

San Antonio, TX

Related Planning Policy: Traffic calming policies and related design guides

Article V: Division II : Infrastructure Standards

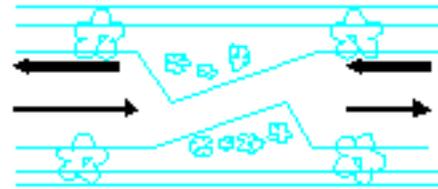
(t) Traffic Calming. The purpose of this section is to protect the public health, safety and general welfare by ensuring that speeds on local streets are suitable for their intended purpose. The city hereby finds and determines that long blocks, wide street cross sections and uninterrupted traffic flows can encourage speeding on local and collector streets. Accordingly, these design standards will slow traffic on local streets while allowing flexibility in design and offering applicants the choice of treatment that works best for the streets in a proposed development.

- 1) **Applicability.** The provisions of this subsection shall apply to local and collector streets when any traffic control devices are proposed and shall be approved by both the city and the county when located in the ETJ.
- 2) **Street Lengths.** The length of street links shall comply with the block length standards established in subsection [35-515\(b\)\(3\)](#) of this chapter.
- 3) **Traffic Control Calming Features.** A longer street length may be allowed through the placement of an approved traffic calming feature at a location which produces an unimpeded length of the street link which does not exceed the block length standards (subsection [35-515\(b\)\(4\)](#)). Table 506-8 provisions describe and establish standards for permitted traffic calming devices where traffic calming measures are permitted as part of the roadway design elements in subsection B, above. The descriptions in Table 506-8 are described in the document entitled R. Ewing, traffic calming: State of the Practice (Institute of Transportation engineers (ITE) and the Federal Highway Administration (FHWA), 1999), which document is hereby incorporated by this reference. In addition, the director of planning and development services shall seek concurrence from the Bexar County engineer for any type of traffic calming feature propose on residential roadways located in the ETJ as detailed in Table 506-8. Traffic calming options for locals and collector streets are noted below:

Table 506-8

APPROVED TRAFFIC CONTROL DEVICES AND DESCRIPTION

Neckdowns/Flares/Street Narrowing/Intersection Throating. Neckdowns are curb extensions at intersections that reduce roadway width curb to curb. They are sometimes called slow points, nubs, bulbouts, knuckles, or intersection narrowing. These traffic control measures reduce the width of a section of roadway in a gradual manner. They shorten crossing distances for pedestrians and drawing attention to pedestrians via raised peninsulas. By tightening curb radii at the corner, the pedestrian crossing distance is reduced and the speeds of turning vehicles are reduced. The effect of this measure is to reduce speed and discourage non-local traffic. Motorists react to this measure with slower speed because of a concern of a limited travel path.



Roundabouts/Traffic Circles are raised circular structures constructed at a three-way or four-way intersection. Its objectives are to slow speeding and reduce the number and severity of vehicular accidents. This measure is most suitable for wide intersections and may accommodate all size vehicles by applying appropriate engineering designs.



Median Islands are raised circular landscaped areas located within non-intersection, midblock locations. Median islands channelize traffic and separate opposing flows. Traffic must slow down to maneuver around a median island. Median islands offer landscaping opportunities and maintenance responsibility. Median islands can be used to protect existing trees. See Figure 506-12.



"T" intersections are at-grade intersections where one of the intersecting street links is perpendicular to the other two. Traffic must slow down to negotiate the turning maneuvers in a T-intersection. This roadway feature is very common. Motorists are familiar with T-intersections.

- 4) **Maintenance.** Maintenance of landscaping associated with traffic calming features shall be the sole responsibility of the homeowners' association.

Planning for Healthy Places Model Code (Michigan):

Related Planning Policy: Remove policy barriers to establishing urban agriculture and community gardens.

Model Zoning Language: Establishing Community Gardens as an Approved Use

Permitted Use of Community Gardens

Community Gardens shall consist of land used for the cultivation of fruits, vegetables, plants, flowers, or herbs by multiple users.

The land shall be served by a water supply sufficient to support the cultivation practices used on the site. Such land may include available public land.

Community gardens are a permitted use in the following zones: residential, multifamily, mixed-use, open space, industrial _____ [add other zoning districts] subject to the following regulations:

Comment: Some communities may permit community gardeners to keep bees and raise chickens on garden sites. If so, this definition can be amended to allow these uses.

- (a) Site users must provide a Phase I Environmental Site Assessment (ESA). Any historical sources of contamination identified in the ESA must be tested to determine type and level of contamination; appropriate remediation procedures must be undertaken to ensure that soil is suitable for gardening.

Comment: Funds and grant for environmental site assessments, testing and cleanup procedures may be available from a variety of state and federal sources. Site users should coordinate with their local economic development and redevelopment agencies, as well as their local/regional Department of Toxic Substances Control.

