



## Zoning Resolution

THE CITY OF NEW YORK

Eric Adams, Mayor

CITY PLANNING COMMISSION

Daniel R. Garodnick, Chair

# Chapter 2 - Non-Conforming Uses

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# Chapter 2 - Non-Conforming Uses

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## 52-00 - DEFINITIONS AND GENERAL PROVISIONS

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LAST AMENDED  
12/15/1961

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### 52-01 - Definitions

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LAST AMENDED  
11/19/1987

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

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### 52-02 - Applicability of Article V, Chapter 2

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LAST AMENDED  
10/10/2013

In the #flood zone#, the provisions of this Chapter are modified by the provisions of Article VI, Chapter 4.

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## 52-10 - CONTINUATION OF NON-CONFORMING USE

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LAST AMENDED  
12/15/1961

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### 52-11 - General Provisions

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LAST AMENDED  
12/15/1961

A #non-conforming# #use# may be continued, except as otherwise provided in this Chapter.

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## 52-20 - REPAIRS OR ALTERATIONS

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LAST AMENDED  
12/15/1961

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### 52-21 - Repairs and Incidental Alterations

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LAST AMENDED  
12/15/1961

Repairs to both structural and non-structural parts or #incidental alterations# may be made in a #building or other structure# substantially occupied by a #non-conforming# #use#, or in connection with a permitted change or #extension# of a #non-conforming# #use#.

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### 52-22 - Structural Alterations

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LAST AMENDED

12/6/2023

No structural alterations shall be made in a #building or other structure# substantially occupied by a #non-conforming# #use#, except when made:

- (a) in order to comply with requirements of law; or
- (b) in order to accommodate a conforming #use#; or
- (c) in order to conform to the applicable district regulations on performance standards; or
- (d) in the course of an #enlargement# permitted under the provisions of Sections [52-41](#) to [52-46](#), inclusive, relating to enlargements or extensions; or
- (e) in the course of an alteration to improve the energy performance of the #building or other structure#, including, but not limited to, the addition of solar energy systems, energy storage systems, or #qualifying exterior wall thickness#;
- (f) or except as set forth in Sections [52-81](#) to [52-83](#), inclusive, relating to regulations applying to non-conforming #signs#.

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## **52-30 - CHANGE OF NON-CONFORMING USE**

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LAST AMENDED

12/15/1961

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## **52-31 - General Provisions**

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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#.

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## **52-32 - Land with Minor Improvements**

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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#.

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## **52-33 - Manufacturing or Related Uses in Residence Districts**

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LAST AMENDED  
12/15/1961

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### **52-331 - Buildings designed for residential use**

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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#.

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### **52-332 - Other buildings or structures in Residence Districts**

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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).

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## 52-34 - Commercial Uses in Residence Districts

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LAST AMENDED  
2/2/2011

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.

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## 52-35 - Manufacturing or Related Uses in Commercial Districts

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LAST AMENDED  
8/16/1990

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#.

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

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LAST AMENDED  
8/16/1990

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#.

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

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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.

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## 52-38 - Special Regulations for Adult Establishments

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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).

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## 52-40 - ENLARGEMENTS OR EXTENSIONS

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LAST AMENDED  
12/15/1961

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## 52-41 - General Provisions

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A #non-conforming# #use# may be #enlarged# or #extended# within the district in which such #non-conforming# #use# is located only in accordance with the provisions of this Chapter. However, a #non-conforming# #single-# or #two-family residence# in an R3, R4 or R5 District may be #enlarged# or #extended# in accordance with the #bulk# regulations specified for the district in which it is located. Furthermore, #enlargements# or #extensions# designed exclusively to permit conformity with the regulations on performance standards, designed in order to improve energy performance, or designed in order to provide required #accessory# off-street parking spaces or off-street loading berths on the same #zoning lot# as the #use# to which such spaces or berths are #accessory# are not subject to the restrictions set forth herein.

For the purposes of this Section and Sections [52-31](#) (General Provisions), [52-42](#) (C6, C8 or Manufacturing Districts) and [52-43](#) (C1 or C4 Districts), the applicable district regulations on #accessory# off-street parking spaces or loading berths shall be determined in accordance with the following tables. The term "required" as used in this Section shall mean some or all of, but not more than, the number of spaces or berths which would be required by such applicable district regulations for #development# for such #use#.

