



## Zoning Resolution

THE CITY OF NEW YORK

Eric Adams, Mayor

CITY PLANNING COMMISSION

Daniel R. Garodnick, Chair

# **Chapter 5 - Special Regulations Applying in Designated Recovery Areas**

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# Chapter 5 - Special Regulations Applying in Designated Recovery Areas

## 65-00 - GENERAL PROVISIONS

LAST AMENDED  
5/12/2021

The provisions of this Resolution shall apply as modified by this Chapter and by the special regulations set forth herein. The provisions of this Chapter establish optional special regulations which are designed to facilitate, on a temporary basis, the recovery of areas impacted by a severe disaster and in so doing promote and protect public health, safety and general welfare. These general goals include, among others, the following purposes:

- (a) to expedite the recovery of neighborhoods that have experienced physical or non-physical impacts from a severe disaster;
- (b) to enable the reconstruction and alteration of buildings damaged by a severe disaster, by removing disincentives; and
- (c) to promote the most desirable use of land in accordance with a well-considered plan and thus conserve the value of land and buildings, and thereby protect the City's tax revenues.

## 65-01 - Applicability of Article VI, Chapter 5

LAST AMENDED  
5/12/2021

The provisions of this Chapter shall apply based on the type of impacts caused by each #severe disaster#, and such applicability shall be determined at the time such provisions are added to the Chapter's applicability. #Designated recovery areas# shall be determined based on the extent of the impacts caused by the #severe disaster# and recovery plans, as applicable. For each of the #designated recovery areas#, applicable recovery provisions will be set forth in this Chapter based on the type of impacts caused by the #severe disaster#. The #designated recovery areas# shall be listed in Appendix A of this Chapter, and the applicable time duration shall be set forth in the following table.

#Designated Recovery Area# Number and #severe disaster#	Effective Date	Applicable Sections								Time Duration (after effective date)*
		<a href="#">65-11</a>	<a href="#">65-12</a>	<a href="#">65-13</a>	<a href="#">65-21</a>	<a href="#">65-31</a>	<a href="#">65-41</a>	<a href="#">65-42</a>	<a href="#">64-51</a>	
1: COVID-19	May 12, 2021		x	x						2 years

\* Such time duration limitation may be modified by the specific provision located in this Chapter

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.

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## **65-10 - SPECIAL TIME-BASED PROVISIONS**

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LAST AMENDED

5/12/2021

The modifications to time limits associated with this Resolution and set forth in this Section, inclusive, may be applied to #zoning lots# within #designated recovery areas#, as set forth in Section [65-01](#) (Applicability of Article VI, Chapter 5).

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## **65-11 - Vesting Provisions**

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LAST AMENDED

5/12/2021

In all districts, the provisions of Section [11-30](#) (BUILDING PERMITS ISSUED BEFORE EFFECTIVE DATE OF AMENDMENT), inclusive, and any other provision that requires a building permit to be submitted, or a particular amount of construction to be completed within a certain timeframe, shall be suspended. Subsequent to the expiration of the applicable time duration as set forth in Section [65-01](#) (Applicability of Article VI, Chapter 5), the time period established by the applicable provisions of this Resolution shall be resumed, and the remaining time associated with submitting a building permit, or completing a particular amount of construction shall be the amount existing prior to the #severe disaster#.

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## **65-12 - Authorizations or Special Permits Granted by the City Planning Commission**

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LAST AMENDED

5/12/2021

In all districts, for special permits or authorizations granted by the City Planning Commission where substantial construction has not taken place and such approval would lapse after a total of 10 years within the applicable time duration set forth in Section [65-01](#) (Applicability of Article VI, Chapter 5), the provisions of Section [11-42](#) (Lapse of Authorization or Special Permit Granted by the City Planning Commission Pursuant to the 1961 Zoning Resolution) and [11-43](#) (Renewal of Authorization or Special Permit) shall be modified to allow the renewal of such authorization or special permit without public hearing, for one additional three-year term, provided that the Commission finds that the facts upon which the authorization or special permit was granted have not substantially changed. An application for a renewal of authorization or special permit shall be filed with the Commission before it lapses.

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## **65-13 - Discontinuance Provisions**

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LAST AMENDED

5/12/2021

In all districts, where a #non-conforming# #use# has been discontinued, the time limits associated with restoring active operations of such #use# to retain its #non-conforming# status shall be suspended. Subsequent to the expiration of the applicable time duration as set forth in Section [65-01](#) (Applicability of Article VI, Chapter 5), the time period established by the applicable provisions of this Resolution shall be resumed, and the remaining time associated with restoring active operations shall be the amount existing prior to the #severe disaster#.

