height and setback, are hereby made inapplicable, except that the provisions of Section 23-62 (Permitted Obstructions) shall apply.

- (3) #Front yards#

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

not required.

(4) #Side yards#

In R5 Districts, the following #side yard# regulations shall apply:

- (i) Where an existing #building# on an adjacent #zoning lot# is located on the common #side lot line#, no #side yard# is required. However, if an open area extending along such common #side lot line# is provided, it shall be at least eight feet wide.
- (ii) Where an existing #building# on an adjacent #zoning lot# is located less than eight feet from, but not on, the common #side lot line#, a #side yard# at least four feet wide is required. However, in no case shall the distance between a new or #enlarged building# and an existing #building# across a common #side lot line# on an adjacent #zoning lot# be less than eight feet.
- (iii) Where an adjacent #zoning lot# is vacant or where an existing #building# on an adjacent #zoning lot# is located more than eight feet from the common #side lot line#, a #side yard# at least four feet wide is required.
- (iv) In R6 Districts, a #side yard# is not required. However, when a #building# is 62 feet or more in depth, an eight foot #side yard# or an #outer court# as set forth in paragraph (d)(6) of this Section is required.
- (v) Notwithstanding the provisions of paragraphs (d)(1) and (d)(3), #detached single-#, #two-# and three-#family residences# on #corner lots# shall provide #side yards# of five feet and 20 feet. #Semi-detached single-#, #two-# and three-#family residences# on #corner lots# shall provide one #side yard# of 20 feet.

(5) #Rear yards#

#Single-# or #two-family residences# consisting of #detached#, #semi-detached# or #zero lot line buildings# may project up to 10 feet into a required #rear yard# or #rear yard equivalent#, provided that there is a #side yard# of at least eight feet for such #semi-detached# or #zero lot line buildings#, and that the total width of #side yards# for a #detached building# is at

least eight feet.

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

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

Where a #building# is attached, along a common #side lot line#, to a portion of an existing or new #building# on an adjacent #zoning lot#, there may be a joint #outer court# with a minimum width of 10 feet across such common #side lot line#. The requirements of Section 23-86 (Minimum Distance Between Legally Required Windows and Walls or Lot Lines) are hereby made inapplicable.

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

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

(3/22/16)

## **23-17**

### **Existing Public Amenities for Which Floor Area Bonuses Have Been Received**

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

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

- (b) Nighttime closing of existing public open areas

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

(c) Elimination or reduction in size of existing public amenities

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

(3/22/16)

**23-18**

**Special Provisions for Zoning Lots Divided by District Boundaries or Subject to Different Bulk Regulations**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

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

(7/26/01)

**23-20**

**DENSITY REGULATIONS**

(3/22/16)

**23-21**

**Required Floor Area per Dwelling Unit**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

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

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

#floor area# requirements.

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

(3/22/16)

**23-22**

**Maximum Number of Dwelling Units**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, the maximum number of #dwelling units# shall equal the maximum #residential floor area# permitted on the #zoning lot# divided by the applicable factor in the following table. In R1 through R5 Districts, any #dwelling unit# shall be occupied by only one #family#. Fractions equal to or greater than three-quarters resulting from this calculation shall be considered to be one #dwelling unit#.

For the purposes of this Section, where a #floor area ratio# is determined pursuant to Section 23-151 (Basic regulations for R6 through R9 Districts), notwithstanding the #height factor# of the #zoning lot#, the maximum #residential floor area ratio# shall be 2.43 in an R6 District within 100 feet of a #wide street#, 3.44 in an R7 District and 6.02 in an R8 District. In an R6 District beyond 100 feet of a #wide street#, the maximum #residential floor area ratio# shall be as specified in Section 23-151, or 2.2, whichever is greater.

For #affordable independent residences for seniors#, there shall be no applicable #dwelling unit# factor.

For #zoning lots# with #buildings# containing multiple #uses# or multiple #buildings# with different #uses#, special provisions are set forth in Section 23-24 (Special Provisions for Buildings Containing Multiple Uses) to determine the maximum number of #dwelling units# permitted.

FACTOR FOR DETERMINING MAXIMUM NUMBER  
OF DWELLING UNITS

Factor for

District	#Dwelling Units#
R1-1	4,750
R1-2	2,850
R2, R2A	1,900
R2X	2,900
R3-1 R3-2*	625
R3A	710
R3-2 R4 R4-1 R4B	870
R3X	1,000
R4A	1,280
R4** R5** R5B	900
R5, R5D	760
R5A	1,560
R5B***	1,350
R6 R7 R8 R9 R10	680

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

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

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

(3/22/16)

## 23-23

### Minimum Size of Dwelling Units

R3 R4 R5

(a) In the districts indicated, for all #buildings# other than #affordable independent residences for seniors#, each #dwelling

unit# shall contain at least 300 square feet of #floor area#. For #affordable independent residences for seniors#, each #dwelling unit# shall contain at least 325 square feet of #floor area#.

R3 R4A R4-1

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

R6 R7 R8 R9 R10

(c) In the districts indicated, for #affordable independent residences for seniors#, each #dwelling unit# shall contain at least 325 square feet of #floor area#.

### **Regulations Applying in Special Situations**

(3/22/16)

#### **23-24**

#### **Special Provisions for Buildings Containing Multiple Uses**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, for #zoning lots# with #buildings# containing multiple #uses# or multiple #buildings# with different #uses#, the maximum number of #dwelling units# permitted on the #zoning lot# shall equal the total #residential floor area# permitted on the #zoning lot# after deducting any non-#residential floor area# and any #floor area# allocated to #affordable independent residences for seniors#, divided by the applicable factor in Section 23-22 (Maximum Number of Dwelling Units). Where #floor area# in a #building# is shared by multiple #uses#, the #floor area# for such shared portion shall be attributed to each #use# proportionately, based on the percentage each #use# occupies of the total #floor area# of the #zoning lot#, less any shared #floor area#.

(3/22/16)

#### **23-25**

#### **Special Provisions for Existing Small Zoning Lots**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

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

(2/2/11)

### **23-26**

#### **Special Provisions for Zoning Lots Divided by District Boundaries**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

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

(12/15/61)

### **23-30**

#### **LOT AREA AND LOT WIDTH REGULATIONS**

#### **Definitions and General Provisions**

(2/20/64)

### **23-31**

#### **Definitions**

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

#### **Basic Regulations**

(6/29/06)

**23-32**

**Minimum Lot Area or Lot Width for Residences**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

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

REQUIRED MINIMUM  
LOT AREA AND LOT WIDTH

Type of #Residence#	Minimum #Lot Area# (in sq. ft.)	Minimum #Lot Width# (in feet)	District
#Single-family detached#	9,500	100	R1-1
	5,700	60	R1-2
	3,800	40	R2 R2A
	2,850	30	R2X
#Single-# or #two-family detached# or #zero lot line# where permitted	3,800	40	R3-1 R3-2 R4-R10
	3,325	35	R3X
	2,850	30	R4A* R5A
	2,375	25	R3A* R4B R4-1* R5B R5D
Any other permitted	1,700	18	R3-R10*

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

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

- (a) Where two or more #buildings# that are #single-# or #two-family detached# or #semi-detached residences# are located on a

#zoning lot#, the applicable minimum #lot area# requirement set forth in the table in this Section shall be multiplied by the number of such #buildings# on the #zoning lot#.

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

### **Regulations Applying in Special Situations**

(2/2/11)

#### **23-33**

#### **Special Provisions for Development of Existing Small Lots**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

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

- (a) has less than the prescribed minimum #lot area# or #lot width# or, in #lower density growth management areas# in the Borough of Staten Island, does not comply with the provisions of Section 23-32 (Minimum Lot Area or Lot Width for Residences);
- (b) was owned separately and individually from all other adjoining tracts of land, both on December 15, 1961, and on the date of application for a building permit or, in R2X, R3A, R3X or R4A Districts, both on the effective date of establishing such district on the #zoning maps# and on the date of application for a building permit or, in #lower density growth management areas#, both on December 8, 2005, and on the date of application for a building permit; and
- (c) if #developed# as a #two-family residence#, meets the applicable density requirement of the zoning district in which such #zoning lot# is located.

(12/15/61)

**23-34**

**Special Provisions for Zoning Lots Divided by District Boundaries**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

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

(3/22/16)

**23-35**

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

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

- (a) ambulatory diagnostic or treatment health care facilities, as listed in Section 22-14 (Use Group 4), except where such #zoning lot# contains #buildings# used for hospitals, as defined in the New York State Hospital Code, or #long-term care facilities#; and
- (b) child care service, as listed under the definition of #school# in Section 12-10 (DEFINITIONS), except where such #zoning lot# contains #buildings# used for houses of worship or, for #zoning lots# that do not contain #buildings# used for houses of worship, where the amount of #floor area# used for child care services is equal to 25 percent or less of the amount of #floor area# permitted for #community facility use# on the #zoning lot#.

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

thereof, shall be permitted between opposing #side lot lines# where such #lot lines# would be nearer to one another at any point than 60 feet.

(12/15/61)

## **23-40**

### **YARD REGULATIONS**

#### **Definitions and General Provisions**

(9/19/85)

## **23-41**

### **Definitions**

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

(12/15/61)

## **23-42**

### **Level of Yards**

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

(12/15/61)

## **23-43**

### **Measurement of Yard Width or Depth**

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

(3/22/16)

## 23-44

### Permitted Obstructions in Required Yards or Rear Yard Equivalents

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

- (a) In any #yard# or #rear yard equivalent#:
  - (1) Air conditioning condensation units, #accessory#, for #single-# or #two-family residences#, provided that such units, if located between a #street wall#, or prolongation thereof, and a #street line#, are not more than 18 inches from a #street wall#, and fully screened from the #street# by vegetation;
  - (2) Arbors or trellises;
  - (3) Awnings and other sun control devices, provided that when located at a level higher than the first #story#, excluding a #basement#, all such awnings and other sun control devices:
    - (i) shall be limited to a maximum projection from a #building# wall of 2 feet, 6 inches; and
    - (ii) shall have solid surfaces that, in aggregate, cover an area no more than 30 percent of the area of the #building# wall (as viewed in elevation) from which they project;
  - (4) Balconies, unenclosed, of a #building# containing #residences# subject to the applicable provisions of Section 23-13. Such balconies are not permitted in required #side yards#;
  - (5) Canopies;
  - (6) Chimneys, projecting not more than three feet into, and not exceeding two percent of the area of, the required #yard# or #rear yard equivalent#;
  - (7) Eaves, gutters or downspouts projecting into such #yard# or #rear yard equivalent# not more than 16 inches or 20 percent of the width of such #yard# or #rear yard equivalent#, whichever is the lesser distance;
  - (8) Exterior wall thickness, where such wall thickness is

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

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

- (9) Fences, not exceeding four feet in height above adjoining grade in any #front yard#, except that for #corner lots#, a fence may be up to six feet in height within that portion of one #front yard# that is between a #side lot line# and the prolongation of the side wall of the #residence# facing such #side lot line#;
- (10) Fire escapes, projecting into a #front yard#, only in such cases where the fire escape is required for the #conversion# of a #building# in existence before December 15, 1961;
- (11) Flagpoles;
- (12) Overhanging portions of a #building# in R4 and R5 Districts, except R4A, R4-1, R4B, R5A, R5B or R5D Districts, which are above the first #story# including the #basement# and which project not more than three feet into the required 18 foot #front yard#. In no case shall the lowest level of the projected portion be less than seven feet above the level of the #front yard# at the face of the #building#. Supports for the projected portion of any #building# are permitted obstructions within the required #front yard#, provided that the total area occupied by such supports does not exceed 15 percent of the area underneath the projected portion. No support may extend beyond the three-foot projection;
- (13) Parking spaces for automobiles or bicycles, off-street, open, #accessory#, within a #side# or #rear yard#;
- (14) Parking spaces, off-street, open, within a #front yard#;

that are #accessory# to a #building# containing #residences#, provided that:

- (i) in R1, R2, R3A, R3X, R3-1, R4A, R4-1 and R5A Districts, except in #lower density growth management areas#, such spaces meet all the requirements of paragraph (a) of Section 25-621 (Location of parking spaces in certain districts);
- (ii) in R3-2 Districts, R4 Districts other than R4A, R4-1 and R4B Districts, and R5 Districts other than R5A, R5B and R5D Districts, such spaces meet all the requirements of paragraph (b) of Section 25-621;
- (iii) in #lower density growth management areas#, such spaces are non-required and are located in a driveway that accesses parking spaces that are located behind the #street wall# of the #building# or prolongation thereof;

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

- (15) Ramps for persons with physical disabilities;
- (16) Solar energy systems on walls existing on April 30, 2012, projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects;
- (17) Steps, provided that such steps access only the lowest #story# or #cellar# of a #building# fronting on a #street#, which may include a #story# located directly above a #basement#;
- (18) Swimming pools, #accessory#, above-grade structures limited to a height not exceeding eight feet above the level of the #rear yard# or #rear yard equivalent#. #Accessory# swimming pools are not permitted obstructions in any #front yard#;
- (19) Terraces or porches, open;
- (20) Walls, not exceeding eight feet in height above adjoining

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

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

- (1) Balconies, unenclosed, subject to the provisions of Section 23-13;
- (2) Breezeways;
- (3) Fire escapes;
- (4) Greenhouses, non-commercial, #accessory#, limited to one #story# or 15 feet in height above adjoining grade, whichever is less, and limited to an area not exceeding 25 percent of a required #rear yard#;
- (5) Parking spaces, off-street, #accessory#, for automobiles or bicycles, provided that:
  - (i) if #accessory# to a #single-# or #two-family residence#, the height of a #building# containing such parking spaces shall not exceed ten feet in height above the adjoining grade and such #building# shall be #detached# from such #residence#. Furthermore, if located in an R1 District, such #building# may not be nearer than five feet to a #rear lot line# or #side lot line#. In R2A Districts, detached garages shall be included in #lot coverage#. In addition, solar energy systems, limited to 18 inches in height, as measured perpendicular to the roof surface, shall be permitted upon the roof of such #accessory building# within the #rear yard#;
  - (ii) if #accessory# to any other kind of #building# containing #residences#, the height of a #building#, or portion thereof, containing such parking spaces within the #rear yard#, shall not exceed ten feet above adjoining grade, including the apex of a pitched roof in R3, R4 or R5 Districts, or 15 feet above #curb level# or #base plane#, as applicable, in R6, R7, R8, R9 or R10 Districts. In addition, decks, parapet walls, roof thickness, skylights, vegetated roofs, and weirs, as set forth in Section 23-62 (Permitted Obstructions), and solar energy systems, limited to 18 inches in height, as measured

perpendicular to the roof surface, shall be permitted upon the roof of such #accessory building# within the #rear yard#;

- (iii) enclosed #accessory# parking spaces for bicycles shall be #accessory# to a #residence# other than a #single-# or #two-family residence#, attached to a #building#, and the area dedicated to such spaces shall not exceed the area of bicycle parking spaces permitted to be excluded from #floor area# pursuant to Section 25-85 (Floor Area Exemption);
- (6) Recreational or drying yard equipment;
- (7) Sheds, tool rooms or other similar #accessory buildings or other structures# for domestic or agricultural storage, with a height not exceeding 10 feet above the level of the #rear yard# or #rear yard equivalent#;
- (8) Water-conserving devices required in connection with air conditioning or refrigeration systems in #buildings# existing prior to May 20, 1966, if located not less than eight feet from any #lot line#.
- (9) any portion of a #building# used for #residential uses# other than #dwelling units# in #Quality Housing buildings# containing #affordable independent residences for seniors# on #zoning lots# meeting the criteria set forth in paragraph (a) (1) of Section 23-664 (Modified height and setback regulations for certain Inclusionary Housing buildings or affordable independent residences for seniors), provided that:
  - (i) such #zoning lot# is located in an R6 through R10 District other than R6B, R7B or R8B District;
  - (ii) the height of such #building# portion does not exceed one #story#, or 15 feet above the adjoining grade, whichever is less;
  - (iii) such #building# portion is located within 100 feet of a #wide street#; and
  - (iv) such space shall be accessible to all residents of the #building#.

In addition, decks, parapet walls, roof thickness, skylights, vegetated roofs and weirs, as set forth in Section 23-62 (Permitted Obstructions), and solar energy systems, limited to 18 inches in height, as measured

perpendicular to the roof surface, shall be permitted upon the roof of such portion of a #building# within the #rear yard#.

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

(2/2/11)

### **23-441**

#### **Location of garages in side yards of corner lots**

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

(2/2/11)

### **23-442**

#### **Location of garages in side yards of other zoning lots**

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

### **Basic Regulations - Front Yards**

(2/2/11)

### **23-45**

#### **Minimum Required Front Yards**

R1 R2 R3 R4 R5

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

Front Yard	District
20 feet	R1
20 feet*	R1-2A
15 feet	R2 R2X R3-1 R3-2
15 feet*	R2A
10 feet*	R3A R3X R4-1 R4A R5A
10 feet**	R4 R5
5 feet*	R4B R5B R5D

\* Except as provided in paragraphs (b) and (c) of this Section

\*\* If the depth of a #front yard# exceeds 10 feet, the depth of the #front yard# shall be at least 18 feet. Furthermore, #developments# or #enlargements# pursuant to the optional regulations applicable in a #predominantly built-up area# shall provide a #front yard# with a depth of at least 18 feet. However, on a #corner lot#, if one #front yard# has a depth of at least 18 feet, the other #front yard# shall have a depth of at least 10 feet

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

R1-2A R2A R3A R3X R4-1 R4A R4B R5A R5B R5D

- (b) For the purpose of paragraphs (b) and (c) the area between the #street line# and the front #building# wall of adjacent #buildings# on the same or adjoining #zoning lots# shall be considered adjacent #front yards#.

Except as provided in paragraph (c) of this Section, in the districts indicated, if adjacent #buildings# containing

#residences# on the same or on adjoining #zoning lots# fronting on the same #street# have #front yards# greater than the minimum set forth in paragraph (a) of this Section, then a #front yard# shall be provided which:

- (1) in R1-2A, R2A, R3A, R3X, R4A, R4-1 or R5A Districts is at least as deep as an adjacent #front yard#; and
- (2) in R4B, R5B or R5D Districts is no deeper than the deepest adjacent #front yard# and no shallower than the shallowest adjacent #front yard#.

However, a #front yard# need not exceed 20 feet in depth, except that in R1-2A Districts, a #front yard# need not exceed 25 feet in depth.

In determining the depth of the adjacent #front yards#, balconies and projections from the front #building# wall that do not exceed 33 percent of the width of the #building# shall be disregarded.

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

- (c) The provisions of paragraph (b) of this Section determining the depth of a #front yard# by the location of a #front yard# on an adjacent #zoning lot#, are modified as follows:
  - (1) on #corner lots#, these provisions shall apply on only one #street# frontage; and
  - (2) these provisions shall not apply to:
    - (i) any #street# frontage of a #zoning lot# where such frontage has a length of at least 150 feet along such #street#;
    - (ii) any #zoning lot# located in historic districts designated by the Landmarks Preservation Commission; or
    - (iii) a frontage of any #zoning lot# where the depths of 50 percent of the #front yards# within 150 feet of the #side lot lines# of such #zoning lot# are shallower

by more than two feet than the shallowest of the adjacent #front yards#.

R1 R2 R3 R4 R5

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

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

(4/14/10)

### **23-451**

#### **Planting requirement**

R1 R2 R3 R4 R5

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

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

open area evenly, with an equal portion attributed to each #building# on both sides of such open area.

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

#Street# frontage of #zoning lot#, #street wall# width of #building segment#, or #street# frontage allocated to each of multiple #buildings# on a single #zoning lot#, as applicable.	Percentage of #front yard# to be planted (minimum)
Less than 20 feet	20
20 to 34 feet	25
35 to 59 feet	30
60 feet or greater	50

### Basic Regulations - Side Yards

(2/2/11)

#### 23-46

#### Minimum Required Side Yards

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

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

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

(4/30/12)

**23-461**

**Side yards for single- or two-family residences**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

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

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

MINIMUM REQUIRED SIDE YARDS

Number Required	Required Total Width (in feet)	Required Minimum Width of any #Side Yard# (in feet)	District
2	35	15	R1-1
2	20	8	R1-2
2	13	5	R2 R2A R3-1 R3-2 R4-R10
2	10*	2*	R2X R3X R4A R5A
1	8*	0*	R3A R4-1 R4B R5B R5D

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

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

(b) #Semi-detached buildings#

In the districts indicated, for #zoning lots# containing only

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

MINIMUM REQUIRED SIDE YARD

Feet	District
8	R3-1 R3-2 R4 R5
4*	R4-1 R4B R5B R5D

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

(c) Additional regulations

- (1) Eight foot open area required between #buildings# containing #residences#

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

Open area at least 8' wide required between residential buildings

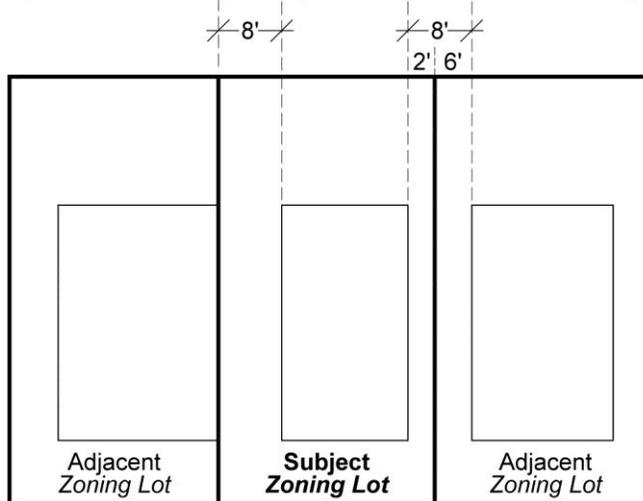


Figure A  
(23-461c1)

- (2) When #side yards# total more than 13 feet

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

Open area requirement results in *side yards* totaling 16'. Therefore, *side yards* may be reduced to not less than 5' provided both sides total at least 13'.

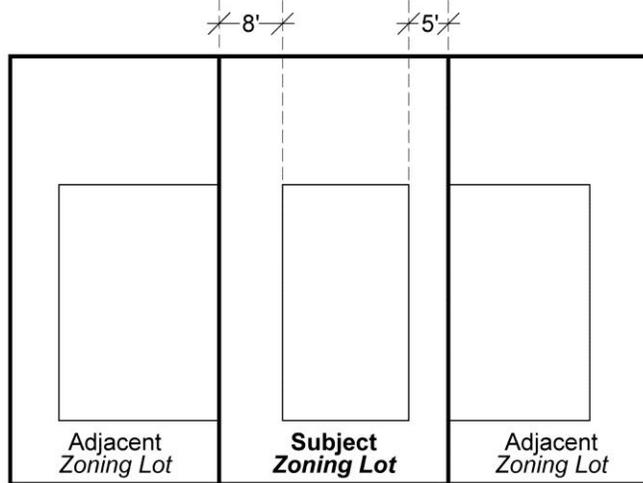


Figure B  
(23-461c2)

(3) Permitted obstructions in open areas between #buildings#

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

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

A #side yard# at least five feet wide shall be provided on any #zoning lot# along the common #side lot line# of any adjacent #zoning lot# with an existing #detached residence# whose #side yards# total at least 13 feet in

width, with both #side yards# on such adjacent #zoning lot# at least five feet in width, or with an existing #semi-detached residence# with a #side yard# at least eight feet in width. (See Figure C)

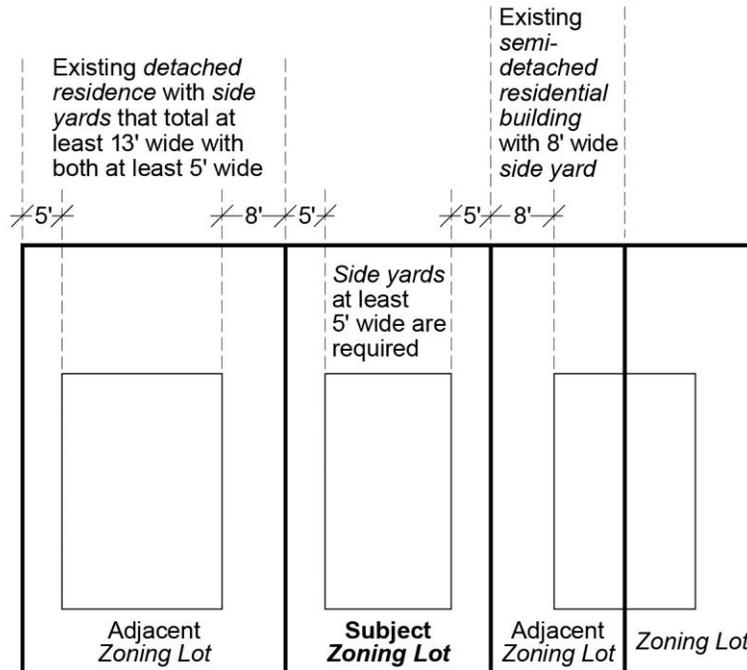


Figure C  
(23-461c4)

(3/22/16)

**23-462**

**Side yards for all other buildings containing residences**

R3-2 R4 R5 R6 R7 R8 R9 R10

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

R3-2 R4 R5

- (a) In the districts indicated, except R4B, R5B or R5D Districts, two #side yards#, each with a minimum required width of eight

feet, shall be provided. However, if the #aggregate width of street walls# of a #residential building# is more than 80 feet or, for #abutting buildings# if the combined #aggregate width of street walls# of all such #abutting buildings# on a #zoning lot# is more than 80 feet, then two #side yards# shall be provided, each equal to not less than 10 percent of such #aggregate width of street walls#. For #zoning lots# where no such #buildings# exceed a height of two #stories# and a #basement#, #side yards# need not exceed 15 feet in width.

