

# ZONING RESOLUTION Web Version

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## THE CITY OF NEW YORK



THE CITY OF NEW YORK  
Michael R. Bloomberg, Mayor

CITY PLANNING COMMISSION  
Amanda M. Burden, Director

### Article VII: Administration

#### Chapter 8 - Special Regulations Applying to Large-Scale Residential Developments

Effective date of most recently amended section of Article VII Chapter 8: 04/22/09

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Date of file creation: Web version of Article VII Chapter 8: 06/01/09

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8/24/67

**Chapter 8  
Special Regulations Applying to Large-Scale Residential  
Developments**

8/18/77

**78-00  
GENERAL PURPOSES, DEFINITIONS AND GENERAL PROVISIONS**

8/24/67

**78-01  
General Purposes**

The regulations set forth in this Chapter are designed to deal with certain types of problems which arise only in connection with large-scale residential developments and to promote and facilitate better site planning and community planning through modified application of the district regulations in such developments.

For large-scale residential developments involving several zoning lots but planned as a unit, the district regulations may impose unnecessary rigidities and thereby prevent achievement of the best possible site plan within the overall density and bulk controls. For such developments, the regulations of this Chapter are designed to allow greater flexibility for the purpose of securing better site planning for development of vacant land and to provide incentives toward that end while safeguarding the present or future use and development of surrounding areas and, specifically, to achieve more efficient use of increasingly scarce land within the framework of the overall bulk controls, to enable open space in large-scale residential developments to be arranged in such a way as best to serve active and passive recreation needs of the residents, to protect and preserve scenic assets and natural features such as trees, streams and topographic features, to foster a more stable community by providing for a population of balanced family sizes, to encourage harmonious designs incorporating a variety of building types and variations in the siting of buildings, and thus to promote and protect public health, safety and general welfare.

6/30/89

## **78-02**

### **Definitions**

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

Floor area

For the purposes of this Chapter, in R3, R4 or R5 Districts, #floor area# shall not include up to 200 square feet of floor space located in any #story# used for required #accessory# off-street parking spaces within individual garages.

4/22/09

## **78-03**

### **Applicability of this Chapter**

#Large-scale residential developments# are governed by all the #use#, #bulk#, off-street parking and loading, and other applicable regulations of this Resolution, except for such special provisions as are specifically set forth in this Chapter and apply only to such #developments#. However, the Quality Housing Program is inapplicable in a #large-scale residential development#.

Any #large-scale residential development# having a total of at least 500 #dwelling units# shall be subject to the provisions of Section 78-11 (General Provisions), relating to Provision of Public Facilities in Connection with Large-Scale Residential Developments.

#Large-scale residential developments# within the #waterfront area# shall be subject to the provisions of Section 62-132 (Applicability of Article VII, Chapters 4, 8 and 9).

8/24/67

## **78-04**

### **Powers of the City Planning Commission**

8/24/67

**78-041**

**Authorization by Commission**

For any #large-scale residential development# for which proposed modifications of the applicable district regulations are limited to those which may be granted in accordance with the provisions of Sections 78-21 to 78-23, inclusive, relating to Use Regulations, Sections 78-311 and 78-313 relating to Bulk Regulations, Section 78-41 (Location of Accessory Parking Spaces), or Sections 78-51 to 78-53, inclusive, relating to Subdivision of Large-Scale Residential Developments, the City Planning Commission may grant such modifications in accordance with the provisions of such specified Sections and may prescribe appropriate conditions and safeguards thereon.

12/18/68

**78-042**

**Special permits**

For #large-scale residential developments# for which proposed modifications of the applicable district regulations include those which may be granted only in accordance with the provisions of Sections 78-312 to 78-33, inclusive, relating to Bulk Regulations, or Section 78-42 (Parking Regulations for Commercial and Community Facility Uses), the City Planning Commission may grant special permits for such modifications in accordance with the applicable provisions of such specified Sections and other sections of this Chapter and may prescribe appropriate conditions and safeguards thereon.

8/24/67

**78-043**

**Requirements for findings**

The requirements for findings as set forth in this Chapter shall constitute a condition precedent to the grant of any such modification by special permit or otherwise. The decision or determination of the City Planning Commission shall set forth each required finding in each grant of modification by special permit or otherwise. The decision or determination of the

Commission shall set forth each required finding in each grant of modifications for a #large-scale residential development#. Each finding shall be supported by substantial evidence or data considered by the Commission in reaching its final decision.

8/24/67

#### **78-044**

##### **Contractual agreements**

The City of New York may enter into contractual agreements with the applicant as may be required to assure compliance with the terms and conditions of the modifications granted under the provisions of this Chapter.

8/24/67

#### **78-05**

##### **Requirements for Applications**

An application to the City Planning Commission for an authorization or special permit respecting any #large-scale residential development# shall include a site plan and related schedules showing the location and proposed #use# of all #buildings or other structures# on the site, the location of existing natural features such as important trees or clusters of trees, streams or rock formations, and all information necessary to indicate the authorizations requested and their justification.

The Commission shall require, where relevant, a time schedule for carrying out the proposed #development#, a financial plan, a subdivision plan and, in the case of a site plan providing for common #open space# or common parking areas, a maintenance plan for such space or areas and surety for continued availability of such space or areas to the people they are intended to serve.

7/23/08

#### **78-06**

##### **Ownership**

- (a) Except as otherwise provided in this Section, any #large-scale residential development# for which application is made

for an authorization or special permit or modification thereto, in accordance with the provisions of this Chapter, shall be on a tract of land that at the time of application is all under the control of the applicant(s) as the owner(s) or holder(s) of a written option to purchase. Except as otherwise provided in this Section, no authorization or special permit or modification thereto, shall be granted for such #development# unless the applicant(s) acquired actual ownership (single fee ownership or alternate ownership arrangements according to the #zoning lot# definition in Section 12-10 for all #zoning lots# comprising the #development#) of, or executed a binding sales contract for, all of the property comprising such tract.

