



## Zoning Resolution

THE CITY OF NEW YORK

Eric Adams, Mayor

CITY PLANNING COMMISSION

Daniel R. Garodnick, Chair

# Chapter 4 - Non-Complying Buildings

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# Chapter 4 - Non-Complying Buildings

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## 54-00 - GENERAL PROVISIONS

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LAST AMENDED  
12/15/1961

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### 54-01 - 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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### 54-02 - Applicability of Article V, Chapter 4

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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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### 54-10 - CONTINUATION OF USE

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LAST AMENDED  
12/15/1961

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### 54-11 - General Provisions

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LAST AMENDED  
12/15/1961

The #use# of a #non-complying# #building or other structure# may be continued, except as otherwise provided in this Chapter.

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### 54-20 - REPAIRS OR ALTERATIONS

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LAST AMENDED  
12/15/1961

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### 54-21 - General Provisions

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LAST AMENDED  
12/15/1961

Repairs, #incidental alterations#, or structural alterations may be made in a #non-complying# #building or other structure#, except that such alterations made in the course of an #enlargement# shall be subject to the provisions of Section [54-31](#) (General Provisions).

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### 54-30 - ENLARGEMENTS OR CONVERSIONS

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LAST AMENDED  
12/15/1961

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## 54-31 - General Provisions

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LAST AMENDED  
12/6/2023

Except as otherwise provided in this Chapter, a #non-complying# #building or other structure# may be #enlarged# or #converted#, provided that no #enlargement# or #conversion# may be made which would either create a new #non-compliance# or increase the degree of #non-compliance# of a #building or other structure# or any portion thereof.

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### 54-311 - Buildings containing rooming units

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LAST AMENDED  
2/2/2011

If a #building# or portion of a #building# contains #rooming units#, such #rooming units# may be #converted# to #dwelling units# in accordance with the provisions of Section [15-111](#) (Number of permitted dwelling units).

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### 54-312 - Modification of provisions

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LAST AMENDED  
12/15/1961

The Board of Standards and Appeals may modify the above requirements in accordance with the provisions of Sections [73-61](#) (General Provisions) and [73-65](#) (Enlargement of Public Utility Facilities).

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### 54-313 - Single- or two-family residences with non-complying front yards or side yards

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LAST AMENDED  
12/6/2023

- (a) In R4 Districts, except R4-1, R4A and R4B Districts, and in R5 Districts other than R5B Districts, for an existing #single-# or #two-family residence# with a #non-complying# #front yard#, an #enlargement# involving a vertical extension of existing #building# walls facing such #non-complying# #front yard# is permitted, provided the following conditions are met:
- (1) the portion of the #building# which is being vertically extended complies with the height and setback regulations specified for the district in which it is located; and
  - (2) the #non-complying# #front yard# where the #building# wall is being vertically extended is at least 10 feet in depth.

Notwithstanding the above, the provisions of this paragraph (a) shall also be applicable in R4A Districts in #lower density growth management areas#.

- (b) In all districts, for an existing #single-# or #two-family residence# with a #non-complying# #side yard#, an #enlargement# involving a vertical extension of existing #building# walls facing such #non-complying# #side yard# is permitted, provided the following conditions are met:
- (1) the portion of the #building# which is being vertically extended complies with the height and setback regulations applicable to an R3-2 District;
  - (2) the #non-complying# #side yard# where the #building# wall is being vertically extended is at least three feet in width and the minimum distance between such #building# wall and the nearest #building# wall or vertical prolongation thereof on an adjoining #zoning lot# across the common #side lot line# is eight feet;
  - (3) the #enlarged building# does not contain more than two #dwelling units#;
  - (4) there is no encroachment on the existing #non-complying# #side yard#, except as set forth in this Section; and
  - (5) the #enlargement# does not otherwise result in the creation of a new #non-compliance# or in an increase in the degree of #non-compliance#.

Notwithstanding the provisions set forth in paragraphs (a)(1) and (b)(1) of this Section, when an existing #building# has added #qualifying exterior wall thickness# pursuant to Section [23-44](#) (Permitted Obstructions in Required Yards or Rear Yard Equivalents), such vertical extensions may align with the location of the finished exterior #building# wall of the existing #building#.