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

R4B R5B R5D

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

R6 R7 R8 R9 R10

- (c) In the districts indicated, no #side yards# are required. However, if any open area extending along a #side lot line# is provided at any level, it shall have a minimum width of eight feet, measured perpendicular to the #side lot line#, and extend along the entire #side lot line#, except where a #court# is provided in accordance with the applicable provisions of Section 23-60 (HEIGHT AND SETBACK REGULATIONS). Obstructions permitted pursuant to paragraph (a) of Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents) shall be permitted in such open areas.

(2/2/11)

### **23-463**

#### **Maximum aggregate width of street walls**

R3-2 R4 R5

In the districts indicated, except R4B, R5B or R5D Districts, the #aggregate width of street walls# of a #building# containing #residences# or, for #abutting buildings# the combined #aggregate

width of street walls# of all such #abutting buildings# on a #zoning lot#, shall not exceed the width set forth in the following table:

MAXIMUM  
AGGREGATE WIDTH OF STREET WALLS

Feet	District
125	R3-2
185	R4 R5

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

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

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

(12/5/90)

**23-464**

**Side yards for buildings used for permitted non-residential uses**

R1 R2 R3 R4 R5

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

R6 R7 R8 R9 R10

- (b) In the districts indicated, no #side yards# are required. However, if any open area extending along a #side lot line# is

provided at any level, it shall be at least eight feet wide.

**Basic Regulations - Rear Yards**

(4/30/08)

**23-47**

**Minimum Required Rear Yards**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

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

(4/30/08)

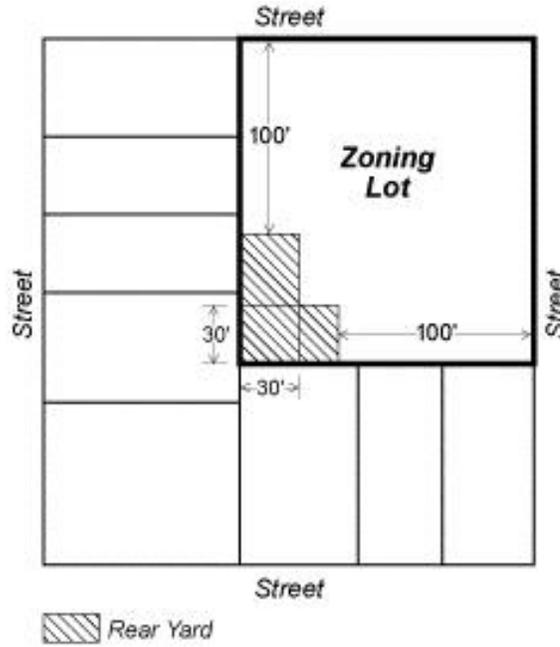
**23-471**

**Beyond one hundred feet of a street line**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

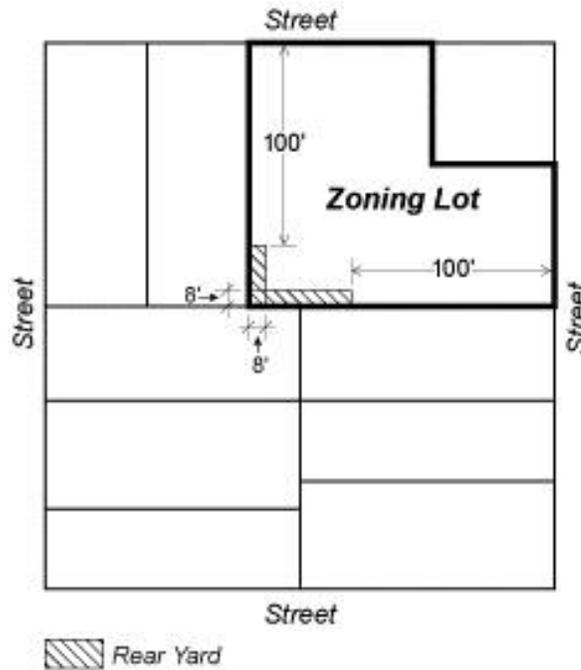
In all districts, as indicated, for #interior# or #through lot# portions of #corner lots#, and for #zoning lots# bounded by two or more #streets# that are neither #corner lots# nor #through lots#, the portion of a #side lot line# beyond 100 feet of the #street line# that it intersects shall be considered a #rear lot line# and the following rules shall apply along such #rear lot line#:

- (a) In all districts, a #rear yard# with a minimum depth of 30 feet shall be provided where such #rear lot line# coincides with a #rear lot line# of an adjoining #zoning lot#.



CORNER LOT  
(23-471a)

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



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

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

**Regulations Applying in Special Situations**

**Side Yards**

(2/2/11)

**23-48**

**Special Provisions for Existing Narrow Zoning Lots**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, except R2X, R3A, R3X, R4A, R4-1, R4B, R5A, R5B or R5D Districts, the required total width of #side yards# for a #single-family detached# or #two-family detached residence# may be reduced by four inches for each foot by which the width of a #zoning lot# is less than that required under the provisions of Section 23-32 (Minimum Lot Area or Lot Width for Residences) if such #zoning lot#:

- (a) has less than the prescribed minimum #lot width#; and
- (b) was owned separately and individually from all other adjoining tracts of land, both on December 15, 1961 and on the date of application for a building permit.

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

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

(2/2/11)

## **23-49**

### **Special Provisions for Side Lot Line Walls**

R3-1 R3-2 R4 R5

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

- (a) #abut# an existing #building# located along a #side lot line#, where such #building# was existing on December 15, 1961 or lawfully erected under the terms of this Resolution, provided that walls of the #building# containing #residences# and walls of the existing #building# shall #abut# for a length equal to or greater than one half of the distance between the #street wall line# and #rear wall line# of the existing #building#. For the purposes of this paragraph, (a), an "existing #building#" shall not include an #accessory building# located on an #interior# or #through lot#;
- (b) #abut# other #buildings# containing #residences# being erected at the same time on an adjoining #zoning lot# or #zoning lots#.

For such #buildings# containing #residences#, the #side yard# requirements shall be waived along the #side lot line# of the

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

(2/2/11)

## **23-51**

### **Special Provisions for Yards Adjacent to R1 through R5 Districts**

R6 R7 R8 R9 R10

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

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

### **Rear Yards**

(3/22/16)

## **23-52**

### **Special Provisions for Shallow Interior Lots**

R3 R4 R5

(a) In the districts indicated, if an #interior lot#:

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

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

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

R6 R7 R8 R9 R10

(b) In the districts indicated, if an #interior lot#:

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

(2) is less than 90 feet deep at any point;

the depth of a required #rear yard#, or portion thereof, for such #interior lot#, may be reduced by six inches for each foot by which the depth of a #zoning lot#, or portion thereof, is less than 90 feet. However, in no event shall the minimum depth of a #required yard#, or portion thereof, be reduced to less than ten feet.

(c) Special provisions for #zoning lots# created after December 15, 1961

Notwithstanding the provisions of paragraph (b) of this Section, in R6 through R10 Districts, the special #rear yard# provisions of this Section may be applied to a #zoning lot# created after December 15, 1961, or portion thereof, provided that the shallow lot condition was in existence on December 15, 1961, and, subsequently, such shallow lot condition on the #zoning lot#, or portion thereof, has neither increased nor decreased in depth.

(4/30/08)

### **23-53**

#### **Special Provisions for Through Lots**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

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

(2/2/11)

### **23-531**

#### **Excepted through lots**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

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

R6 R7 R8 R9 R10

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

(3/22/16)

## **23-532**

### **Required rear yard equivalents**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, except for #Quality Housing buildings# in R6 through R10 Districts, the provisions for which are set forth in Section 23-533 (Required rear yard equivalents for Quality Housing buildings), on any #through lot# that is 110 feet or more in maximum depth from #street# to #street#, one of the following #rear yard equivalents# shall be provided:

- (a) an open area with a minimum depth of 60 feet, midway (or within five feet of being midway) between the two #street lines# upon which such #through lot# fronts;
- (b) two open areas, each adjoining and extending along the full length of a #street line# and each with a minimum depth of 30 feet measured from such #street line#, except the depth of such required open area along one #street line# may be decreased, provided that:
  - (1) a corresponding increase in the depth of the open area along the other #street line# is made; and
  - (2) any required #front yards# or front setback areas are maintained; or
- (c) an open area adjoining and extending along the full length of each #side lot line# with a minimum width of 30 feet measured from each such #side lot line#.

However, in #lower density growth management areas# and in R5D Districts, on any #through lot# at least 180 feet in maximum depth from #street# to #street#, a #rear yard equivalent# shall be provided only as set forth in paragraph (a) of this Section.

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

(3/22/16)

### **23-533**

#### **Required rear yard equivalents for Quality Housing buildings**

R6 R7 R8 R9 R10

For #Quality Housing buildings# in R6 through R10 Districts, on any #through lot# that is 110 feet or more in maximum depth from #street# to #street#, a #rear yard equivalent# consisting of an open area with a minimum depth of 60 feet, midway, or within 10 feet of being midway between the two #street lines# upon which such #through lot# fronts, shall be provided.

However, for #through lots# with a depth of 180 feet or less, an open area with a minimum depth equivalent to the depth required pursuant to Section 23-534 (Special provisions for shallow through lots), may be provided, and additionally, one of the following #rear yard equivalents# may be provided as an alternative:

- (a) two open areas, each adjoining and extending along the full length of a #street line# and each with a minimum depth of 30 feet measured from such #street line#, except the depth of such required open area along one #street line# may be decreased, provided that a corresponding increase in the depth of the open area along the other #street line# is made; or
- (b) an open area adjoining and extending along the full length of each #side lot line# with a minimum width of 30 feet measured from each such #side lot line#, except that the width of such required open area along one #side lot line# may be decreased, provided that a corresponding increase in the depth of the open area along the other #street line# is made. If an open area along a #side lot line# is provided, it shall be at least eight feet.

Any such #rear yard equivalent# shall be unobstructed from its lowest level to the sky, except as provided in Section 23-44

(Permitted Obstructions in Required Yards or Rear Yard Equivalents).

(3/22/16)

**23-534**

**Special provisions for shallow through lots**

R6 R7 R8 R9 R10

(a) In the districts indicated, if a #through lot#:

(1) is less than 180 feet deep at any point; and

(2) was less than 180 feet deep, both on December 15, 1961 and on the date of application for a building permit;

the depth of a required #rear yard equivalent#, or portion thereof, for such #through lot#, may be reduced by one foot for each foot by which the depth of a #zoning lot#, or portion thereof, is less than 180 feet. However, in no event shall the minimum depth of a required #rear yard equivalent#, or portion thereof, provided between two or more #buildings# on a single #zoning lot# be reduced to less than 40 feet, and in no event shall the minimum depth of such required #rear yard equivalent#, or portion thereof, be reduced to less than 20 feet.

(b) Special provisions for #zoning lots# created after December 15, 1961

Notwithstanding the provisions of paragraph (a) of this Section, in R6 through R10 Districts, the special #rear yard equivalent# provisions of this Section may be applied to a #zoning lot# created after December 15, 1961, or portion thereof, provided that the shallow lot condition was in existence on December 15, 1961, and, subsequently, such shallow lot condition on the #zoning lot#, or portion thereof, has neither increased nor decreased in depth.

(12/15/61)

**23-54**

**Other Special Provisions for Rear Yards**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

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

(4/30/08)

**23-541**

**Within one hundred feet of corners**

R6 R7 R8 R9 R10

In the districts indicated, no #rear yard# shall be required within 100 feet of the point of intersection of two #street lines# intersecting at an angle of 135 degrees or less.

(4/30/08)

**23-542**

**Along short dimension of block**

R6 R7 R8 R9 R10

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

(3/22/16)

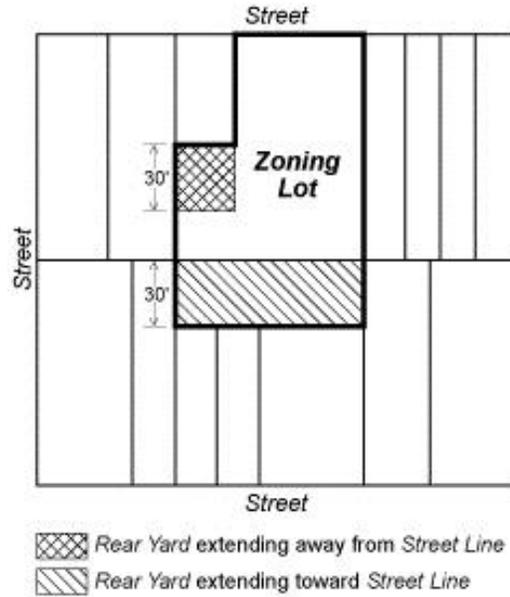
**23-543**

**For zoning lots with multiple rear lot lines**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

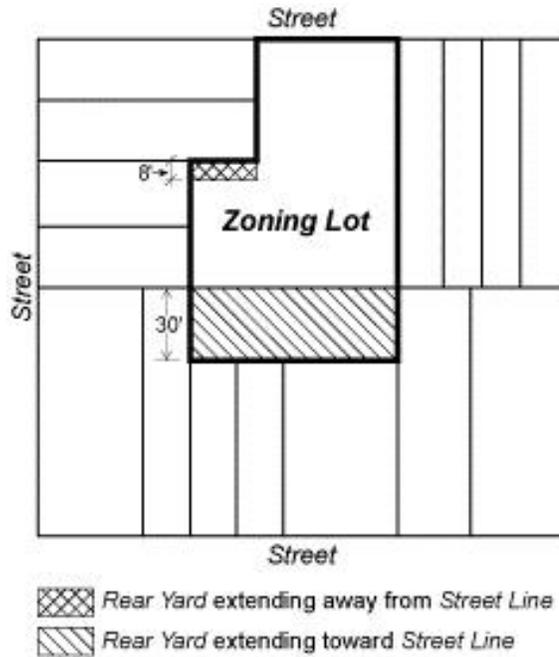
In all districts, as indicated, for #zoning lots# with multiple #rear lot lines#, if a #rear yard# extends from a #rear lot line# away from the #street line# which is used to determine such #rear lot line#, the following rules shall apply along such #rear lot line#:

- (a) In all districts, a #rear yard# with a minimum depth of 30 feet shall be provided where such #rear lot line# coincides with a #rear lot line# of an adjoining #zoning lot#, except as modified in Section 23-52 (Special Provisions for Shallow Interior Lots).



(23-543a)

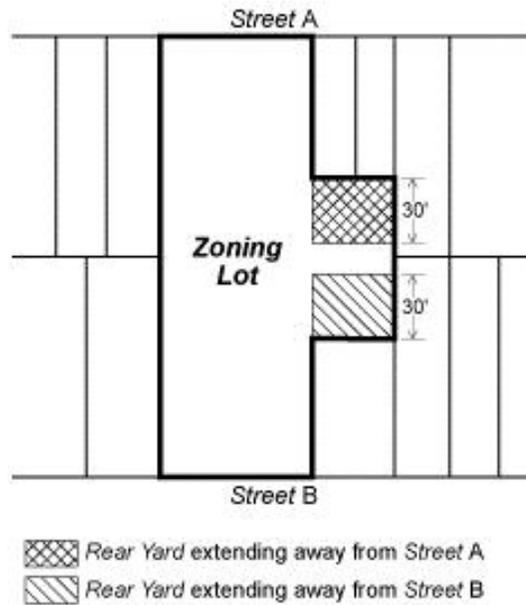
- (b) In R1 through R5 Districts, a #rear yard# with a minimum depth of eight feet shall be provided where such #rear lot line# coincides with a #side lot line# of an adjoining #zoning lot#.



(23-543b)

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

(d) In all districts, for portions of #through lots# that have multiple #rear lot lines# and such portions are not subject to #interior lot# regulations, the #street line# bounding the #zoning lot# closest to such #rear lot line# shall be used to determine compliance with this Section.



(23-543d)

(3/22/16)

**23-544**

**In certain districts**

R2X

In the district indicated, a #residential building# may extend ten feet into a required #rear yard# or #rear yard equivalent# pursuant to the provisions of Section 23-631 (General provisions).

**All Yards**

(8/14/87)

**23-55**

**Special Provisions for Zoning Lots Divided by District Boundaries**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

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

(4/30/08)

**23-56**

**Modifications of Rear Yard Regulations**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

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

(12/15/61)

**23-60**

**HEIGHT AND SETBACK REGULATIONS**

(3/22/16)

**23-61**

**Applicability**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, height and setback regulations for a #building or other structure# shall be as set forth in Section 23-60, inclusive.

Height and setback regulations applicable to R1 through R5 Districts are set forth in Section 23-63. #Buildings# in R5D Districts shall also comply with additional provisions set forth in Article II, Chapter 8.

Height and setback regulations applicable to R6 through R10 Districts are set forth in Sections 23-64 (Basic Height and Setback Requirements), 23-65 (Tower Regulations) and 23-66 (Height and

Setback Requirements for Quality Housing Buildings), as applicable.

In R6A, R6B, R7A, R7B, R7D, R7X, R8A, R8B, R8X, R9A, R9D, R9X, R10A or R10X Districts, all #buildings# containing #residences# shall comply with the #bulk# regulations for #Quality Housing buildings# set forth in Sections 23-62 (Permitted Obstructions) and 23-66. In R6, R7, R8, R9 or R10 Districts without a letter suffix, a #building# containing #residences# may be #developed# or #enlarged# pursuant to the basic height and setback requirements of Sections 23-62, 23-64 or 23-65, as applicable, or pursuant to the #bulk# regulations for #Quality Housing buildings#. All #Quality Housing buildings# shall also comply with additional provisions set forth in Article II, Chapter 8, as applicable.

Special height and setback provisions are set forth in Sections 23-67 (Special Height and Setback Provisions for Certain Areas) for #zoning lots# adjoining a #public park#, as well as for certain areas in Community Districts 4, 7 and 9 in the Borough of Manhattan. Additional provisions are set forth in Sections 23-68 (Special Provisions for Zoning Lots Divided by District Boundaries) and 23-69 (Special Height Limitations).

(3/22/16)

## **23-62**

### **Permitted Obstructions**

In all #Residence Districts#, except as provided in Section 23-621 (Permitted obstructions in certain districts), the obstructions listed in paragraphs (a) through (r) in this Section shall be permitted to penetrate a maximum height limit or #sky exposure plane# set forth in Sections 23-63 (Height and Setback Requirements in R1 Through R5 Districts), 23-64 (Basic Height and Setback Requirements), 23-66 (Height and Setback Requirements for Quality Housing Buildings) or 23-69 (Special Height Limitations):

- (a) Awnings and other sun control devices, provided that when located at a level higher than the first #story#, excluding a #basement#, all such awnings and other sun control devices:
  - (1) shall be limited to a maximum projection from a #building# wall of 2 feet, 6 inches, except when located on the first #story# above a setback;
  - (2) shall have solid surfaces that, in aggregate, cover an area no more than 30 percent of the area of the #building# wall (as viewed in elevation) from which they project; and

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

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

- (b) Balconies, unenclosed, subject to the provisions of Section 23-13;
- (c) #Building# columns, having an aggregate width equal to not more than 20 percent of the #aggregate width of street walls# of a #building#, to a depth not exceeding 12 inches, in an #initial setback distance#, optional front open area, or any other required setback distance or open area set forth in Sections 23-63, 23-64, 23-65 (Tower Regulations) or 23-66;
- (d) Chimneys or flues, with a total width not exceeding 10 percent of the #aggregate width of street walls# of a #building# at any level;
- (e) Decks, and other surfaces for recreational activities, not more than 3 feet, 6 inches in height, as measured from the maximum height limit, or the finished level of the roof as it existed on April 30, 2012, whichever is higher;
- (f) Dormers having an #aggregate width of street walls# equal to not more than 50 percent of the width of the #street wall# of a #detached# or #semi-detached single-# or #two-family residence#;
- (g) Elevator or stair bulkheads (including shafts; and vestibules not larger than 60 square feet in area providing access to a roof), roof water tanks and #accessory# mechanical equipment (including enclosures), other than solar or wind energy systems, provided that:
  - (1) such obstructions shall be located not less than 10 feet from the #street wall# of a #building#, except that such obstructions need not be set back more than 25 feet from a #narrow street line# or more than 20 feet from a #wide street line#. However, such restrictions on location shall not apply to elevator or stair bulkheads (including shafts or vestibules), provided the #aggregate width of street walls# of such bulkheads within 10 feet of a #street wall#, facing each #street# frontage, times their average

height, in feet, does not exceed an area equal to four times the width, in feet, of the #street wall# of the #building# facing such frontage;

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

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

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

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

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

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

(i) Flagpoles or aerials;

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

feet above the accessible level of a roof. Such restriction on guardrail height shall not apply when located beyond two feet from a parapet wall;

- (k) Roof thickness, up to eight inches, to accommodate the addition of insulation, for #buildings# or portions of #buildings# constructed prior to April 30, 2012. For a #building# that has added roof thickness pursuant to this paragraph, an #enlargement# may align with the finished roof surface of such #building#, provided the #enlarged# portion does not exceed the maximum height limit by more than eight inches;
- (l) Skylights, clerestories or other daylighting devices, not more than four feet in height, as measured from the maximum height limit, or the finished level of the roof as it existed on April 30, 2012, whichever is higher. Such devices shall be limited to a #lot coverage# not greater than 10 percent of the #lot coverage# of the roof and be located at least eight feet from the #street wall# edge. However, such devices shall not be permitted obstructions above a roof with a slope greater than 20 degrees;
- (m) Solar energy systems:
  - (1) on the roof of a #building#, up to four feet in height, as measured from the maximum height limit, or the finished level of the roof, whichever is higher;
  - (2) on the roof of a #building#, greater than four feet in height, as measured from the maximum height limit, or the finished level of the roof, whichever is higher, provided that all such portions above four feet are set back at least six feet from a #street wall#, limited to a #lot coverage# not greater than 25 percent of the #lot coverage# of the roof and do not exceed:
    - (i) in R1 through R5 Districts, a height of six feet;
    - (ii) in R6 through R10 Districts, a height of 15 feet; and
    - (iii) when located on a bulkhead or other obstruction pursuant to paragraph (g) of this Section, a height of six feet;
  - (3) on walls existing on April 30, 2012, projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects.

However, any installation on a roof with a slope greater than

20 degrees shall be limited to 18 inches in height, as measured perpendicular to the roof surface.