(b) Notwithstanding the provisions of paragraph (a) of this Section, the following actions shall be permitted:

- (1) When a #development# is part or all of a designated urban renewal project, the City's urban renewal agency, or a person authorized by such agency, may make application for and may be granted authorizations or special permits under the provisions of this Chapter, even though such #large-scale residential development# does not meet the ownership requirements set forth in paragraph (a) of this Section. All parcels comprising such #large-scale residential development# shall be within the designated urban renewal area and subject to the urban renewal controls set forth in the approved urban renewal plan.
- (2) In the event that the urban renewal plan has expired, the owner(s) of a vacant parcel(s) within such #large-scale residential development#, if located in a former urban renewal area listed in this paragraph, (b)(2), may make application for and may be granted modifications of authorizations or special permits previously granted under the provisions of this Chapter with respect to such parcel(s), subject to the conditions of paragraph (b)(5) of this Section.

Borough	Community District	Former Urban Renewal Area
Manhattan	7	West Side Urban Renewal Area

- (3) The owner(s) of a developed parcel(s) within a #large-scale residential development# located in a former urban renewal area listed in paragraph (b)(2), where at least 50 percent of such parcel(s) is located within a

C1-9 or C2-8 District, may make application for, and may be granted, modifications of authorizations or special permits previously granted under the provisions of this Chapter, in order to utilize available #floor area# for #commercial# or #community facility uses#, subject to the conditions of paragraph (b)(5) of this Section and provided further that:

- (i) no #residential use# existing prior to July 23, 2008, located above the level of the ground floor may be changed to a non-#residential use#;
- (ii) the #enlarged# portion of the #building# shall be restricted to #community facility uses# and #commercial uses# listed in Use Groups 6A, 6C and 6F, provided that any ground floor #community facility use#, and any bank or loan office shall occupy not more than 25 feet of the #wide street# frontage, measured to a depth of 30 feet from the #wide street line#, and no #community facility use# shall be permitted above the level of the second #story# ceiling;
- (iii) any #enlargement# fronting upon Columbus or Amsterdam Avenue shall contain a number of establishments, such that the entire #block# front on Columbus or Amsterdam Avenue shall contain no fewer than three establishments, each with a separate entrance on Columbus or Amsterdam Avenue. The Columbus or Amsterdam Avenue frontage of any one such establishment shall not exceed 100 feet;
- (iv) the ground floor #street wall# of an #enlargement# located within C1-9 or C2-8 Districts shall be glazed with transparent materials which may include show windows, glazed transoms or glazed portions of doors. Such glazed area shall occupy at least 70 percent of the area of each such ground floor #street wall#, measured to a height of 12 feet above the level of the adjoining sidewalk or public access area;
- (v) required #open space# with appropriate circulation, seating, lighting and plantings shall be accessible and usable by all residents of the #development#;
- (vi) a plan, including elevations, shall be submitted showing the proposed #building(s)# and

modification, and #open space#; and

- (vii) the #enlargement# enhances the streetscape and the design promotes a harmonious relationship with the existing #development# and contiguous blocks within the #large-scale residential development#.

In addition, any significant adverse impacts resulting from a #development# or #enlargement# pursuant to such modifications, considered in combination with #developments# or #enlargements# within the former urban renewal area listed in paragraph (b)(2), previously the subject of modifications under this paragraph, (b)(3), shall have been avoided or minimized to the maximum extent practicable by incorporating as conditions to the modification those mitigative measures that have been identified as practicable.

The provisions of paragraphs (b)(3)(ii) and (b)(3)(iii) shall not apply to #enlargements# of #community facility uses# and bank or loan offices existing prior to July 23, 2008, provided that such #enlargement# does not increase existing street frontage on Columbus or Amsterdam Avenues by more than ten feet.

An application filed pursuant to this paragraph, (b)(3), shall be referred to the affected Community Board, and the City Planning Commission shall not grant any modification of an authorization or special permit pursuant thereto prior to 45 days after such referral.

- (4) For any #large-scale residential development# located in the Community District(s) listed in this paragraph, (b)(4), the owner(s) of a vacant parcel(s) may make application for and may be granted modifications of authorizations or special permits previously granted under the provisions of this Chapter with respect to such parcel(s), subject to the conditions of paragraph (b)(5).

<u>Borough</u>	<u>Community District</u>
Queens	

- (5) Modifications of authorizations or special permits previously granted under the provisions of this Chapter, as permitted in paragraphs (b)(2), (b)(3) and (b)(4) of this Section, shall not:
  - (i) result in the distribution of #floor area# from

any #zoning lot# not coextensive with or included within such parcel(s); or

- (ii) increase the total allowable #floor area# on any #zoning lot# included within such parcel(s) beyond that amount permitted by the applicable district regulations.

Such modifications may include the withdrawal of such parcel(s) from the boundaries of the #large-scale residential development#, provided that such modification would not create a #non-compliance# within the #large-scale residential development#.

- (6) When a #large-scale residential development# is to be #developed# or #enlarged# through assemblage by any other governmental agency, other than the City's urban renewal agency, or its agent, having the power of condemnation, authorizations or special permits may be applied for and may be granted under the provisions of this Chapter, even though such #large-scale residential development# does not meet the ownership requirements set forth elsewhere in this Section.