**APPLICABLE OFF-STREET PARKING REGULATIONS FOR NON-CONFORMING COMMERCIAL OR MANUFACTURING USES**

District in Which #Non-conforming# #Use# is Located	District Whose Regulations Are Applicable
R1 R2 R3 R4 R5 R6 R7-1	M3-1
C1-1 C1-2 C1-3 C1-4	M3-1
C2-1 C2-2 C2-3 C2-4	M3-1
C3	M3-1
C4-1 C4-2 C4-3 C4-4	M3-1
C7	M3-1
C8-1 C8-2 C8-3	M3-1
M1-1 M1-2 M1-3	M3-1

M2-1 M2-2	M3-1
R7-2 R8 R9 R10	M3-2
C1-5 C1-6 C1-7 C1-8 C1-9	M3-2
C2-5 C2-6 C2-7 C2-8	M3-2
C4-5 C4-6 C4-7	M3-2
C5	M3-2
C6	M3-2
C8-4	M3-2
M1-4 M1-5 M1-6	M3-2
M2-3 M2-4	M3-2

**APPLICABLE OFF-STREET PARKING REGULATIONS FOR NON-CONFORMING RESIDENTIAL OR COMMUNITY FACILITY USES**

District in Which #Non-conforming# #Use# is Located	District Whose Regulations Are Applicable
C8-1 C8-2 C8-3	R5
M1-1 M1-2 M1-3	R5
M2-1 M2-2	R5
M3-1	R5
C8-4	R10
M1-4 M1-5 M1-6	R10



M2-3 M2-4	R10
M3-2	R10

APPLICABLE OFF-STREET LOADING REGULATIONS

District in Which #Non-conforming# #Use# is Located	District Whose Regulations Are Applicable
R1 R2 R3 R4 R5 R6	M2-1
C1 mapped within R1 R2 R3 R4 R5 R6	M2-1
C2 mapped within R1 R2 R3 R4 R5 R6	M2-1
C3	M2-1
C4-1 C4-2 C4-3	M2-1
C7	M2-1
C8-1 C8-2	M2-1
M1-1 M1-2 M1-4	M2-1
R7 R8 R9 R10	M2-2
C1 mapped within R7 R8 R9 R10	M2-2
C2 mapped within R7 R8 R9 R10	M2-2
C1-6 C1-7 C1-8 C1-9	M2-2
C2-6 C2-7 C2-8	M2-2
C4-4 C4-5 C4-6 C4-7	M2-2
C5	M2-2

C6	M2-2
C8-3 C8-4	M2-2
M1-3 M1-5 M1-6	M2-2

For #non-conforming# #use# in #Residence Districts#, #accessory# off-street parking spaces or loading berths shall be subject to the provisions of Sections [25-66](#) or [25-77](#) (Screening).

In the #Manhattan Core#, #enlargements# or #extensions# of #non-conforming# #uses# which involve the provision of off-street parking are subject to the regulations set forth in Article I, Chapter 3, and in the #Long Island City area#, as defined in Section [16-02](#) (Definitions), such #enlargements# or #extensions# are subject to the regulations set forth in 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#.

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## 52-42 - C6, C8 or Manufacturing Districts

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LAST AMENDED  
9/22/1966

Except for the #use# of #land with minor improvements#, in C6 or C8 Districts, a #non-conforming# #use# listed in Use Group 17 or 18, or in C8 or #Manufacturing Districts#, a #use# listed in Use Group 11A, 16, 17, or 18 which is #non-conforming# with respect to the applicable district regulations on performance standards, may be #enlarged# or #extended#, provided that:

- (a) such #enlarged# or #extended# portion does not occupy more than 25 percent of the #floor area# or space which such #non-conforming# #use# occupied or utilized within the #building or other structure# at the time when it became #non-conforming#; provided, however, that in no event shall any such #enlargement# or #extension# create a #non-compliance# or increase the degree of #non-compliance# of a #non-complying# #building or other structure#; and
- (b) such #enlarged# or #extended# portion conforms to the applicable district regulations on performance standards and on #accessory# off-street parking spaces and loading berths, as set forth in Section [52-41](#) (General Provisions).