- (b) Site users must have an established set of operating rules addressing the governance structure of the garden, hours of operation, maintenance and security requirements and responsibilities; a garden coordinator to perform the coordinating role for the management of the community gardens; and must

assign garden plots according to the operating rules established for that garden. The name and telephone number of the garden coordinator and a copy of the operating rules shall be kept on file with the City [insert department name] Department.

Comment:

To function effectively, a community garden must have established operating rules and a garden coordinator. In this ordinance, a municipality could (1) require that gardens have rules, as the model language does above, (2) provide a complete listing of rules; or (3) give authority for a particular city or county department or officer to establish community garden rules and require each community garden to adhere to those rules. A municipality could also choose to address some or all of the requirements for operating a community garden in this or an accompanying ordinance.

- (c) The site is designed and maintained so that water and fertilizer will not drain onto adjacent property.
- (d) There shall be no retail sales on site, except for produce grown on the site.

Comment:

Community gardens can be a needed source of income to low-income residents, as well as a source of produce for neighbors who do not grow their own food. The model language allows gardeners to sell the produce they have grown, but permits no sales of other items. Because the model ordinance permits community gardens to be established in a variety of use districts, including residential districts, a municipality may be reluctant to allow major retail operations on garden sites. If the municipality chooses, it may allow more expansive sales at garden sites. Alternatively, it could permit gardeners to sell produce at a different site. The model ordinance addresses land use issues when permitting sales, but does not address other regulations that may affect sales, such as health and sanitation laws or business license regulations. Before permitting sales of community garden produce, the municipality must ensure that those sales are permitted under other state and local laws.

- (e) No building or structures shall be permitted on the site; however, [sheds for storage of tools limited in size to [_____]] or subject to the requirements of section _____], greenhouses that consist of buildings made of glass, plastic, or fiberglass in which plants are cultivated, [chicken coops], benches, bike racks, raised/accessible planting beds, compost or waste bins, picnic tables, seasonal farm

stands, fences, garden art, rain barrel systems, [beehives], [barbeque grills, outdoor ovens]and children's play areas shall be permitted. The combined area of all buildings or structures shall not exceed [15 percent]of the garden site lot areas. Any signs shall comply with applicable [city/county]ordinances.]

Comment:

Some communities may wish to allow community gardeners to erect sheds for the storage of tools on garden sites. The municipality should make sure that any provision regarding sheds conforms to other municipal code provisions regarding storage sheds on property. Additionally, if communities permit the cultivation of beehives and chickens in their community gardens, structures for the care of these animals should be included. Local laws vary on the keeping of farm animals in different use districts.

- (f) Fences shall not exceed [six feet] in height, shall be at least [fifty percent]open if they are taller than [four feet], and shall be constructed of wood, chain link, or ornamental metal. For any garden that is [15,000 square feet in area or greater] and is in a location that is subject to design review and approval by the [City Planning Commission or Landmarks Commission], no fence shall be installed without review by the [City Planning Director, on behalf of the Commission],so that best efforts are taken to ensure that the fence is compatible in appearance and placement with the character of nearby properties.

Comment:

Municipalities usually have requirements regarding fences in their zoning or building codes. If the municipality has existing regulations, it may not need this provision.

Kinderhook, NY

Related Planning Policy: Policies that expedite the permitting process or provide incentives for the development of new farmers markets.

Chapter 81: Article V § 81-27 Special use permits.

E. Prescribed standards for Certain Uses. In addition to the above general provisions, the following uses shall comply with the following prescribed standards:

(1) Farm Markets. The purpose of this section is to protect and regulate the establishment and operation of farm markets, as defined in ~ 81-2, so they may continue to be a resource for farmers and tourism for the Town of Kinderhook.

- (a) The size of the retail portion of the farm markets must not exceed 1,600 square feet.
- (b) At least 75% of the retail floor area must be utilized for the sale of agricultural, dairy or horticultural products.
- (c) No more than 25% of the retail floor area can be utilized for the sale of complimentary goods.
- (d) Farm markets can offer either preharvested or customer-picked products.
- (e) Minimum parking requirements are one space for 100 square feet of retail floor space.
- (f) Parking lots shall have a surface cover of either gravel or crushed stone.

Cleveland, OH

Related Planning Policy: Crime Prevention Through Environmental Design policies that maximize visibility and eyes on the street

Title VII Zoning Code

Chapter 358: § 358.04 Fences in Residential Districts

Fences in Residential Districts shall be installed and maintained in accordance with the following regulations, as well as other applicable regulations of the Codified Ordinances.

- (a) *Height and Opacity.* Fences in actual front yards and in actual side street yards shall not exceed four (4) feet in height and shall be at least fifty percent (50%) open, except that, in an actual side street yard, that is set back at least four (4) feet from the side street property line may be a maximum of six (6) feet in height and may be open or solid. Fences in actual rear yards and in actual interior side yards shall not exceed six (6) feet in height and may be solid or open. No fence shall be higher than its distance from a residence building on an adjoining lot or from the permitted placement of a future residence on such lot, if such fence will be generally parallel to and adjacent to the closest wall of the residence.