7/18/95

**78-07**

**Lapse of Authorization or Special Permit**

Any authorization or special permit granted by the City Planning Commission pursuant to this Chapter shall automatically lapse if substantial construction has not been completed as set forth in Section 11-42 (Lapse of Authorization or Special Permit Granted by the City Planning Commission Pursuant to the 1961 Zoning Resolution). For any renewal of such authorization or special permit, the provisions of Section 11-43 (Renewal of Authorization or Special Permit) shall apply.

8/24/67

**78-10**

**PROVISION OF PUBLIC FACILITIES IN CONNECTION WITH LARGE-SCALE RESIDENTIAL DEVELOPMENT**

8/24/67

**78-11**

**General Provisions**

The following regulations apply to all #large-scale residential developments# with a total of at least 500 #dwelling units#, except duly authorized urban renewal projects, as a condition precedent to the issuance of a building permit.

8/24/67

**78-111**

**Report by Planning Commission**

Within one month after a request from the Commissioner of Buildings, the City Planning Commission shall make a report, based upon information from the Board of Education and other appropriate City Departments, on the anticipated effect of the proposed #development# on the existing capacity of public #schools# or other public facilities serving the area in which the proposed #development# is to be located.

8/24/67

**78-112**

**If no additional public facilities needed**

If the City Planning Commission reports that the proposed #development# will not require any significant addition to the public facilities serving the neighborhood, then the requirements of this Section shall be considered to be satisfied.

8/24/67

**78-113**

**If additional public facilities needed**

If the Commission reports that the proposed #large-scale residential development# can be expected to create a need for one or more new public facilities in the neighborhood, the Commission may, in its discretion, recommend that a site for one or more

such facilities should be reserved within the site of such proposed #development#. If the Commission does so recommend, the issuance of a building permit shall be withheld for a period not to exceed three months. In such a case, the requirements of this Section shall be considered to be satisfied:

- (a) if, within a period of less than three months, the developer and the appropriate City officials have agreed on the reservation of such a site or sites, or official proceedings have been initiated to authorize acquisition of such a site or sites, or if necessary to amend the capital budget to include the project as a prerequisite to site acquisition; or
- (b) in any event, at the expiration of the above-mentioned period of three months.

8/24/67

**78-20**  
**USE REGULATIONS**

1/22/70

**78-21**  
**Permitted Uses**

A #large-scale residential development# may include within its area any #residential uses#, #commercial uses# or #community facility uses# permitted in the district or districts in which it is located. The #commercial uses# in these #Commercial Districts# shall be restricted to #uses# permitted in C1, C2 or C4 Districts.

7/24/69

**78-22**  
**Accessory Uses in Large-Scale Residential Developments**

A #large-scale residential development# in a #Residence District# may contain as #accessory uses#, any #commercial uses# listed in Use Group 6A or 6F which in the aggregate occupy not more than two percent of the total #floor area# in the #development#, and

of which no single establishment occupies more than 15,000 square feet of #floor area#, provided that upon a review of the site plan, the City Planning Commission finds that such #commercial uses#:

- (a) will be primarily for the use of the residents of the #development# and will provide more convenient shopping for such residents;
- (b) are so located as to minimize interference with #residential# or recreational areas within the #development# and to avoid creation of traffic congestion or other objectionable influences affecting #residences# outside the #development#;
- (c) comply with all the applicable #bulk# and off-street parking and loading regulations for such #accessory commercial uses#, as set forth in Article II, Chapters 3 and 5; and
- (d) conform to those provisions of the following Sections which are applicable to #commercial uses# in C1 Districts:

Section 32-41 (Enclosure Within Buildings)

Section 32-42 (Location Within Buildings)

Sections 32-61 to 32-68, inclusive, relating to Sign Regulations.

4/30/81

**78-23**

**Other Accessory Uses**

4/30/81

**78-231**

**Accessory swimming pools**

Swimming pools may be authorized by the City Planning Commission as #accessory uses# even though not located on the same #zoning lots# as the principal #uses# to which they are related, provided that:

- (a) any such swimming pool is located in a common #open space# area and as a part of such area meets all the requirements

set forth in Section 78-52 (Common Open Space);

- (b) the use of such swimming pool is restricted to the residents of the #large-scale residential development# or portion thereof served by such common #open space#, and their guests;
- (c) the edge of such swimming pool is located not less than 50 feet from any #lot line# on the periphery of the #development#, and is suitably screened from other areas on the same or adjacent #zoning lots#; and
- (d) such swimming pool complies in all other respects with the definition of #accessory use# as set forth in Section 12-10 (DEFINITIONS).

4/30/81

#### **78-232**

#### **Accessory sewage disposal plants**

In Staten Island, sewage disposal plants to serve not more than 50 #dwelling units# may be authorized by the City Planning Commission as #accessory uses# to be located anywhere within a #large-scale residential development# without regard for #zoning lot lines#, provided the Commission finds that:

- (a) the sewage disposal plant is located not closer than 100 feet from any #residential use#;
- (b) the #large-scale residential development# is arranged so as to best serve the active and passive recreation needs of the #residential development#, protect and serve scenic assets and natural features and provide suitable variations in the siting of #buildings#;
- (c) the sewage disposal plant is adequately landscaped and buffered from all #residential uses# on the same or adjacent #zoning lots#; and
- (d) the proposal promotes and protects the public health, safety and general welfare.

12/28/73

#### **78-24**

## **Special Permit Authorizations**

10/25/93

**78-241**

### **Waterfront and related commercial uses**

For any #large-scale residential development#, in a C4 District, the City Planning Commission may, by special permit modify applicable district regulations to allow certain boating and related #uses# listed in Use Group 14A, not otherwise allowed in such district, provided that:

- (a) the #uses# are appropriate for the location and blend harmoniously with the rest of the large-scale development; and
- (b) the #streets# providing access to such #uses# will be adequate to handle the traffic generated thereby.