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## **65-20 - SPECIAL DAMAGE AND DESTRUCTION PROVISIONS**

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LAST AMENDED

5/12/2021

The following modifications to damage and destruction provisions associated with this Resolution may be applied to #zoning lots# within #designated recovery areas#, as set forth in Section [65-01](#) (Applicability of Article VI, Chapter 5).

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## **65-21 - Reconstruction Provisions**

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LAST AMENDED

5/12/2021

In all districts, where the provisions of this Section are utilized, the provisions of Article V, Chapters 2 (Non-Conforming Uses) and 4 (Non-Complying Buildings) shall be modified to allow the reconstruction of #buildings or other structures# containing #non-conforming# #uses# and #non-complying# #buildings or other structures#, that were damaged due to the effects of the #severe disaster#, as follows:

- (a) Section [52-53](#) (Buildings or Other Structures in All Districts), inclusive, shall be modified to allow the reconstruction of a #non-conforming# #use# where a #building or other structure# containing such #use# is damaged to the extent of 50 percent or more due to the effects of a #severe disaster#. In addition, for the purpose of this paragraph, the provisions of Section [52-60](#) (DISCONTINUANCE) shall not apply to such damaged #building or other structure# with #non-conforming# #uses#; and
- (b) Section [54-40](#) (DAMAGE OR DESTRUCTION IN NON-COMPLYING BUILDINGS) shall be modified to allow the reconstruction of a #non-complying# #building or other structure# where such #building or other structure# is damaged to the extent of 75 percent or more due to the effects of a #severe disaster#.

For the purpose of applying waterfront and parking regulations, #buildings# reconstructed pursuant to this Section shall not be considered #developments# or #enlargements#.

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## **65-30 - SPECIAL USE REGULATIONS**

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LAST AMENDED

5/12/2021

The following modifications to #use# regulations set forth in this Section, inclusive, may be applied to #zoning lots# within #designated recovery areas#, as set forth in Section [65-01](#) (Applicability of Article VI, Chapter 5).

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## **65-31 - Temporary Uses**

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LAST AMENDED

5/12/2021

In all districts, where the provisions of this Section are utilized, the #use# provisions of this Resolution, including any supplemental use regulations and provisions regulating size limitations, change of #non-conforming# #uses#, #enlargement# or #extension# of #non-conforming# #uses#, shall be modified to allow a temporary #non-conforming# #use# to be created, and a #non-conforming use# to be #enlarged# or #extended#, on a temporary basis, to aid in the immediate restoration and recovery of an area adversely impacted by a #severe disaster#.

The creation of a new #non-conforming# #use# shall be subject to the following limitations:

#Severe Disaster#	District	Use Group of permitted new #non-conformance#	Time Duration (if different from Section <a href="#">65-01</a> )

Subsequent to the expiration of the applicable time duration as set forth in this Section, any #non-conforming# #use# that was created, or any portion of a #non-conforming# #use# that was #enlarged# or #extended# on a #zoning lot#, shall be terminated and, thereafter, such #zoning lot# shall be restored to its pre-existing degree of #non-conformity#, or used only for a conforming #use#.

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## 65-40 - SPECIAL BULK REGULATIONS

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LAST AMENDED  
5/12/2021

The following modifications to #bulk# regulations set forth in this Section, inclusive, may be applied to #zoning lots# within #designated recovery areas#, as set forth in Section [65-01](#) (Applicability of Article VI, Chapter 5).

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## 65-41 - Reconstruction and Alteration of Disaster-Damaged Buildings

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LAST AMENDED  
5/12/2021

In all districts, where the provisions of this Section are utilized, the #bulk# provisions of this Resolution, and the provisions regulating the reconstruction, #enlargement# and alteration of #buildings# with #non-conforming# #uses# and #non-complying# #buildings or other structures# shall be modified to allow the reconstruction, #enlargement#, relocation and alteration of #buildings or other structures# that were damaged due to the effects of the #severe disaster#, including #non-conformances# to be continued, and #non-compliances# to be created, continued, or increased, provided the #building or other structure# is subject to the following provisions, as applicable:

(a) Floor area

The maximum amount of #floor area# shall not exceed the amount of pre-existing #floor area# as it existed prior to the reconstruction, #enlargement#, relocation or alteration work or the amount permitted by the district, whichever is greater. Furthermore, no #extension# or change of #use# may create a new #non-conformance# or a new #non-compliance#, or increase the degree of existing #non-conformance# or #non-compliance# with #floor area#.