[New York, NY :](#)

Related Planning Policy: Access to a Healthy Food System

Zoning Resolution of the City of New York

Article VI: Chapter 3- Special Regulations Applicable to Fresh Food Stores

(see next page)

ZONING RESOLUTION Web Version

THE CITY OF NEW YORK



THE CITY OF NEW YORK
Bill de Blasio, Mayor

CITY PLANNING COMMISSION
Marisa Lago, Chair

Article VI: Special Regulations Applicable To Certain Areas

Chapter 3 - Special Regulations Applying to FRESH Food Stores

Effective date of most recently amended section of Article VI Chapter 3: 3/22/16

Date of file creation: Web version of Article VI Chapter 3: 4/25/17

CITY PLANNING COMMISSION
nyc.gov/planning

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(12/9/09)

Chapter 3
Special Regulations Applying to FRESH Food Stores

(12/9/09)

63-00
GENERAL PURPOSES

The provisions of this Chapter establish special regulations that guide the development of FRESH food stores to promote and protect public health, safety and general welfare. These general goals include, among others, the following purposes:

- (a) encourage a healthy lifestyle by facilitating the development of FRESH food stores that sell a healthy selection of food products;
- (b) provide greater incentives for FRESH food stores to locate in neighborhoods underserved by such establishments;
- (c) encourage FRESH food stores to locate in locations that are easily accessible to nearby residents; and
- (d) strengthen the economic base of the City, conserve the value of land and buildings, and protect the City's tax revenues.

(12/9/09)

63-01
Definitions

FRESH food store

A "FRESH food store" is a food store #use# as listed in Section 32-15 (Use Group 6), where at least 6,000 square feet of #floor area#, or #cellar# space utilized for retailing, is utilized for the sale of a general line of food and non-food grocery products, such as dairy, canned and frozen foods, fresh fruits and vegetables, fresh and prepared meats, fish and poultry, intended for home preparation, consumption and utilization. Such retail space utilized for the sale of a general line of food and non-food grocery products shall be distributed as follows:

- (a) at least 3,000 square feet or 50 percent of such retail space, whichever is greater, shall be utilized for the sale of a general line of food products intended for home preparation, consumption and utilization; and
- (b) at least 2,000 square feet or 30 percent of such retail space, whichever is greater, shall be utilized for the sale of perishable goods that shall include dairy, fresh produce, frozen foods and fresh meats, of which at least 500 square feet of such retail space shall be designated for the sale of fresh produce.

A food store shall be certified as a #FRESH food store# by the Chairperson of the City Planning Commission, pursuant to Section 63-30 (CERTIFICATION FOR A FRESH FOOD STORE).

(10/9/13)

63-02

Applicability

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

- (a) The provisions of this Chapter shall apply to all #Commercial# and #Manufacturing Districts# in the following #FRESH food store# designated areas, except as provided in paragraph (b) of this Section:
 - (1) in the Borough of the Bronx, Community Districts 1, 2, 3, 4, 5, 6 and 7, except portions of Community District 7, as shown on Map 1 in Appendix A of this Chapter;
 - (2) in the Borough of Brooklyn, Community Districts 3, 4, 5, 8, 9, 16 and 17, except portions of Community District 8, as shown on Map 2 in Appendix A;
 - (3) in the Borough of Manhattan, Community Districts 9, 10, 11 and 12, except portions of Community District 9 and 12, as shown on Maps 3 and 4 in Appendix A; and
 - (4) in the Borough of Queens, the #Special Downtown Jamaica District#; portions of Community District 12 outside of the #Special Downtown Jamaica District#, except those

portions shown on Maps 5 and 6 in Appendix A; and those portions in Community District 1 shown on Map 1 in Appendix B of this Chapter.

- (b) The provisions of this Chapter shall not apply to the following Special Purpose Districts:

#Special Madison Avenue Preservation District#;

#Special Manhattanville Mixed Use District#;

#Special Park Improvement District#; and

#Special Hunts Point District#.

(12/9/09)

63-10

SPECIAL USE REGULATIONS

(12/9/09)

63-11

Special Use Regulations for FRESH Food Stores in M1 Districts

In M1 Districts, the regulations of Section 42-12 (Use Groups 3A, 6A, 6B, 6D, 6F, 7B, 7C, 7D, 7E, 8, 9B, 9C, 10A, 10B, 10C, 11, 12A, 12C, 12D, 12E, 13, 14 and 16) are modified to permit #FRESH food stores# with up to 30,000 square feet of #floor area#. The provisions of this Section shall not apply where the regulations of the underlying district permit Use Group 6A food stores with #floor area# greater than 30,000 square feet.

(12/9/09)

63-12

Special Sign Regulations

All permitted #signs# shall be subject to the provisions of the #sign# regulations of the underlying districts. In addition, a #FRESH food store# shall provide signage pursuant to this Section.