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

12/28/73

**78-242**

### **Location of commercial uses**

For any #large-scale residential development#, the City Planning Commission, by special permit, may authorize #residential# and non-#residential uses# to be arranged within a #building# without regard for the regulations set forth in Section 32-42 (Location within Buildings) when terracing is required because of unusual topographic conditions in a #development# having a minimum area of 20 acres.

8/24/67

**78-30**

### **BULK REGULATIONS**

10/17/07

**78-31**

**Location of Buildings, Distribution of Bulk and Open Space and Modification of Height and Setbacks**

(a) General provisions

For the purposes of this Section, the term "periphery" shall mean any #street line# bounding a #large-scale residential development# or any #lot line# abutting a #zoning lot# that is not part of the #large-scale residential development#. The term "wholly within" shall therefore mean any area of the #large-scale residential development# which is not within the area designated as "periphery." However, in R3-2 Districts, R4 Districts except R4A, R4-1 and R4B Districts, or R5 Districts except R5B Districts, the "periphery" shall also include all portions of a #large-scale residential development# within 100 feet of a peripheral #street line# or within 30 feet of any other peripheral #lot line# except for portions directly opposite:

- (1) a tract of land of at least 1.5 acres in a #Residence District# that is either vacant or #land with minor improvements#; or
- (2) a #large-scale residential development developed# pursuant to the provisions of paragraph (b) of this Section; or
- (3) a #Commercial# or a #Manufacturing District#.

All #development# in the periphery of a #large-scale residential development# shall comply with the height and setback regulations of Article II, Chapter 3 except as otherwise provided in this Section.

Special provisions applying to #large-scale residential developments# in R3, R4 or R5 Districts are set forth in paragraphs (b) and (c) of this Section. The provisions of paragraph (b) shall apply to any #large-scale residential development# in R3-2 Districts, R4 Districts except R4A, R4-1 and R4B Districts, or R5 Districts except R5B Districts. The provisions of paragraph (c) shall apply only to #large-scale residential developments# in all R3, R4 or R5 Districts that utilize the bonus provisions of Section 78-32 through 78-35, inclusive.

(b) Alternate height and setback regulations for certain

districts

In R3-2 Districts, R4 Districts except R4A, R4-1 and R4B Districts, or R5 Districts except R5B Districts, #development# wholly within a #large-scale residential development# may use the alternate height and setback regulations set forth in paragraphs (b)(1) through (b)(3) of this Section.

- (1) In R3-2 Districts, the height and setback regulations applicable to R4 Districts, except R4A and R4B Districts, may be used.
  - (2) In R4 Districts, no portion of any #building# including the apex of a roof shall penetrate a plane 35 feet in height above the #base plane#.
  - (3) In R5 Districts, no portion of any #building# including the apex of a pitched roof shall penetrate a plane 40 feet in height above the #base plane#.
- (c) Alternate #floor area# and #open space# regulations in R3, R4 or R5 Districts

In #large-scale residential developments# that utilize the bonus provisions of this Chapter, the #floor area ratio# and the #open space ratio# controls set forth in the following table shall apply in lieu of the #floor area ratio# and #lot coverage# controls of Article II, Chapter 3.

District	#Open Space Ratio#	#Floor Area Ratio#
R3	150	.50*
R4	80	.75*
R5	40	1.25

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- \* The #floor area ratio# in the table may be increased by up to 20 percent provided that any such increase in #floor area# is located under a sloping roof which rises at least 3 1/2 inches in vertical distance per each foot of horizontal distance and the structural headroom of such #floor area# is between five and eight feet. Any such additional #floor area# under a sloped roof shall not be used to compute the #open space ratio#.

- (d) Authorizations may be granted for #buildings# to be located, #bulk# and #open space# distributed, and height and setback modified, in accordance with the provisions of this Section.
- (e) In R9, R10, C1-8, C1-9, C2-7 or C2-8 Districts, or in C1 or C2 Districts mapped within R9 or R10 Districts, #floor area# bonuses for #public plazas# or #arcades# permitted in accordance with the applicable district regulations shall apply only to a #development# or #enlargement# with 25 percent or less of its total #floor area# in #residential use#.

7/26/01

### **78-311**

#### **Authorizations by the City Planning Commission**

When a #large-scale residential development# includes, or will include after subdivision, two or more #zoning lots#, the City Planning Commission may authorize:

- (a) the total #floor area#, #lot coverage#, #dwelling units# or #rooming units# permitted by the applicable district regulations for all #zoning lots# within the #development# to be distributed without regard for #zoning lot lines#;
- (b) the total #open space# required by the applicable district regulations for all #zoning lots# within the #development# to be distributed without regard for #zoning lot lines#, except that where subdivision is authorized in accordance with the provisions of Section 78-51 (General Provisions), the Commission, in authorizing such distribution may allow reductions in the minimum required #open space# on individual #zoning lots# only where adequate provision is made for common #open space# to serve such lots.