In the specified districts, such #use# may be #extended# into any #floor area# where it would be permitted as a changed #use# under the provisions of Section [52-35](#) (Manufacturing or Related Uses in Commercial Districts), provided that the applicable district regulations on performance standards and #accessory# off-street loading berths, as set forth in Section [52-41](#), shall apply to such #extended# #floor area#.

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## 52-43 - C1 or C4 Districts

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LAST AMENDED  
9/22/1966

Except for the #use# of #land with minor improvements#, in C1 Districts, a #non-conforming# #use# listed in Use Group 7, 8 or 9, or, in C4 Districts, a #non-conforming# #use# listed in Use Group 7, may be #enlarged# or #extended#, provided that:

- (a) such #enlarged# or #extended# portion does not occupy more than 25 percent of the #floor area# or space which such #non-conforming# #use# occupied or utilized within the #building or other structure# at the time when it became #non-conforming#; provided, however, that in no event shall any such #enlargement# or #extension# create a #non-

compliance# or increase the degree of #non-compliance# of a #non-complying# #building or other structure#; and

- (b) such #enlarged# or #extended# portion conforms to the applicable district regulations on #accessory# off-street parking spaces and loading berths, as set forth in Section [52-41](#) (General Provisions).

In the specified districts, such #use# may be #extended# into any #floor area# where it would be permitted as a changed #use# under the provisions of Section [52-36](#) (Non-Conforming Commercial Uses in Commercial Districts) provided that the applicable district regulations on #accessory# off-street loading berths, as set forth in Section [52-41](#), shall apply to such #extended# #floor area#.

In C1 Districts, no #extension# may be made in a #building designed for residential use#.

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## **52-44 - Residence Districts Except R1 and R2 Districts**

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LAST AMENDED

2/2/2011

In all #Residence Districts#, except R1 and R2 Districts, a fire station may be #enlarged# or #extended#, provided that:

- (a) such #enlarged# or #extended# portion does not occupy more than 25 percent of the #floor area# or space which such #non-conforming# #use# occupied or utilized within the #building or other structure# at the time when it became #non-conforming#;
- (b) such #enlargement# or #extension# shall not create a #non-compliance# or increase the degree of #non-compliance#; and
- (c) such #enlarged# or #extended# portion conforms to the applicable district regulations on #accessory# off-street parking spaces as set forth in Section [52-41](#) (General Provisions).

#Community facility# #bulk# regulations as set forth in Article II, Chapter 4, shall apply to such #enlarged# or #extended# fire stations.

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## **52-45 - Non-Conforming Residential Uses in M1 Districts**

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LAST AMENDED

9/21/2011

In an M1 District, a #non-conforming# #residential use# occupying at least 50 percent of the #floor area# of a #building# which was #designed for residential use# and erected prior to December 15, 1961, may be #extended# on the ground floor level provided that no #dwelling unit# or #rooming unit# may be located on or below a #story# occupied by a #commercial# or #manufacturing# #use#. The total number of #dwelling units# or #rooming units# in the #building# may not be increased by more than one for each 400 square feet of #residential# #floor area# created by such #extension#.

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## **52-46 - Conforming and Non-conforming Residential Uses in M1-1D Through M1-5D Districts**

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LAST AMENDED

12/21/1989

In M1-1D, M1-2D, M1-3D, M1-4D and M1-5D Districts, a #building# containing conforming or #non-conforming# #residential uses# may be #enlarged# and the #residential uses# #extended# thereby, provided that no non-#residential uses# exist above the level of the first #story# ceiling.

Such #enlargement# is subject to all of the following regulations:

- (a) There shall be no increase in the number of #dwelling units# in the #building# beyond the lawful number in existence on December 21, 1989.
- (b) The total amount of #residential# #floor area# in the #building# shall not exceed 500 square feet additional to the #residential# #floor area# in existence on December 21, 1989, or a #floor area ratio# of 1.65, whichever is less.
- (c) No #residential# #enlargement# shall be permitted within 30 feet of the #rear lot line#.
- (d) No #enlarged# portion shall exceed a height of 32 feet above #curb level#.
- (e) No #side yards# shall be required. However, if any open area extending along a #side lot line# is provided at any level it shall have a width of not less than eight feet. However, #enlargements# of #single-family# or #two-family residences# existing as of June 20, 1988 shall be exempt from this requirement, provided such #enlarged# #building# does not exceed a height of two #stories#.