A #sign# comprised of the #FRESH food store# symbol as provided in the [Required Signage Symbols](#) file at the Department of City Planning website shall be mounted on an exterior #building# wall adjacent to and no more than five feet from the principal entrance of the #FRESH food store#. The #sign# shall be placed so that it is directly visible, without any obstruction, to customers entering the #FRESH food store#, and at a height no less than three feet and no more than five feet above the adjoining grade. Such #FRESH food store# symbol shall be no less than 12 inches by 12 inches and no more than 16 inches by 16 inches in size and shall be fully opaque, non-reflective and constructed of permanent, highly durable materials.

(12/9/09)

**63-20
SPECIAL BULK AND PARKING REGULATIONS**

(12/9/09)

**63-21
Special Floor Area Regulations**

(2/2/11)

**63-211
For mixed buildings and zoning lots containing both residential and commercial or community facility uses in Commercial Districts with FRESH food stores**

Where a #FRESH food store# is provided on a #zoning lot#, the provisions of Section 35-31 (Maximum Floor Area Ratio) relating to the maximum permitted #floor area ratio# on a #zoning lot# for each permitted #use# shall apply as modified in this Section.

Where all non-#residential uses# on a #zoning lot# have a permitted #floor area ratio# equal to or less than that permitted for a #residential use# and for #zoning lots# containing #Quality Housing buildings#, the total #floor area# permitted for such #zoning lot# may be increased by one square foot of #residential floor area# for each square foot of #FRESH food store floor area#, up to 20,000 square feet.

Where any non-#residential use# on such #zoning lot# has a permitted #floor area ratio# greater than that permitted for a #residential use#, the total #residential floor area# permitted for such #zoning lot# may be increased by one square foot for each square foot of #FRESH food store floor area#, up to 20,000 square feet, provided the total #floor area# of the #building# does not exceed the maximum permitted #floor area# for a non-#residential use#.

(2/2/11)

63-212

For mixed use buildings and zoning lots containing both residential and commercial or community facility uses in Special Mixed Use Districts with FRESH food stores

Where a #FRESH food store# is provided on a #zoning lot#, the provisions of Section 123-64 (Maximum Floor Area Ratio and Lot Coverage Requirements for Zoning Lots Containing Mixed Use Buildings) relating to the maximum permitted #floor area ratio# on a #zoning lot# for each permitted #use# shall apply, as modified in this Section.

Where all non-#residential uses# on such #zoning lot# have a permitted #floor area ratio# equal to or less than that permitted for a #residential use#, and for #zoning lots# containing #Quality Housing buildings#, the total #floor area# permitted for such #zoning lot# may be increased by one square foot of #residential floor area# for each square foot of #FRESH food store floor area#, up to 20,000 square feet.

Where any non-#residential use# on such #zoning lot# has a permitted #floor area ratio# greater than that permitted for a #residential use#, the total #residential floor area# permitted for such #zoning lot# may be increased by one square foot for each square foot of #FRESH food store floor area#, up to 20,000 square feet, provided the total #floor area# of the #building# does not exceed the maximum permitted #floor area# for a non-#residential use#.

(3/22/16)

63-22

Authorization to Modify Maximum Building Height

For #buildings# containing a #FRESH food store#, the City

Planning Commission may authorize modifications to Sections 35-65 (Height and Setback Requirements for Quality Housing Buildings) and 123-66 (Height and Setback Regulations) to allow the applicable maximum #building# height to be increased by up to 15 feet, provided that the first #story# occupied by a #FRESH food store# has a minimum finished floor to finished ceiling height of 14 feet, and provided that such finished ceiling height is at least 14 feet above the #base plane# or #curb level#, as applicable.

In order to grant such authorizations, the Commission shall find that:

- (a) such modifications are necessary to accommodate a first #story# utilized as a #FRESH food store#;
- (b) the proposed modifications shall not adversely affect the essential scale and character of the adjacent #buildings# and any adjacent historic resources; and
- (c) the proposed modifications will not unduly obstruct access to light and air of adjacent properties.

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

(3/22/16)

63-23

Special Transparency Requirements

For all #FRESH food stores#, the ground floor level of the #street wall# fronting upon a "primary street frontage", as defined in Section 37-311, shall be glazed in accordance with the provisions of Section 37-34 (Minimum Transparency Requirements).

Furthermore, for #buildings# with frontage on two or more #streets#, the Chairperson of the City Planning Commission may certify that the glazing requirements of this Section shall only be applicable to the #street wall# fronting upon the principal #street#, as determined by the Chairperson.

In addition, the Chairperson may, by certification, allow a reduction in the glazing requirements of this Section, provided that the Chairperson finds that such #mixed building#, or #mixed use building# as defined in Section 123-11, is a recipient of #public funding# as defined in Section 23-911 (General

definitions).

