

## **Zoning for Quality and Affordability**

### **Summary of proposed changes to Article III, Chapter 2 – Use Regulations in Commercial Districts**

**Overview:** Article III, Chapter 2 of the Zoning Resolution establishes use regulations for commercial zoning districts, which generally permit commercial uses, residences and community facilities, as well as mixed buildings. The proposal removes and/or updates a few outdated terms to reflect current industry and regulatory standards, and to provide for a greater spectrum of affordable senior housing and related long-term care facilities. The proposal modifies the process for obtaining approvals to construct such housing and care facilities, in order to better facilitate their production in response to increased citywide demand. These changes align with those made for residence districts in Article II, Chapter 2. More specifically, the proposal:

- Removes current certification requirement for nursing homes (which are described as “long-term care facilities” in the proposal).
- Creates reference to new discretionary actions in Article II, Chapter 2, to permit long-term care facilities in C1 or C2 Districts mapped within R1 or R2 districts.
- Reverses the order of a few tables to make them easier to read.
- Relocates many specific provisions for ground floor depth, maximum width of certain uses, transparency and parking wrap in the supplemental use regulations for certain zoning districts and created references to new standardized ground floor level provisions in Section 37-30 instead.
- Relocates special ground floor provisions for high density districts to this Chapter as they are similar to many supplemental use regulations.
- References to re-numbered or re-titled sections are updated. Terms removed or revised in the proposal are updated. Other edits for general clarity are also included.
- Various terms revised by the proposal are updated and obsolete terms are removed.

If you would have comments or questions on this draft, please send them to [ahousing@planning.nyc.gov](mailto:ahousing@planning.nyc.gov).

Matter in underline is new, to be added;  
Matter in ~~strikeout~~ is to be deleted;  
Matter within # # is defined in Section 12-10;  
\* \* \* indicates where unchanged text appears in the Zoning Resolution

## Article III - Commercial District Regulations

### Chapter 2 Use Regulations

\* \* \*

#### 32-30 USES PERMITTED BY SPECIAL PERMIT

\* \* \*

#### 32-32 By the City Planning Commission

In the districts indicated, the following #uses# are permitted by special permit of the City Planning Commission, in accordance with standards set forth in Article VII, Chapter 4, or as otherwise indicated in this Section.

\* \* \*

~~C1 C2 C3 C4 C5 C6~~

~~Domiciliary care facilities for adults~~

Commented [DCP1]: Removing obsolete term.

\* \* \*

~~C1 C2 C3 C4 C5 C6~~

~~#Long-term care facilities# in C1 and C2 districts mapped within R1 and R2 Districts, except as provided in Section 22-42 (Long-Term Care Facilities). Nursing homes and health related facilities in Community Districts in which the conditions set forth in Section 22-42 (Certification of Certain Community Facility Uses) apply.~~

Commented [DCP2]: Makes applicability of CPC special permit for long-term care facilities consistent with new regulations in 22-42.

\* \* \*

#### 32-40 SUPPLEMENTARY USE REGULATIONS

\* \* \*

**32-42  
Location within Buildings**

\* \* \*

**32-423  
Limitation on ground floor location**

C4 C5

In the districts indicated, #uses# in the Use Groups listed in the following table and marked with asterisks in the Use Group listing shall be located only as follows and as set forth in the following table:

- (a) on a floor above or below the ground floor; or
- (b) on the ground floor, but not within 50 feet of any #street wall# of the #building# and with no #show window# facing on the #street#.

Commented [DCP3]: Reversing order of table for greater clarity.

<u>Use Group in Which Limitation Applies</u>	<u>District</u>
8, 9 or 12	C4
6, 9 or 11	C5
<u>District</u>	<u>Use Group in Which Limitation Applies</u>
C4	8, 9 or 12
C5	6, 9 or 11

**32-43  
Ground Floor Use in Certain Locations**

**32-431  
Ground floor use in C1-8A, C1-9A, C2-7A, C2-8A, C4-6A and C4-7A Districts**

C1-8A C1-9A C2-7A C2-8A C4-6A C4-7A

In the districts indicated, and in C1 and C2 Districts mapped within R9A and R10A Districts, #uses# within #stories# that have a floor level within five feet of #curb level# fronting on a #wide street# shall be limited to non-#residential uses# except for Type 1 lobbies, and entryways to subway stations provided in accordance with the applicable provisions of Section 37-33 (Maximum Width of Certain Uses). ~~or lobby space for #residential use#.~~

**Commented [DCP4]:** Creating reference to new standard ground-floor maximum width provisions for certain uses in Article III, Chapter 7.