#Enlargements# in excess of those permitted in this Section, and #enlargements# that create additional #dwelling units# may be permitted by authorization of the City Planning Commission, pursuant to the regulations of Sections [42-47](#) (Residential Uses in M1-1D Through M1-5D Districts) and [42-48](#) (Supplemental Use Regulations in M1-6D Districts).

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## **52-50 - DAMAGE OR DESTRUCTION**

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LAST AMENDED  
12/15/1961

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## **52-51 - General Provisions**

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LAST AMENDED  
12/5/1990

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Except as set forth in Sections [52-81](#) to [52-83](#), inclusive, relating to Regulations Applying to Non-Conforming Signs, if a #non-conforming# #building or other structure# is damaged, destroyed or demolished, the provisions set forth in Sections [52-52](#) to [52-56](#), inclusive, shall apply.

However, if a #non-conforming# #single-# or #two-family residence# in an R3, R4, or R5 District is damaged, destroyed or demolished, such #building# may be continued in #use# and reconstructed provided that such reconstruction shall not create a new #non-compliance# nor increase the pre-existing degree of #non-compliance# with the applicable #bulk# regulations.

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## **52-52 - Land with Minor Improvements**

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LAST AMENDED  
2/2/2011

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In all districts, if a #non-conforming# #building or other structure# or other improvement located on #land with minor improvements# is damaged or destroyed by any means, including but not limited to, any demolition ordered or permitted by the Department of Buildings, to the extent of 25 percent or more of the assessed valuation of all #buildings or other structures# or other improvements thereon (as determined from the assessment rolls effective on the date of damage or destruction), such #non-conforming# #use# shall terminate, and the #zoning lot# shall thereafter be used only for a conforming #use#.

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## **52-53 - Buildings or Other Structures in All Districts**

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LAST AMENDED  
12/15/1961

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## **52-531 - Permitted reconstruction or continued use**

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LAST AMENDED  
9/21/2011

In all districts, if any #building#, except a #building# subject to the provisions of Section [52-54](#) (Buildings Designed for Residential Use in Residence Districts), or of Section [52-56](#) (Multiple Dwellings in M1-1D Through M1-5D Districts), which is substantially occupied by a #non-conforming# #use#, is damaged or destroyed by any means, including any demolition as set forth in Sections [52-50](#) et seq., to the extent of 50 percent or more of its total #floor area#, such #building# may either:

- (a) be repaired or #incidentally altered#, and the existing #non-conforming# #use# may be continued; or
- (b) be reconstructed, but only for a conforming #use#; provided, however, that in no event shall any such reconstruction create a #non-compliance# or increase the degree of #non-compliance# of a #non-complying# #building#.

However, where the damage or destruction is so great that the provisions in Sections [54-41](#) and [54-42](#) relating to Damage, Destruction or Demolition in Non-Complying Buildings also apply, the latter Sections shall govern the permitted #bulk# of the reconstructed #building#.

In addition, the alteration of an existing #building# resulting in both the removal of more than 75 percent of the #floor area# and more than 25 percent of the perimeter walls of such existing #building#, and the replacement of any portion thereof, shall be considered a #development# for the purposes of the provisions set forth in Section [11-23](#) (Demolition and Replacement).

In applying the provisions of this Section to damaged or destroyed structures, substantially utilized by a #non-conforming# #use#, any appropriate measure of the size of such structures shall be substituted for #floor area# in determining the extent of damage or destruction.

In the event that any demolition, damage or destruction of an existing #building# produces an unsafe condition requiring a Department of Buildings order or permit for further demolition of #floor area# to remove or rectify the unsafe condition, and the aggregate #floor area# demolished, damaged or destroyed including that ordered or permitted by the Department of Buildings constitutes 50 percent or more of the total #floor area# of such #building#, then such #building# may be repaired or reconstructed only in accordance with the provisions of paragraph (a) or (b) in this Section.

For the purposes of this Section, any #single-family# or #two-family residence# located within an M1-1D, M1-2D, M1-3D, M1-4D, M1-5D or M1-6D District and existing on June 20, 1988, shall be a conforming #use#.

For the purposes of this Section, #buildings# that #abutted# one another on a single #zoning lot# on the date of such damage or destruction shall be considered a single #building#.