- (n) Vegetated roofs, not more than 3 feet, 6 inches in height, excluding vegetation, as measured from the maximum height limit, or the finished level of the roof as it existed on April 30, 2012, whichever is higher. On roofs with slopes greater than 20 degrees, vegetated roofs shall be limited to a height of 12 inches measured perpendicular to such roof surface;
- (o) Weirs, check dams and other equipment for stormwater management, not more than 3 feet, 6 inches in height, as measured from the maximum height limit, or the finished level of the roof as it existed on April 30, 2012, whichever is higher;
- (p) Wind energy systems on portions of #buildings# with a height of 100 feet or greater, provided:
  - (1) the highest point of the wind turbine assembly does not exceed 55 feet;
  - (2) no portion of the wind turbine assembly is closer than 10 feet to any #lot line#; and
  - (3) the diameter of the swept area of the rotor does not exceed 15 feet;
- (q) Window washing equipment mounted on a roof;
- (r) Wire, chain link or other transparent fences.

(3/22/16)

### **23-621**

#### **Permitted obstructions in certain districts**

R2A R2X R3 R4 R4-1 R4A R5A

- (a) In the districts indicated, permitted obstructions are limited to chimneys, exterior wall thickness, flag poles or aerials, parapet walls, roof thickness, skylights, solar energy systems and vegetated roofs pursuant to Section 23-62. However, in R3-2 and R4 Districts, except R4-1, R4A and R4B Districts, elevator or stair bulkheads, roof water tanks and #accessory# mechanical equipment provided pursuant to paragraph (g) of Section 23-62 shall be permitted for #buildings# containing #affordable independent residences for seniors#.

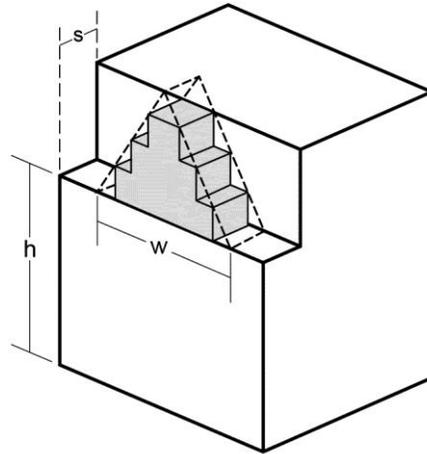
(b) In R2X Districts, dormers may be considered permitted obstructions if:

- (1) the aggregate width of dormers facing the #street line# is equal to not more than 50 percent of the width of the #street wall line#;
- (2) the aggregate width of dormers facing the #rear lot line# is equal to not more than 50 percent of the width of the #rear wall line#;
- (3) the aggregate width of dormers facing a #side lot line# is equal to not more than 50 percent of the width of a straight line connecting and perpendicular to the #street wall line# and the #rear wall line#; and
- (4) on a #corner lot#, the aggregate width of dormers facing a #side lot line# is equal to not more than 50 percent of the width of the #rear wall line# facing such #side lot line#.

R6 R7 R8 R9 R10

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

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



- h - Maximum base height
  - s - Required setback or *initial setback distance*
  - w - Maximum width of dormer at maximum base height (60% of *street wall* width of highest story entirely below maximum base height)
- Dormer

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

- (2) Solar energy systems on a roof shall be limited to four feet or less in height, as measured from the maximum height limit, or the finished level of the roof, whichever is higher. However, on a roof with a slope greater than 20 degrees, such systems shall be limited to 18 inches in height as measured perpendicular to the roof surface.
- (3) Wind energy systems shall not be allowed as permitted obstructions.
- (4) Window washing equipment shall not be allowed as permitted obstructions.

(3/22/16)

**23-63**

**Height and Setback Requirements in R1 Through R5 Districts**

R1 R2 R3 R4 R5

In the districts indicated, the height and setback of a #building or other structure# shall be as set forth in Section 23-631 (General provisions). Additional provisions pertaining to required side and rear setbacks are set forth in Section 23-632 (Required side and rear setbacks).

(3/22/16)

**23-631**

**General provisions**

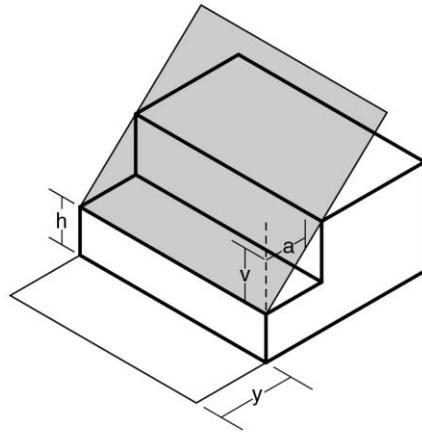
Height and setback regulations for R1 through R5 Districts are set forth in this Section. Such maximum heights may only be penetrated by permitted obstructions set forth in Section 23-62.

R1 R2

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

MAXIMUM HEIGHT OF FRONT WALL  
AND REQUIRED FRONT SETBACKS

Height above #Front Yard Line# (in ft.)	#Sky Exposure Plane#		District
	Slope over #Zoning Lot# (expressed as a ratio of vertical distance to horizontal distance)		
	Vertical Distance	Horizontal Distance	
25	1 to	1	R1 R2



a - Horizontal distance  
h - Height of sky exposure plane above front yard line level  
v - Vertical distance  
y - Depth of required front yard

 Sky Exposure Plane

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

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

(b) In the districts indicated, the height and setback of a #building or other structure# shall be as set forth herein

except where modified pursuant to paragraphs (h) and (j) of this Section.

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

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

21 feet	R2A R2X R3 R4A
25 feet	R1-2A R4 R4-1 R5A
26 feet*	R3 R4A R4-1 within #lower density growth management areas#

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

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

- (1) At a height of 35 feet above and parallel to the #base plane#, a plane is projected above the area enclosed by and including the perimeter walls of the #building or other structure#. A second plane (the perimeter wall plane) is projected in the same manner at a height of 21 or 25 feet above the #base plane#. (See Figure A)

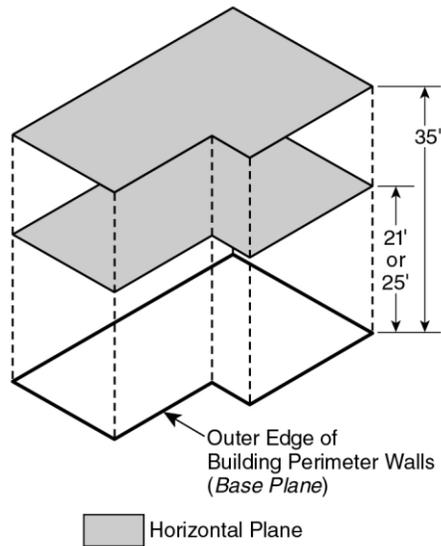


Figure A  
(23-631b1)

- (2) Each perimeter wall of the #building or other structure# with a horizontal dimension of eight feet or more which projects from an adjacent perimeter wall at least 18 inches may have an apex point directly above it on the 35 foot high plane. (See Figure B). The location of the apex point is flexible provided it is directly above its perimeter wall and provided a line drawn from the intersection of two perimeter walls to such an apex point does not exceed 80 degrees to the horizontal. An apex point is not required for each qualifying perimeter wall; however, the maximum number of apex points above each such wall is one.

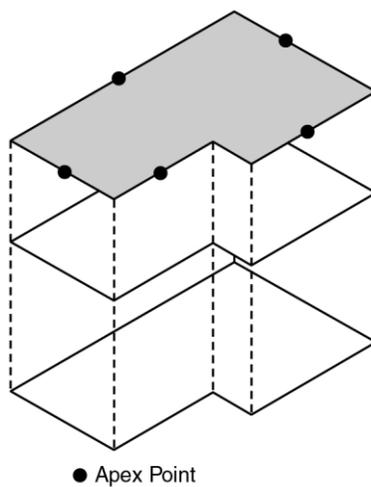


Figure B  
(23-631b2)

- (3) One "ridge line" is extended in a straight line from each apex point along the 35 foot high plane. Ridge lines which connect two apex points may cross other ridge lines. Otherwise, ridge lines which extend from only one apex point must terminate at a point of intersection with another ridge line. (See Figure C)

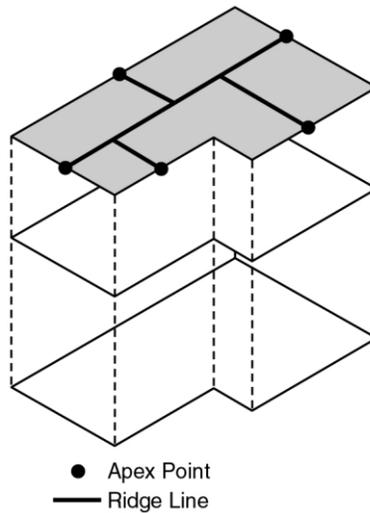


Figure C  
(23-631b3)

- (4) Sloping planes are extended in a straight line outward and downward from each ridge line until they intersect the perimeter wall plane. Every sloping plane generated must intersect the perimeter wall plane for the full width of the ridge line from which it extends. (See Figure D). The maximum angle of pitch for any sloping plane may not exceed 80 degrees to the horizontal. Sloping planes extended from ridge lines perpendicular or within 45 degrees of being perpendicular to each other may intersect, in which case the higher plane defines the limit of the envelope. Sloping planes extended from ridge lines parallel or within 45 degrees of being parallel to each other must intersect the perimeter wall plane without intersecting each other.

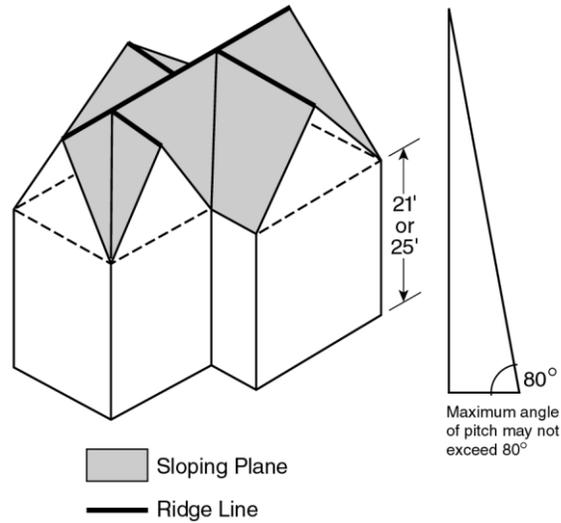
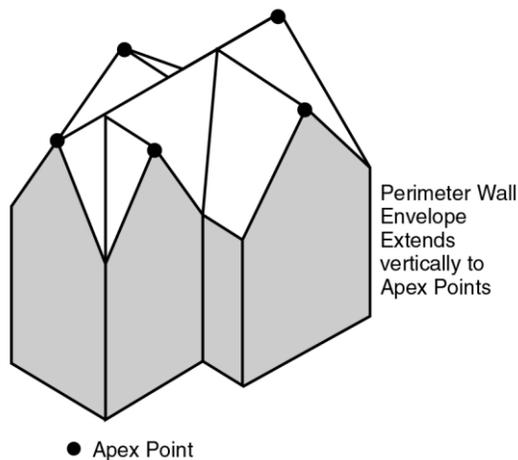


Figure D  
(23-631b4)

- (5) The perimeter walls are then extended vertically beyond the perimeter wall plane, up to the heights defined by the sloping planes generated in paragraph (4). (See Figure E). The perimeter walls of the #building# or other structure#, the sloping planes and the perimeter wall extensions define the #building# envelope. (See Figure F). Those items listed in Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents), and roofed porches and porticoes subject to all applicable provisions, may penetrate the #building# envelope below the maximum permitted perimeter wall height. Eaves may extend the roof lines 18 inches beyond the exterior walls.



(23-631b5.1)

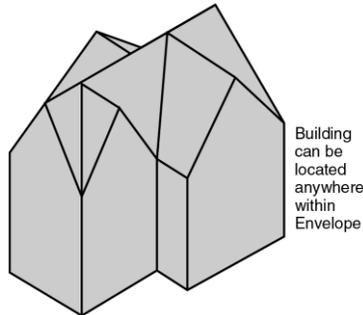


Figure E and F  
(23-631b5.2)

(6) Special Situations

- (i) For convex curved perimeter walls, the #building or other structure# must be within a plane curve tapering uniformly to a vertex located at a height of 35 feet. For concave curved perimeter walls, the #building or other structure# must lie within a plane curve extending from the maximum perimeter wall height to a ridge line parallel to the prolongation of the perimeter wall at the 35 foot level. Such plane curves may not exceed a pitch of 80 degrees in relation to a plane drawn parallel to the #base plane# at the maximum height of the permitted perimeter wall. (See Figure G).

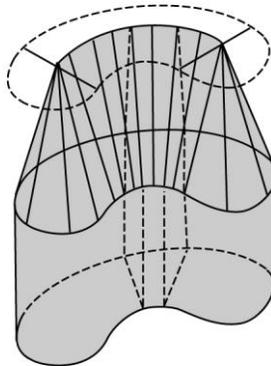


Figure G  
(23-631b6.i)

- (ii) In R2X Districts, at the 21 foot maximum permitted height of a perimeter wall, sloping planes are projected inwards and upwards. From a permitted front perimeter wall and from 21 feet above the #base plane# and 20 feet from and parallel to a #rear lot line#, such sloping plane shall not exceed a pitch of 45 degrees in relation to a plane drawn parallel to the #base plane# at a height of 21 feet. (See Figure H). Other sloping planes slope toward a ridge line at 35 feet and may not exceed a pitch of 80 degrees in relation to a plane drawn parallel to the #base plane# at a height of 21 feet.

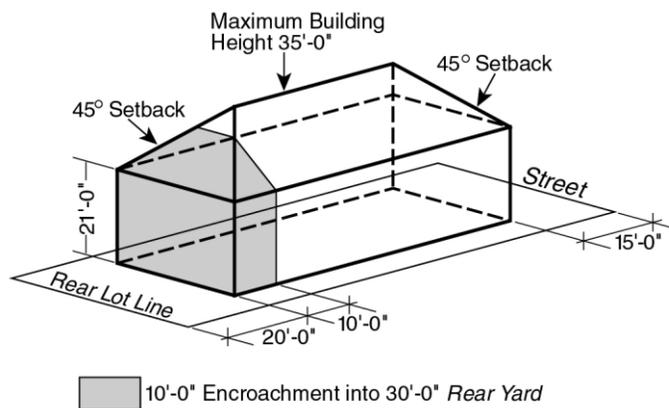


Figure H  
(23-631b6.ii)

R4B

- (c) In the district indicated, no portion of the #building or other structure#, including the apex of a roof, shall penetrate a plane 24 feet in height above the #base plane#.

R5

- (d) In the district indicated, except R5A, R5B and R5D Districts, no portion of a #building or other structure#, including the apex of a roof, may penetrate a plane 40 feet above the #base plane#. In addition, the maximum height of a #street wall# above the #base plane# shall be 30 feet. Above such height, a setback of 15 feet is required. Within the setback distance, no portion of the #building or other structure#, including the apex of a roof, may penetrate a plane rising from the maximum #street wall# height, at 20 degrees to the horizontal. On

#corner lots#, the 30 foot maximum #street wall# height shall apply to only one #street# frontage. #Buildings or other structures# which utilize the optional regulations of Section 23-143 applying to a #predominantly built-up area# shall be subject to the height and setback regulations for an R5B District. The provisions of this paragraph may be modified pursuant to paragraphs (h) and (j) of this Section.

R5B

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

R5D

- (f) In the district indicated, no portion of a #building or other structure# shall penetrate a plane 40 feet above the #base plane#. However, where the ground floor level of a #building# provides a #qualifying ground floor# in accordance with the supplemental provisions set forth in paragraph (b) of Section 23-662, the maximum height of a #building or other structure# may be increased to 45 feet, or four #stories#, whichever is less.

R3A R4A R4-1 R4B R5B

- (g) In the districts indicated, a second #story# line-up is required as follows:

Where at least 75 percent of the #buildings# containing #residences# within 150 feet of the #side lot lines# of the #zoning lot# have a first #story# front projection that is at least 50 percent of the width of the #building#, the #street wall# shall be no closer to the #street line# than the second #story street wall# of an adjacent #building# containing #residences# facing on the same #street#.

Projections from the first #story street wall# are permitted provided that such projections are no closer to the #street line# than an adjacent #front yard line#, and

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

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

- (1) In R3-1 and R3-2 Districts, #single-# or #two-family detached residences# on #zoning lots# of at least 9,500 square feet in area and at least 100 feet of frontage along a #street# may use the height and setback regulations applicable in an R2 District.
- (2) In the #Special Ocean Parkway District#, the #Special Coney Island Mixed Use District#, and the #Special Hunters Point Mixed Use District#, for #buildings or other structures# subject to the regulations of an R5 District other than an R5D District, no portion of a #building or other structure#, including the apex of a roof, may penetrate a plane 40 feet above the #base plane#. In addition, the maximum height of a #street wall# above the #base plane# shall be 32 feet. Above such height, a setback of 15 feet is required. Within the setback distance, no portion of the #building or other structure#, including the apex of a roof, may penetrate a plane rising from the maximum #street wall# height at 20 degrees to the horizontal. On #corner lots#, the 32 foot maximum #street wall# height shall apply to only one #street# frontage.

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

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

R3-2 R4 R5

- (i) In R3-2 Districts, #buildings# containing #affordable independent residences for seniors# may use the height and setback regulations applicable to an R4 District, as set forth in paragraph (b) of this Section.
- (j) In R4 and R5 Districts, except R4-1, R4A, R4B, R5A, R5B and R5D Districts, the height and setback provisions set forth in paragraphs (b) and (d) of this Section shall apply to #buildings# containing #affordable independent residences for seniors#. However, where no #single-family# or #two-family residence# existed on the #zoning lot# within three years prior to the issuance of a building permit for the #development# or #enlargement# of such #building# containing #affordable independent residences for seniors#, such height and setback provisions shall be modified as follows:
  - (1) in R4 Districts, the height of the #building# shall not exceed 45 feet; and
  - (2) in R5 Districts, the height of the #building# shall not exceed 45 feet, except that beyond 25 feet of a #street line#, the height of the #building# may be increased to a height of 55 feet where one or more of the following conditions are met:
    - (i) on the date of application for a building permit for such #development# or #enlargement#, not more than 50 percent of the aggregate length of the #block# frontage on both sides of the #street# facing each other is occupied by #single-family# or #two-family residences#;
    - (ii) an existing #building# on the same or adjacent #zoning lot# of such #development# or #enlargement# has a height of 45 feet or more; or
    - (iii) the #zoning lot# of such #development# or #enlargement# has a #lot area# of at least 1.5 acres.
- (k) In the districts indicated, except R4-1, R4A, R4B, R5A, R5B and R5D Districts, the City Planning Commission may authorize a #building or other structure# that penetrates the height and setback regulations set forth in paragraphs (b), (d) or (i) of this Section, except for #buildings# utilizing the optional regulations for #predominantly built-up areas#. As a condition for granting such authorizations, the Commission shall find that:

- (1) by concentrating permitted #floor area# in a #building# or #buildings# of greater height the preservation of an existing #building#, topography, vegetation, or view corridors having environmental, historic or aesthetic value to the public will be assured, and that such preservation would not be possible by careful siting of lower #buildings# containing the same permitted #floor area#; or, for #affordable independent residences for seniors#, the additional #floor area# permitted is accommodated in an efficient manner;
- (2) such modification is the least modification required to achieve the purpose for which it is granted;
- (3) the proposed modification does not impair the essential character of the surrounding area; and
- (4) that the proposed modification will not have adverse effects upon light, air, and privacy of adjacent properties and of any existing #buildings# on the #zoning lot#.

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

(3/22/16)

## **23-632**

### **Required side and rear setbacks**

Side and rear setbacks shall be provided as specified in this Section. Permitted obstructions in required side and rear setbacks are set forth in paragraph (a) of this Section. Required side and rear setbacks for tall buildings in certain R1 through R5 Districts are set forth in paragraph (b) and required side and rear setbacks for #buildings# containing non-#residential uses# in certain R1 through R5 Districts are set forth in paragraph (c) of this Section.

- (a) Permitted obstructions in required side and rear setbacks

Unenclosed balconies, subject to the provisions of Section 23-13 (Balconies), are permitted to project into or over any open areas required by the provisions of this Section. In addition, awnings and other sun control devices, decks, exterior wall

thickness, parapet walls not more than four feet in height, roof thickness, solar energy systems up to four feet high, vegetated roofs and weirs are permitted as set forth in Section 23-62 (Permitted Obstructions). Chimneys or flues shall also be permitted, provided that the total width does not exceed 10 percent of the width of the #building's# walls facing such open area.

- (b) Required side and rear setbacks for tall buildings in certain low bulk districts

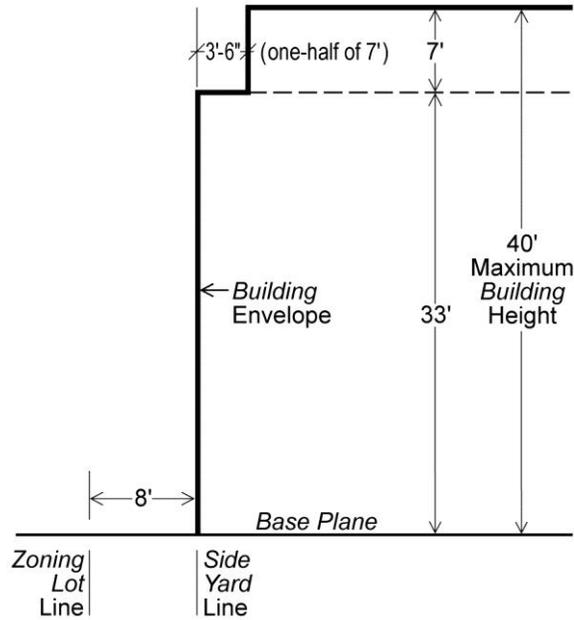
R1 R2 R3 R4 R5

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

In R3, R4 and R5 Districts, except R5A and R5D Districts, any portion of a #building or other structure# bounding a #side yard# or a #rear yard# which is more than 33 feet above the level of the #base plane# shall be set back from such #side yard# line or such #rear yard line# for a distance equal to one-half the height of that portion of the #building or other structure# which is higher than 33 feet above the level of the #base plane# (see illustration below of R5 District Side Yard Setback).

However, the following modifications may be applied to #buildings# containing #affordable independent residences for seniors#:

- (1) no #rear yard# setback need be provided; and
- (2) for a #side yard#, the resultant setback required by the calculation above need not exceed a depth of 10 feet, as measured from the #building# wall fronting such #side yard#.



Side Yard Setback  
 (R5 example)  
 (23-632b)

(c) Required side and rear setbacks for permitted non-residential uses in low bulk districts

R1 R2 R3 R4 R5

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

(3/22/16)

**23-64**  
**Basic Height and Setback Requirements**

R6 R7 R8 R9 R10

In the districts indicated without a letter suffix, for #buildings# other than #Quality Housing buildings#, the height and setback of a

#building or other structure# shall be as set forth in Section 23-641 (Front setbacks), or 23-642 (Alternate front setbacks). In R9 and R10 Districts, towers are permitted in accordance with the provisions of Section 23-65.

(3/22/16)

**23-641**

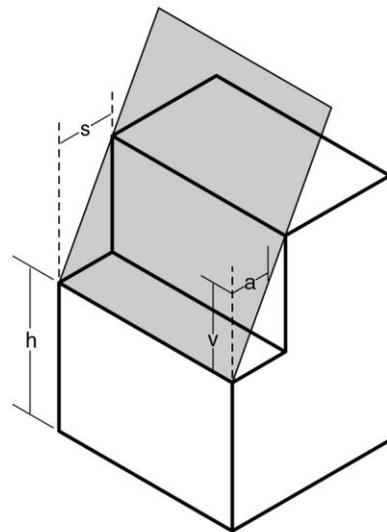
**Front setbacks**

R6 R7 R8 R9 R10

In the districts indicated without a letter suffix, if the front wall or other portion of a #building or other structure# is located at the #street line# or within the #initial setback distance# set forth in the following table, the height of such front wall or other portion of a #building or other structure# shall not exceed the maximum height above the #street line# set forth in the table. Above such specified maximum height and beyond the #initial setback distance#, the #building or other structure# shall not penetrate the #sky exposure plane# set forth in the table, except as otherwise provided in Sections 23-62 (Permitted Obstructions) or 23-65 (Tower Regulations).