~~Such lobbies shall not occupy more than 20 linear feet of #street wall# frontage on a #wide street# or 30 linear feet on a #narrow street#.~~ Non-#residential use# shall have a depth of at least 15 feet from the #street wall#. Such minimum depth requirement may be reduced, however, where necessary, to accommodate a vertical circulation core, or structural columns associated with upper #stories# of the #building#. ~~No more than 8,000 square feet shall be devoted to Use Group 6B within #stories# that have a floor level within five feet of #curb level#.~~

**Commented [DCP5]:** Requirement updated with new standard requirements in Article III, Chapter 7.

**Commented [DCP6]:** Providing greater clarity as to what is permitted to encroach within mandatory depth requirement.

The provisions of Section 32-512 (For corner lots) shall not apply.

The provisions of this Section shall not apply within Community Board 7, Borough of Manhattan.

### 32-432

#### Ground floor use in Community Board 7, Borough of Manhattan

Within the boundaries of Community Board 7 in the Borough of Manhattan, when a #development#, #enlargement# or change of #use# is located in an R10 equivalent #Commercial District#, #uses# within #stories# that have a floor level within five feet of #curb level# fronting on a #wide street# shall be limited to non-#residential uses#, except for Type 1 lobbies, and entryways to subway stations provided in accordance with the applicable provisions of Section 37-33 (Maximum Width of Certain Uses). ~~except lobby space.~~

**Commented [DCP7]:** Creating reference to new standard ground-floor maximum width provisions for certain uses in Article III, Chapter 7.

### 32-433

#### Ground floor use in C1, C2 and C4 Districts in the Borough of Staten Island

C1 C2 C4

In all C1, C2 and C4 Districts in the Borough of Staten Island, ground floor #uses# shall conform with the provisions of this Section.

(a) Ground floor level #use# requirements

All #uses# on the ground floor of a #building# shall be limited to non-#residential uses# except for Type 1 lobbies, and entrances and exits to #accessory# parking spaces provided in accordance with the applicable provisions of Section 37-33 (Maximum Width of Certain Uses). Such non-#residential uses# shall comply with the minimum depth provisions of Section 37-32 (Ground Floor Depth Requirements for Certain Uses).

**Commented [DCP8]:** Creating reference to new standard ground-floor maximum width and minimum depth provisions for certain uses in Article III, Chapter 7.

In addition, enclosed parking spaces, or parking spaces covered by a #building#, including such spaces #accessory# to #residences#, shall be permitted on the ground floor, provided they comply with the provisions of Section 37-35 (Parking Wrap and Screening Requirements).

Commented [DCP9]: Creating reference to new standard parking wrap and screening requirements in Article III, Chapter 7.

All #uses# on the ground floor of a #building# shall be limited to non #residential uses# and have a depth of at least 30 feet from the #street wall# of the #building#, except that:

- (1) #residential# lobbies, and an associated vertical circulation core, as well as entrances to #accessory# parking spaces, shall be permitted on the ground floor, provided such lobbies and entrances conform to the frontage requirements of paragraph (b) of this Section;
- (2) enclosed parking spaces, or parking spaces covered by a #building#, including such spaces #accessory# to #residences#, shall be permitted on the ground floor, provided they are located beyond 30 feet of the #street wall# of the #building#; and
- (3) where a #commercial district# is mapped along an entire #block# front, and a #zoning lot# includes #street# frontage along such #block# front, and also includes #street# frontage along a #block# front that is not mapped as a #commercial district# in its entirety, non #residential uses# shall be required only within 30 feet of the #street wall# facing the #block# front mapped in its entirety as a #commercial district#.

Commented [DCP10]: Removing these provisions as they are no longer necessary given the cross references to Article III, Chapter 7 above.

The level of the finished floor of such ground floor shall be located not higher than two feet above nor lower than two feet below the as-built level of the adjoining #street#.

~~(b) Ground floor frontage requirements~~

Commented [DCP11]: Removing these provisions below as they are no longer necessary given the cross references to Article III, Chapter 7 above.