(b) Building footprint

The resulting #lot coverage# shall be less than or equal to that of the pre-existing #building or other structure# as it existed prior to the reconstruction, #enlargement#, relocation or alteration work or the amount permitted by the district, as applicable, whichever is greater. Furthermore, a #building or other structure# may continue an existing #non-compliance#, increase the degree of an existing #non-compliance#, or create a new #non-compliance# with respect to open areas required through regulations for #yards#, #open space#, #open space ratio#, #lot coverage#, #courts#, and

minimum distance between #buildings#, in order to relocate or alter the footprint of the #building or other structure#, provided that:

- (1) a new or increased #non-compliance# into an open area shall not exceed a horizontal distance of five feet, as measured perpendicular to the outermost edge of the #non-complying# #building or other structure#, as it existed prior to the reconstruction, #enlargement#, relocation or alteration work; and
- (2) any new or increased #non-compliance# shall not result in an open area of:
  - (i) less than five feet between the wall of a #building or other structure# and a #rear lot line#;
  - (ii) less than three feet between the wall of a #building or other structure# and a #front lot line#, in districts with #front yard# requirements; and
  - (iii) less than three feet between the wall of a #building or other structure# and a #side lot line# for #detached buildings# in districts that do not allow #zero lot line buildings#.

Nothing in this Section shall affect the permitted obstruction allowances set forth by the district regulations.

(c) Building height

The resulting height and setback may continue an existing #non-compliance#, provided that the height of such reconstructed, #enlarged#, relocated or altered #building or other structure# as measured from #curb level#, #base plane# or other applicable underlying datum, does not exceed the pre-existing height of such #building#, as measured from the top of the lowest floor that contains #floor area#, to the highest point of such pre-existing #building#. All permitted obstruction allowances shall be measured with respect to the modified height and setback regulations set forth in this Section.

For the purpose of applying waterfront and parking regulations, #buildings or other structures# reconstructed pursuant to this Section shall not be considered #developments# or #enlargements#.

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## 65-42 - Properties with Disaster-Damaged Buildings

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LAST AMENDED  
5/12/2021

In all districts, the definition of #zoning lot# set forth in Section [12-10](#) (DEFINITIONS) may be modified to allow a tax lot containing one or more #buildings# that were damaged by the #severe disaster#, or where a #building# or #buildings# that were damaged by the #severe disaster# occupied more than one tax lot on the date of the #severe disaster#, to be provisionally considered a #zoning lot# for the sole purpose of demonstrating compliance with the #bulk# requirements of this Resolution, including the provisions of Section [65-31](#) (Reconstruction and Alteration of Disaster-Damaged Buildings), as applicable.

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## 65-50 - SPECIAL DOCUMENTATION PROVISIONS

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LAST AMENDED  
5/12/2021

The following modifications to documentation procedures may be applied to #zoning lots# within #designated recovery areas#, as set forth in Section [65-01](#) (Applicability of Article VI, Chapter 5).

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## 65-51 - Documentation Provisions

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LAST AMENDED  
5/12/2021

For #buildings or other structures# that were damaged due to the effects of the #severe disaster# and do not have a certificate of occupancy, construction documents, or other lawful documentation filed with the Department of Buildings indicating the existence of such #building or other structure# prior to the #severe disaster# and the presence and extent of #non-conforming# #uses# or #non-compliances# as to #bulk#, as applicable, in order to receive a building permit to reconstruct, #enlarge#, relocate or alter #buildings or other structures# pursuant to the provisions of this Resolution, inclusive of this Chapter, the Commissioner of Buildings may determine alternate and appropriate documentation necessary to substantiate proof of such #non-conformances# or #non-compliances#, as applicable.

## **Appendix A - Designated Recovery Areas**

LAST AMENDED 5/12/2021

The boundaries of each #designated recovery area# are described in this Appendix, and are subject to the temporary provisions of this Chapter, as specified in Section 65-01 (Applicability of Article VI, Chapter 5).

Designated Recovery Area 1: COVID-19 (5/12/21)

The #designated recovery area 1# shall include all #zoning lots# located within the City of New York.