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## **52-532 - Use of alternative formula**

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LAST AMENDED  
12/15/1961

In any case where the applicant alleges that #floor area# is an inappropriate measure of the extent of damage or destruction, and elects to substitute reconstruction costs for #floor area#, an application may be made to the Board of Standards and Appeals to determine the extent of such damage or destruction.

If the Board finds that the costs of reconstructing the damaged or destroyed portion of such #building# to its previous condition exceed 50 percent of the costs of reconstructing the entire #building# to the condition existing on the date of such damage or destruction, the provisions of Section [52-531](#) (Permitted reconstruction or continued use) shall apply. In determining reconstruction costs, the cost of land shall be excluded.

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## **52-54 - Buildings Designed for Residential Use in Residence Districts**

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LAST AMENDED

3/28/1985

In all #Residence Districts#, if the #floor area# occupied by #non-conforming# #uses# within a #building designed for residential use# is damaged or destroyed by any means, including but not limited to, any demolition ordered or permitted by the Department of Buildings, to the extent of 25 percent or more of such #floor area#, such #building# may be continued in #use# or reconstructed only in accordance with the provisions of Section [52-53](#) (Buildings or Other Structures in All Districts) except that the 25 percent ratio set forth in this Section shall apply instead of the 50 percent ratio set forth in Section [52-53](#).

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## **52-55 - Lesser Damage or Destruction**

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LAST AMENDED

2/2/2011

In the event that a #building or other structure# substantially occupied or utilized by a #non-conforming# #use# is damaged or destroyed to a lesser extent than that specified in Sections [52-51](#) to [52-54](#), inclusive, relating to Damage, Destruction or Demolition, the #building or other structure# may be restored and the #non-conforming# #use# of such #building or other structure# or #zoning lot# may be continued, provided that such restoration shall not create a #non-compliance# or increase the degree of #non-compliance#, if any, existing prior to such damage, destruction or demolition.

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## **52-56 - Multiple Dwellings in M1-1D Through M1-5D Districts**

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LAST AMENDED

9/21/2011

In the case of damage or destruction of less than 75 percent of the total #floor area# of a #non-conforming# #building# containing three or more #dwelling units# in an M1-1D, M1-2D, M1-3D, M1-4D or M1-5D District, such #building# may be repaired or reconstructed, and its #residential use# continued, subject to the following regulations:

- (a) there shall be no increase in the number of #dwelling units# in the #building# beyond the lawful number in existence prior to such damage and destruction; and
- (b) there shall be no increase to the pre-existing amount of #floor area# except as expressly provided in Section [52-46](#) (Conforming and Non-conforming Residential Uses in M1-1D Through M1-5D Districts).

#Enlargements# in excess of those permitted, pursuant to paragraph (b) of this Section, and #enlargements# that create additional #dwelling units#, may be permitted by authorization of the City Planning Commission pursuant to the regulations of Section [42-47](#) (Residential Uses in M1-1D Through M1-5D Districts).

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## **52-60 - DISCONTINUANCE**

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LAST AMENDED

12/15/1961

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## 52-61 - General Provisions

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LAST AMENDED

12/6/2023

If, for a continuous period of two years, either the #non-conforming# #use# of #land with minor improvements# is discontinued, or the active operation of substantially all the #non-conforming# #uses# in any #building or other structure# is discontinued, such land or #building or other structure# shall thereafter be used only for a conforming #use#. Intent to resume active operations shall not affect the foregoing.

The provisions of this Section shall not apply where such discontinuance of active operations is directly caused by war, strikes or other labor difficulties, a governmental program of materials rationing, or the construction of a duly authorized improvement project by a governmental body or a public utility company.

Except in Historic Districts as designated by the Landmarks Preservation Commission, the provisions of this Section shall not apply to vacant ground floor or #basement# stores in #buildings designed for residential use# located in R5, R6 or R7 Districts where the changed or reactivated #use# is listed in Use Group 6A, 6B or 6C excluding post offices, veterinary medicine for small animals, automobile supply stores, electrolysis studios and drive-in banks. In addition, the changed or reactivated #use# shall be subject to the provisions of Section [52-34](#) (Commercial Uses in Residence Districts).