MAXIMUM HEIGHT OF FRONT WALL  
AND REQUIRED FRONT SETBACKS

#Initial Setback Distance# (in feet)		Maximum Height of a Front Wall or other portion of a #Building or Other Structure# within the #Initial Setback Distance#	Height above #Street Line# (in feet)	#Sky Exposure Plane#			
				Slope over #Zoning Lot# (expressed as a ratio of vertical distance to horizontal distance)			
On #Narrow Street#	On #Wide Street#			On #Narrow Street#	On #Wide Street#	On #Narrow Street#	On #Wide Street#
				Vertical Distance	Horizontal Distance	Vertical Distance	Horizontal Distance
R6 or R7 Districts							
20	15	60 feet or six #stories#, whichever is less	60	2.7	to 1	5.6	to 1
R8 R9 or R10 Districts							
20	15	85 feet or nine #stories#, whichever is less	85	2.7	to 1	5.6	to 1



a - Horizontal distance                      s - Initial setback distance  
 h - Height of sky exposure plane above street line      v - Vertical distance  
 Sky Exposure Plane

SKY EXPOSURE PLANE  
R6 R7 R8 R9 R10 Districts  
(23-641, 24-522, 33-432, 43-43)

(3/22/16)

**23-642**

**Alternate front setbacks**

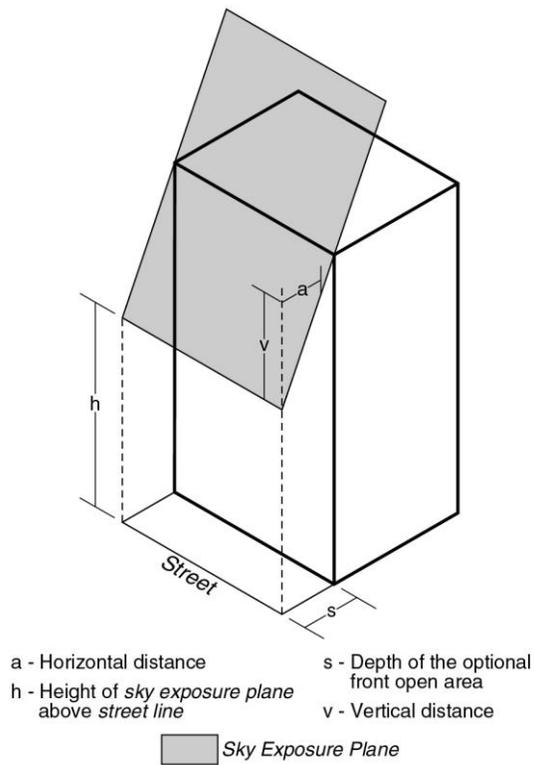
R6 R7 R8 R9 R10

In the districts indicated without a letter suffix, if an open area is provided along the entire length of the #front lot line# with the minimum depth set forth in the Table in this Section, the provisions of this Section may apply in lieu of the provisions of Section 23-641 (Front setbacks). The #building or other structure# shall not penetrate the #sky exposure plane# set forth in the table, except as otherwise provided in Section 23-62 (Permitted Obstructions) or 23-65 (Tower Regulations).

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

ALTERNATE REQUIRED FRONT SETBACKS

Depth of Optional Front Open Area (in feet, measured perpendicular to #street line#)		Height above #Street Line# (in feet)	Alternate #Sky Exposure Plane#			
			Slope over #Zoning Lot# (expressed as a ratio of vertical distance to horizontal distance)			
On #Narrow Street#	On #Wide Street#	#Street Line#	On #Narrow Street#		On #Wide Street#	
			Vertical Distance	Horizontal Distance	Vertical Distance	Horizontal Distance
R6 or R7 Districts						
15	10	60	3.7	to 1	7.6	to 1
R8 R9 or R10 Districts						
15	10	85	3.7	to 1	7.6	to 1



ALTERNATE SKY EXPOSURE PLANE

R6 R7 R8 R9 R10 Districts  
(23-642, 24-53, 33-442, 43-44)

(3/22/16)

**23-65**  
**Tower Regulations**

R9 R10

In the districts indicated without a letter suffix, except for #Quality Housing buildings#, and except as set forth in paragraph (c) of this Section, any portion or portions of #buildings# which in the aggregate occupy not more than 40 percent of the #lot area# of a #zoning lot#, or for #zoning lots# of less than 20,000 square feet, the percentage set forth in the table below, may penetrate an established #sky exposure plane# in accordance with the provisions of this Section. Such portions of #buildings# that penetrate a #sky exposure plane# are hereinafter referred to as towers.

LOT COVERAGE OF TOWERS  
ON SMALL ZONING LOTS

Area of #Zoning Lot# (in square feet)	Maximum Percent of #Lot Coverage#
10,500 or less	50
10,501 to 11,500	49
11,501 to 12,500	48
12,501 to 13,500	47
13,501 to 14,500	46
14,501 to 15,500	45
15,501 to 16,500	44
16,501 to 17,500	43
17,501 to 18,500	42
18,501 to 19,999	41

#Buildings developed# or #enlarged# with towers shall comply with either tower-on-a-base regulations or standard tower regulations, as follows:

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

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

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

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

(b) Applicability of standard tower regulations

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

(c) Inapplicability of tower regulations

The provisions of this Section shall not apply to any #building# located wholly or partly in a #Residence District#, that is within 100 feet of a #public park# with an area of one acre or more, or a #street line# opposite such a #public park#.

(3/22/16)

## **23-651**

### **Tower-on-a-base**

Any #development# or #enlargement# that meets the location and #floor area# criteria of paragraph (a) of Section 23-65 and includes a tower shall be constructed as a tower-on-a-base, in accordance with the regulations set forth in this Section. The height of all #buildings or other structures# shall be measured from the #base plane#.

(a) Tower regulations

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

- (i) not more than 40 percent of the #lot area# of a #zoning lot# or, for a #zoning lot# of less than 20,000 square feet, the percentage set forth in the table in Section 23-65 (Tower Regulations); and
- (ii) not less than 30 percent of the #lot area# of a #zoning lot#.

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

- (2) Any tower located above a base shall not be subject to the provisions of Section 23-64 (Basic Height and Setback Requirements).
- (3) At least 55 percent of the total #floor area# permitted on the #zoning lot# shall be located in #stories# located either partially or entirely below a height of 150 feet.

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

Percent of #Lot Coverage# of the Tower Portion	Minimum Percent of Total #Building Floor Area# Distribution Below the Level of 150 Feet
40.0 or greater	55.0
39.0 to 39.9	55.5
38.0 to 38.9	56.0
37.0 to 37.9	56.5
36.0 to 36.9	57.0
35.0 to 35.9	57.5
34.0 to 34.9	58.0
33.0 to 33.9	58.5
32.0 to 32.9	59.0
31.0 to 31.9	59.5

- (4) At all levels, such tower shall be set back from the #street wall# of a base at least 15 feet along a #narrow street# and at least 10 feet along a #wide street#, except that such dimensions shall include the depth of any permitted recesses in the #street wall#.
- (5) No tower or portion thereof shall be located on a #narrow street# at a distance that is more than 100 feet from the intersection with a #wide street#.

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

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

(b) #Building# base regulations

(1) #Street wall# location

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

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

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

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

(2) Height of #street wall#

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

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

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

(b) at least 50 percent of the width of the #street wall# of the base shall be extended vertically to the height of the adjacent #building#; or

(c) a dormer shall be provided pursuant to paragraph (b) (3) of this Section. Such dormer shall match the height of the adjacent #building#.

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

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

feet.

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

(3) Dormer

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

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

(4) Open areas

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

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

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

(1) Recesses

Recesses shall occupy, in the aggregate, between 30 and 50 percent of the width of each eligible #story# of the base, and measure at least two feet in depth. In addition, the width of any individual recess provided within eight feet

of the #street line# shall not exceed 25 percent of the width of the #street wall# of the base, unless such recess is provided in combination with an additional recess located beyond eight feet of the #street line#.

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

(2) Dormers

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

(3) Matching provision

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

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

## **23-652**

### **Standard tower**

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

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

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

(3/22/16)

## **23-66**

### **Height and Setback Requirements for Quality Housing Buildings**

R6 R7 R8 R9 R10

In the districts indicated, the #street wall# location provisions of Sections 23-661 and the height and setback provisions of Section 23-662 shall apply to #Quality Housing buildings#. These provisions may be modified pursuant to the provisions of either Section 23-663 (Tower regulations in R9D and R10X Districts) or 23-664 (Modified height and setback regulations for certain Inclusionary Housing buildings or affordable independent residences for seniors), as applicable. Additional provisions are set forth in Section 23-665. The height of all #buildings or other structures# shall be measured from the #base plane#.

Where the City Planning Commission grants additional height to a #development# or #enlargement# subject to the provisions of Sections 23-662 or 23-664 pursuant to an authorization or special permit of this Resolution, the Commission may, in conjunction, increase the permitted number of #stories#.

(3/22/16)

## **23-661**

### **Street wall location**

R6 R7 R8 R9 R10

In the districts indicated, the #street wall# location provisions of paragraphs (a), (b) or (c) of this Section shall apply to all #Quality Housing buildings#, as applicable.

Any #street wall# may be divided into different segments, and located at varying depths from the #street line#, to allow for #building# recesses, projections, #outer courts# and other forms of articulation, provided that each portion complies with the applicable #street wall# location provisions of paragraphs (a), (b) or (c) of this Section. Recesses, projections and other forms of articulation beyond the #street wall# locations established in paragraphs (a), (b) or (c) are permitted only in accordance with paragraph (d) of this Section.

R6A R7A R7D R7X R9D

(a) In the districts indicated, for all #buildings#, and for #Quality Housing buildings# on #wide streets# in R6 or R7 Districts without a letter suffix, the following shall apply:

- (1) The #street wall# shall be located no closer to the #street line# than the closest #street wall#, or portion thereof, of an existing adjacent #building# on the same or an adjoining #zoning lot# located on the same #street# frontage, that is both within ten feet of the #street line# and within 25 feet of such #Quality Housing building#. Where such existing adjacent #building#, or portion thereof, has #street walls# located at varying depths, the #street wall# shall not be located closer to the #street line# than the furthest portion of such existing adjacent #street wall# that is at least five feet in width.
- (2) On #corner lots#, the #street wall# location provisions of paragraph (a)(1) shall apply along only one #street line#.

R6B R7B R8B

(b) In the districts indicated, for all #buildings#, and for #Quality Housing buildings# on #narrow streets# in R6 and R7 Districts without a letter suffix, the following shall apply:

- (1) On #zoning lots# with at least 50 feet of frontage along a #street line#, the #street wall# shall be located no closer to the #street line# than the closest #street wall#, or portion thereof, of an existing adjacent #building# on the same or an adjoining #zoning lot# located on the same #street# frontage, that is both within

15 feet of the #street line# and within 25 feet of such #Quality Housing building#. Where such existing adjacent #building#, or portion thereof, has #street walls# located at varying depths, the #street wall# shall not be located closer to the #street line# than the furthest portion of such existing adjacent #street wall# that is at least five feet in width.

- (2) On #zoning lots# with less than 50 feet of frontage along a #street line#, the #street wall# shall be located no closer to the #street line# than the closest #street wall#, or portion thereof, nor further from the #street line# than the furthest #street wall#, or portion thereof, of an existing adjacent #building# on the same or an adjoining #zoning lot# located on the same #street# frontage that is both within 15 feet of the #street line# and within 25 feet of such #Quality Housing building#. Where such existing adjacent #building#, or portion thereof, has #street walls# located at varying depths, the #street wall# shall not be located closer to the #street line# than the furthest portion of such existing adjacent #street wall# that is at least five feet in width.
- (3) On #corner lots#, the #street wall# regulations of (b)(1) or (b)(2), as applicable, shall apply along both #street# frontages, except that along one #street line# the #street wall# need not be located farther from the #street line# than five feet.

R8A R8X R9A R9X R10A R10X

- (c) In the districts indicated, for all #buildings#, and for #Quality Housing buildings# in R8 or R9 Districts without a letter suffix, and in other R10 Districts, the following shall apply:
  - (1) Along #wide streets# and along #narrow streets# within 50 feet of their intersection with a #wide street# the #street wall# shall extend along the entire #street# frontage of a #zoning lot#. At least 70 percent of the #aggregate width of street walls# shall be located within eight feet of the #street line# and extend to at least the minimum base height specified in Section 23-662 (Maximum height of buildings and setback regulations), or the height of the #building#, whichever is less. Up to 30 percent of the #aggregate width of street walls# may be recessed beyond eight feet of the #street line#, provided that any such recesses deeper than 10 feet along a #wide street# or 15 feet along a #narrow street# are located within an #outer court#.

- (2) Along #narrow streets# beyond 50 feet of their intersection with a #wide street#, at least 70 percent of the #street wall# shall be located within 15 feet of the #street line#.

R6 R7 R8 R9 R10

- (d) #Street wall# articulation, including, but not limited to, window recesses and structural expression on the #building# facade, shall be permitted to project or recess beyond the #street wall# locations established in paragraphs (a), (b) or (c) of this Section, provided such articulation does not exceed a depth or projection of 12 inches. In addition, to accommodate other forms of #street wall# articulation, such as bay windows, and facade recesses, up to 50 percent of the #aggregate width of street wall#, at any level, may recess or project beyond such #street wall# location provisions of this Section, provided that no such recess or projection exceeds a depth of three feet, as measured perpendicular to the #street wall#, or portion thereof. No projection shall extend beyond the #street line#, except where encroachments into the public right-of-way are permitted by the New York City Administrative Code.

(3/22/16)

## **23-662**

### **Maximum height of buildings and setback regulations**

R6 R7 R8 R9 R10

In the districts indicated, height and setback regulations for #Quality Housing buildings# are set forth in this Section.

The height of a #Quality Housing building or other structure# shall not exceed the maximum height limit specified for the applicable district in paragraph (a) of this Section, except as specified in paragraph (b) of this Section or elsewhere in this Chapter.

For #Quality Housing buildings# in R6A, R6B, R7A, R7D, R7X, R8A, R8X, R9X or R10A Districts located outside the #Manhattan Core#, the heights set forth in paragraph (a) may be increased in accordance with paragraph (b) of this Section for #Quality Housing buildings# complying with supplemental ground floor provisions for #qualifying ground floors#.

A setback is required for all portions of #buildings or other structures# that exceed the maximum base height specified for the

applicable district in paragraphs (a) and (b) of this Section, and shall be provided in accordance with paragraph (c) of this Section.

(a) Building heights and permitted number of stories

For #Quality Housing buildings#, the minimum and maximum base height, and maximum height of a #building or other structure# shall be as set forth in Table 1 in this paragraph (a) for the applicable zoning district.

Separate maximum #building# heights are set forth within such table for #Quality Housing buildings# with #qualifying ground floors# and for those with #non-qualifying ground floors#. For #Quality Housing buildings# with #qualifying ground floors# utilizing the additional heights permitted in this Section, a maximum number of #stories# set forth in Table 1 shall also apply, and the height of such #building# with a #qualifying ground floor# shall not exceed the maximum height limit specified for the applicable district, or the maximum number of #stories#, whichever is less.

TABLE 1

MINIMUM BASE HEIGHT, MAXIMUM BASE HEIGHT,  
AND MAXIMUM BUILDING HEIGHT

FOR CONTEXTUAL DISTRICTS			
District	Minimum Base Height (in feet)	Maximum Base Height (in feet)	Maximum Height of #Buildings or other Structures# (in feet)
R6A	40	60	70
R6B	30	40	50
R7A	40	65	80
R7B	40	65	75
R7D	60	85	100
R7X inside #Manhattan Core#	60	85	125
R7X outside #Manhattan Core#	60	85	120
R8A	60	85	120
R8B	55	65	75
R8X	60	85	150
R9A <sup>1</sup>	60	105	145
R9A <sup>2</sup>	60	95	135
R9D	60	85 <sup>4</sup>	N/A <sup>3</sup>
R9X <sup>1</sup>	105	120	170
R9X <sup>2</sup>	60	120	160
R10A <sup>1</sup>	125	150	210
R10A <sup>2</sup>	60	125	185
R10X	60	85	N/A <sup>3</sup>

FOR NON-CONTEXTUAL DISTRICTS			
District	Minimum Base Height (in feet)	Maximum Base Height (in feet)	Maximum Height for #Buildings or other Structures# (in feet)
R6 <sup>2</sup>	30	45	55
R6 <sup>1</sup> inside #Manhattan Core#	40	55	65
R6 <sup>1</sup> outside #Manhattan Core#	40	65	70 <sup>5</sup>
R7 <sup>1</sup> inside #Manhattan Core# R7 <sup>2</sup>	40	65	75
R7 <sup>1</sup> outside #Manhattan Core#	40	75	80 <sup>5</sup>
R8 <sup>2</sup>	60	85	115
R8 <sup>1</sup> inside #Manhattan Core#	60	85	120 <sup>5</sup>
R8 <sup>1</sup> outside #Manhattan Core#	60	95	130 <sup>5</sup>
R9 <sup>1</sup>	60	105	145
R9 <sup>2</sup>	60	95	135
R10 <sup>1</sup>	125	155	210 <sup>5</sup>
R10 <sup>2</sup>	60	125	185

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<sup>1</sup> For #zoning lots# or portions thereof within 100 feet of a #wide street#

<sup>2</sup> For #zoning lots# or portions thereof on a #narrow street# beyond 100 feet of a #wide street# and, for #zoning lots# with only #wide street# frontage, portions of such #zoning lot# beyond 100 feet of the #street line#

<sup>3</sup> #Buildings or other structures# may exceed a maximum base height of 85 feet in accordance with Section 23-663 (Tower

regulations in R9D and R10X Districts)

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

5 For #buildings or other structures# with #qualifying ground floors#, the maximum height of a #building or other structure# may be increased by five feet. In addition, the maximum number of #stories# permitted in a #building# utilizing such additional height shall be the maximum height of the #building or other structure# set forth in this Table, divided by 10.

(b) Special heights for certain #Quality Housing buildings# with #qualifying ground floors#

For #Quality Housing buildings# in R6A, R6B, R7A, R7D, R7X, R8A, R8X, R9X or R10A Districts located outside the #Manhattan Core#, the maximum base height and maximum height of a #building or other structure# set forth in paragraph (a) may be increased for #buildings# with #qualifying ground floors#, in accordance with Table 2, in this paragraph (b), for the applicable zoning district, where such #building# complies with the supplemental ground floor provisions of paragraph (b)(1) and, where applicable, (b)(2) of this Section.

For #Quality Housing buildings# with #qualifying ground floors# utilizing the additional heights permitted in this Section, a maximum number of #stories# set forth in Table 2 shall also apply, and the height of such #building# with a #qualifying ground floor# shall not exceed the maximum height limit specified for the applicable district, or the maximum number of #stories#, whichever is less.

(1) Along typical #street wall# frontages

For #buildings#, or portions thereof, with a #street wall# width of 100 feet or less along a #street# frontage, #uses# on the first #story# shall comply with the ground floor #use# and depth requirements of Section 26-52. #Accessory# off-street parking spaces on the ground floor shall be wrapped in accordance with the provisions of paragraph (a) of Section 26-54 (Parking Wrap and Screening Requirements).

(2) Along wide #street# frontages

For #buildings# with a #street wall# width exceeding 100 feet along a #street# frontage, at least 100 feet of such

frontage shall comply with the provisions of paragraph (b)(1) of this Section. For portions in excess of 100 feet, #accessory# off-street parking spaces on the ground floor level shall be wrapped or screened in accordance with Section 26-54. However, the aggregate width of any such screening, excluding entrances and exits, shall not exceed 50 feet.

TABLE 2

MAXIMUM BASE HEIGHT, MAXIMUM BUILDING HEIGHT  
AND MAXIMUM NUMBER OF STORIES FOR BUILDINGS IN CERTAIN DISTRICTS  
OUTSIDE THE MANHATTAN CORE WITH QUALIFYING GROUND FLOORS

District	Maximum Base Height (in feet)	Maximum Number of #Stories#	Maximum Height of #Buildings or other Structures# (in feet)
R6A	65	7	75
R6B	45	5	55
R7A	75	8	85
R7D	85	10	105
R7X	95	12	125
R8A	95	12	125
R8X	95	15	155
R9X <sup>1</sup>	125	17	175
R9X <sup>2</sup>	125	16	165
R10A <sup>1</sup>	155	21	215

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<sup>1</sup> For #zoning lots# or portions thereof within 100 feet of a #wide street#

<sup>2</sup> For #zoning lots# or portions thereof on a #narrow street# beyond 100 feet of a #wide street# and, for #zoning lots# with only #wide street# frontage, portions of such #zoning lot# beyond 100 feet of the #street line#

(c) Setback requirements

For all #Quality Housing buildings#, a setback shall be provided in accordance with the following regulations:

- (1) At a height not lower than the minimum base height or higher than the maximum base height specified for the applicable district in paragraph (b) of this Section, a setback with a depth of at least ten feet shall be provided from any #street wall# fronting on a #wide street#, and a setback with a depth of at least 15 feet shall be provided from any #street wall# fronting on a #narrow street#.
- (2) The depth of such required setback may be reduced by one foot for every foot that the #street wall# is located beyond the #street line#, but in no event shall a setback of less than seven feet in depth be provided, except as otherwise set forth in this Section. To allow #street wall# articulation, where a #street wall# is divided into different segments and located at varying depths from the #street line#, such permitted setback reduction may be applied to each #street wall# portion separately.
- (3) Notwithstanding the provisions of paragraph (c) (2) above, the depth of such setbacks may include the depth of recesses or #outer courts# in the #street wall# of the #building# base, provided that the aggregate width of any such recessed portion of a #street wall# with a setback less than seven feet, as applicable, does not exceed 30 percent of the #aggregate width of street wall# at any level.
- (4) These setback provisions are optional for any #building# wall that either is located beyond 50 feet of a #street line#, or oriented so that lines drawn perpendicular to it, in plan, would intersect a #street line# at an angle of 65 degrees or less. In the case of an irregular #street line#, the line connecting the most extreme points of intersection shall be deemed to be the #street line#. Furthermore, dormers provided in accordance with the provisions of Section 23-621 (Permitted obstructions in certain districts) may penetrate a required setback area.
- (5) In R9D Districts, for #buildings or other structures# on #zoning lots# that front upon an elevated rail line, at a height between grade level and 25 feet, a setback with a depth of at least 20 feet shall be provided from the #street line# fronting on such elevated rail line. The

depth of such setback may be reduced by one foot for every foot that the depth of the #zoning lot#, measured perpendicular to the elevated rail line, is less than 110 feet, but in no event shall a setback less than ten feet in depth be provided.

(3/22/16)

## **23-663**

### **Tower regulations in R9D and R10X districts**

R9D R10X

In the districts indicated, any #Quality Housing building or other structure#, or portions thereof, which in the aggregate occupies not more than 40 percent of the #lot area# of a #zoning lot# (or, for #zoning lots# of less than 20,000 square feet, the percentage set forth in the table in Section 23-651 (Tower-on-a-base), above a height of 85 feet above the #base plane#, is hereinafter referred to as a tower. Dormers permitted within a required setback area pursuant to Section 23-621 (Permitted obstructions in certain districts) shall not be counted towards tower coverage. Such tower may exceed a height limit of 85 feet above the #base plane# provided the base of such tower complies with the applicable #street wall# location and height and setback provisions of Sections 23-661 and 23-662, respectively, and provided that the tower portion complies with the following, as applicable:

- (a) at all levels, such tower shall be set back from the #street wall# of a base at least 15 feet along a #narrow street# and at least ten feet along a #wide street#, except such dimensions may include the depth of any permitted recesses in the #street wall#;
- (b) the minimum coverage of such tower above a height of 85 feet above the #base plane# is at least 33 percent of the #lot area# of the #zoning lot#; however, such minimum coverage requirement shall not apply to the highest 40 feet of such tower;
- (c) in R9D Districts, the highest four #stories#, or as many #stories# as are located entirely above a height of 165 feet, whichever is less, shall have a #lot coverage# of between 50 percent and 80 percent of the #story# immediately below such #stories#. Such reduced #lot coverage# shall be achieved by one or more setbacks on each face of the tower, where at least one setback on each tower face has a depth of at least four feet, and a width that, individually or in the aggregate, is equal to at least ten percent of the width of such respective tower

face. For the purposes of this paragraph (c), each tower shall have four tower faces, with each face being the side of a rectangle within which the outermost walls of the highest #story# not subject to the reduced #lot coverage# provisions have been inscribed. The required setbacks shall be measured from the outermost walls of the #building#, perpendicular to each tower face. Required setback areas may overlap; and

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

(3/22/16)

### **23-664**

#### **Modified height and setback regulations for certain Inclusionary Housing buildings or affordable independent residences for seniors**

R6 R7 R8 R9 R10

In the districts indicated, the provisions of this Section shall apply to #Quality Housing buildings# on #zoning lots# meeting the criteria set forth in paragraph (a) of this Section. For the purposes of this Section, defined terms include those set forth in Sections 12-10 and 23-911.