If the required #open space# on the roof of a #community facility building# has an equivalent access arrangement acceptable to the Commission, it may authorize modification of requirements set forth in paragraph (c) of the #open space# definition in Section 12-10;

- (c) #zoning lots# adequately served by common #open space#, the minimum required #lot area# as set forth in Section 23-32 (Minimum Lot Area or Lot Width for Residences) to be reduced, provided that any #residence# for which the minimum required #lot area# is so reduced shall be separated from all other #buildings# on the same or adjacent #zoning lots#

by a distance consistent with the provisions of Section 23-71 (Minimum Distance between Buildings on a Single Zoning Lot), or in cases where at least one of the #buildings# is a one-family or two-family #detached# or #semi-detached# house, rowhouse, or series of rowhouses, by a lesser distance to be determined by the Commission;

- (d) the location of #buildings# without regard for #yard# regulations which would otherwise apply along portions of #streets# or #lot lines# wholly within the #development# provided that any #building# for which required #rear# or #side yards# are reduced shall be separated from all other #buildings# with which it does not share a party wall, on the same or adjacent #zoning lots#, by a distance consistent with the provisions of Section 23-71 or, in cases where at least one of the #buildings# is a single-family or two-family #detached# or #semi-detached# house, rowhouse or series of rowhouses, by a lesser distance to be determined by the Commission, where the location of the #buildings# will not be detrimental to the privacy of the occupants of the #buildings# on the #block#;
- (e) the location of #buildings# without regard for the height and setback regulations which would otherwise apply along portions of #streets# wholly within the #development# or along #side# or #rear lot lines# abutting other #zoning lots# within the #development#, provided that any #building# for which required rear or side setbacks are reduced shall be separated from all other #buildings# with which it does not share a party wall, on the same or adjacent #zoning lots#, by a distance consistent with the provisions of Section 23-71;
- (f) the location of primary business entrances, #show windows# or #signs# along frontages which are adjacent only to other #zoning lots# within the #development#, without regard to restrictions applicable near #Residence District# boundaries, for the purpose of achieving better site planning and community planning;
- (g) special directional #signs# and their location and design within a #large-scale residential development# comprising an area of at least five acres provided that their construction would result in better pedestrian and vehicular circulation. The Commission shall in each case give due consideration to the effect of such #signs# on the surrounding #residential development# and may impose appropriate conditions and safeguards;
- (h) the location of #buildings# on a single #zoning lot# without

regard for spacing between #buildings#, provided that the resultant spacing will not be reduced beyond an amount considered appropriate by the Commission and in no case by more than 15 percent of that required by Section 23-71.

In the case of a #large-scale residential development#, for that portion of the #development# which is located in an R5 or R6 District, the Commission may authorize the permitted #floor area ratio# and required #open space ratio# to be determined on the basis of a #height factor# which is different than the actual #height factor# of such portion of the #development#, for the purpose of achieving better site planning and community planning.

When subdivision is authorized in accordance with the provisions of Section 78-51 and satisfactory provision is made for common #open space#, the Commission may consider such common #open space# in determining to what extent, if any, modifications of the #yard# regulations are justified.

For any #large-scale residential development#, the City Planning Commission may, upon application, authorize in R3, R4 and R5 Districts, modifications of the height and setback regulations set forth in Section 23-631 and paragraph (b) of Section 78-31 for #buildings# wholly within the #development# for the purposes of introducing variety or preserving natural features or view corridors.

7/26/01

## **78-312**

### **Special permits by the City Planning Commission**

For any #large-scale residential development#, the City Planning Commission may permit:

- (a) the total #floor area#, #lot coverage#, #dwelling units# or #rooming units# permitted by the applicable district regulations or by Sections 78-32 (Bonus for Good Site Plan) or 78-33 (Bonus for Common Open Space) for all #zoning lots# within the #development# to be distributed without regard for #zoning lot lines#;
- (b) the total #open space# required by the applicable district regulations or by Sections 78-32 or 78-33 for all #zoning lots# within the #development# to be distributed without regard for #zoning lot lines# except that where subdivision is authorized in accordance with the provisions of Section 78-51 (General Provisions), the Commission, in authorizing

such distribution may allow reductions in the minimum required #open space# on individual #zoning lots# only where adequate provision is made for common #open space# to serve such lots;

- (c) minor variations in required #front# or #rear yards# on the periphery of such #development# for the purpose of introducing variety or preserving natural features;
- (d) in R1, R2, R6, R7, R8, R9 or R10 Districts, minor variations in the front height and setback regulations on the periphery of such #development# for the purpose of introducing variety, preserving natural features, or providing for improved access of light and air, but within the general purpose and intent of the height and setback regulations. In R3, R4 or R5 Districts the Commission may modify the height and setback regulations set forth in Section 23-631 and paragraph (b) of Section 78-31 on the periphery of such #development# for the purposes of introducing variety, providing a transition in neighborhood scale between the #development# and surrounding #buildings#; preserving natural features or view corridors; or improving the access of light and air;
- (e) variations in the location of primary business entrances, #show windows#, and #signs# along frontages adjacent to #zoning lots# outside the #development#, without regard to restrictions applicable near #Residence District# boundaries for the purpose of achieving better site planning and community planning. However, in no event shall the Commission allow such primary business entrances, #show windows# or #signs# to be located within 10 feet of the #Residence District# boundary; and
- (f) modifications of the minimum spacing requirements consistent with the intent of the provisions of Section 23-71 (Minimum Distance between Buildings on a Single Zoning Lot) and authorize modifications of the spacing required by paragraphs (c), (d), (e) and (h) of Section 78-311 (Authorizations by the Planning Commission).

7/26/01

**78-313**  
**Findings**

As a condition precedent to the granting of authorizations under the provisions of Section 78-311 (Authorizations by the Planning

Commission) or a special permit under the provisions of Section 78-312 (Special permits by the Planning Commission), the Commission shall make the following findings:

- (a) that such modifications will aid in achieving the general purposes and intent of this Chapter as set forth in Section 78-01 (General Purposes);
- (b) that such distribution of #floor area#, #dwelling units#, #rooming units#, #open spaces#, locations of #buildings#, or location of primary business entrances, #show windows# or #signs# will permit better site planning and will thus benefit both the residents of the #development# and the City as a whole;
- (c) that such distribution or location will not unduly increase the #bulk# of #buildings#, density of population, or intensity of #use# in any #block#, to the detriment of the occupants of #buildings# in the #block# or nearby #blocks#;
- (d) that such distribution or location will not affect adversely any other #zoning lots# outside the #development#, by restricting access to light and air or by creating traffic congestion;
- (e) where portions of the total required #open space# are pooled in common #open space# areas or common parking areas, that such common areas will, by location, size, shape and other physical characteristics, and by their relationship to surrounding #development# and the circulation system, permit realization of the full community service of advantages for which such pooled areas are designed;
- (f) where one or more #zoning lots# in the #development# do not abut mapped #streets#, that suitable private access to mapped #streets# will be provided conforming to standards which will insure adequate circulation and make adequate provision for public services; and
- (g) the modification of height and setback will not impair the essential character of the surrounding area and will not have adverse effects upon the access to light, air and privacy of adjacent properties.