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## 52-62 - Buildings Containing Residences in M1-1D Through M1-5D Districts

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LAST AMENDED

9/21/2011

In M1-1D, M1-2D, M1-3D, M1-4D and M1-5D Districts, vacant #floor area# in a #building# originally designed as #dwelling units# or #rooming units# may be occupied by a #residential use# provided that the requirements of either paragraph (a) or (b) are met.

- (a) #Residential uses# in such #buildings# may be reactivated as-of-right, provided:
- (1) the #floor area# has been continuously vacant for two years or more;
  - (2) the #street line# of the #zoning lot# upon which the discontinued #building# stands does not exceed 60 feet in length (or, in the case of a #corner lot#, the #lot area# does not exceed 6,800 square feet); and
  - (3) the #zoning lots# #abutting# on both #side lot lines# and fronting on the same #street# (or #streets#, if a #corner lot#) are occupied by #buildings designed for residential use# and contain no #manufacturing# #uses#.
- (b) #Residential uses# in such #buildings# may be reactivated by authorization of the City Planning Commission, provided:
- (1) the #floor area# has been continuously vacant for two years or more;
  - (2) the #street line# of the #zoning lot# upon which the discontinued #building# stands does not form a continuous frontage with vacant land or #land with minor improvements# whose aggregate length exceeds 60 feet (or, in the case of a #corner lot#, the #lot area# does not exceed 6,800 square feet);
  - (3) the #zoning lot# #abutting# on one #side lot line# and fronting on the same #street# is occupied by either:

- (i) a #building designed for residential use# or a #community facility# #building#; or
  - (ii) a #building# originally designed as #dwelling units# or #rooming units# for which an application to reactivate #residential use# in such #building# has been combined with the subject application;
- (4) 25 percent or more of the aggregate length of the #block# fronts on both sides of the #street# facing each other is occupied by #zoning lots# containing #community facility# #buildings# or #buildings# containing #residences#; and
- (5) the Commission finds that:
- (i) reactivating the #residential use# will not adversely affect #manufacturing# or #commercial# #uses# in the district; and
  - (ii) such #residential use# will not be exposed to excessive noise, smoke, dust, noxious odor, or other adverse impacts from #manufacturing# or #commercial# #uses#.

In granting such authorization, the Commission may prescribe additional conditions and safeguards as the Commission deems necessary.

The number of #dwelling units# permitted in such reactivated #building# containing #residences# shall not exceed the greater of the number of lawful #dwelling units# last recorded by the Department of Buildings, or one #dwelling unit# for every 675 square feet of total net #residential# #floor area# as defined in Section [28-02](#) (Definitions).

No #dwelling unit# shall be permitted on or below a #story# occupied by a #commercial# or #manufacturing# #use#.

#Residential uses# in M1-D Districts may #enlarge# pursuant to the regulations of Sections [52-46](#) (Conforming and Non-conforming Residential Uses in M1-1D Through M1-5D Districts) or [42-47](#) (Residential Uses in M1-1D Through M1-5D Districts) as applicable.

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## **52-70 - TERMINATION OF CERTAIN NON-CONFORMING USES AFTER AMORTIZATION**

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LAST AMENDED  
12/15/1961

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## **52-71 - General Provisions**

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LAST AMENDED  
10/25/1995

In specified districts, specified #non-conforming# #signs#, specific #non-conforming# #uses# of #land with minor improvements#, specified #non-conforming# objectionable #uses#, certain specific types of #uses# involving open storage or salvage, #non-conforming# #adult establishments#, or certain #non-conforming# #public parking lots# may be continued for a reasonable period of useful life as set forth in this Chapter, provided that after the expiration of that period such #non-conforming# #uses# shall terminate in accordance with the provisions of this Chapter.

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## **52-72 - Land with Minor Improvements**

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LAST AMENDED  
12/15/1961

In all #Residence Districts#, a #non-conforming# #use# of #land with minor improvements# listed in Use Group 11A, 16, 17 or



18 may be continued for three years after December 15, 1961, or such later date that the #use# becomes #non-conforming#, provided that after the expiration of that period such #non-conforming# #use# shall terminate, and thereafter such land shall be used only for a conforming #use#.