- (a) Eligible #buildings#

The additional heights and number of #stories# permitted pursuant to this Section shall apply to:

- (1) #buildings# on #zoning lots# where at least 20 percent of the #floor area# of the #zoning lot# contains #affordable independent residences for seniors#;
- (2) #buildings# on #zoning lots# in R10 Districts outside of #Inclusionary Housing designated areas#, where:
  - (i) in accordance with the provisions of paragraph (a) of Section 23-154 (Inclusionary Housing), the #zoning lot# achieves a #floor area ratio# of at least 11.0; and

(ii) such #zoning lot# includes a #compensated development# that contains #affordable floor area#;

(3) #buildings# on #zoning lots# in #Inclusionary Housing designated areas#, where:

(i) 50 percent or more of the #floor area# of the #zoning lot# contains #residential uses#; and

(ii) at least 20 percent of such #residential floor area# is #affordable floor area# provided in accordance with the provisions of paragraph (b) of Section 23-154; or

(4) #MIH developments# on #MIH zoning lots# that also contain #MIH sites#, where such #MIH zoning lot# contains all #affordable floor area# required for such #MIH development#.

(b) For certain #Quality Housing buildings# in all applicable districts

For #Quality Housing buildings# meeting the criteria of paragraph (a) of this Section, the maximum base and #building# heights and maximum number of #stories# established in Section 23-662 shall be modified by Table 1 below. Separate maximum #building# heights are set forth within the table for #Quality Housing buildings# with #qualifying ground floors# and for those with #non-qualifying ground floors#.

TABLE 1

MODIFIED MAXIMUM BASE HEIGHT  
AND MAXIMUM BUILDING HEIGHT  
FOR CERTAIN QUALITY HOUSING BUILDINGS

FOR CONTEXTUAL DISTRICTS				
District	Maximum Base Height (in feet)	Maximum Height for #Building or other Structures# with #non- qualifying ground floors# (in feet)	Maximum Height for #Buildings or other Structures# with #qualifying ground floors# (in feet)	Maximum Number of #Stories#
R6A	65	80	85	8
R7A	75	90	95	9
R7D	95	110	115	11
R7X <sup>1</sup>	105	140	145	14
R8A	105	140	145	14
R8X	105	170	175	17
R9A <sup>2</sup>	125	170	175	17
R9A <sup>3</sup>	125	160	165	16
R9X <sup>2</sup>	145	200	205	20
R9X <sup>3</sup>	145	190	195	19
R10A <sup>2</sup>	155	230	235	23
R10A <sup>3</sup>	155	210	215	21
FOR NON-CONTEXTUAL DISTRICTS				
		Maximum Height for #Buildings or other Structures# with #non-	Maximum Height for #Buildings or other Structures# with	

District	Maximum Base Height (in feet)	qualifying ground floors# (in feet)	#qualifying ground floors# (in feet)	Maximum Number of #Stories#
R6 <sup>4</sup>	65	80	85	8
R7 <sup>2</sup>	75	100	105	10
R7 <sup>5</sup>	75	90	95	9
R8	105	140	145	14
R9 <sup>2</sup>	125	170	175	17
R9 <sup>3</sup>	125	160	165	16
R10 <sup>2</sup>	155	230	235	23
R10 <sup>3</sup>	155	210	215	21

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<sup>1</sup> In R7X Districts, the modified base heights, maximum #building# heights and number of #stories# are permitted only for #buildings# on #zoning lots# meeting the criteria of paragraphs (a) (1) or (a) (4) of this Section

<sup>2</sup> For #zoning lots# or portions thereof within 100 feet of a #wide street#

<sup>3</sup> For #zoning lots# or portions thereof on a #narrow street# beyond 100 feet of a #wide street#, and for #zoning lots# with only #wide street# frontage, portions of such #zoning lot# beyond 100 feet of the #street line#

<sup>4</sup> For #buildings# meeting the criteria of paragraph (a) (1) of this Section, and #buildings# meeting the other criteria of paragraph (a) of this Section on #zoning lots# located within 100 feet of a #wide street#

<sup>5</sup> For #buildings# meeting the criteria of paragraph (a) (1) of this Section, on #zoning lots# or portions thereof on a #narrow street# beyond 100 feet of a #wide street#, and for #zoning lots# with only #wide street# frontage, portions of such #zoning lot# beyond 100 feet of the #street line#

(c) Alternative regulations for certain #Quality Housing buildings# in non-contextual districts

As an alternative to the provisions of paragraph (b) of this Section, for #Quality Housing buildings# containing #affordable independent residences for seniors# in R6 through R8 Districts without a letter suffix, the #street wall# location and height and setback provisions of Sections 23-661 and 23-662 need not apply to #buildings# on #zoning lots# that are located within 150 feet of the following types of transportation infrastructure:

- (1) an elevated rail line;
- (2) an open railroad right of way;
- (3) a limited-access expressway, freeway, parkway or highway, all of which prohibit direct vehicular access to adjoining land; or
- (4) an elevated #street# located on a bridge that prohibits direct vehicular access.

Such 150-foot measurement shall be measured perpendicular from the edge of such infrastructure.

In lieu thereof, the height of a #building or other structure#, or portion thereof, within ten feet of a #wide street# or 15 feet of a #narrow street#, shall not exceed the maximum base height specified for the applicable zoning district in Table 2 below. Beyond ten feet of a #wide street# and 15 feet of a #narrow street#, the height of the #building or other structure# shall not exceed the maximum #building# height specified for the applicable district in the table, or the maximum number of #stories#, whichever is less.

TABLE 2

ALTERNATIVE MAXIMUM BASE HEIGHT  
AND MAXIMUM BUILDING HEIGHT  
FOR CERTAIN QUALITY HOUSING BUILDINGS  
IN NON-CONTEXTUAL DISTRICTS

District	Maximum Base Height (in feet)	Maximum Height of #Building or other Structure# (in feet)	Maximum Number of #Stories#
R6	65	115	11
R7	75	135	13
R8	105	215	21

(3/22/16)

**23-665**

**Additional regulations**

R6 R7 R8 R9 R10

In the districts indicated, for all #Quality Housing buildings#, the following additional regulations shall apply:

- (a) Existing #buildings# may be vertically #enlarged# by up to one #story# or 15 feet without regard to the #street wall# location requirements of Section 23-661.
- (b) On #through lots# which extend less than 180 feet in maximum depth from #street# to #street#, the #street wall# location requirements of Section 23-661 shall be mandatory along only one #street# frontage.
- (c) The #street wall# location and minimum base height provisions of Sections 23-661 and 23-662, respectively, shall not apply along any #street# frontage of a #zoning lot# occupied by #buildings# whose #street wall# heights or widths will remain unaltered.
- (d) The minimum base height provisions of Section 23-662 shall not apply to #buildings developed# or #enlarged# after February 2, 2011, that do not exceed such minimum base heights, except

where such #buildings# are located on #zoning lots# with multiple #buildings#, one or more of which is #developed#, #enlarged# or altered after February 2, 2011, to a height exceeding such minimum base heights.

- (e) The City Planning Commission may, upon application, authorize modifications in the required #street wall# location if the Commission finds that existing #buildings#, or existing open areas serving existing #buildings# to remain on the #zoning lot#, would be adversely affected by the location of the #street walls# in the manner prescribed in Section 23-661.
- (f) For any #zoning lot# located in a Historic District designated by the Landmarks Preservation Commission, the #street wall# location and minimum base height regulations of Sections 23-661 and 23-662, respectively, or as modified in any applicable Special District, shall be modified as follows:
  - (1) The minimum base height of a #street wall# may vary between the height of the #street wall# of an adjacent #building# before setback, if such height is lower than the minimum base height required, up to the minimum base height requirements of Section 23-661, or as modified in any applicable Special District.
  - (2) The maximum base height of a #street wall# may vary between the height of the #street wall# of an adjacent #building# before setback, if such height is higher than the maximum base height allowed, and the maximum base height requirements of this Section, provided that such height not exceed 150 feet and provided such #zoning lot# is located within the area bounded by West 22nd Street, a line 100 feet west of Fifth Avenue, a line midway between West 16th Street and West 17th Street, and a line 100 feet east of Sixth Avenue.
  - (3) The location of the #street wall# of any #building# may vary between the #street wall# location requirements of Section 23-661, or as modified in any applicable Special District, and the location of the #street wall# of an adjacent #building# fronting on the same #street line#.
- (g) In R9D Districts, where a #building# on an adjacent #zoning lot# has #dwelling unit# windows located within 30 feet of a #side lot line# of the #development# or #enlargement#, an open area extending along the entire length of such #side lot line# with a minimum width of 15 feet shall be provided. Such open area may be obstructed only by the permitted obstructions set forth in Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents).

(h) For the purposes of applying the #street wall# location as well as the height and setback provisions of Sections 23-661 and 23-662, respectively, where the Administrative Code establishes restrictions on the location of #buildings# on lots fronting upon and within 30 feet of Eastern Parkway in Community Districts 8 and 9 in the Borough of Brooklyn, lines drawn 30 feet north of and 30 feet south of, and parallel to, Eastern Parkway shall be considered the northern and southern #street lines# of Eastern Parkway.

### **Regulations Applying in Special Situations**

(3/22/16)

#### **23-67**

##### **Special Height and Setback Provisions for Certain Areas**

(3/22/16)

#### **23-671**

##### **Special provisions for zoning lots directly adjoining public parks**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, a #public park# with an area of between one and 15 acres shall be considered a #wide street# for the purpose of applying the regulations set forth in Sections 23-63 (Height and Setback in R1 Through R5 Districts), 23-64 (Basic Height and Setback Requirements) and 23-66 (Height and Setback Requirements for Quality Housing Buildings) to any #building or other structure# on a #zoning lot# adjoining such #public park#. However, the provisions of this Section shall not apply to a #public park# more than 75 percent of which is paved.

(3/22/16)

#### **23-672**

##### **Special height and setback regulations in R10 Districts within Community District 7, Borough of Manhattan**

Within the boundaries of Community District 7 in the Borough of Manhattan, all #buildings or other structures# located in R10

Districts, except R10A or R10X Districts, utilizing the basic height and setback requirements of Section 23-64 (Basic Height and Setback Requirements), shall also comply with the provisions of this Section.

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

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

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

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

However, the provisions of this Section shall not apply to any #building# for which the City Planning Commission has granted a special permit pursuant to Section 74-95 (Modifications of Housing Quality Special Permits) nor shall it apply to any #building# located within the #Special Lincoln Square District# or within the former West Side Urban Renewal Area, excluding frontages along Central Park West or to the #block# bounded by Frederick Douglass Circle, Cathedral Parkway, Manhattan Avenue, West 109th Street and Central Park West. On application, the Commission may grant special authorization for minor modifications of the mandatory front wall provisions of this Section involving an #enlargement#, upon a showing of compelling necessity. Such authorization, however, may in

no event include modification of permitted #floor area# regulations.

(3/22/16)

**23-673**

**Special bulk regulations for certain sites in Community District 4, Borough of Manhattan**

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

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

(3/22/16)

**23-674**

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

Within the boundaries of Community District 9 in the Borough of Manhattan, all #buildings# located in R8 Districts north of West 125th Street shall be #developed# or #enlarged# pursuant to the Quality Housing Program. The underlying #bulk# regulations for #Quality Housing buildings# shall apply, except as follows:

- (a) the maximum height of a #building or other structure# set forth in Section 23-662 shall be modified so that the maximum height of a #building or other structure#, or portion thereof, within 100 feet of a #wide street# shall be 120 feet, and the maximum

height of a #building or other structure#, or portion thereof, on a #narrow street# beyond 100 feet of a #wide street# shall be 105 feet; and

- (b) the alternate height and setback regulations for certain #Quality Housing buildings# in non-contextual districts, as set forth in paragraph (c) of Section 23-664 (Modified height and setback regulations for certain Inclusionary Housing buildings or affordable independent residences for seniors) shall not apply to #buildings# on #zoning lots# meeting the criteria set forth in paragraph (a) of Section 23-664.

(8/14/87)

### **23-68**

#### **Special Provisions for Zoning Lots Divided by District Boundaries**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

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

(6/29/94)

### **23-69**

#### **Special Height Limitations**

(6/29/94)

### **23-691**

#### **Limited Height Districts**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

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

#Limited Height District#	Maximum Height above #Curb Level# or #Base Plane#, as Applicable
LH-1	50 feet
LH-1A	60 feet
LH-2	70 feet
LH-3	100 feet

(3/22/16)

### 23-692

#### Height limitations for narrow buildings or enlargements

R7-2 R7D R7X R8 R9 R10

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

- (a) For #interior lots#, and for #through lots#, which shall be treated as two separate #interior lots# of equal depth for the purposes of determining the height limitations of this Section, a height equal to the width of the #street# on which such #street walls# front or 100 feet, whichever is less;
- (b) For #corner lots# bounded by only #narrow streets#, a height equal to the width of the narrowest of such #streets# on which such #street walls# front;
- (c) For #corner lots# bounded by at least one #wide street#, a height equal to the width of the #widest street# on which it fronts, or 100 feet, whichever is less;
- (d) The heights permitted in paragraphs (a), (b) or (c) of this Section may be exceeded if:
  - (1) on a #wide street#, such portion of a #building# with a #street wall# less than 45 feet in width #abuts# an existing #building# with a #street wall# that exceeds such permitted heights. Such new #street walls# may reach the height of such #abutting building# or, where there are two #abutting buildings# that exceed such heights, such new #street wall# may reach the height of the tallest of such #abutting buildings#; or

- (2) on a #narrow street#, such #street walls abut# two existing #buildings# with #street walls# that both exceed the heights permitted. Such new #street walls# may reach the height of the lowest of such #abutting buildings#; and
- (3) such new #street walls# shall be fully contiguous at every level with such #abutting street walls#.

(e) In addition, the following rules shall apply:

- (1) The front height and setback regulations and any height limitations of the underlying district shall apply, except that the alternate front setback and tower regulations of Sections 23-642, 23-65, 24-53, 24-54, 33-44 and 33-45 shall not apply. In the event of a conflict between the underlying regulations and the regulations of this Section, the more restrictive shall apply.
- (2) The provisions of this Section shall not apply to #street walls# of permitted obstructions or #street walls# located beyond 100 feet of a #street line#.
- (3) For the purposes of determining the width of a #street wall#:
  - (i) the width shall be the sum of the maximum widths of all #street walls# of a #building# at every level. The width of a #street wall# shall be the length of the #street line# from which, when viewed directly from above, lines perpendicular to the #street line# may be drawn to such #street wall#;
  - (ii) #abutting buildings# on a single #zoning lot# may be considered a single #building#, except as set forth in paragraph (e)(6) of this Section.
- (4) For #buildings# with #street walls# less than 45 feet in width that front only on a #narrow street# and #abut# two existing #buildings#, the #street wall# of such #building# shall be no closer to the #street line# than the #street wall# of the #abutting building# that is closest to the #street line#.
- (5) On a #through lot# containing #buildings# with #street walls# less than 45 feet in width, the provisions of paragraphs (b) and (c) in Section 23-532 (Required rear yard equivalents) shall not apply.
- (6) #Quality Housing buildings# shall be exempt from the provisions of this Section provided the width of the

#street wall# at the maximum base height required by Sections 23-66 or 35-65 is at least 45 feet. For such #buildings#, a #street wall# that is less than 45 feet wide may be constructed above such base. For the purposes of this paragraph (e)(6), #abutting buildings# on a single #zoning lot# shall not be considered a single #building#. However, where all the requisite structural framing and all enclosing walls and roofs were completed for an #enlargement#, in accordance with a building permit issued prior to a September 11, 2007, Board of Standards and Appeals (67-07-A) ruling that resulted in the #enlargement# being ineligible for a certificate of occupancy, #abutting buildings# on a single #zoning lot# may be considered a single #building# provided such #zoning lot# is formed prior to August 2, 2011.

(3/22/16)

**23-693**

**Special provisions applying adjacent to R1 through R6B Districts**

R6 R7 R8 R9 R10

In the districts indicated, within 25 feet of an R1 through R5 District or an R6B District, the height of a #development# or #enlargement# of a #building#, or portions thereof, shall not exceed the height set forth in the table below for the applicable district.

District	Height permitted within 25 feet of	
	R1 through R5 District, other than R5D District (in feet)	R5D or R6B District (in feet)
R6 R6A R7 <sup>1</sup> R7B R8B	45	55
R7 <sup>2</sup> R7A R7D	55	65
R7X R8 R8A R8X R9 R10	65	65

<sup>1</sup> For #zoning lots# or portions thereof on a #narrow street# beyond 100 feet of a #wide street# and, for #zoning lots# with only #wide street# frontage, portions of such #zoning lot# beyond 100 feet of the #street line#

<sup>2</sup> For #zoning lots# or portions thereof within 100 feet of a #wide street#

(12/15/61)

**23-70**

**MINIMUM REQUIRED DISTANCE BETWEEN TWO OR MORE BUILDINGS ON A SINGLE ZONING LOT**

(3/22/16)

**23-71**

**Minimum Distance between Buildings on a Single Zoning Lot**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, the minimum distance between the portion of a #building# containing #residences# and any other #building# on the same #zoning lot# shall be as provided in this Section. For the purposes of this Section, #abutting buildings# on a single #zoning lot# may be considered a single #building#.

However, these provisions do not apply:

- (a) to the extent that such two #buildings# are separated from each other by a #rear yard equivalent# as set forth in Section 23-532 (Required rear yard equivalents) or 23-533 (Required rear yard equivalents for Quality Housing buildings), as applicable; or
- (b) to space between a #single-family#, #two-family#, or three-family #residence# and a garage #accessory# thereto.

(4/30/12)

**23-711**

**Standard minimum distance between buildings**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

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

Maximum #Building# Height  
above #Base Plane# or #Curb  
Level#, as Applicable (in  
feet)

Wall Condition*	25	35	40	50	Over 50
Wall to Wall	20	25	30	35	40
Wall to Window	30	35	40	45	50
Window to Window	40	45	50	55	60

\* Wall condition shall be defined as:

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

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

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

In addition, the following rules shall apply:

- (a) the minimum distances set forth in this table shall be provided at the closest point between #buildings#;
- (b) any portion of a #building# that qualifies as a #building segment# may be treated as a separate #building# for the purposes of determining the minimum distance required between such #building segment# and another #building# or #building segment#;
- (c) where #buildings# of different heights face each other, the average of the heights of such #buildings# shall determine the minimum distance required between them;
- (d) projections having a maximum height of 25 feet above adjoining grade, a maximum depth of five feet, and an aggregate width not exceeding 25 percent of the #building# wall from which they project, may penetrate the minimum spacing requirements;

- (e) portions of #buildings# above 125 feet that exceed, in aggregate, a #lot coverage# of 40 percent, shall be spaced at least 80 feet apart;
- (f) in R1, R2, R3, R4A and R4-1 Districts within #lower density growth management areas#, the provisions of this paragraph, (f), shall apply to any #zoning lot# with two or more #buildings# where at least 75 percent of the #floor area# of one #building# is located beyond 50 feet of a #street line# and the #private road# provisions do not apply. For the purposes of this paragraph, any #building# containing #residences# with no #building# containing #residences# located between it and the #street line# so that lines drawn perpendicular to the #street line# do not intersect any other #building# containing #residences# shall be considered a "front building," and any #building# containing #residences# with at least 75 percent of its #floor area# located beyond the #rear wall line#, or prolongation thereof, of a "front building" shall be considered a "rear building." The minimum distances set forth in the table in this Section shall apply, except that a minimum distance of 45 feet shall be provided between any such front and rear #buildings#; and
- (g) for #buildings# existing on April 30, 2012, the minimum distances set forth in the table in this Section, and any #non-complying# distance greater than eight feet, may be reduced by up to eight inches of exterior wall thickness, provided the added wall thickness has a thermal resistance (R-value) of at least 1.5 per inch. A #non-complying# distance of eight feet or less shall be limited to a total reduction of one inch of wall thickness for each foot of such existing distance between buildings.

**Supplementary Regulations**

(12/15/61)

**23-72**

**Subdivision of a Zoning Lot after Development**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts as indicated, after any portion of a #zoning lot# has been #developed# under the provisions of Section 23-71 (Minimum Distance between Buildings on a Single Zoning Lot), such #zoning lot# may be divided into smaller #zoning lots# only if each resulting #zoning lot# and #building# or #buildings# thereon comply

with all the #bulk# regulations of the district in which they are located, except as provided in Article VII, Chapter 8.

(12/8/05)

**23-80**

**COURT REGULATIONS, MINIMUM DISTANCE BETWEEN WINDOWS AND WALLS OR LOT LINES AND OPEN AREA REQUIREMENTS**

**Definitions and General Provisions**

(12/15/61)

**23-81**

**Definitions**

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

Basic Regulations

(2/2/11)

**23-82**

**Building Walls Regulated by Minimum Spacing Requirements**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

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

(2/2/11)

**23-83**

**Building Walls Regulated by Other than Minimum Spacing Requirements**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

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

Section 23-84 (Outer Court Regulations)

Section 23-85 (Inner Court Regulations)

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

Section 23-87 (Permitted Obstructions in Courts).

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

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

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

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

(12/15/61)

**23-84**  
**Outer Court Regulations**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

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

(3/22/16)

**23-841**

**Narrow outer courts**

R1 R2 R3 R4 R5

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

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

R6 R7 R8 R9 R10

- (b) In the districts indicated, if an #outer court# is less than 30 feet wide, the width of such #outer court# shall be at least equal to the depth of such #outer court#. However, the depth of an #outer court# may exceed its width in a small #outer court#, provided that:

- (1) no #legally required windows# shall face onto such small #outer court# or any #outer court recess# thereof;
- (2) such small #outer court# is located above the level of the first #story#;
- (3) the area of such small #outer court# shall not be less than 200 square feet and no dimension shall be less than ten feet; and
- (4) where the perimeter walls of such small #outer court# exceed a height of 75 feet, as measured from the lowest level of such #outer court#, at least 50 percent of such perimeter walls above a height of 75 feet shall setback ten feet from the court opening. However, the depth of such required setback may be reduced one foot for every foot the minimum dimension of such court exceeds a width of ten feet.

(3/22/16)

**23-842**

**Wide outer courts**

R1 R2 R3 R4 R5

- (a) In the districts indicated, if an #outer court# is 30 feet or

more in width, the width of such #outer court# must be at least equal to the depth of such #outer court#, except that such width need not exceed 60 feet.

R6 R7 R8 R9 R10

- (b) In the districts indicated, if an #outer court# is 30 feet or more in width, an #outer court# may extend to any depth.

(3/22/16)

### **23-843**

#### **Outer court recesses**

R1 R2 R3 R4 R5

- (a) In the districts indicated, the width of an #outer court recess# shall be at least twice the depth of the recess, except that such width need not exceed 60 feet.

R6 R7 R8 R9 R10

- (b) In the districts indicated, the width of an #outer court recess# shall be at least equal to the depth of such #outer court recess#, except that such width need not exceed 30 feet.