~~Non #residential uses# shall extend along the entire width of the ground floor of the #building#, except as follows:~~

- ~~(1) in C1 and C2 Districts mapped within R1, R2 and R3 Districts, and in C4 Districts, #residential# lobbies and entrances to #accessory# parking spaces shall be permitted, provided such lobbies and entrances do not occupy more than 25 percent of the #street wall# width of the #building#; and~~
- ~~(2) in C1 and C2 Districts mapped within R4, R5 and R6 Districts, #residential# lobbies and entrances to #accessory# parking spaces shall be permitted, provided that:~~
  - ~~(i) for #zoning lots# with a #street# frontage of less than 60 feet, such lobbies and entrances do not occupy more than 50 percent of the #street wall# width along such frontage, or 20 feet, whichever is less. In addition, an entrance to #accessory# parking spaces shall not exceed a width of 15 feet; and~~

(ii) ~~for #zoning lots# with a #street# frontage equal to or greater than 60 feet, such lobbies and entrances do not occupy more than 25 percent of the #aggregate width of street wall# of the #building#.~~

(b)(e) #Non-conforming buildings#

#Buildings# containing #non-conforming residential uses# on the ground floor shall be permitted to #enlarge# without regard to the #use# regulations of this Section, provided that such #enlargement# complies with the provisions of the #residential yard# regulations set forth in Section 23-40.

### 32-434

#### Ground floor use in C4-5D and C6-3D Districts and in certain C2 Districts

C4-5D C6-3D

In the districts indicated and in C2 Districts mapped within R7D or R9D Districts, #uses# within #stories# that have a floor level within five feet of #curb level# shall be limited to non-#residential uses# which shall extend along the entire width of the #building#, except for Type 1 lobbies, entrances and exits to #accessory# off-street parking facilities, and entrances to subway stations provided in accordance with the provisions of Section 37-33 (Maximum Width of Certain Uses), and lobbies, entrances to subway stations and #accessory# parking spaces, provided such lobbies and entrances do not occupy, in total, more than 25 percent of the #street wall# width of the #building# or more than 20 linear feet of #street wall# frontage on a #wide street# or 30 linear feet on a #narrow street#, whichever is less. Such non-#residential uses# shall comply with the ~~have a~~ minimum depth provisions of Section 37-32 (Ground Floor Depth Requirements for Certain Uses) of 30 feet from the #street wall# of the #building#. In C6-3D Districts, a vertical circulation core shall be permitted within such minimum 30 foot depth.

Enclosed parking spaces, or parking spaces within a #building#, including such spaces #accessory# to #residences#, shall be permitted to occupy #stories# that have a floor level within five feet of #curb level# provided they comply with the provisions of Section 37-35 (Parking Wrap and Screening Requirements) are located beyond 30 feet of the #street wall# of the #building#. However, loading ~~Loading~~ berths serving any permitted #use# in the #building# may occupy up to 40 feet of such #street# frontage and, if such #building# fronts on both a #wide street# and a #narrow street#, such loading berth shall be located only on a #narrow street#.

In C6-3D Districts, each ground floor level #street wall# of a #commercial# or #community facility use# shall be glazed with materials which may include #show windows#, glazed transoms or glazed portions of doors. Such glazing shall occupy at least 70 percent of the area of each such ground floor level #street wall#, measured to a height of 10 feet above the level of the adjoining sidewalk, public access area or #base plane#, whichever is higher. Not less than 50 percent of the area of each such ground floor level #street wall# shall be glazed with transparent materials and up to 20 percent of such area may be glazed with translucent materials. However, where the #street wall# or portion thereof fronts an elevated rail line or is located within 50 feet of a #street wall# that fronts an elevated rail line, the glazing requirement of the area of the ground floor level #street wall# may be reduced from 70 percent to 50 percent, and not less than 35 percent of the area of each such ground floor level

**Commented [DCP12]:** Updating requirements in the below paragraphs to reference new standard ground-floor maximum width, minimum depth, and parking wrap provisions for certain uses in Article III, Chapter 7.

~~#street wall# shall be glazed with transparent materials and up to 15 percent of such area may be glazed with translucent materials. Furthermore, all security gates installed after September 30, 2009, that are swung, drawn or lowered to secure #commercial# or #community facility# premises shall, when closed, permit visibility of at least 75 percent of the area covered by such gate when viewed from the #street#, except that this provision shall not apply to entrances or exits to parking garages.~~

Commented [DCP13]: Removing these provisions as they are no longer necessary given the cross-references to Article III, Chapter 7 in the below paragraph.