(3/22/16)

63-24

Required Accessory Off-street Parking Spaces in Certain Districts

- (a) In C1-1, C1-2, C1-3, C2-1, C2-2, C2-3 and C4-3 Districts, the #accessory# off-street parking regulations in Section 36-20 (REQUIRED ACCESSORY OFF-STREET PARKING SPACES FOR COMMERCIAL OR COMMUNITY FACILITY USES) applicable to a C1-4 District shall apply to any #FRESH food store#.
- (b) In the Borough of Brooklyn, in those portions of Community District 5 located south of Flatlands Avenue and east of the centerline prolongation of Schenck Avenue, and in the Borough of Queens, where applicable in Community District 12 outside of the #Special Downtown Jamaica District#, a #FRESH food store# shall provide #accessory# off-street parking spaces as required for #uses# in parking requirement category B in the applicable #Commercial# and #Manufacturing Districts#.
- (c) In C8-1, C8-2, M1-1, M1-2 and M1-3 Districts, a #FRESH food store# shall provide one parking space per 1,000 square feet of #floor area# or #cellar# space utilized for retailing, up to a maximum of 15,000 square feet. The underlying off-street parking regulations in Sections 36-20 or 44-20 shall apply to the #floor area# or #cellar# space, in excess of 15,000 square feet, utilized for retailing in such #FRESH food store#.
- (d) The provisions of this Section shall not apply to:
 - (1) in the Borough of the Bronx, portions of Community District 7 and in the Borough of Manhattan, portions of Community District 12, as shown on Map 1 in Appendix C of this Chapter;
 - (2) in the Borough of Brooklyn, portions of Community District 5, as shown on Map 2 in Appendix C;
 - (3) in the Borough of Brooklyn, portions of Community Districts 16 and 17, as shown on Map 3 in Appendix C; and
 - (4) in the Borough of Queens, the #Special Downtown Jamaica District#.

(12/9/09)

63-30

CERTIFICATION FOR A FRESH FOOD STORE

Upon application, the Chairperson of the City Planning Commission shall certify that a food store #use# is a #FRESH food store#, provided that:

- (a) drawings have been submitted to the Chairperson that clearly specify:
 - (1) all #floor area# or #cellar# space utilized as a #FRESH food store#, showing in the form of an illustrative layout that such designated space is designed and arranged to meet the requirements for food and non-food grocery products, pursuant to Section 63-01;
 - (2) all #floor area# that will result from any permitted increase in #floor area#, pursuant to Section 63-21, including the location of such #floor area#;
 - (3) the size, format and location of the required #sign#, pursuant to Section 63-12, including detailed information about dimensions of the #sign#, lettering, color and materials; and
 - (4) the location of the ground floor level #street wall# fronting upon a principal #street#, pursuant to Section 63-23;
- (b) a signed lease or written commitment from the prospective operator of the #FRESH food store# has been provided in a form acceptable to the Chairperson for utilization of such #floor area# or #cellar# space and its operation as a #FRESH food store#; and
- (c) a legal commitment, in the form of a declaration of restrictions has been executed, in a form acceptable to the Department of City Planning, binding upon the owner and its successor and assigns, and providing for continued utilization of all #floor area# or #cellar# space as a #FRESH food store#, the operation of which shall commence within a reasonable period following the issuance of a temporary certificate of occupancy for the #floor area# or #cellar# space to be utilized by the #FRESH food store#.

Such declaration of restrictions shall provide that the legal commitment for continued occupancy of the #floor area# or #cellar space# as a #FRESH food store# shall not apply during any:

- (1) six (6) month period from the date such #floor area# or #cellar# space is vacated by the operator, provided that the owner timely notifies the Department of City Planning of such vacancy in accordance with the requirements of the restrictive declaration; or
- (2) event of force majeure, as determined by the Chairperson.

The filing and recordation of the declaration of restrictions in the Office of the City Register of the City of New York against all tax lots comprising the #FRESH food store#, and receipt of proof of recordation of such declaration in a form acceptable to the Department, shall be a precondition to the issuance of any building permit, including any foundation or alteration permit, for any #development# or #enlargement# under this Chapter.

In granting the certification, the Chairperson may specify that minor changes in store layout consistent with the definition of a #FRESH food store# shall not warrant further certification pursuant to this Section.

No later than the date on which an application for certification is first submitted, a copy of the drawings submitted pursuant to paragraph (a) of this Section shall be submitted by the applicant to the affected Community Board, which shall have 45 days to review said application. The Chairperson shall not issue a certification for an application during the Community Board review period, unless the Community Board has submitted to the Chairperson comments regarding such proposal or informed the Chairperson that the Community Board has no comments.

(12/9/09)

63-31

Requirements for Certificate of Occupancy

No certificate of occupancy shall be issued for any portion of the #development# or #enlargement# identified in the drawings submitted pursuant to paragraph (a)(2) of Section 63-30 until a temporary certificate of occupancy has been issued for the #FRESH food store# space. No final certificate of occupancy shall be

issued for any such portion of the #development# or #enlargement# identified in such drawings until the #FRESH food store# space has been completed in accordance with the drawings submitted pursuant to paragraph (a)(1) of Section 63-30 and a final certificate of occupancy has been issued for the #FRESH food store# space. The declaration of restrictions shall be noted on any temporary or final certificate of occupancy for the #building#.