(3/22/16)

### **23-844**

#### **Modification of court and side yard regulations in the area of the former Bellevue South Urban Renewal Plan in the Borough of Manhattan**

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

(12/15/61)

## 23-85

### Inner Court Regulations

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

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

(3/22/16)

## 23-851

### Minimum dimensions of inner courts

For the purposes of this Section, that portion of an open area not part of an #inner court# and over which, when viewed directly from above, lines perpendicular to a #lot line# may be drawn into such #inner court#, shall be considered part of such #inner court#.

R1 R2 R3 R4 R5

- (a) In the districts indicated, the area of an #inner court# shall not be less than 1,200 square feet, and the minimum dimension of such #inner court# shall not be less than 30 feet. In R1, R2 and R3 Districts, the area of an #inner court# shall not be less than 200 square feet and the minimum dimension of such #inner court# shall not be less than 12 feet.

R6 R7 R8 R9 R10

- (b) In the districts indicated, the area of an #inner court# shall not be less than 1,200 square feet, and the minimum dimension of such #inner court# shall not be less than 30 feet.

However, the area and dimensions of an #inner court# may be reduced for a small #inner court#, provided that:

- (1) no #legally required windows# shall face onto such small #inner court# or any #inner court recess# thereof;
- (2) the area of such small #inner court# shall not be less than 200 square feet and no dimension shall be less than ten feet; and
- (3) where the perimeter walls of such small #inner court# exceed a height of 75 feet, as measured from the lowest level of such #outer court#, at least 50 percent of such perimeter walls above a height of 75 feet shall setback ten feet from the court opening. However, the depth of

such required setback may be reduced one foot for every foot the minimum dimension of such court exceeds a width of ten feet.

(3/22/16)

**23-852**

**Inner court recesses**

R1 R2 R3 R4 R5

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

R6 R7 R8 R9 R10

- (b) In the districts indicated, the width of an #inner court recess# shall be at least equal to the depth of the #inner court recess#, except that such width need not exceed 30 feet.

(2/2/11)

**23-86**

**Minimum Distance Between Legally Required Windows and Walls or Lot Lines**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

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

- (a) in R2X, R3, R4 or R5A Districts, with a maximum height of 35 feet and with a maximum of three units; and
- (b) in other districts either:
- (1) with a maximum height of 32 feet and with a maximum of three units; or
  - (2) with three #stories# if the lowest #story# is either a #basement# or is excluded from #floor area# by definition.

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

(3/22/16)

## **23-861**

### **General provisions**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

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

- (a) any wall;
- (b) a #rear lot line#, or vertical projection thereof; or
- (c) a #side lot line#, or vertical projection thereof;

shall be 30 feet, measured in a horizontal plane at the sill level of, and perpendicular to, such window for the full width of the rough window opening; provided, however, that a #legally required window# may open on any #outer court# meeting the requirements of Section 23-84 (Outer Court Regulations), except for small #outer courts# in R6 through R10 Districts, the provisions for which are set forth in paragraph (b) of Section 23-841 (Narrow outer courts).

However, for shallow #interior lots# in R6 through R10 Districts, the minimum distance between a #legally required window# and a #rear lot line#, or vertical projection thereof, may be reduced to equal the #rear yard# depth required pursuant to the provisions of Section 23-52 (Special Provisions for Shallow Interior Lots). However, in no event shall such minimum distance between a #legally required window# and a #rear lot line#, or vertical projection thereof, be less than 20 feet.

In R3, R4 and R5 Districts, the minimum dimension between a #legally required window# and a #side lot line# shall be 15 feet. Such 15 foot dimension shall be measured in a horizontal plane perpendicular to the #side lot line# or vertical projection thereof. Furthermore, such area with a 15 foot dimension shall be open to the sky from ground level up for the entire length of the #side lot line#. Only air conditioning condensation units, chimneys, downspouts, eaves, exterior wall thickness, gutters, open #accessory# off-street

parking spaces, ramps for access by the handicapped, and steps shall be permitted obstructions in such open area, subject to the conditions set forth in paragraph (a) of Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents), and provided such obstructions will not reduce the minimum width of the open area by more than three feet.

(4/30/12)

**23-862**

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

R9 R10

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

(3/22/16)

**23-863**

**Minimum distance between legally required windows and any wall in an inner court**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, the minimum horizontal distance between a #legally required window# opening on an #inner court# and any wall opposite such window on the same #zoning lot# shall not be less than 30 feet. However, such provisions shall not apply to small #inner courts#, the provisions for which are set forth in paragraph (b) of Section 23-851 (Minimum dimensions of inner courts).

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

(3/22/16)

**23-87**

**Permitted Obstructions in Courts**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

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

- (a) Arbors or trellises;
- (b) Awnings and other sun control devices. However, when located at a level higher than the first #story#, excluding a #basement#, all such devices:
  - (1) shall be limited to a maximum projection from a #building# wall of 2 feet, 6 inches; and
  - (2) shall have solid surfaces that, in aggregate, cover an area no more than 30 percent of the area of the #building# wall (as viewed in elevation) from which they project;
- (c) Eaves, gutters, downspouts, window sills, or similar projections extending into such #court# not more than four inches;
- (d) Exterior wall thickness, where such wall thickness is added to the exterior face of a #building# wall existing on April 30, 2012, provided the added wall thickness has a thermal resistance (R-value) of at least 1.5 per inch, and is limited to one inch of thickness for every foot of existing #court# width, up to a maximum thickness of eight inches;

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

- (e) Fences;
- (f) Fire escapes in #outer courts#;  
Fire escapes in #outer court recesses# not more than five feet

in depth;

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

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

- (g) Flagpoles;
- (h) Open terraces, porches, steps, ramps or lifts for persons with physical disabilities;
- (i) Recreational or drying yard equipment;
- (j) Solar energy systems on walls existing on April 30, 2012, projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects;

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

(4/30/08)

## **23-88**

### **Minimum Distance Between Lot Lines and Building Walls**

(2/2/11)

## **23-881**

### **Minimum distance between lot lines and building walls in lower density growth management areas**

In R1, R2, R3, R4A and R4-1 Districts within #lower density growth management areas#, the provisions of this Section shall apply to any #zoning lot# with two or more #buildings#, where at least 75 percent of the #floor area# of one #building# is located beyond 50 feet of a #street line# and the #private road# provisions do not apply. For the purposes of this Section, any #building# containing #residences# with no #building# containing #residences# located between it and the #street line# so that lines drawn perpendicular to the #street

line# do not intersect any other #building# containing #residences# shall be considered a "front building," and any #building# containing #residences# with at least 75 percent of its #floor area# located beyond the #rear wall line#, or prolongation thereof, of a "front building" shall be considered a "rear building". An open area with a minimum width of 15 feet shall be provided between any such "rear building" and the #side lot line# of an adjoining #zoning lot#, and an open area with a minimum width of 30 feet shall be provided between any such "rear building" and the #rear lot line# of an adjoining #zoning lot#. The permitted obstruction provisions of Section 23-44 for #side yards# shall apply where such open areas adjoin a #side lot line#, and the permitted obstruction provisions of Section 23-44 for #rear yards# shall apply where such open areas adjoin a #rear lot line#.

(4/30/08)

### **23-882**

#### **Minimum distance between lot lines and building walls in R1 through R5 Districts**

R1 R2 R3 R4 R5

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

(4/14/10)

### **23-89**

#### **Open Area Requirements for Residences**

(4/30/12)

### **23-891**

#### **In R1 through R5 Districts**

R1 R2 R3 R4 R5

In the districts indicated, except R4B and R5B Districts, the provisions of this Section shall apply to all #zoning lots# with two or more #buildings# or #building segments# containing #residences#.

All such #buildings# or #building segments# shall provide open areas in accordance with this Section. Only those obstructions set forth in Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents) shall be allowed, except that parking spaces, whether enclosed or unenclosed, and driveways, shall not be permitted within such open areas.

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

(3/22/16)

**23-892**  
**In R6 through R10 Districts**

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

In the districts indicated, and for #Quality Housing buildings# in R6 through R10 Districts without a letter suffix, the area of the #zoning lot# between the #street line# and all #street walls# of the #building# and their prolongations shall be planted at ground level, or in raised planting beds that are permanently affixed to the ground, pursuant to the provisions of Section 28-23 (Planting Areas).

(5/21/87)

**23-90**  
**INCLUSIONARY HOUSING**

(7/29/09)

## **23-91**

### **Definitions**

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

(3/22/16)

## **23-911**

### **General definitions**

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

Administering agent

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

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

Affordable floor area

- (a) Where all of the #dwelling units#, #rooming units# and #supportive housing units# in a #generating site# or #MIH site#, other than any #super's unit#, are #affordable housing units#, all of the #residential floor area#, or #community facility floor area# for a #supportive housing project#, in such #generating site# or #MIH site# is "affordable floor area."
- (b) Where one or more of the #dwelling units# or #rooming units# in a #generating site#, other than any #super's unit#, are not #affordable housing units#, the #affordable floor area# in such #generating site# is the sum of:

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

#### Affordable housing

"Affordable housing" consists of:

- (a) #affordable housing units#; and
- (b) #eligible common areas#.

#### Affordable housing fund

In a #Mandatory Inclusionary Housing area#, the "affordable housing

fund" is a fund administered by #HPD#, all contributions to which shall be used for development, acquisition, rehabilitation, or preservation of affordable housing, or other affordable housing purposes as set forth in the #guidelines#. Each contribution into such fund shall be reserved for use within the borough in which the #MIH development# making such contribution is located, and for a minimum of ten years, shall be reserved for use in the same Community District in which the #MIH development# making such contribution is located. #HPD# shall issue a public report on the use of such fund no less frequently than on an annual basis.

Further provisions for the use of such funds may be set forth in the #guidelines#.

#### Affordable housing plan

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

#### Affordable housing unit

An "affordable housing unit" is:

- (a) a #dwelling unit#, other than a #super's unit#, that is used for class A occupancy as defined in the Multiple Dwelling Law and that is or will be restricted, pursuant to a #regulatory agreement#, to occupancy by:
  - (1) #low income households#;
  - (2) where permitted by paragraph (c) of Section 23-154 (Inclusionary Housing), either #low income households# or a combination of #low income households# and #moderate income households# or #middle income households#;
  - (3) upon #resale# of #homeownership affordable housing units#, other #eligible buyers#, as applicable; or
  - (4) in #Mandatory Inclusionary Housing areas#, #qualifying households#;
- (b) a #rooming unit#, other than a #super's unit#, that is used for class B occupancy as defined in the Multiple Dwelling Law and that is or will be restricted, pursuant to a #regulatory agreement#, to occupancy by #low income households#; or

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

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

#### Capital element

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

#### Compensated development

In areas other than #Mandatory Inclusionary Housing areas#, a "compensated development" is a #development#, an #enlargement# of more than 50 percent of the #floor area# of an existing #building# or, where permitted by the provisions of Section 98-262 (Floor area increase), a #conversion# of a #building#, or portion thereof, from non-#residential use# to #dwelling units#, that is located within a #compensated zoning lot#.

#### Compensated zoning lot

A "compensated zoning lot" is a #zoning lot# not located in a #Mandatory Inclusionary Housing area#, that contains a #compensated development# and receives an increased #floor area ratio#, pursuant to the provisions of Sections 23-154 and 23-90, inclusive.

#### Completion notice

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

#### Eligible common area

In a #generating site#, "eligible common area" includes any #residential floor area# that is located within the perimeter walls

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

In an #MIH site#, an #eligible common area# includes any #residential floor area# that is located within a #super's unit#, and any #residential floor area# in such #MIH site# that is not located within any other #dwelling unit# or #rooming unit#, but shall not include any #residential floor area# for which a user fee is charged to residents of #affordable housing units#.

#### Floor area compensation

"Floor area compensation" is any additional #residential floor area# permitted in a #compensated development#, pursuant to the provisions of Sections 23-154 and 23-90, inclusive.

#### Generating site

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

A #generating site# may also be an #MIH site#, provided that no #floor area# that satisfies the requirements of paragraphs (d)(3)(i) through (d)(3)(iv) or (d)(5) of Section 23-154 (Inclusionary Housing) may also generate #floor area compensation#.

#### Grandfathered tenant

A "grandfathered tenant" is any #household# that:

- (a) occupied an #affordable housing unit# in #preservation affordable housing# or #substantial rehabilitation affordable housing# on the #regulatory agreement date#, pursuant to a lease, occupancy agreement or statutory tenancy under which one or more members of such #household# was a primary tenant of such #affordable housing unit#; and
- (b) has not been certified by the #administering agent# to have an annual income below the #low income limit#, #moderate income limit# or #middle income limit#, as applicable to such #affordable housing unit#; or

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

In #Mandatory Inclusionary Housing areas#, #grandfathered tenants# may include tenants of #buildings# on an #MIH site# that have been or will be demolished, as set forth in the #guidelines#.

#### Guidelines

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

#### Household

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

#### HPD

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

#### Income band

An "income band" is a percentage of the #income index# that is the maximum income for a #qualifying household# at #initial occupancy# of an #affordable housing unit#. #Income bands# shall all be multiples of ten percent of the #income index#, except for an #income band# at 135 percent of the #income index# provided pursuant to paragraph (d) (3) (iv) of Section 23-154 (Inclusionary Housing).

#### Income index

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

Initial occupancy

"Initial occupancy" is:

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

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

Low income floor area

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

Low income household

A "low income household" is a #household# having an income less than or equal to the #low income limit# at #initial occupancy#, except that, with regard to #low income floor area# within #preservation affordable housing# or #substantial rehabilitation affordable

housing#, a #grandfathered tenant# shall also be a #low income household#.

Low income limit

The "low income limit" is 80 percent of the #income index#.

Middle income floor area

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

Middle income household

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

Middle income limit

The "middle income limit" is 175 percent of the #income index#.

MIH application

An "MIH application" is an application submitted to #HPD# that specifies how #affordable housing# will be provided on an #MIH site#, in compliance with the provisions of Section 23-90 (INCLUSIONARY HOUSING), inclusive.

MIH development

In #Mandatory Inclusionary Housing areas#, an "MIH development" is a #development#, #enlargement# or #conversion# that complies with the provisions of paragraphs (d)(3)(i) through (d)(3)(v) of Section 23-154 (Inclusionary Housing), or provides #affordable housing# or a contribution to the #affordable housing fund# pursuant to such provisions as modified by special permit of the Board of Standards and Appeals pursuant to Section 73-624 (Reduction or modification of Mandatory Inclusionary Housing requirements).

## MIH site

An "MIH site" is a #building# containing #affordable floor area# that satisfies either the special #floor area# provisions for #zoning lots# in #Mandatory Inclusionary Housing areas# in paragraphs (d)(3)(i) through (d)(3)(iv) and (d)(5), as applicable, of Section 23-154 (Inclusionary Housing) for an #MIH development# in a #Mandatory Inclusionary Housing area#, or such provisions as modified by special permit of the Board of Standards and Appeals pursuant to Section 73-624 (Reduction or modification of Mandatory Inclusionary Housing requirements).

An #MIH site# may also be a #generating site#, provided that no #floor area# that satisfies the requirements of paragraphs (d)(3)(i) through (d)(3)(iv) or (d)(5) of Section 23-154 may also generate #floor area compensation#.

## MIH zoning lot

An "MIH zoning lot" is a #zoning lot# that contains an #MIH development#.

## Moderate income floor area

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

## Moderate income household

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

## Moderate income limit

The "moderate income limit" is 125 percent of the #income index#.

## New construction affordable housing

"New construction affordable housing" is #affordable housing# that:

- (a) is located in a #building# or portion thereof that did not exist on a date which is 36 months prior to the #regulatory agreement date#;
- (b) is located in #floor area# for which the Department of Buildings first issued a temporary or permanent certificate of occupancy on or after the #regulatory agreement date#; and
- (c) complies with such additional criteria as may be specified by #HPD# in the #guidelines#.

#### Permit notice

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

- (a) state the amount of #low income floor area#, #moderate income floor area# or #middle income floor area# attributable to such #generating site#;
- (b) state whether the #affordable housing# comprising such #low income floor area#, #moderate income floor area# or #middle income floor area# is #new construction affordable housing#, #substantial rehabilitation affordable housing# or #preservation affordable housing#;
- (c) state whether the #affordable housing# comprising such #low income floor area#, #moderate income floor area# or #middle income floor area# has utilized #public funding#; and
- (d) specify the amount of such #affordable housing# that the #compensated development# may utilize to generate #floor area compensation#.

For #MIH developments#, a #permit notice# is a notice from #HPD# to the Department of Buildings stating that building permits may be issued for any #development#, #enlargement# or #conversion# subject to the special #floor area# requirements of paragraph (d) of Section 23-154 (Inclusionary Housing), or any modification of such provisions by special permit of the Board of Standards and Appeals pursuant to Section 73-624 (Reduction or modification of Mandatory Inclusionary Housing requirements). Such #permit notice# shall state the amount of #affordable floor area# provided on an #MIH site# or the amount of #floor area# for which a contribution to the #affordable housing fund# has been made.

## Preservation affordable housing

"Preservation affordable housing" is #affordable housing# that:

- (a) is a #generating site# that existed and was legally permitted to be occupied on the #regulatory agreement date#, except as permitted in the #guidelines#; and
- (b) complies with the provisions of Section 23-961, paragraph (e) (Special requirements for rental preservation affordable housing) or Section 23-962, paragraph (f) (Special requirements for homeownership preservation affordable housing), as applicable.

## Public funding

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

## Qualifying household

In a #Mandatory Inclusionary Housing area#, a "qualifying household" is a #low income household#, #moderate income household# or #middle income household# with an income not exceeding the applicable #income band# as specified in paragraphs (d)(3)(i) through (d)(3)(iv) of Section 23-154 (Inclusionary Housing) or as provided by special permit of the Board of Standards and Appeals pursuant to Section 73-624 (Reduction or modification of Mandatory Inclusionary Housing requirements).

## Regulatory agreement

A "regulatory agreement" is an agreement between #HPD# and the owner of the #affordable housing# or, for #MIH sites#, a restrictive declaration or other document as provided in the #guidelines#, that

requires compliance with all applicable provisions of an #affordable housing plan# or #MIH application#, Section 23-90, inclusive, other applicable provisions of this Resolution and the #guidelines#.

#### Regulatory agreement date

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

#### Regulatory period

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

With respect to any #MIH site#, the #regulatory period# is the entire period of time during which #affordable floor area# on such #MIH site# satisfies the requirements of the special #floor area# provisions for #zoning lots# in #Mandatory Inclusionary Housing areas# in paragraph (d) of Section 23-154 (Inclusionary Housing) for an #MIH development# or any modification of such provisions by special permit of the Board of Standards and Appeals pursuant to Section 73-624 (Reduction or modification of Mandatory Inclusionary Housing requirements), is the subject of a permit, temporary certificate of occupancy or permanent certificate of occupancy issued by the Department of Buildings, or is otherwise under construction or in use.

#### Substantial rehabilitation affordable housing

"Substantial rehabilitation affordable housing" is #affordable housing# that:

- (a) is a #generating site# that existed on the #regulatory agreement date#; and
- (b) complies with the provisions of Section 23-961, paragraph (f) (Special requirements for rental substantial rehabilitation affordable housing), or Section 23-962, paragraph (g) (Special

requirements for homeownership substantial rehabilitation affordable housing), as applicable.

Super's unit

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

(3/22/16)

## **23-912**

### **Definitions applying to rental affordable housing**

The following definitions shall apply to rental #affordable housing#:

Legal regulated rent

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

Maximum monthly rent

The "maximum monthly rent" is:

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

For #MIH sites#, the #maximum monthly rent# for an #affordable housing unit# restricted to occupancy by a #qualifying household# is

30 percent of the #income band# applicable to that unit, divided by 12, minus any applicable utility allowance.

#### Monthly rent

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

#### Rent stabilization

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

#### Rent-up

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

#### Rent-up date

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

#### Supportive housing project

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

- (a) 100 percent of the #supportive housing units# within such

#generating site#, have been restricted to use as #affordable housing# for persons with special needs pursuant to a #regulatory agreement#;

(b) such #generating site# does not contain any #dwelling unit# or #rooming unit# that is not #accessory#; and

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

However, in a #Mandatory Inclusionary Housing area#, a #supportive housing project# is a #building# or a portion thereof that is a non-profit institution with sleeping accommodations, as specified in Section 22-13 restricted to use as #affordable housing# for persons with special needs pursuant to a #regulatory agreement#.

#### Supportive housing unit

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

#### Utility allowance

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

(3/22/16)

### **23-913**

#### **Definitions applying to homeownership affordable housing**

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

#### Appreciated price

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

## Appreciation cap

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

- (a) 125 percent of the #income index# for a #homeownership affordable housing unit# that was restricted to occupancy by #low income households# at #sale#; or
- (b) 175 percent of the #income index# for a #homeownership affordable housing unit# that was restricted to occupancy by #moderate income households# at #sale#; or
- (c) 200 percent of the #income index# for a #homeownership affordable housing unit# that was restricted to occupancy by #middle income households# at #sale#.

For #MIH sites#, the multiple of the #income index# for #homeownership affordable housing units# occupied by #qualifying households# shall be as specified in the #guidelines#.

## Appreciation index

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

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

## Commencement date

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

#### Condominium association

A "condominium association" is an organization of condominium #homeowners#, with a form of governance specified in the #guidelines#, that manages the common areas and #capital elements# of a #generating site# or #MIH site#.

#### Cooperative corporation

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

#### Down payment

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

#### Eligible buyer

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

(a) except in the case of #succession#:

- (1) be, at the time of application for an initial #sale#, a #low income household#, #moderate income household#, #middle income household# or #qualifying household# for which, at the #initial price#, the combined cost of #monthly fees#, #mortgage payments#, utilities and property taxes that would be paid for a #homeownership affordable housing unit# is not more than 35 percent and not less than 25 percent of such #household's# income.

However, for a #household# that resided on a #generating site# or #MIH site# on the date of submission of an #affordable housing plan#, #HPD# may waive the requirement that housing costs be not less than 25 percent of such #household's# income;

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

(b) in the case of #succession#:

- (1) be, at the time of application, a #household# for which, at the #maximum resale price#, the combined cost of #monthly fees#, #imputed mortgage payments#, utilities and property taxes for the subject #homeownership affordable housing unit# is not less than 25 percent of such #household's# income; and
- (2) meet such additional eligibility requirements as may be specified in the #guidelines#.

A #grandfathered tenant# is not an #eligible buyer# unless such #grandfathered tenant# has been certified by the #administering agent# to have an annual income at or below the #low income limit#, #moderate income limit# or #middle income limit#, as applicable to such #homeownership affordable housing unit# or, for #MIH sites#, meets such qualifications for eligibility specified in the #guidelines#.

Family member

"Family member" shall have the meaning set forth in the #guidelines#.

#### Homeowner

A "homeowner" is a person or persons who:

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

#### Homeownership

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

#### Imputed mortgage payment

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

#### Initial price

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

#### Maximum resale price

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

## Monthly fees

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

## Mortgage

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

## Mortgage payment

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

## Resale

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

## Sale

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

## Sale date

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

#### Succession

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

(3/22/16)

### **23-92**

#### **General Provisions**

The Inclusionary Housing Program is established to promote the creation and preservation of housing for residents with varied incomes in redeveloping neighborhoods and to enhance neighborhood economic diversity and thus to promote the general welfare. The requirements of this program are set forth in Section 23-90 (INCLUSIONARY HOUSING), inclusive.

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

(7/29/09)

### **23-93**

#### **Applicability**

(3/22/16)

### **23-931**

#### **Lower income housing plans approved prior to July 29, 2009**

Any #lower income housing plan#, as defined by Section 23-93 prior to July 29, 2009, that has been approved by #HPD# prior to such date, and results, within one year after such approval, in the execution of a restrictive declaration pursuant to Section 23-95,

paragraph (e), as such Section existed prior to July 29, 2009, shall be governed solely by the regulations in effect prior to July 29, 2009, unless a #regulatory agreement# with respect thereto specifically provides to the contrary. However, Section 23-953 (Additional requirements for compensated developments and MIH developments) shall apply to any permits or certificates of occupancy for #compensated developments# issued on or after July 29, 2009.