~~In C4-5D and C6-3D Districts, and in C2 Districts mapped within R7D or R9D Districts, each ground floor level #street wall# in a #building developed# or #enlarged# on the #buildings# developed after October 11, 2012, or portions of #buildings enlarged# on the ground floor level after October 11, 2012, shall comply with the glazing provisions set forth in Section 37-34 (Minimum Transparency Requirements). Section 132-30 (SPECIAL TRANSPARENCY REGULATIONS), inclusive. Such provisions shall apply in such districts to #building# frontages on Fulton Street in the Borough of Brooklyn and to frontages on Webster Avenue in the Borough of the Bronx. However, these provisions shall not apply to #buildings# on #zoning lots# with a width of less than 20 feet, provided such #zoning lot# existed on October 11, 2012.~~

Commented [DCP14]: Removing these provisions as they are no longer necessary given the cross-references to Article III, Chapter 7 in the preceding sentence.

### 32-435

#### Ground floor use in High Density Commercial Districts

The regulations of this Section shall apply to any #development# occupied by #predominantly residential use#, constructed after April 21, 1977, located on any #zoning lot# within C1-8, C1-9, C2-7, C2-8, C4-6, C4-7, C5-1, C5-2, C5-4, C6-3, C6-4, C6-5 or C6-8 Districts, or C1 and C2 Districts mapped within R9 or R10 Districts. However, this Section shall not apply within any Special Purpose District nor shall it apply to any #Quality Housing building#, except as otherwise set forth herein.

Commented [DCP15]: Relocating existing provisions from 37-30 that are more in keeping with the ground floor use provisions of this chapter.

An application to the Department of Buildings for a permit respecting any #development# shall include a plan and an elevation drawn to a scale of at least one-sixteenth inch to a foot of the new #building# and #buildings# on #contiguous lots# or #contiguous blocks# showing #signs#, other than #advertising signs#, #arcades#, #street wall# articulation, curb cuts, #street# trees, sidewalk paving, central refuse storage area and such other necessary information as may be required by the Commissioner of Buildings.

#### (a) Definitions

Commented [DCP16]: Moving from 37-32.

For the purposes of this Section, the following definitions shall be applicable.

##### Contiguous block

For the purposes of this Section, inclusive, a "contiguous block" is a #block# containing one or more #zoning lots# separated by a #narrow street# from the #block# containing the #development#.

##### Contiguous lot

For the purposes of this Section, inclusive, a "contiguous lot" is a #zoning lot# which shares a common #side lot line# with the #zoning lot# of the #development#.

Development

For the purposes of this Section, inclusive, in addition to the definition of “development” pursuant to Section 12-10 (DEFINITIONS), “development” shall also include an #enlargement# involving an increase in #lot coverage#.

Predominantly residential use

For the purposes of this Section, inclusive, a "predominantly residential use" means a #building# having a #residential floor area# in excess of 50 percent of the total #building floor area#.

(b) Applicability of Article II, Chapter 6

Commented [DCP17]: Moving from 37-33.

In C1-8, C1-9, C2-7, C2-8, C4-6, C4-7, C5-1, C5-2, C5-4, C6-3, C6-4, C6-5 and C6-8 Districts, or C1 or C2 Districts mapped within R9 or R10 Districts, the regulations of Article II, Chapter 6 (Special Urban Design Guidelines - Streetscape), shall apply to any #development# occupied by #predominantly residential use#, except as modified by the provisions of this Section. The purpose of these modifications is to make the regulations of Article II, Chapter 6, applicable to #Commercial Districts#.

(c) Retail Continuity

Commented [DCP18]: Moving from 37-35.

For #buildings# with front #building# walls that are at least 50 feet in width and front upon a #wide street#, a minimum of 50 percent of the width of such front #building# wall shall be occupied at the ground floor level by #commercial uses#, as permitted by district regulations.

In C1-8, C1-9, C2-7, C2-8, C4-6 Districts, and C1 or C2 Districts mapped within R9 or R10 Districts, #uses# which occupy such 50 percent of the front #building# wall shall be limited to those listed in Use Groups 6A, 6C and 6F, excluding banks and loan offices, except that in C4-6 Districts only, such #uses# may additionally include those listed in Use Groups 8A, 8B and 10A. All #uses# permitted by the underlying district regulations are permitted in the remaining 50 percent of the front #building# wall.