(12/9/09)

63-40

CERTIFICATION FOR CHANGE OF USE OF A FRESH FOOD STORE

A #FRESH food store# for which a certification has been issued pursuant to Section 63-30 may be changed to any #use# permitted by the underlying district upon certification by the Chairperson of the City Planning Commission that such change of #use# would not create a new #non-compliance#, increase the degree of #non-compliance# of #buildings# on the #zoning lot#, or result in reduction in the number of required #accessory# off-street parking spaces under the applicable district regulations.

If a certification pursuant to this Section is granted, a notice of cancellation, in a form acceptable to the Department of City Planning, of the declaration of restrictions recorded pursuant to Section 63-30 shall be executed and recorded in the Office of the City Register of the City of New York against all tax lots comprising the former #FRESH food store#.

(12/9/09)

63-50

AUTHORIZATION FOR BULK AND PARKING MODIFICATIONS

The City Planning Commission may, by authorization, permit modifications to the #bulk# and #accessory# off-street parking requirements of the applicable zoning districts when a change of #use# of a #FRESH food store# for which a certification has been issued, pursuant to Section 63-30, would create a new #non-compliance#, increase the degree of #non-compliance# of #buildings# on the #zoning lot#, or result in a reduction in the number of required #accessory# off-street parking spaces under the applicable district regulations, provided that such #use# is permitted by the underlying districts.

In order to grant such authorization, the Commission shall find that:

- (a) due to the market conditions prevalent at the time of the application, there is no reasonable possibility that the operation of a #FRESH food store# will bring a reasonable return;
- (b) the applicant, the operator or a prior operator of such #FRESH food store# has not created or contributed to such unfavorable market conditions;
- (c) the applicant, the operator or a prior operator of such #FRESH food store# has undertaken commercially reasonable efforts to secure a new operator, and demonstrates to the Commission that such efforts have been unsuccessful;
- (d) any proposed #non-compliance# or increase in the degree of #non-compliance# will not be incompatible with or adversely affect adjacent #uses#, including #uses# within the #building#; and
- (e) any reduction of required #accessory# off-street parking shall not create or contribute to serious traffic congestion and will not unduly inhibit surface traffic and pedestrian movement.

If such authorization is granted, a notice of cancellation, in a form acceptable to the Department of City Planning, of the declaration of restrictions recorded pursuant to Section 63-30, shall be executed and recorded in the Office of the City Register of the City of New York against all tax lots comprising the former #FRESH food store#.

In issuing an authorization under this Section, the Commission may impose conditions and safeguards to minimize adverse impacts on the character of the surrounding area.

(12/9/09)

63-60
COMPLIANCE

No later than June 30th of the year, beginning in the first calendar year following the calendar year in which certification was made, and at three-year intervals thereafter, the Chairperson of the City Planning Commission shall be provided with an affidavit, in a form acceptable to the Department of City

Planning, regarding compliance with the requirements of the declaration of restrictions and the regulations of this Chapter, as of a date of inspection which shall be no earlier than June 1st of the year in which the affidavit is filed. Such affidavit shall be provided by the owner(s) of the tax lot(s) on which the #FRESH food store# is located. Such affidavit shall include, without limitation:

- (a) a copy of the original #FRESH food store# certification letter and, if applicable, any approval letter pertaining to any other authorization or certification pursuant to this Chapter;
- (b) a statement that the #floor area# or #cellar# space that was certified to be operated as a #FRESH food store# continues to be operated as such in accordance with the declaration of restrictions; and
- (c) photographs documenting the condition of the #FRESH food store# at the time of inspection, sufficient to clearly show all #floor area# or #cellar# space operated as a #FRESH food store#.

Failure to comply with a condition or restriction in an authorization or certification granted pursuant to this Chapter or with approved plans related thereto, or failure to submit a required compliance report, shall constitute a violation of this Resolution and may constitute the basis for denial or revocation of a building permit or certificate of occupancy, or for a revocation of such authorization or certification, and for the implementation of all other applicable remedies.