The #floor area ratio# of a #compensated development# may be increased in exchange for #lower income housing#, pursuant to a #lower income housing plan#, as both terms were defined by Section 23-93 prior to July 29, 2009, provided such #lower income housing# complies with all applicable provisions of Section 23-90 (INCLUSIONARY HOUSING) in effect prior to July 29, 2009, except as provided in this Section. Where such a #compensated development# is located in an R10 District outside of #Inclusionary Housing designated areas#, the provisions of paragraph (a) of Section 23-154 (Inclusionary Housing) shall not apply, and Section 23-941 (In R10 Districts other than Inclusionary Housing designated areas) as such Section existed prior to July 29, 2009, shall apply.

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

(3/22/16)

**23-932**  
**R10 districts**

The Inclusionary Housing Program shall apply in all R10 Districts located in #Inclusionary Housing designated areas#, subject to the provisions of paragraph (b) of Section 23-154 (Inclusionary Housing) and in all R10 Districts located in #Mandatory Inclusionary Housing areas#, pursuant to the provisions of paragraph (d) of such Section. The Inclusionary Housing Program shall apply in all other R10 Districts, subject to the provisions of paragraph (a) of Section 23-154, as applicable.

(3/22/16)

**23-933**  
**Inclusionary Housing designated areas and Mandatory Inclusionary**

## **Housing areas**

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

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

The Inclusionary Housing Program shall also apply as a condition of City Planning Commission approval of special permits as set forth in Section 74-32 (Additional Considerations for Special Permit Use and Bulk Modifications), in Special Purpose Districts as set forth in Section 23-934 (Special permit approval in Special Purpose Districts) and in waterfront areas as set forth in Section 62-831 (General Provisions).

#Inclusionary Housing designated areas# and #Mandatory Inclusionary Housing areas#, with the applicable income mix options for each #Mandatory Inclusionary Housing area#, are listed in [APPENDIX F](#) of this Resolution.

(3/22/16)

### **23-934**

#### **Special permit approval in Special Purpose Districts**

Where a special purpose district includes a provision to grant modification of #use# or #bulk# by special permit of the City Planning Commission, and an application for such special permit would allow a significant increase in #residential floor area# where the special #floor area# requirements in #Mandatory Inclusionary Housing areas# of paragraph (d) of Section 23-154 (Inclusionary Housing) are not otherwise applicable, the Commission, in establishing the appropriate terms and conditions for the granting of such special permit, shall apply such requirements where consistent with the objectives of the Mandatory Inclusionary Housing program as set forth in Section 23-92 (General Provisions). However, where the Commission finds that such special permit application would facilitate significant public infrastructure or public facilities addressing needs that are not created by the proposed #development#, #enlargement# or #conversion#, or where the area affected by the special permit is eligible to receive transferred development rights pursuant to the Hudson River Park Act, as amended, the Commission may modify the requirements of such paragraph (d).

(3/22/16)

## 23-94

### Methods of Providing Affordable Housing

- (a) Except in #Mandatory Inclusionary Housing areas#, #affordable housing# shall be either #new construction affordable housing#, #substantial rehabilitation affordable housing# or #preservation affordable housing#. In #Mandatory Inclusionary Housing areas#, #affordable housing# shall be either #new construction affordable housing# or a #conversion# from non-#residential# to #residential use#. Such #conversions# shall comply with the requirements of Section 23-90, inclusive, applicable to #new construction affordable housing#.
- (b) When determining whether #affordable housing# is #new construction affordable housing#, #substantial rehabilitation affordable housing# or #preservation affordable housing# in order to calculate #floor area compensation#, or when making a determination of which #building# or #building segment# constitutes a #generating site#, #HPD# may separately consider each #building# or #building segment# on a #zoning lot#. Where any such #building# consists of two or more contiguous sections separated by walls or other barriers, #HPD# may consider all relevant facts and circumstances when determining whether to consider the sections of such #building# separately or collectively, including, but not limited to, whether such sections share systems, utilities, entrances, common areas or other common elements and whether such sections have separate deeds, ownership, tax lots, certificates of occupancy, independent entrances, independent addresses or other evidence of independent functional use.
- (c) The amount of #affordable floor area# in any #generating site# or #MIH site# shall be determined based upon plans for such #generating site# or #MIH site# which have been approved by the Department of Buildings and which indicate thereon the amount of #floor area# devoted to #affordable housing# and the amount of #floor area# devoted to other #residential uses#. However, for #generating sites# where the Department of Buildings does not require #floor area# calculations, the amount of #affordable floor area# shall be determined by methods specified in the #guidelines#.
- (d) The amount of #low income#, #moderate income# and #middle income floor area# in a #generating site# and the amount of qualifying #floor area# for any #income band# in an #MIH site#

shall be determined by the same method as the calculation of #affordable floor area#.

- (e) #Affordable housing units# shall be either rental #affordable housing# or #homeownership affordable housing#.
- (f) An #MIH site# that is part of an #MIH zoning lot# and contains no #dwelling units# other than #affordable housing units# shall be either a #building# that:
  - (1) shares a common #street# entrance with another #building# on the #zoning lot# that contains #dwelling units# other than #affordable housing units#; or
  - (2) is independent, from grade at the #street wall line# to the sky, of any other #building# on the #zoning lot# containing #dwelling units# other than #affordable housing units#. Such #building# shall have its primary entrance on a #street# frontage that has primary entrances for other #residential buildings#, except where #HPD# determines that the primary entrance is located in a manner that does not stigmatize occupants of #affordable housing units#.

(3/22/16)

## **23-95**

### **Compensated Zoning Lots and MIH Zoning Lots**

The #residential floor area ratio# of a #compensated zoning lot# may be increased, and the #residential floor area ratio# of an #MIH zoning lot# shall be determined, in accordance with the applicable provisions of Section 23-154 (Inclusionary Housing).

(3/22/16)

## **23-951**

### **Height and setback for compensated developments in Inclusionary Housing designated areas**

In #Inclusionary Housing designated areas#, the #compensated development# shall comply with the height and setback regulations of Sections 23-66 or 35-65 (Height and Setback Requirements for Quality Housing Buildings) as applicable, except that:

- (a) in #Special Mixed Use Districts#, the #compensated development# shall comply with the provisions of paragraphs (a) or (b) of

Section 123-662 (All buildings in Special Mixed Use Districts with R6, R7, R8, R9 and R10 District designations), as applicable. However, where the #Residence District# designation is an R6 District without a letter suffix, the #compensated development# shall comply with the height and setback regulations of Section 23-66, regardless of whether the #building# is #developed# or #enlarged# pursuant to the Quality Housing Program;

- (b) in R10 Districts without a letter suffix, the #compensated development# shall comply with the underlying height and setback regulations for such district; and
- (c) on #waterfront blocks# and in R7-3 Districts, the #compensated development# shall comply with the special regulations applying in the #waterfront area# set forth in Section 62-30 (SPECIAL BULK REGULATIONS), inclusive.

(3/22/16)

## **23-952**

### **Height and setback in Mandatory Inclusionary Housing areas**

In #Mandatory Inclusionary Housing areas#, the provisions of Section 23-951 shall apply to #MIH developments#, except as modified in this Section.

- (a) In R6, R7 and R8 Districts without a letter suffix, the alternative height and setback regulations for certain #Quality Housing buildings# in non-contextual districts as set forth in paragraph (c) of Section 23-664 may apply to any #building# on a #zoning lot# located within a #Mandatory Inclusionary Housing area#. Such #zoning lot# need not be located within 150 feet of: an open railroad right-of-way in active use; a limited-access expressway, freeway, parkway or highway, all of which prohibit direct vehicular access to adjoining land; or an elevated #street# located on a bridge that prohibits direct vehicular access.
- (b) In R9 Districts without a letter suffix, the regulations of Section 23-651 (Tower-on-a-base) may apply, provided such #MIH development# is on a #zoning lot# that meets the requirements set forth in paragraph (a) of Section 23-65 (Tower Regulations).
- (c) In R6-R9 Districts without a letter suffix within #Mandatory Inclusionary Housing areas#, the height and setback regulations of Section 23-64 (Basic Height and Setback Regulations) may

apply. In addition, for R9 Districts that do not meet the requirements of paragraphs (a) and (c) of Section 23-65 (Tower Regulations), the tower provisions of Section 23-652 (Standard tower) may apply, subject to the #lot coverage# provisions of Section 23-65. However, when the height and setback and tower regulations specified in this paragraph are utilized, the maximum #floor area ratio# on an #MIH zoning lot# shall be determined in accordance with the provisions of Section 23-151 (Basic regulations for R6 through R9 Districts).

(3/22/16)

### **23-953**

#### **Additional requirements for compensated developments and MIH developments**

- (a) #Compensated development# or #MIH development# building permits
  - (1) #HPD# may issue a #permit notice# to the Department of Buildings at any time on or after the #regulatory agreement date#. The Department of Buildings may thereafter issue building permits to a #compensated development# that utilizes #floor area compensation# or an #MIH development#, based on the #affordable housing# or contribution to the #affordable housing fund# described in such #permit notice#.
  - (2) If #HPD# does not receive confirmation that the #regulatory agreement# has been recorded within 45 days after the later of the #regulatory agreement date# or the date upon which #HPD# authorizes the recording of the #regulatory agreement#, #HPD# shall suspend or revoke such #permit notice#, notify the Department of Buildings of such suspension or revocation and not reinstate such #permit notice# or issue any new #permit notice# until #HPD# receives confirmation that the #regulatory agreement# has been recorded or any applicable alternate procedure has been completed. Upon receipt of notice from #HPD# that a #permit notice# has been suspended or revoked, the Department of Buildings shall suspend or revoke each building permit issued pursuant to such #permit notice# which is then in effect for any #compensated development# or #MIH development#.
- (b) #Compensated development# or #MIH development# certificates of occupancy

- (1) The Department of Buildings shall not issue a temporary or permanent certificate of occupancy for any portion of the #compensated development# that utilizes #floor area compensation# or #MIH development# until #HPD# has issued a #completion notice# with respect to the #affordable housing# that generates such #floor area compensation# or satisfies the requirements of paragraph (d) of Section 23-154 (Inclusionary Housing) or any modification of such provisions by special permit of the Board of Standards and Appeals pursuant to Section 73-624 (Reduction or modification of Mandatory Inclusionary Housing requirements). However, where any #story# of a #compensated development# or #MIH development# contains one or more #affordable housing units#, the Department of Buildings may issue any temporary or permanent certificate of occupancy for such #story# if such temporary or permanent certificate of occupancy either includes each #affordable housing unit# located in such #story# or only includes #dwelling units# or #rooming units# that are #affordable housing units#. Nothing in the preceding sentence shall be deemed to prohibit the granting of a temporary or permanent certificate of occupancy for a #super's unit#.
- (2) #HPD# shall not issue a #completion notice# with respect to any portion of any #generating site# or #MIH site# unless:
  - (i) the Department of Buildings has issued temporary or permanent certificates of occupancy for all #affordable housing# described in such #completion notice# and such certificates of occupancy have not expired, been suspended or been revoked; or
  - (ii) where a #generating site# contains #affordable housing# that had a valid certificate of occupancy on the #regulatory agreement date# and no new temporary or permanent certificate of occupancy is thereafter required for the creation of such #affordable housing#, #HPD# has determined that all renovation and repair work required by the applicable #regulatory agreement# has been completed and all obligations with respect to the creation of such #affordable housing# have been fulfilled in accordance with the applicable #regulatory agreement#.

(3/22/16)

## 23-96

### Requirements for Generating Sites or MIH Sites

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

- (a) Location of #generating site# or #MIH site# and #compensated zoning lot# or #MIH zoning lot#

Where a #generating site# or #MIH site# is not located within the #compensated zoning lot# for which it generates #floor area compensation# or the #MIH zoning lot#, as applicable:

- (1) the #generating site# or #MIH site# and the #compensated zoning lot# or #MIH zoning lot#, as applicable, shall be located within the same Community District; or
- (2) the #generating site# or #MIH site# and the #compensated zoning lot# or #MIH zoning lot#, as applicable, shall be located in adjacent community districts and within one-half mile of each other, measured from the perimeter of each #zoning lot#.

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

- (b) Distribution of #affordable housing units#

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

- (1) the #affordable housing units# shall be distributed on not less than 65 percent of the #residential stories# of such #generating site# or, if there are insufficient #affordable housing units# to comply with this

requirement, the distribution of #affordable housing units# shall be as specified in the #guidelines#; and

- (2) not more than one-third of the #dwelling units# and #rooming units# on any #story# of such #generating site# shall be #affordable housing units#, unless not less than one-third of the #dwelling units# and #rooming units# on each #residential story# of such #generating site# are #affordable housing units#. However, on a #residential story# with fewer than three #dwelling units# or #rooming units#, only one #dwelling unit# or #rooming unit# may be an #affordable housing unit#, unless not less than one #dwelling unit# or #rooming unit# on each floor is an #affordable housing unit#.

In an #MIH site#, where one or more of the #dwelling units# or #rooming units#, other than any #super's unit#, are not #affordable housing units#, the #affordable housing units# shall share a common primary entrance with the other #dwelling units# or #rooming units#.

In addition, except where all #affordable housing units# are rental #affordable housing# and all other #dwelling units# are #homeownership# housing, any #affordable housing units# other than #supportive housing units# or #affordable independent residences for seniors# shall be distributed on at least 65 percent of the #residential stories# of such #MIH site# or, if there are insufficient #affordable housing units# to comply with this requirement, the distribution of #affordable housing units# shall be as specified in the #guidelines#.

However, #HPD# may waive such distribution requirements for any #new construction affordable housing# that is participating in a Federal, State or local program where such #generating site# or #MIH site# cannot comply with both the regulations of such Federal, State or local program and those of this Section. In addition, #HPD# may waive these requirements for #substantial rehabilitation affordable housing#, or for #affordable floor area# created in an #MIH site# through #enlargement#, as specified in the #guidelines#.

(c) Bedroom mix of #affordable housing units#

- (1) In #new construction affordable housing# and #substantial rehabilitation affordable housing#, where one or more of the #dwelling units# in a #generating site# or #MIH site#, other than any #super's unit#, are not #affordable housing units#, either:

- (i) the #dwelling units# in the #generating site# or #MIH

site# that are #affordable housing units# shall contain a bedroom mix at least proportional to the bedroom mix of the #dwelling units# in the #generating site#, other than any #super's unit#, that are not #affordable housing units#; or

- (ii) not less than 50 percent of the #dwelling units# in the #generating site# or #MIH site# that are #affordable housing units# shall contain two or more bedrooms and not less than 75 percent of the #dwelling units# in the #generating site# or #MIH site# that are #affordable housing units# shall contain one or more bedrooms.

However, such bedroom mix requirements shall not apply to #affordable independent residences for seniors# in an #MIH site#. #HPD# may also waive such bedroom mix requirements for any #new construction affordable housing# that either is participating in a Federal, State or local program where such #generating site# or #MIH site# cannot comply with both the regulations of such Federal, State or local program and those of this Section, or is located on an #interior lot# or #through lot# with less than 50 feet of frontage along any #street#. In addition, #HPD# may waive these requirements for #substantial rehabilitation affordable housing# or #affordable floor area# created in an #MIH site# through #enlargement#, as specified in the #guidelines#.

- (2) Where all of the #dwelling units# in a #generating site# or #MIH site#, other than any #super's unit#, in #new construction affordable housing# and #substantial rehabilitation affordable housing# are #affordable housing units#, not less than 50 percent of such #affordable housing units# shall contain two or more bedrooms and not less than 75 percent of such #affordable housing units# shall contain one or more bedrooms. However, such bedroom mix requirements shall not apply to #affordable independent residences for seniors# in an #MIH site#. #HPD# may also waive these requirements for any #affordable housing# that is participating in a Federal, State or local program where such #generating site# or #MIH site# cannot comply with both the regulations of such Federal, State or local program and those of this Section. In addition, #HPD# may waive these requirements for #substantial rehabilitation affordable housing# or #affordable floor area# created in an #MIH site# through #enlargement#, as specified in the #guidelines#.
- (3) All of the #supportive housing units# in a #generating

site# or #MIH site# shall be #affordable housing units# and shall contain such configuration as #HPD# shall require.

- (4) For purposes of this paragraph, (c), inclusive, fractions equal to or greater than one-half resulting from any calculation shall be considered to be one #dwelling unit#.

(d) Size of #affordable housing units#

- (1) In #new construction affordable housing# and #substantial rehabilitation affordable housing#, an #affordable housing unit# in a #generating site# shall contain not less than:

(i) 400 square feet of #floor area# within the perimeter walls for a zero bedroom #dwelling unit#; or

(ii) 575 square feet of #floor area# within the perimeter walls for a one bedroom #dwelling unit#; or

(iii) 775 square feet of #floor area# within the perimeter walls for a two bedroom #dwelling unit#; or

(iv) 950 square feet of #floor area# within the perimeter walls for a three bedroom #dwelling unit#.

For an #MIH site#, the average size of #affordable housing units# of a particular bedroom count shall be not less than either the average size of #dwelling units# that are not #affordable housing units# with the same number of bedrooms, or the minimum size specified above for a #dwelling unit# of a particular bedroom count, whichever is less.

However, these unit size requirements shall not apply to #affordable independent residences for seniors# in an #MIH site#. #HPD# may also waive such unit size requirements for any #new construction affordable housing# that is participating in a Federal, State or local program where such #generating site# cannot comply with both the regulations of such Federal, State or local program and those of this Section. In addition, #HPD# may waive these requirements for #substantial rehabilitation affordable housing# or #affordable floor area# created in an #MIH site# through #enlargement#, as specified in the #guidelines#.

For an #MIH site#, #HPD# may specify the method of measuring #floor area# within #affordable housing units# in the #guidelines#, compliant with Department of

Buildings practice; and

- (2) Where all of the #dwelling units# in a #generating site# or #MIH site#, other than any #super's unit#, in #new construction# or #substantial rehabilitation affordable housing# are #affordable housing units#, #HPD# may waive such square footage requirements for any #affordable housing unit# that is participating in a Federal, State or local program where such #generating site# or #MIH site# cannot comply with both the regulations of such Federal, State or local program and those of this Section. In addition, #HPD# may waive such square footage requirements for #substantial rehabilitation affordable housing# or #affordable floor area# created in an #MIH site# through #enlargement#, as specified in the #guidelines#.
- (3) #Supportive housing units# shall comply with the size requirements specified by #HPD#.

(e) #Administering agent#

- (1) #HPD# shall approve each #administering agent# and may revoke such approval at any time before or during the #regulatory period#.
- (2) For #generating sites#, an #administering agent# shall be a not-for-profit entity and shall not be, or be an affiliate of, an owner or managing agent of the #generating site#, unless #HPD# approves such owner, managing agent or affiliate to serve as the #administering agent# upon a determination that either:
  - (i) the #affordable housing# is participating in a Federal, State or local program that provides adequate independent means of ensuring compliance with the #regulatory agreement#; or
  - (ii) the owner and any such managing agent or affiliate are not-for-profit entities and there are adequate safeguards to ensure that such entities comply with the #regulatory agreement#.
- (3) For #MIH sites#, the #administering agent# may be selected as provided for #generating sites#, or #HPD# may require that the #administering agent# be selected from a list of qualified not-for-profit or public entities as specified in the #guidelines#.
- (4) For a period of time specified in the #guidelines#, the #administering agent# shall maintain all records setting

forth the facts that form the basis of any affidavit submitted to #HPD#. The #administering agent# shall maintain such records, and such other records as #HPD# may require, at the offices of the #administering agent# or at such other location as may be approved by #HPD#. The #administering agent# shall make such records, and all facets of the operations of the #administering agent#, available for inspection and audit by #HPD# upon request.

(f) #Regulatory agreement#

The following provisions shall apply to #generating sites#:

- (1) the #regulatory agreement# shall require compliance with and shall incorporate by reference the #affordable housing plan# and the applicable provisions of this Zoning Resolution and the #guidelines# and shall contain such additional terms and conditions as #HPD# deems necessary;
- (2) the #regulatory agreement# shall require that #HPD# be provided with documentation indicating the amount of #affordable floor area#. For #new construction affordable housing# or #substantial rehabilitation affordable housing#, such documentation shall include, but shall not be limited to, plans meeting the requirements of Section 23-94, paragraph (c);
- (3) the #regulatory agreement# shall be recorded against all tax lots comprising the portion of the #zoning lot# within which the #generating site# is located and shall set forth the obligations, running with such tax lots, of the owner and all successors in interest to provide #affordable housing# in accordance with the #affordable housing plan# for the entire #regulatory period#;
- (4) #affordable housing# may serve to secure debt with the prior approval of #HPD#. Any lien securing such debt shall be subordinated to the #regulatory agreement#;
- (5) the #regulatory agreement# may, but shall not be required to, provide that such #regulatory agreement# may be terminated prior to the issuance of a temporary or permanent certificate of occupancy for any #compensated development# by the Department of Buildings; and
- (6) where all of the #dwelling units#, #rooming units# or #supportive housing units# in a #generating site#, other than any #super's unit#, are #affordable housing units#, the #regulatory agreement# shall provide that, following a default and any applicable opportunity to cure, #HPD# may,

in addition to any other remedies provided therein or by applicable law:

- (i) appoint a receiver to manage such #generating site#;  
or
  - (ii) take control of the board of directors of any housing development fund company or not-for-profit corporation that owns, controls or operates such #generating site#.
- (7) Where applicable in accordance with paragraph (b), (Monthly rent), of Section 23-961, the #regulatory agreement# shall provide that certain obligations shall survive the #regulatory period#.

For #MIH sites#, the following provisions shall apply:

- (8) The #regulatory agreement# shall require compliance with and shall incorporate by reference the #MIH application# and the applicable provisions of this Zoning Resolution and the #guidelines# and shall contain such additional terms and conditions as #HPD# deems necessary.
  - (9) The #regulatory agreement# shall require that #HPD# be provided with documentation indicating the amount of #affordable floor area#. For #new construction affordable housing# such documentation shall include, but shall not be limited to, plans meeting the requirements of paragraph (c) of Section 23-94.
  - (10) The #regulatory agreement# shall be recorded against all tax lots comprising the portion of the #zoning lot# within which the #MIH site# is located and shall set forth the obligations, running with such tax lots, of the owner and all successors in interest to provide #affordable housing# in accordance with the #MIH application# for the entire #regulatory period#.
  - (11) Where applicable in accordance with paragraph (b) (Monthly rent) of Section 23-961, the #regulatory agreement# shall provide that certain obligations shall survive the #regulatory period#.
- (g) Housing standards

Upon the date that #HPD# issues the #completion notice#, the #generating site# or #MIH site# shall be entirely free of violations of record issued by any City or State agency pursuant to the Multiple Dwelling Law, the Building Code, the

Housing Maintenance Code and this Zoning Resolution, except as may be otherwise provided in the #guidelines# with respect to non-hazardous violations in occupied #affordable housing units# of #preservation affordable housing# or #substantial rehabilitation affordable housing#.

(h) Insurance

The #affordable housing# in a #generating site# or #MIH site# shall at all times be insured against any damage or destruction in an amount not less than the replacement value of such #affordable housing#. Any insurance proceeds resulting from damage or destruction of all or part of the #generating site# or #MIH site# containing such #affordable housing# shall be used first to restore any damaged or destroyed #affordable housing#, except that #HPD# may provide priority for lenders participating in the financing of #affordable housing# that is assisted under City, State or Federal programs.

(i) Duration of obligations

The obligation to provide and maintain a specified amount of #affordable housing# on a #generating site# or #MIH site# shall run with the #zoning lot# containing such #generating site# or #MIH site# for not less than the #regulatory period#. If any portion of such #affordable housing# is damaged or destroyed, no #floor area# shall be #developed#, reconstructed or repaired on such #zoning lot#, and no #development#, #enlargement#, extension or change of #use# shall occur on such #zoning lot#, unless

(1) the amount of such #floor area# devoted to #affordable housing# is not less than the #floor area# of the #affordable housing# that was damaged or destroyed; or

(2) 100 percent of such #developed#, reconstructed or repaired #floor area# is #affordable housing#.