7/26/01

**78-32**

**Bonus for Good Site Plan**

In R1-2, R2 or R3-1 Districts, including #Commercial Districts# mapped within such #Residence Districts#, for any #large-scale residential development#, the City Planning Commission, by special permit, may allow the #open space ratio# otherwise required for the #development# as a whole and for individual #zoning lots# therein to be reduced by not more than 10 percent, may allow the maximum number of #dwelling units# to be increased by not more than five percent, and may allow the maximum #residential floor area ratio# to be increased by not more than 7.5 percent, if the Commission finds that throughout the #development# the site plan provides a significantly better arrangement of the #buildings# in relation to one another and to their sites from the standpoints of privacy, access of light, organization of private #open spaces#, and preservation of important natural features than would be possible or practical for a #development# comprised of similar types built in strict compliance with the applicable district regulations.

7/26/01

### **78-33**

#### **Bonus for Common Open Space**

In R3-1 Districts, including #Commercial Districts# mapped within such #Residence Districts#, for any #large-scale residential development#, the City Planning Commission, by special permit, may allow the #open space ratio# otherwise required for such #development# as a whole to be reduced by not more than 20 percent, may allow the maximum number of #dwelling units# to be increased by not more than 10 percent, and may allow the maximum #residential floor area ratio# to be increased by not more than 15 percent, provided that:

- (a) at least one acre or 20 percent of the total #open space#, whichever is more, is provided in common areas meeting the requirements of Section 78-52 (Common Open Space) and not used for off-street parking;
- (b) the #development# qualifies for a bonus in accordance with the provisions of Section 78-32; and
- (c) the Commission makes the findings required in Section 78-32 and in paragraph (e) of Section 78-313 (Findings).

Such authorizations shall be instead of, rather than in addition to, those which would be allowable under the provisions of Sections 78-32.

7/26/01

**78-34**

**Special Permit Provisions for Certain Large-Scale Developments**

In R3-2, R4 and R5 Districts, or in #Commercial Districts# in which #residential buildings# are governed by the #bulk# regulations, of such #Residence Districts#, for any #large-scale residential development#, the City Planning Commission, by special permit, may make modifications in the #open space ratio#, #residential floor area ratio# and density regulations, pursuant to the provisions of Section 78-35 (Special Bonus Provisions) if the Commission finds that:

- (a) throughout the #development# the site plan provides a significantly better arrangement of the #buildings# in relation to one another and to their sites from the standpoints of privacy, access of light, organization of private #open spaces# and preservation of important natural features to a greater degree than would be possible or practical for a #development# composed of similar types built in strict compliance with the applicable district regulations;
- (b) the public facilities and utilities in the area are adequate to meet the needs of the #development# or that needed additional facilities will be provided as a part of the #development# by the developer or owner;
- (c) the #development# complies with the provisions of Section 78-351 (Bonus for common open space and good site plan); and
- (d) a #large-scale residential development# having an area of 4 acres or more complies with the provisions of Section 78-352 (Bonus for community facility space).

If the Commission determines that a proposed #large-scale residential development# containing not more than 250 #dwelling units# does not require community facility space, finding (d) shall be waived and the provisions of Section 78-352 made inapplicable. In making its determination, the Commission shall give due consideration to a report from the Community Board within which the proposed #large-scale residential development# is located.

If a site for a fire or police station is provided within the Community District in which a #large-scale residential

development# is to be located, which site has been donated in fee to the City, selected as a site pursuant to Section 227 of the Charter (Site Selection for Capital Projects), and, if applicable, approved under the provisions of Section 74-67 (Special Permit for Fire or Police Stations in Residence Districts), the Commission may waive finding (d), provided that the community facility requirements contained in Section 78-352 are determined to be unnecessary.

Any #large-scale residential development# which qualifies for a bonus in accordance with this Section and the applicable provisions of Section 78-35 shall be eligible for any modifications permitted under Sections 78-311 (Authorization by the Planning Commission) or 78-312 (Special permit authorizations) provided the findings of Section 78-313 (Findings) are satisfied.

3/8/73

**78-35  
Special Bonus Provisions**

7/26/01

**78-351  
Common open space and good site plan**

The provisions of this Section shall not apply to any #zoning lot# subdivided for #development# to under four acres after January 1, 1972, nor to any #large-scale residential development# for which authorization has been granted by the City Planning Commission prior to July 31, 1972.

In R3-2 or R4 Districts, or in #Commercial Districts# in which #residential buildings# are governed by the #bulk# regulations of such #Residence Districts#, for any #large-scale residential development# which complies with the requirements of Section 78-34 (Special Permit Provisions for Certain Large-Scale Developments), the permitted #residential floor area ratio#, required #open space ratio# and density regulations for the #development# as a whole may be modified as set forth in this Section. At least 25 percent of the total required #open space# is to be provided in common areas meeting the requirements of Section 78-52 (Common Open Space). No portion of such common #open space# is to be used for driveways or off-street parking. The findings required in paragraph (e) of Section 78-313

(Findings) are to be satisfied.