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## **52-73 - Non-Conforming Signs**

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LAST AMENDED  
12/15/1961

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## **52-731 - Advertising signs**

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LAST AMENDED  
5/22/1963

In all #Residence Districts#, a #non-conforming# #advertising sign# may be continued for 10 years after December 15, 1961, or such later date that such #sign# becomes #non-conforming#, providing that after the expiration of that period such #non-conforming# #advertising sign# shall terminate.

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## **52-732 - Signs on awnings or canopies**

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LAST AMENDED  
12/15/1961

In all #Residence# or #Commercial Districts#, a #non-conforming# #sign# on an awning or canopy may be continued for one year after December 15, 1961, or such later date that such #sign# becomes #non-conforming#, provided that after the expiration of that period such #non-conforming# #sign# shall terminate.

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## **52-733 - Advertising signs on waterways**

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LAST AMENDED  
4/8/1998

On all waterways adjacent to #Residence#, #Commercial# or #Manufacturing Districts# and within view from an arterial highway, a #non-conforming# #advertising sign# may be continued for one year after July 23, 1964, if already in operation on April 15, 1964; provided that after the expiration of this period such #non-conforming# #advertising sign# shall terminate.

For the purposes of this Section, an #advertising sign# is a #sign# that directs attention to a profession, business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the premises of the vessel and is not #accessory# to a #use# on such vessel.

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## **52-734 - Non-conforming signs for adult establishments**

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LAST AMENDED  
4/8/1998

In all districts, a #non-conforming# #sign# for an #adult establishment# shall terminate within one year from October 25, 1995, or from such later date that such #sign# becomes #non-conforming#, except that such #sign# may be continued for a limited period of time by the Board of Standards and Appeals, pursuant to Section [72-40](#) (AMORTIZATION OF CERTAIN ADULT ESTABLISHMENTS AND SIGNS FOR ADULT ESTABLISHMENTS).

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## 52-74 - Uses Objectionable in Residence Districts

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LAST AMENDED

2/8/1968

In all #Residence Districts#, any of the following objectionable #uses# listed in Use Group 18, other than a #use# of #land with minor improvements#:

Coal storage;

Dumps, marine transfer stations for garbage, or slag piles;

Junk or salvage yards, including auto wrecking or similar establishments (whether or not such yard is enclosed);

Lumber yards (whether or not such yard is enclosed);

Manure, peat or topsoil storage;

Scrap metal, junk, paper or rags storage, sorting or baling (whether or not the yard in which such #use# is conducted is enclosed);

that:

- (a) involves activities not located within a #completely enclosed building#; and
- (b) involves the #use# of #buildings or other structures# or other improvements with a total assessed valuation, excluding land, of less than \$20,000 as determined from the assessment rolls effective on the date established for termination;

may be continued for 10 years after December 15, 1961, or such later date that the #use# becomes #non-conforming#, provided that after the expiration of that period such #non-conforming# #use# shall terminate, and thereafter such land or #building or other structure# shall be used only for a conforming #use#.

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## 52-75 - Certain Types of Uses Involving Open Storage or Salvage

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LAST AMENDED

2/8/1968

In all districts, #non-conforming# building materials or contractors' yards, or #non-conforming# junk or salvage yards, including auto wrecking or similar establishments, or #non-conforming# scrap metal, junk, paper or rags storage, sorting or baling may be continued subject to the applicable provisions set forth herein, whichever impose the greater restriction.

- (a) In #Residence Districts#, where such #use# constitutes a #non-conforming# #use# of #land with minor improvements#, the provisions of Section [52-72](#) (Land With Minor Improvements) apply.
  - (b) In #Residence Districts#, where such #use# constitutes a #use# other than a #use# of #land with minor improvements#, and meets the criteria set forth in Section [52-74](#) (Uses Objectionable in Residence Districts), the provisions of Section [52-74](#) apply.
  - (c) In all districts where such #use# is #non-conforming# with respect to the required enclosure as set forth in the listing of such #use# in Sections [42-14](#) (Use Group 17) or [42-15](#) (Use Group 18), and is either conforming or #non-conforming# in other respects, it may be continued without such enclosure until a date three years from February 8, 1968, or from such later date that the #use# becomes #non-conforming#. Thereafter, any such #use# which does not conform with the enclosure requirements shall be terminated, and the land shall be used only for a conforming #use#.
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## 52-77 - Termination of Adult Establishments

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LAST AMENDED  
10/25/1995

In all districts, a #non-conforming# #adult establishment# shall terminate within one year from October 25, 1995, or from such later date that the #adult establishment# becomes #non-conforming#, except that such establishment may be continued for a limited period of time by the Board of Standards and Appeals pursuant to Section [72-40](#) (AMORTIZATION OF CERTAIN ADULT ESTABLISHMENTS AND SIGNS FOR ADULT ESTABLISHMENTS). However, the provisions of this Section shall not apply to an #adult establishment# subject to the provisions of paragraph (f) of Section [32-01](#) or [42-01](#) (Special Provisions for Adult Establishments).