(j) One #generating site# or #MIH site# may satisfy requirements for multiple #compensated zoning lots# or #MIH zoning lots#, as applicable

Any #generating site# or #MIH site# may contain #affordable housing# that satisfies the requirements of Section 23-90, inclusive, for more than one #compensated development# or #MIH development#, as applicable, provided that no #affordable floor area# shall be counted more than once in determining the amount of #floor area compensation# for such #compensated developments# or in satisfying the #floor area# provisions for #zoning lots# in paragraph (d) of Section 23-154 (Inclusionary

Housing).

(k) #Guidelines#

#HPD# shall adopt and may modify #guidelines# for the implementation of the provisions of Section 23-90, inclusive.

(3/22/16)

**23-961**

**Additional requirements for rental affordable housing**

The additional requirements of this Section shall apply to rental #affordable housing# on a #generating site# or #MIH site# for the entire #regulatory period#.

(a) Tenant selection

- (1) Upon #rent-up# and any subsequent vacancy for the entire #regulatory period#, #affordable housing units# shall only be leased to and occupied by #low income households#, #moderate income households# and #middle income households#, as applicable for #generating sites#, or to #qualifying households#, as applicable, for #MIH sites#. No lease or sublease of an #affordable housing unit# shall be executed, and no tenant or subtenant shall commence occupancy of an #affordable housing unit#, without the prior approval of the #administering agent#.
- (2) A tenant may, with the prior approval of the #administering agent#, sublet an #affordable housing unit# for not more than a total of two years, including the term of the proposed sublease, out of the four-year period preceding the termination date of the proposed sublease. The aggregate payments made by any sublessee in any calendar month shall not exceed the #monthly rent# that could be charged to the sublessor in accordance with the #regulatory agreement#.
- (3) A #low income household# or #qualifying household# may rent an #affordable housing unit# that is restricted to occupancy by #moderate income# or #middle income households#, or by #qualifying households# of higher income levels, provided that the #administering agent# determines that such #low income household# or #qualifying household# is able to utilize rent subsidies pursuant to Section 8 of the United States Housing Act of 1937, as amended, to afford the applicable #monthly rent#.

(b) Monthly rent

- (1) Unless alternative provisions are established in the #regulatory agreement# or #guidelines# for #MIH sites#, the #regulatory agreement# shall provide that each #affordable housing unit# shall be registered with the Division of Housing and Community Renewal at the initial #monthly rent# established by #HPD# within 60 days following the #rent-up date# and shall thereafter remain subject to #rent stabilization# for the entire #regulatory period# and thereafter until vacancy. However, the #regulatory agreement# may permit an alternative date by which any #affordable housing units# that are vacant on the #rent-up date# shall be registered with the Division of Housing and Community Renewal at the initial #monthly rent# established by #HPD#.
  - (i) However, any #affordable housing unit# of #preservation affordable housing# or #substantial rehabilitation affordable housing# that is both occupied by a #grandfathered tenant# and subject to the Emergency Housing Rent Control Law on the #regulatory agreement date# shall remain subject to the Emergency Housing Rent Control Law until the first vacancy following the #regulatory agreement date# and shall thereafter be subject to #rent stabilization# as provided herein.
  - (ii) The #regulatory agreement# shall provide that upon each annual registration of an #affordable housing unit# with the Division of Housing and Community Renewal, the #legal regulated rent# for such #affordable housing unit# shall be registered with the Division of Housing and Community Renewal at an amount not exceeding the #maximum monthly rent#. However, the #regulatory agreement# shall provide that this requirement shall not apply to an #affordable housing unit# occupied by a #grandfathered tenant# until the first vacancy after the #regulatory agreement date#.
- (2) Unless alternative provisions are established in the #regulatory agreement# or #guidelines# for #MIH sites#, the #regulatory agreement# shall provide that the #monthly rent# charged to the tenant of any #affordable housing unit# at #initial occupancy# and in each subsequent renewal lease shall not exceed the lesser of the #maximum monthly rent# or the #legal regulated rent#. However, the #regulatory agreement# shall provide that these

requirements shall not apply to an #affordable housing unit# occupied by a #grandfathered tenant#, until the first vacancy after the #regulatory agreement date#.

However, for #supportive housing units# or #affordable independent residences for seniors# on #MIH sites#, the #monthly rent# may exceed the #maximum monthly rent#, provided that it does not exceed the HUD Fair Market Rent for such unit, and that the #monthly rent#, less rent subsidies pursuant to Section 8 of the United States Housing Act of 1937, does not exceed the lesser of the #maximum monthly rent# or the #legal regulated rent#.

- (3) Within 60 days following the #rent-up date#, the #administering agent# shall submit an affidavit to #HPD# attesting that the #monthly rent# registered and charged for each #affordable housing unit# complied with the applicable #monthly rent# requirements at the time of #initial occupancy#.
- (4) Each year after #rent-up#, in the month specified in the #regulatory agreement# or the #guidelines#, the #administering agent# shall submit an affidavit to #HPD# attesting that each lease or sublease of an #affordable housing unit# or renewal thereof during the preceding year complied with the applicable #monthly rent# requirements at the time of execution of the lease or sublease or renewal thereof.
- (5) For any #affordable housing unit# subject to #rent stabilization#, the applicable #regulatory agreement# shall provide that the lessor of an #affordable housing unit# shall not utilize any exemption or exclusion from any requirement of #rent stabilization# to which such lessor might otherwise be or become entitled with respect to such #affordable housing unit#, including, but not limited to, any exemption or exclusion from the rent limits, renewal lease requirements, registration requirements, or other provisions of #rent stabilization#, due to:
  - (i) the vacancy of a unit where the #legal regulated rent# exceeds a prescribed maximum amount;
  - (ii) the fact that tenant income or the #legal regulated rent# exceeds prescribed maximum amounts;
  - (iii) the nature of the tenant; or
  - (iv) any other reason.

- (6) Unless alternative provisions are established in the #regulatory agreement# or #guidelines# for #MIH sites#, the #regulatory agreement# and each lease of an #affordable housing unit# shall contractually require the lessor of each #affordable housing unit# to grant all tenants the same rights that they would be entitled to under #rent stabilization# without regard to whether such #affordable housing unit# is statutorily subject to #rent stabilization#. If any court declares that #rent stabilization# is statutorily inapplicable to an #affordable housing unit#, such contractual rights shall thereafter continue in effect for the remainder of the #regulatory period#.
- (7) Unless alternative provisions are established in the #regulatory agreement# or #guidelines# for #MIH sites#, the #regulatory agreement# shall provide that each #affordable housing unit# that is occupied by a tenant at the end of the #regulatory period# shall thereafter remain subject to #rent stabilization# for not less than the period of time that such tenant continues to occupy such #affordable housing unit#, except that any occupied #affordable housing unit# that is subject to the Emergency Housing Rent Control Law at the end of the #regulatory period# shall remain subject to the Emergency Housing Rent Control Law until the first vacancy.

(c) Income

- (1) Each #affordable housing unit# on a #generating site# shall be leased to and occupied by #low income households#, #moderate income households# or #middle income households#, as applicable, for the entire #regulatory period#. Each #affordable housing unit# on an #MIH site# shall be leased to and occupied by #qualifying households# for the entire #regulatory period#.
- (2) The #administering agent# shall verify the #household# income of the proposed tenant prior to leasing any vacant #affordable housing unit# in order to ensure that it is a #low income household#, #moderate income household#, #middle income household# or #qualifying household#, as applicable.
- (3) Within 60 days following the #rent-up date#, the #administering agent# shall submit an affidavit to #HPD# attesting that each #household# occupying an #affordable housing unit# complied with the applicable income eligibility requirements at the time of #initial

occupancy#.

- (4) Each year after #rent-up#, in the month specified in the #regulatory agreement# or the #guidelines#, the #administering agent# shall submit an affidavit to #HPD# attesting that each #household# that commenced occupancy of a vacant #affordable housing unit# during the preceding year, and each #household# that subleased an #affordable housing unit# during the preceding year, complied with the applicable income eligibility requirements at the time of #initial occupancy#.

(d) #Affordable housing plan# and #MIH application#

The following shall apply to #affordable housing plans#:

- (1) An #affordable housing plan# shall designate the initial #administering agent#, include the agreement with the initial #administering agent#, state how #administering agents# may be removed, state how a new #administering agent# may be selected upon the removal or other departure of any #administering agent#, include the building plans, state the number and bedroom mix of the #affordable housing units# to be #developed#, rehabilitated or preserved, indicate how tenants will be selected at #rent-up# and upon each subsequent vacancy of an #affordable housing unit#, indicate how the #household# income of each prospective tenant will be verified prior to such #household's initial occupancy# of an #affordable housing unit# and include such additional information as #HPD# deems necessary.
- (2) An #affordable housing plan# shall demonstrate the feasibility of creating and maintaining #affordable housing# in accordance with Section 23-90 (INCLUSIONARY HOUSING), inclusive, including that:
  - (i) there will be sufficient revenue to provide for adequate maintenance, operation and administration of the #affordable housing#;
  - (ii) #affordable housing units# will be leased to eligible #households# by a responsible #administering agent# at #rent-up# and upon each subsequent vacancy; and
  - (iii) tenants will be selected in an equitable manner in accordance with laws prohibiting discrimination and all other applicable laws.
- (3) A copy of any proposed #affordable housing plan# shall be

delivered to the affected Community Board, which may review such proposal and submit comments to #HPD#. #HPD# shall not approve a proposed #affordable housing plan# until the earlier of:

- (i) the date that the affected Community Board submits comments regarding such proposal to #HPD# or informs #HPD# that such Community Board has no comments; or
- (ii) 45 days from the date that such proposal was submitted to the affected Community Board.

The following shall apply to #MIH applications#:

- (4) An #MIH application# shall designate the initial #administering agent#, where applicable, and include the building plans, state the number, bedroom mix and #monthly rents# of the #affordable housing units# to be #developed# or #converted#, and include such additional information as #HPD# deems necessary to ensure the satisfaction of the requirements of Section 23-90, inclusive.
  - (5) A copy of any #MIH application# shall be delivered, concurrently with its submission to #HPD#, to the affected Community Board.
- (e) Special requirements for rental #preservation affordable housing#

The additional requirements of this paragraph (e), shall apply to rental #preservation affordable housing#:

- (1) all of the #dwelling units#, #rooming units# and #supportive housing units# in the #generating site#, other than any #super's unit#, shall be #affordable housing units# that are leased to and occupied by #low income households# for the entire #regulatory period#;
- (2) on the #regulatory agreement date#, the average of the #legal regulated rents# for all #affordable housing units# in the #generating site# that are occupied by #grandfathered tenants# shall not exceed 30 percent of the #low income limit# divided by 12;
- (3) on the #regulatory agreement date#, #HPD# shall have determined that the condition of the #generating site# is sufficient, or will be sufficient after required improvements specified in the #affordable housing plan# and the #regulatory agreement#, to ensure that, with normal maintenance and normal scheduled replacement of

#capital elements#, the #affordable housing units# will provide a decent, safe and sanitary living environment for the entire #regulatory period#;

- (4) on the #regulatory agreement date#, #HPD# shall have determined either that no #capital element# is likely to require replacement within 30 years from the #regulatory agreement date# or that, with regard to any #capital element# that is likely to require replacement within 30 years from the #regulatory agreement date#, a sufficient reserve has been established to fully fund the replacement of such #capital element#;
- (5) except with the prior approval of #HPD#, #monthly rents# charged for #affordable housing units# shall not be increased to reflect the costs of any repair, renovation, rehabilitation or improvement performed in connection with qualification as a #generating site#, even though such increases may be permitted by other laws; and
- (6) such #affordable housing# shall comply with such additional criteria as may be specified by #HPD# in the #guidelines#.

(f) Special requirements for rental #substantial rehabilitation affordable housing#

The additional requirements of this paragraph, (f), shall apply to rental #substantial rehabilitation affordable housing#:

- (1) such #affordable housing# shall be created through the rehabilitation of a #generating site# at a cost per completed #affordable housing unit# that exceeds a minimum threshold set by #HPD# in the #guidelines#;
- (2) on the #regulatory agreement date#, the average of the #legal regulated rents# for all #affordable housing units# in the #generating site# that are occupied by #grandfathered tenants# shall not exceed 30 percent of the #low income limit# divided by 12;
- (3) on the #regulatory agreement date#, #HPD# shall have determined that the condition of such #generating site# is sufficient, or will be sufficient after required improvements specified in the #affordable housing plan# and the #regulatory agreement#, to ensure that, with normal maintenance and normal scheduled replacement of #capital elements#, the #affordable housing units# will provide a decent, safe and sanitary living environment for the entire #regulatory period#;

- (4) on the #regulatory agreement date#, #HPD# shall have determined either that no #capital element# is likely to require replacement within 30 years from the #regulatory agreement date# or that, with regard to any #capital element# that is likely to require replacement within 30 years from the #regulatory agreement date#, a sufficient reserve has been established to fully fund the replacement of such #capital element#;
- (5) except with the prior approval of #HPD#, #monthly rents# charged for #affordable housing units# shall not be increased to reflect the costs of any repair, renovation, rehabilitation or improvement performed in connection with qualification as a #generating site#, even though such increases may be permitted by other laws; and
- (6) such #affordable housing# shall comply with such additional criteria as may be specified by #HPD# in the #guidelines#.

(3/22/16)

## **23-962**

### **Additional requirements for homeownership affordable housing**

The additional requirements of this Section shall apply to #homeownership affordable housing# on a #generating site# or #MIH site# for the entire #regulatory period#.

#### (a) Homeowner selection

- (1) Upon #sale#, #homeownership affordable housing units# shall only be occupied by #eligible buyers# that are #low income households#, #moderate income households#, #middle income households# or, for #MIH sites#, #qualifying households#, as applicable. Upon any subsequent #resale# for the entire #regulatory period#, #homeownership affordable housing units# shall be sold to and occupied by #eligible buyers# at or below the #maximum resale price# on the #sale date#, as applicable. No #homeownership affordable housing unit# shall be sold to or occupied by any #household# or any other person without the prior approval of the #administering agent#.
- (2) A #homeowner# may, with the prior approval of the #administering agent#, sublet an #homeownership affordable housing unit# to another #low income household#, #moderate

income household#, #middle income household#, #eligible buyer# or, for #MIH sites#, #qualifying households#, as applicable, for not more than a total of two years, including the term of the proposed sublease, out of the four-year period preceding the termination date of the proposed sublease. The aggregate payments made by any sublessee in any calendar month shall not exceed the combined cost of #monthly fees#, #mortgage payments#, utilities and property taxes paid by the sublessor.

- (3) A #homeowner# shall reside in the #homeownership affordable housing unit#, except as provided in paragraph (a)(2) of this Section.
- (4) The restrictions in this paragraph, (a), on the ownership of #homeownership affordable housing units# shall not prevent the exercise of a valid lien by a #mortgage# lender, #cooperative corporation#, #condominium association# or any other entity authorized by the #regulatory agreement# to take possession of a #homeownership affordable housing unit# in the event of default by the #homeowner#. However, any #sale# or #resale# by such lien holder shall be to an #eligible buyer#, in accordance with this paragraph, (a), and the #guidelines#.

(b) Price

- (1) The #initial price# or #maximum resale price# of any #homeownership affordable housing unit# shall be set assuming a #mortgage#, as defined in Section 23-913 (Definitions applying to homeownership generating sites).
- (2) The #regulatory agreement# shall establish the #initial price# for each #homeownership affordable housing unit#. #HPD# shall set the #initial price# to ensure that the combined cost of #monthly fees#, #mortgage payments#, utilities and property taxes to be paid directly by the #homeowner# will not exceed 30 percent of the #low income limit#, #moderate income limit# or #middle income limit#, as applicable. For #MIH sites#, #HPD# shall establish the #initial price# based on the incomes of #qualifying households# in accordance with the #guidelines#.
- (3) Prior to any #resale# of a #homeownership affordable housing unit#, the #administering agent# shall set the #maximum resale price# for such #homeownership affordable housing unit#.
- (4) The #administering agent# shall not approve any #resale#

unless the selected #eligible buyer# provides a #down payment#, as specified in the #guidelines#.

- (5) A #homeownership affordable housing unit#, or any shares in a #cooperative corporation# appurtenant thereto, shall not secure any debt unless such debt is a #mortgage# that has been approved by the #administering agent#.

(c) Income

- (1) The #administering agent# shall verify the #household# income of a proposed #homeowner#, in accordance with the #guidelines#, prior to the #sale date# of any #homeownership affordable housing unit# in order to ensure that, upon #sale#, it is a #low income household#, #moderate income household#, middle income household# or, for #MIH sites#, #qualifying household#, as applicable, and that upon #resale#, it is to an #eligible buyer#.
- (2) The #administering agent# shall meet reporting requirements on each #sale# and #resale#, as set forth in the #guidelines#.
- (3) Each year after the #commencement date#, in the month specified in the #regulatory agreement# or the #guidelines#, the #administering agent# shall submit an affidavit to #HPD# attesting that each #resale# of a #homeownership affordable housing unit# during the preceding year complied with all applicable requirements on the #resale date#.

(d) #Affordable housing plan# and #MIH application#

The following shall apply to #affordable housing plans#:

- (1) An #affordable housing plan# shall include the building plans, state the number and bedroom mix of the #homeownership affordable housing units# to be #developed#, rehabilitated or preserved, indicate how #homeowners# will be selected upon each #sale# or #resale# of a #homeownership affordable housing unit#, indicate how the #household# income of #eligible buyers# will be verified prior to such #household's initial occupancy# of a #homeownership affordable housing unit# and include such additional information as #HPD# deems necessary.
- (2) An #affordable housing plan# shall demonstrate the feasibility of creating and maintaining #homeownership affordable housing#, including that:

- (i) there will be sufficient revenue to provide for adequate maintenance, operation and administration of the #affordable housing#;
  - (ii) #affordable housing units# will be sold under the supervision of a responsible #administering agent# to #eligible buyers# at each #sale# and #resale#; and
  - (iii) #homeowners# will be selected in an equitable manner in accordance with laws prohibiting discrimination and all other applicable laws.
- (3) The requirements of Section 23-961, paragraph (d)(3), shall apply.

The following shall apply to #MIH applications#:

- (4) An #MIH application# shall include the building plans; state the number and bedroom mix of the #homeownership affordable housing units# to be #developed# or #converted#, and the #initial price# of each #homeownership affordable housing unit#; and include such additional information as #HPD# deems necessary to ensure the satisfaction of the requirements of Section 23-90, inclusive.
- (5) A copy of any #MIH application# shall be delivered, concurrently with its submission to #HPD#, to the affected Community Board.

(e) Housing standards

The requirements of Section 23-96, paragraph (g), shall apply. In addition, each #homeowner# shall be obligated to maintain each #homeownership affordable housing unit# in accordance with minimum quality standards set forth in the #guidelines#. Prior to any #resale#, #HPD#, or its designee as specified in the #guidelines#, shall inspect the #affordable housing unit# and shall either require the #homeowner# to remedy any condition that violates such minimum quality standards before the #sale date#, or require the retention of a portion of the #resale# proceeds to pay the cost of remedying such condition.

(f) Optional provisions for certain #new construction homeownership affordable housing#

In Community District 3, Borough of Manhattan, #HPD# may modify the requirements for #new construction homeownership affordable housing# to facilitate #development# on a site that has been disposed of pursuant to Article 16 of the General Municipal Law

as set forth in this paragraph (g), inclusive.

- (1) #HPD# may permit a #household# to occupy a #new construction homeownership affordable housing unit# as rental #affordable housing# if:
  - (i) no more than 120 days prior to the #regulatory agreement date#, such #household# occupied a #dwelling unit# or #rooming unit# in a #building# located on the #zoning lot# of such #new construction homeownership affordable housing#, pursuant to a lease or occupancy agreement to which one or more members of such #household# was a party or pursuant to a statutory tenancy;
  - (ii) no more than 120 days prior to the #regulatory agreement date#, the average rent for all occupied #dwelling units# or #rooming units# in such #building# did not exceed 30 percent of the #low income limit# divided by 12; and
  - (iii) after the #regulatory agreement date#, such #building# is demolished and replaced with #new construction homeownership affordable housing#.
- (2) #HPD# may permit a #household# that is not an #eligible buyer#, but that meets the requirements of paragraph (f)(1) of this Section, to purchase a #new construction homeownership affordable housing unit# at #sale#, provided that such #household# is a #low income household#, #moderate income household# or #middle income household#, as applicable.

Where a #new construction homeownership affordable housing unit# is purchased at a nominal price, the #appreciated price# for such #homeownership affordable housing unit# shall be the product of the #initial price# of such #homeownership affordable housing unit# and the #appreciation index# applicable at #resale# as specified in the #guidelines#.

- (g) Special requirements for #homeownership preservation affordable housing#

The additional requirements in this paragraph (g) shall apply to #homeownership preservation affordable housing#:

- (1) on the #regulatory agreement date#, the #generating site# shall be an existing #building# containing #residences#;

- (2) on the #regulatory agreement date#, the average of the #legal regulated rents#, as such term is defined in Section 23-912, for all #homeownership affordable housing units# in the #generating site# that are occupied by #grandfathered tenants# shall not exceed 30 percent of the #low income limit# divided by 12;
  - (3) where #grandfathered tenants# continue in residence subsequent to the #regulatory agreement date#, any #affordable housing unit# that is occupied by a #grandfathered tenant# shall be operated subject to the restrictions of Section 23-961 (Additional requirements for rental affordable housing) until such #affordable housing unit# is purchased and occupied by an #eligible buyer#;
  - (4) on the #regulatory agreement date#, #HPD# shall have determined that the condition of the #generating site# is sufficient, or will be sufficient after required improvements specified in the #affordable housing plan# and the #regulatory agreement#, to ensure that, with normal maintenance and normal scheduled replacement of #capital elements#, the #affordable housing units# will provide a decent, safe and sanitary living environment for the entire #regulatory period#;
  - (5) on the #regulatory agreement date#, #HPD# shall have determined either that no #capital element# is likely to require replacement within 30 years from the #regulatory agreement date# or that, with regard to any #capital element# that is likely to require replacement within 30 years from the #regulatory agreement date#, a sufficient reserve has been established to fully fund the replacement of such #capital element#; and
  - (6) such #affordable housing# shall comply with such additional criteria as may be specified by #HPD# in the #guidelines#.
- (h) Special requirements for #homeownership substantial rehabilitation affordable housing#

The additional requirements in this paragraph (h) shall apply to #homeownership substantial rehabilitation affordable housing#:

- (1) on the #regulatory agreement date#, the #generating site# or #MIH site# shall be an existing #building#;
- (2) such #affordable housing# shall be created through the

rehabilitation of such existing #building# at a cost per completed #homeownership affordable housing unit# that exceeds a minimum threshold set by #HPD# in the #guidelines#;

- (3) on the #regulatory agreement date#, the average of the #legal regulated rents# for all #homeownership affordable housing units# in the #generating site# that are occupied by #grandfathered tenants# shall not exceed 30 percent of the #low income limit# divided by 12;
- (4) where #grandfathered tenants# continue in residence subsequent to the #regulatory agreement date#, any #affordable housing unit# that is occupied by a #grandfathered tenant# shall be operated subject to the restrictions of Section 23-961 until such #affordable housing unit# is purchased and occupied by an #eligible buyer#;
- (5) on the #regulatory agreement date#, #HPD# shall have determined that the condition of such #generating site# is sufficient, or will be sufficient after required improvements specified in the #affordable housing plan# and the #regulatory agreement#, to ensure that, with normal maintenance and normal scheduled replacement of #capital elements#, the #affordable housing units# will provide a decent, safe and sanitary living environment for the entire #regulatory period#;
- (6) on the #regulatory agreement date#, #HPD# shall have determined either that no #capital element# is likely to require replacement within 30 years from the #regulatory agreement date# or that, with regard to any #capital element# that is likely to require replacement within 30 years from the #regulatory agreement date#, a sufficient reserve has been established to fully fund the replacement of such #capital element#; and
- (7) such #affordable housing# shall comply with such additional criteria as may be specified by #HPD# in the #guidelines#.