District	Maximum #Floor Area Ratio#	Minimum #Open Space Ratio#
R3-2	.60	125.0
R4	1.00	66.5

The maximum number of #dwelling units# shall equal the total #residential floor area# permitted divided by the applicable factor in Section 23-20 (DENSITY REGULATIONS).

In R5 Districts, or in #Commercial Districts# in which #residential buildings# are governed by the #bulk# regulations of such #Residence Districts#, at least 25 percent of the total required #open space# is to be provided in common areas that meet the requirements of Section 78-52. No portion of such common #open space# is to be used for driveways or off-street parking. All findings required in paragraph (c) of Section 78-313 are to be satisfied.

7/26/01

### 78-352

#### Bonus for community facility space

In R3-2, R4 and R5 Districts, or in #Commercial Districts# in which #residential buildings# are governed by the #bulk# regulations of such #Residence Districts#, for any #large-scale residential development# which complies with the provisions of Section 78-34 (Special Permit Provisions for Certain Large-Scale Developments), the permitted #residential floor area ratio#, required #open space ratio#, and required #lot area per room# for the #development# as a whole may be modified as set forth in this Section, provided floor space for #community facility use# and/or a program for improvement and maintenance for parks not included in the City capital budget is provided as required in paragraph (b) of this Section.

(a) Permitted #Floor Area Ratio# and Required #Open Space Ratio#:

District	Maximum #Floor Area Ratio#	Minimum #Open Space Ratio#
R3-2	.70	102.0

R4	1.15	54.7
R5	1.45	37.7

The maximum number of #dwelling units# shall equal the total #residential floor area# permitted divided by the applicable factor in Section 23-20 (DENSITY REGULATIONS).

- (b) There shall be at least 15 square feet of community facility floor space for each #dwelling unit# within the #development# and/or a substantial park area located adjacent to or within a reasonable distance from the #development#. Such space shall be used for schools where the need is certified by the Board of Education and where the Board agrees to lease such space at no cost. Otherwise such space shall be allocated for one or more #uses# as specified in this Section where the need for such space has been certified by the City Planning Commission and a City Department agrees to lease such space at no cost. If such certification and agreement are not obtained in either case, the Commission shall approve any private community facility proposed to be rented or maintained by the developer, or the homeowners' association or other entity owning the common elements of the #large-scale residential development#. In no case shall the size of an individual #use# be less than the amount set forth in this Section.

Community Facility	Size (in square feet)
Day care center	3,000
Ambulatory care center	10,000
Library	7,500
Senior citizen center	3,750
Community center	2,000
Indoor recreation center	2,000

In the case of a program for improvement and/or maintenance for parks which is eligible for a bonus pursuant to this Section, comparable improvements and maintenance costs for an equivalent amount of the required community facility space shall be incurred.

- (c) In no event shall the total #floor area# for any #development# constructed pursuant to the Provisions Section exceed the maximum #floor area ratio# for #community

facility uses# permitted by the applicable district regulations.

10/25/93

**78-353**

**Bonus for enclosed parking**

In R4 or R5 Districts, or in #Commercial Districts# in which #residential buildings# are governed by the #bulk# regulations of such #Residence Districts#, for any #large-scale residential development# which complies with the provisions of Section 78-34 (Special Permit Provisions for Certain Large-Scale Developments), the permitted #residential floor area ratio# may be increased over the amount earned by other provisions of Section 78-35 (Special Bonus Provisions) and the required #open space ratio# for the #development# as a whole correspondingly decreased as set forth in this Section provided that at least two-thirds of the required off-street parking is enclosed.

District	Increase in #Floor Area Ratio#	Decrease in #Open Space Ratio#
R4	.25	14.5
R5	.25	10.0

For any #large-scale residential developments# comprising #buildings# of not more than four #stories# receiving a bonus under this Section, the Commission may modify where appropriate the requirements of Section 23-12 (Permitted Obstructions in Open Space), paragraph (f).

8/24/67

**78-40**

**OFF-STREET PARKING REGULATIONS**

4/22/09

**78-41**

**Location of Accessory Parking Spaces**

When a #large-scale residential development# includes, or will include after subdivision, two or more #zoning lots#, the City Planning Commission may, upon application, authorize permitted or required #accessory# off-street parking spaces or bicycle parking spaces to be located anywhere within the #development# without regard for #zoning lot lines#, provided that in each case the Commission shall make the following special findings:

- (a) that such off-street parking spaces or bicycle parking spaces will be conveniently located in relation to the #use# or #uses# to which such spaces are #accessory#;
- (b) that such location of the off-street parking spaces or bicycle parking spaces will permit better site planning and will thus benefit both the owners, occupants, employees, customers, residents or visitors of the #development# and the City as a whole; and
- (c) that such location of the off-street parking spaces or bicycle parking spaces will not increase the number of spaces in any single #block# or the traffic drawn through any one or more of the nearby local #streets# in such measure as to affect adversely other #zoning lots# outside the #development# or traffic conditions in the surrounding area.

Whenever required off-street parking spaces or bicycle parking spaces are authorized to be located without regard for #zoning lot lines# in accordance with the provisions of this Section, the number of spaces required for each #building# or #use# shall be kept available for such #building# or #use# throughout its life.

Whenever any #zoning lot# within such a #large-scale residential development# is subdivided into two or more #zoning lots#, such subdivision shall be subject to the provisions of Section 78-51 (General Provisions).

5/8/75

## **78-42**

### **Parking Regulations for Commercial and Community Facility Uses**

For #large-scale residential developments# in R3-2, R4, R5, R6, R7, R8, R9 or R10 Districts, or in #Commercial Districts# in which #residential buildings# are governed by the #bulk# regulations of R3-2, R4, R5, R6, R7, R8, R9 or R10 Districts, the City Planning Commission may, by special permit, waive the requirements for off-street parking spaces #accessory# to any #commercial# or #community facility use# included in such #large-

scale residential development# and intended primarily for the use of its residents.