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## 52-80 - REGULATIONS APPLYING TO NON-CONFORMING SIGNS

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LAST AMENDED  
12/15/1961

### 52-81 - General Provisions

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LAST AMENDED  
4/8/1998

A #non-conforming# #sign# shall be subject to all the provisions of this Chapter relating to #non-conforming# #uses#, except as modified by the provisions of Sections [52-82](#) (Non-Conforming Signs other than Advertising Signs) and [52-83](#) (Non-Conforming Advertising Signs).

A change in the subject matter represented on a #sign# shall not be considered a change of #use#.

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### 52-82 - Non-Conforming Signs other than Advertising Signs

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LAST AMENDED  
4/8/1998

Any #non-conforming# #sign#, except a #flashing sign# or a #sign# subject to the provisions of Section [52-734](#) (Non-conforming signs for adult establishments), and except any #advertising signs# may be structurally altered, reconstructed or replaced in the same location and position, provided that such structural alteration, reconstruction or replacement does not result in:

- (a) the creation of a new #non-conformity# or an increase in the degree of #non-conformity# of such #sign#;
- (b) an increase in the #surface area# of such #sign#; or
- (c) an increase in the degree of illumination of such #sign#.

However, any structural alteration, reconstruction or replacement of a #non-conforming# #sign# #accessory# to a #non-conforming# #use# shall be subject to the provisions of Section [52-31](#) (General Provisions).

To the extent that such structural alteration, reconstruction or replacement of #non-conforming# #signs# is permitted under the provisions of this Section, the provisions of the following Sections are modified:

Section [52-22](#) (Structural Alterations)

Sections [52-51](#) to [52-55](#), inclusive, relating to Damage or Destruction.

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## **52-83 - Non-Conforming Advertising Signs**

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LAST AMENDED

7/29/2010

In all #Manufacturing Districts#, or in C1, C2, C4, C5-4, C6, C7 or C8 Districts, except as otherwise provided in Sections [32-66](#) or [42-55](#) (Additional Regulations for Signs Near Certain Parks and Designated Arterial Highways), any #non-conforming# #advertising sign# except a #flashing sign# may be structurally altered, reconstructed or replaced in the same location and position, provided that such structural alteration, reconstruction or replacement does not result in:

- (a) the creation of a new #non-conformity# or an increase in the degree of #non-conformity# of such #sign#;
- (b) an increase in the #surface area# of such #sign#; or
- (c) an increase in the degree of illumination of such #sign#.

However, in Community District 1 in the Borough of Brooklyn, a #non-conforming# #advertising sign# may be structurally altered, reconstructed or replaced in a different location, and may create a new #non-conformity# or #non-compliance#, or an increase in the degree of #non-conformity# or #non-compliance#, provided such #sign# is reconstructed pursuant to a Certificate of Appropriateness from the Landmarks Preservation Commission, is located on a landmark #building# that is part of a #general large scale development#, and there is no increase in the #surface area# or degree of illumination of such #sign#. Furthermore, the discontinuance provisions of Section [52-61](#) shall not apply to such #sign#, provided such #sign# is reconstructed on the landmark #building# prior to the issuance of a temporary certificate of occupancy for any #use# within such #building#.

No #sign# that exceeds or is otherwise in violation of any illumination standard established by rule of the Department of Buildings shall be #non-conforming# as to such illumination standard one year after such rule becomes effective.

To the extent that such structural alteration, reconstruction or replacement of #non-conforming# #advertising signs# is permitted under the provisions of this Section, the provisions of the following Sections are modified:

Section [52-22](#) (Structural Alterations)

Sections [52-51](#) to [52-55](#), inclusive, relating to Damage or Destruction.