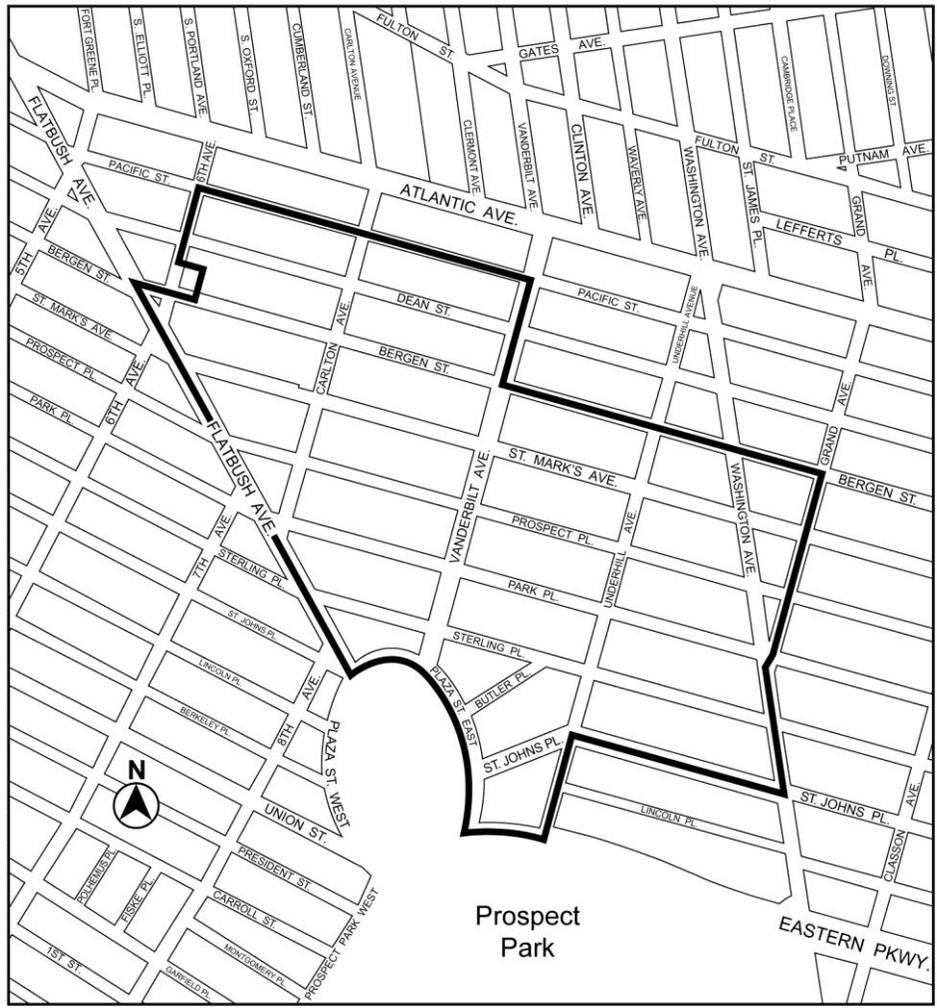
(5/11/11)

Appendix A

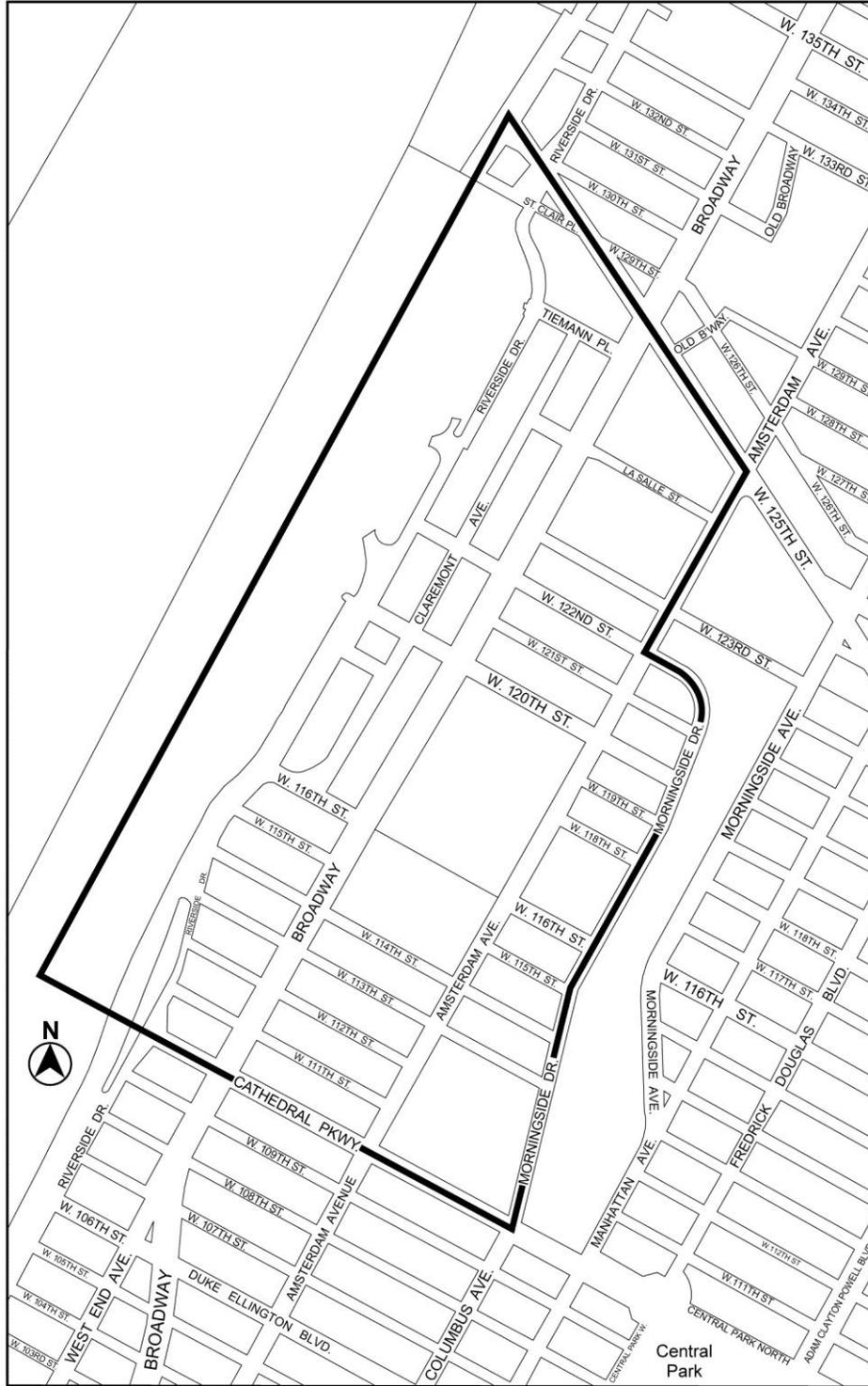
FRESH Food Store Designated Areas: Excluded Portions