10/25/93

**78-43**

**Modification for Open Space Requirements in Large-Scale Developments**

For all #large-scale residential developments# in R5, R6, R7, R8 or R9 Districts, or in #Commercial Districts# in which #residential buildings# are governed by the #bulk# regulations of such #Residence Districts#, the City Planning Commission may modify the requirement for #open space# as set forth in the definition of #open space# in Section 12-10 (DEFINITIONS) by allowing parking space, on the roofs of detached parking garages not more than 23 feet in height above #curb level#, to count as #open space# and by not requiring connections from such roofs to ground level by exterior passageways or ramps, provided that the following findings are made:

- (a) that the total area occupied by driveways, private streets, or open #accessory# off-street parking spaces in all areas claimed as common or private #open space# throughout the #development# shall not exceed 40 percent of the total required #open space# for the #development#; and
- (b) that such arrangement and use of #open space# results in better site planning and community planning.

6/30/89

**78-44**

**Modification of Curb Cut Regulations**

The City Planning Commission may, upon application, authorize modification of the requirements set forth in Section 25-631 (Location and width of curb cuts in certain districts), provided the Commission finds that the proposed location and width of curb cuts:

- (a) results in a more efficient traffic circulation system;
- (b) permits better site planning; and

- (c) does not unduly increase the amount of traffic on nearby local streets so as to adversely affect #zoning lots# outside the #development#.

8/24/67

## **78-50**

### **SUBDIVISION OF LARGE-SCALE RESIDENTIAL DEVELOPMENTS**

8/24/67

## **78-51**

### **General Provisions**

A #large-scale residential development# may be subdivided before, during or after #development# into two or more #zoning lots# which may be in different ownerships, provided that either:

- (a) all resulting #zoning lots# and all #buildings# thereon comply with all the applicable regulations of this Resolution;
- (b) such subdivision conforms to a subdivision plan which was included as part of the application for authorizations or special permit under the provisions of this Chapter and whose execution has been authorized in the grant of such authorizations or special permit; or
- (c) such subdivision is made necessary by forced sale or foreclosure of a portion of such #development#, but can be accommodated to any authorization or special permit granted pursuant to the provisions of this Chapter.

All #zoning lots# resulting from such subdivisions shall be subject to all the applicable regulations of this Resolution or, in the case of a #large-scale residential development# for which any modifications were granted in accordance with the provisions of this Chapter, shall be subject to the terms, conditions and limitations of the #large-scale residential development# plan as approved.

In any subdivision of a #large-scale residential development# for which such modifications were granted, covenants running with the land which shall permit of public or private enforcement, reflecting the terms, conditions and limitations of the #large-scale residential development# plan, as approved, shall be

incorporated in the deed to each parcel conveyed.

Such subdivision may result in commonly or separately owned common #open space# or common parking areas, as set forth in Sections 78-52 (Common Open Space) or 78-53 (Common Parking Areas).

3/8/73

## **78-52**

### **Common Open Space**

An area designated on the site development plan of a #large-scale residential development# as "common #open space#" and on the subdivision plan as an area to be held in separate ownership for the use and benefit of residents occupying specified #zoning lots# shown on such subdivision plan may be approved as part of such subdivision plan, provided that it meets the following requirements:

- (a) it shall be conveniently accessible to all residents of #zoning lots# for which it is intended to satisfy the #open space# requirements;
- (b) it shall be made available in its improved state as set forth on the site development plan in accordance with an approved time schedule;
- (c) it shall be maintained in accordance with an approved maintenance plan specifying what such maintenance shall consist of, whose responsibility it shall be, and assuring satisfactory execution of maintenance;
- (d) provisions to insure its continuing availability shall be included in the covenants to be incorporated in the deed to each parcel to be served by such common #open space#;
- (e) it shall be entirely at natural grade level or at the principal level of pedestrian circulation in adjacent areas;
- (f) it may contain only such obstructions as are specifically permitted under the provisions of Section 23-12 (Permitted Obstructions in Open Space) or minor #accessory# structures, and the total area occupied by driveways, private streets, or open #accessory# off-street parking spaces in all areas claimed as common or private #open space# throughout the #development# shall not exceed 50 percent of the total required #open space# for the #development#; and

- (g) such #open space# shall include both active and passive recreation space providing a range of recreational facilities and activities appropriate to the occupants of the #development#. Such space shall be physically and visually accessible to the occupants and shall be screened from unsuitable areas. Passive recreation space shall be landscaped and shall be located in areas other than access and egress spaces. Active recreation facilities, such as play equipment, court game facilities, or ball fields, shall be designed to provide the maximum possible area appropriate to the size of the #development#.

The approval of a subdivision plan which includes common #open space# shall be conditioned upon a finding that these requirements are met.

8/24/67

### **78-53**

#### **Common Parking Areas**

An area designated on the site development plan of a #large-scale residential development# as "common off-street parking area" and on the subdivision plan as an area to be held in separate ownership for use by the occupants or visitors of specified #zoning lots# shown on such subdivision plan may be approved as part of such subdivision plan, provided that it shall meet the following requirements:

- (a) it shall be made available in its improved state as set forth in the site development plan in accordance with an approved time schedule;
- (b) it shall be maintained in accordance with an approved maintenance plan specifying what such maintenance shall consist of, whose responsibility it shall be, and assuring satisfactory execution of maintenance; and
- (c) provisions to insure its continuing availability shall be included in the covenants to be served by such common off-street parking area.

The approval of a subdivision plan which includes common off-street parking areas shall be conditioned upon a finding that these requirements are met.

