



Zoning Resolution

THE CITY OF NEW YORK

Eric Adams, Mayor

CITY PLANNING COMMISSION

Daniel R. Garodnick, Chair

52-30 - CHANGE OF NON-CONFORMING USE

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52-30 - CHANGE OF NON-CONFORMING USE

LAST AMENDED
12/15/1961

52-31 - General Provisions

LAST AMENDED
5/8/2013

For the purposes of this Chapter, a change of #use# is a change to another #use# listed in the same or any other Use Group. However, a change in ownership or occupancy shall not, by itself, constitute a change of #use#.

Except as provided in this Section, a #non-conforming# #use# may be changed to any conforming #use#, and the applicable district #bulk# regulations and #accessory# off-street parking requirements shall not apply to such change of #use# or to alterations made in order to accommodate such conforming #use#, but shall apply to any #enlargement#.

In all zoning districts which mandate compliance with the Quality Housing Program, the provisions of Article II, Chapter 8, shall apply to such change of #use#.

In #Mandatory Inclusionary Housing areas# and where made applicable pursuant to the provisions of Section [74-32](#) (Additional considerations for special permit use and bulk modifications), the #affordable housing# requirements of paragraph (d) of Section [23-154](#) (Inclusionary Housing), except maximum #floor area ratio#, shall apply to such change of #use#.

In Manhattan Community Districts 1, 2, 3, 4, 5 and 6, Brooklyn Community Districts 1, 2, 6 and 8, and Queens Community Districts 1 and 2, the #conversion# of non-#residential# #floor area# to #residences# shall be subject to the provisions of Article I, Chapter 5 (Residential Conversion within Existing Buildings), unless such #conversions# meet the requirements for #residences# of Article II (Residence District Regulations).

A #non-conforming# #use# may be changed to another #non-conforming# #use# only in accordance with the provisions of this Chapter.

Any such change of #use# permitted by this Chapter shall conform to the applicable district regulations on #accessory# off-street loading berths as set forth in Section [52-41](#) (General Provisions) and on #accessory# #signs#, except that in #Residence Districts# such change shall conform to the regulations on #accessory# #signs# applicable in a C1 District.

In the #Manhattan Core#, a #non-conforming# #use# may be changed to an automobile rental establishment, #public parking garage# or #public parking lot# in Use Groups 8 and 12D only pursuant to the provisions of Article I, Chapter 3, and in the #Long Island City area#, as defined in Section [16-02](#) (Definitions), a #non-conforming# #use# may be changed to a #public parking garage# or #public parking lot# in Use Groups 8 and 12D only pursuant to the provisions of Article I, Chapter 6.

In the case of a conflict between these provisions and retail continuity provisions that apply to the ground floor of #buildings#, a #non-conforming# #use# on the ground floor in such #building# may be changed only to a conforming #use#.

52-32 - Land with Minor Improvements

LAST AMENDED
12/15/1961

In all #Residence# and #Commercial Districts#, a #non-conforming# #use# of #land with minor improvements# may be changed only to a conforming #use#.

52-33 - Manufacturing or Related Uses in Residence Districts

LAST AMENDED
12/15/1961

52-331 - Buildings designed for residential use

LAST AMENDED
12/15/1961

In all #Residence Districts#, a #non-conforming# #use# listed in Use Group 11A, 16, 17 or 18 which is located in a #building designed for residential use# may be changed only to a #use# permitted in #Residence Districts#.

52-332 - Other buildings or structures in Residence Districts

LAST AMENDED
8/16/1990

In all #Residence Districts#, a #non-conforming# #use# listed in Use Group 11A, 16, 17 or 18 which is not subject to the provisions of Sections [52-32](#) (Land with Minor Improvements) or [52-331](#) (Buildings designed for residential use), may be changed either to a conforming #use# or:

- (a) to any #use# listed in Use Group 6, 7B, 7C, 7D, 8, 9, 10, 11B or 14, in which case any subsequent change of #use# shall conform to the provisions of Section [52-34](#) (Commercial Uses in Residence Districts); or
- (b) in accordance with the provisions of the following table:

From Use Group	To Use Group
11A	11A
16 or 17	11A 16 or 17
18	11A 16 17 or 18

provided that such changed #use# shall conform to all regulations on performance standards applicable in M1 Districts, and that any such changed #use#, or the storage of materials or products #accessory# to any changed #use#, which is not located within a #completely enclosed building#, shall be screened by a solid wall or fence (including solid entrance or exit gates) at least eight feet in height. Whenever a #use# located within a #completely enclosed building# is changed to another #use#, no activity related to such changed #use#, including the storage of materials or products, shall be located outside of such #building#.

In no event shall any change of #use# permitted in paragraph (b) of this Section extend the statutory period of useful life applicable under the provisions of Section [52-74](#) (Uses Objectionable in Residence Districts).

52-34 - Commercial Uses in Residence Districts

In all #Residence Districts#, a #non-conforming# #use# listed in Use Group 6, 7, 8, 9, 10, 11B, 12, 13, 14 or 15 may be changed, initially or in any subsequent change, only to a conforming #use# or to a #use# listed in Use Group 6. In the case of any such change, the limitation on #floor area# set forth in Section [32-15](#) (Use Group 6) shall not apply. Eating or drinking establishments with musical entertainment, but not dancing, thus permitted as a change of #use#, shall be subject to the enclosure provisions of Section 32-411.

52-35 - Manufacturing or Related Uses in Commercial Districts

In all #Commercial Districts#, a #non-conforming# #use# listed in Use Group 11A, 16, 17 or 18 which is not subject to the provisions of Section [52-32](#) (Land with Minor Improvements), may be changed either to a conforming #use# or:

- (a) to a #use# listed in Use Group 6, 7, 8, 9, 10, 11B or 14, in which case any subsequent change of #use# shall conform to the provisions of Section [52-36](#) (Non-Conforming Commercial Uses in Commercial Districts); or
- (b) in accordance with the provisions of the following table:

From Use Group	To Use Group
11A	11A
16 or 17	11A 16 or 17
18	11A 16 17 or 18

provided that such changed #use# shall conform to all regulations on performance standards applicable in M1 Districts, and that any such changed #use# or any storage of materials or products #accessory# to any changed #use# shall be located within a #completely enclosed building#. Whenever a #use# located within a #completely enclosed building# is changed to another #use#, no activity related to such changed #use#, including the storage of materials or products, shall be located outside of such #building#.

However, in C1, C3, C4 or C5 Districts, a #non-conforming# #use# listed in Use Group 11A, 16, 17 or 18, which is not subject to the provisions of Section [52-32](#), may not be changed to a #motel# or #tourist cabin#.

52-36 - Non-Conforming Commercial Uses in Commercial Districts

In C1, C2, C4, C6, C7 or C8 Districts, any #non-conforming# #use# listed in Use Group 7, 8, 9, 10, 11B, 12, 13, 14 or 15 may be changed, initially or in any subsequent change, only to a conforming #use# or to any #use# listed in Use Group 7, 8 or 9.

In C3 Districts, any such #non-conforming# #use# may be changed, initially or in any subsequent change, only to a conforming

#use# or to a #use# listed in Use Group 6.

However, in C1 or C4 Districts, a #non-conforming# #use# may not be changed to a #motel# or #tourist cabin#.

52-37 - Non-Conforming Commercial Uses in Manufacturing Districts

LAST AMENDED

8/15/1974

In all #Manufacturing Districts#, any #non-conforming# #use# listed in Use Group 5, 6, 7, 9, 10, 12 or 15 may be changed, initially or in any subsequent change, only to a conforming #use# or to any #use# listed in Use Group 6, 9, 10 or 12.

52-38 - Special Regulations for Adult Establishments

LAST AMENDED

10/25/1995

In all districts, a #non-conforming# #use# may not be changed, initially or in any subsequent change, to an #adult establishment#, except as provided in Sections [32-01](#) or [42-01](#) (Special Provisions for Adult Establishments).