The #FRESH food store# designated areas are listed by community district and borough in Section 63-02 (Applicability). Excluded portions of community districts are shown on the following maps.

Map 2. Excluded portions of Community District 8, Brooklyn



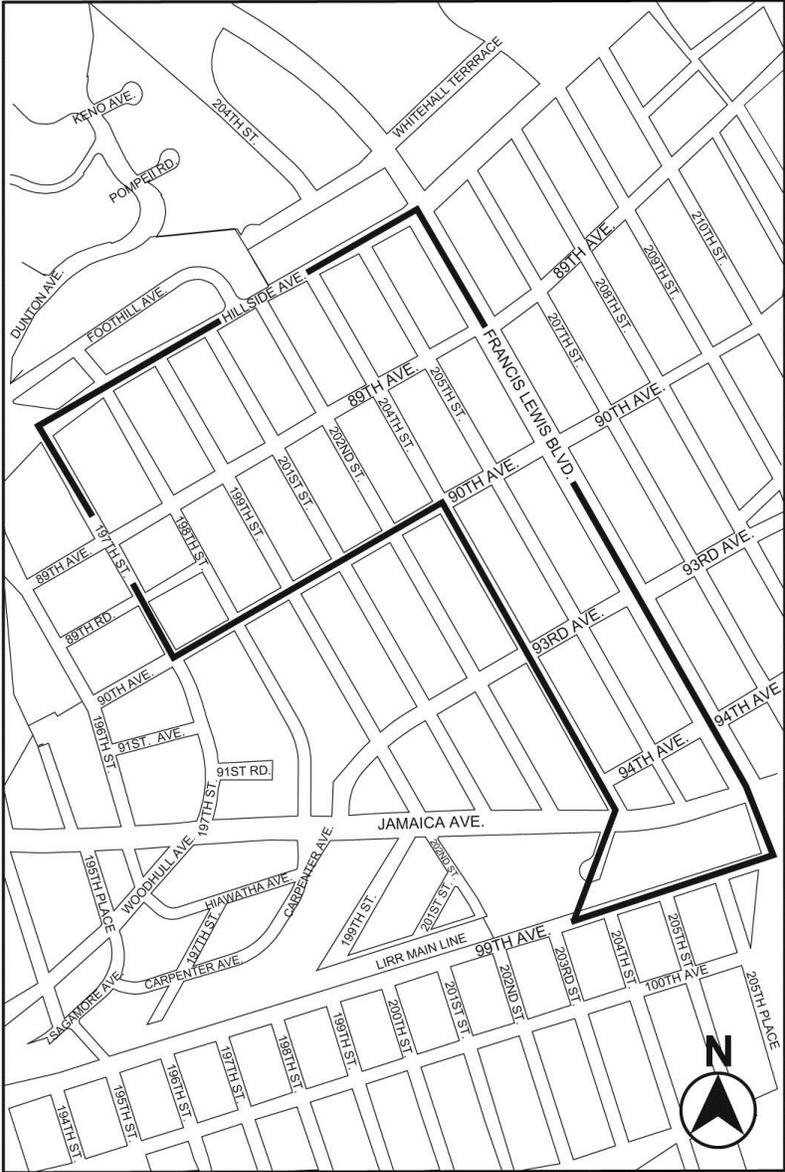
Map 3. Excluded portions of Community District 9, Manhattan



Map 4. Excluded portions of Community District 12, Manhattan



Map 5. Excluded portions of Community District 12, Queens



Map 6. Excluded portions of Community District 12, Queens



(10/9/13)

Appendix B

FRESH Food Store Designated Areas: Included Portions

The #FRESH food store# designated areas are listed by community district and borough in Section 63-02 (Applicability). When a #FRESH food store# designated area occupies only a portion of a community district, the included portions of such community districts are shown on the following maps:

Map 1. Included portions of Community District 1, Queens