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## **54-314 - Modification by authorization**

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LAST AMENDED  
7/26/2001

In R6, R7 or R8 Districts, for any substantial rehabilitation of one or more #non-complying# multiple dwellings which were in existence prior to December 15, 1961, the City Planning Commission may authorize the existing #open space# on the #zoning lot# to be reduced by not more than five percent and the existing #building# #floor area# on such #zoning lot# to be increased by not more than five percent, if the Commission finds that such modification of the applicable #bulk# regulations as set forth in Section [54-31](#) will result in an improved apartment design with adequate access of light and air and an improved circulation system. In the #Special Clinton District#, such authorizations may apply to complying multiple dwellings and may include a five percent increase in #lot coverage# and #floor area#. The Commission, in making the findings above may round out the #floor area# or #lot coverage# increase to the nearest percent.

No increase in the existing density and apartment #floor area# shall be permitted for such #buildings#.

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## **54-40 - DAMAGE OR DESTRUCTION IN NON-COMPLYING BUILDINGS**

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LAST AMENDED  
2/2/2011

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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## 54-41 - Permitted Reconstruction

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LAST AMENDED

2/2/2011

If a #non-complying# #building or other structure# is damaged or destroyed by any means, including any demolition as set forth in this Section, to the extent of 75 percent or more of its total #floor area#, such #building# may be reconstructed only in accordance with the applicable district #bulk# regulations, except in the case of a one- or two-family #residence#, such #residence# may be 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. If the extent of such damage or destruction is less than 75 percent, a #non-complying# #building# may be 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.

In addition, the alteration of such 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 the event that any demolition, damage or destruction of an existing #building# other than one- or two-family #residences# 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 75 percent or more of the total #floor area# of such #building#, then such #building# may be reconstructed only in accordance with the applicable district #bulk# regulations.

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## 54-42 - 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 the damage or destruction. Such a #building# may be reconstructed as provided in Section [54-41](#) (Permitted Reconstruction), substituting the ratio which the cost of reconstructing the damaged or destroyed portion of such #building# bears to the cost of reconstructing the entire #building#, for the percentage of total #floor area#. In determining reconstruction costs, the cost of land shall be excluded.

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## 54-50 - MODIFICATIONS TO THE PROVISIONS OF THIS CHAPTER

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LAST AMENDED

12/6/2023

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## 54-51 - Energy Infrastructure or Retrofits

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Notwithstanding the other provisions of this Chapter, in all districts, a #development#, #enlargement# or alteration comprised exclusively of the addition of #energy infrastructure equipment#, #accessory# mechanical equipment, or #qualifying exterior wall thickness#, whether to a #building# or to an open area of the #zoning lot#, may create a new #non-compliance# or increase the degree of #non-compliance# of a #building or other structure#, provided that:

- (a) where locating such equipment in a #non-complying# #open space#, #yard#, #rear yard equivalent#, or #court#, as applicable, such equipment shall comply with the applicable height and area restrictions for the respective open area set forth in the applicable underlying district regulations, as applied to the level and size of the #non-complying# open area;
- (b) where locating such equipment on the rooftop of a #building# that is #non-complying# with respect to height and setback regulations, such equipment shall comply with the height and area regulations for such permitted obstruction set forth in the applicable underlying district regulations, as applied to the level of the rooftop, inclusive of any #non-compliance# into a required setback area, #yard#, or other required open area;
- (c) at any level, all #energy infrastructure equipment# or #accessory# mechanical equipment will be enclosed or screened in compliance with the applicable provisions for such permitted obstructions; and
- (d) where locating #qualifying exterior wall thickness# into either a #non-complying# #open space#, #yard#, #rear yard#, or #court#, or into a #non-complying# distance between two #buildings# or a #non-complying# distance between a #building# and #lot line#, or in a location not otherwise permitted by underlying #street wall location rules#, such additional encroachment of wall thickness shall not exceed the depth permitted by the underlying permitted obstruction regulations.