Such requirement of #commercial uses# for a minimum of 50 percent of the front #building# wall may be waived, or additional #uses# permitted, upon certification by the City Planning Commission to the Commissioner of Buildings that an adequate supply of such #uses# already exists at the ground floor level in the surrounding area.

The Commission may require that an application for such certification of additional #uses# for a completed #building#, where #floor area# has been designated for occupancy for such #commercial uses#, establish that a good faith effort has been made to secure tenancy by such #uses#.

(d) Ground floor transparency and articulation

Commented [DCP19]: Moved from 37-37, with updated reference to standard transparency provisions now set forth in Article III, Chapter 7.

When any #building# wall which is five feet or more in height adjoins a sidewalk, a #public plaza# or an



#arcade#, ground floor level transparency shall be provided in accordance with the provisions of Section 37-34 (Minimum Transparency Requirements).

In addition, any portion of such #building# wall, 50 feet or more in width, which contains no transparent element between #curb level# and 12 feet above #curb level# or the ceiling of the ground floor, whichever is higher, or to its full height if such wall is less than 12 feet in height, shall be covered with ivy or similar planting or contain artwork or be treated so as to provide visual relief. Plants shall be planted in soil having a depth of not less than 2 feet, 6 inches, and a minimum width of 24 inches. If artwork is being used, approval by the New York City Design Commission shall be obtained prior to the certificate of occupancy being issued for the #development#.

(e) **Sign regulations**

Commented [DCP20]: Moving from 37-36.

In addition to the applicable district regulations in C1-8, C1-9, C2-7, C2-8 and C4-6 Districts, and C1 or C2 Districts mapped within R9 or R10 Districts, all #signs#, other than #advertising signs# and window #signs#, shall be located in a horizontal band not higher than three feet, the base of which is located not higher than 17 feet above #curb level#. Where there is a grade change of at least 1.5 feet in 100 along the portion of the #street# upon which the #development# fronts, such signage band may be staggered along such #street#.

When a #building# on a #contiguous lot# or #contiguous block# contains #accessory# business #signs# within a coordinated horizontal band along its #street# frontage, the signage strip along the #development# shall be located at the same elevation as the adjacent band, but in no event higher than 17 feet above #curb level#. Where coordinated horizontal bands exist on two #contiguous lots# or #contiguous blocks# on both sides of the #development#, the signage strip shall be located at the same elevation as one adjacent band, or between the elevations of the two. For the purpose of this Section, the elevation is measured from the #curb level# to the base of the signage strip.

The City Planning Commission may, by certification to the Commissioner of Buildings, allow modifications of the requirements of this Section. Such modifications will be permitted when the Commission finds that such modifications will enhance the design quality of the #street wall#.

\* \* \*

**32-44**

**Air Space over a Railroad or Transit Right-of-way or Yard**

\* \* \*

**32-442**

**Use of railroad or transit air space**

C1 C2 C3 C4 C5 C6 C7 C8

\* \* \*

(c) Notwithstanding the above, the #High Line#, as defined in Section 98-01, shall be governed by the provisions of Section ~~98-17~~ 98-16 (Air Space Over a Railroad or Transit Right of Way or Yard).

\* \* \*

**32-45**

**Certification of Certain Community Facility Uses**

~~C1 C2 C3 C4 C5 C6~~

In all districts, as indicated, for any nursing homes and health-related facilities or #enlargement#, #extension# or change in #use# thereof, the City Planning Commission shall certify to the Department of Buildings, prior to the filing of any plans by the applicant for a building permit for such #use#, that none of the following conditions applies to the Community District within which such #use#, or #enlargement#, #extension# or change in such #use#, is to be located:

- (1) ~~the ratio between the number of beds for such #uses# in existence, under construction or approved toward construction by the appropriate Federal or State governmental agency, to the population of the Community District compared to such ratio for other Community Districts shows a relative concentration of facilities covered in this Section in the affected district;~~
- (2) ~~a scarcity of land for general community purposes exists; or~~
- (3) ~~the incidence of construction of facilities for the last three years warrants review over these facilities because they threaten to disrupt the land use balance in the community.~~

If the Commission finds that one or more of the conditions set forth in this Section applies to the Community District within which such #use#, or #enlargement#, #extension# or change in such #use#, is to be located, a special permit pursuant to Section ~~74-90~~ shall be required.

\* \* \*

END

Commented [DCP21]: Removing certification requirement for nursing homes consistent with proposal for residence districts in Article II, Chapter 2.