



## Zoning Resolution

THE CITY OF NEW YORK

Eric Adams, Mayor

CITY PLANNING COMMISSION

Daniel R. Garodnick, Chair

# **42-30 - SPECIAL PROVISIONS APPLICABLE TO CERTAIN AREAS AND DISTRICTS**

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## 42-30 - SPECIAL PROVISIONS APPLICABLE TO CERTAIN AREAS AND DISTRICTS

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LAST AMENDED

6/6/2024

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### 42-31 - Use of Railroad or Transit Air Space

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LAST AMENDED

6/6/2024

In all #Manufacturing Districts#, #railroad or transit air space# may be #developed# or used in accordance with the provisions of this Section.

- (a) #Railroad or transit air space# may be #developed# or used only for a permitted #use# #accessory# to the railroad or transit right-of-way or yard, a #use# permitted by the City Planning Commission as set forth in Section [74-61](#) (Development within or over a railroad or transit right-of-way or yard), a railroad passenger station permitted by the City Planning Commission as set forth in Section [74-149](#) (Railroad Passenger Stations) or an open vehicle storage establishment authorized pursuant to this Section unless the right-of-way or yard or portion thereof is no longer required for railroad or transit #use# as set forth in paragraph (b) of this Section.

If any #building or other structure# constructed in such #railroad or transit air space# in accordance with the provisions of Section [74-61](#) is #enlarged# or replaced by a new #building or other structure#, the provisions of this Section shall apply to such #enlargement# or replacement.

However, any #use# legally established in such #railroad or transit air space# in accordance with the provisions of Section [74-61](#) may be changed to another #use# listed in a permitted Use Group, and no special permit from the Commission shall be required for such change of #use#.

Any #building or other structure# within or over a railroad or transit right-of-way or yard, which #building or other structure# was completed prior to September 27, 1962, or constructed in accordance with the applicable provisions of Sections [11-31](#) to [11-34](#), inclusive, prior to December 5, 1991, may be #enlarged# or replaced in accordance with the applicable district regulations without any requirement for a special permit from the Commission. Ownership of rights permitting the #enlargement# or replacement of such a #building or other structure# shall be deemed to be equivalent to ownership of a #zoning lot# or portion thereof, provided that such #enlargement# or replacement will be on one #block# and the rights are in single ownership and recorded prior to February 22, 1990. Such ownership of rights shall be deemed to include alternative ownership arrangements specified in the #zoning lot# definition of Section [12-10](#) (DEFINITIONS).

#Enlargement# or replacement utilizing these ownership rights shall be deemed to be constructed upon the equivalent of a #zoning lot#.

- (b) When the #use# of a railroad or transit right-of-way or yard, or portion thereof, has been permanently discontinued or terminated and a #large-scale development# requiring one or more special permits is proposed, no #use# or #development# of the property shall be allowed until the Commission has authorized the size and configuration of all #zoning lots# created on such property. As a condition for such authorization, the Commission shall find that:
- (1) the proposed #zoning lots#, indicated by a map describing the boundaries of, and the total area of, each lot, are not excessively large, elongated or irregular in shape and that no #development# on any #zoning lot# would result in the potential for an excessive concentration of #bulk# that would be incompatible with allowable

#developments# on adjoining property; and

- (2) each resulting #zoning lot# has direct access to one or more #streets#.

No subsequent alteration in size or configuration of any #zoning lot# approved by the Commission shall be permitted unless authorized by the Commission. The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects of such #zoning lot# designation on the character of the surrounding area. Such conditions shall be set forth in a written Declaration of Restrictions covering all tracts of land or in separate written Declarations of Restrictions covering parts of such tracts of land and which in the aggregate cover the entire tract of land comprising the #zoning lot# and which is executed and recorded as specified in the definition of #zoning lot# in Section [12-10](#).

Prior to granting any #zoning lot# authorization relating to such right-of-way or yard, the Commission shall request the Metropolitan Transportation Authority and the Departments of Transportation of the State of New York and the City of New York to indicate within 30 days whether said agencies have any plan to use such property or portion thereof for a railroad or transit #use#.

- (c) In an M1-1 District, on the #block# bounded by Vanderbilt Avenue, Atlantic Avenue, Carlton Avenue and Pacific Street in the Borough of Brooklyn, the Commission may authorize the #use# of #railroad or transit air space# for an open vehicle storage establishment provided the Commission makes the following findings:

- (1) that adequate access to one or more #streets# is provided;
- (2) that access to such #use# is located on a #street# not less than 60 feet in width;
- (3) that the proposed open vehicle storage establishment will result in reducing the number of vehicles standing on nearby #streets#; and
- (4) that such establishment is located not less than 20 feet below #curb level# except for access ramps to the #street# or #streets#.

For the purpose of this authorization a secondary access ramp may be permitted provided that the intersection of such ramp and the #street# shall be no more than two #blocks# from the intersection of the primary access ramp and a #street#.

The Commission may prescribe appropriate conditions and safeguards to minimize any adverse effects on the character of the surrounding area, including requirements for the shielding of flood lights, screening, and surfacing of all access ramps or driveways.

- (d) Notwithstanding the above, the #High Line#, as defined in Section [98-01](#), shall be governed by the provisions of Section [98-16](#) (Air Space Over a Railroad or Transit Right-of-way or Yard).

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## **42-32 - Special Regulations Applicable to Certain Districts**

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LAST AMENDED  
6/6/2024

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## **42-321 - Residential uses in M1-1D through M1-5D Districts**

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LAST AMENDED  
6/6/2024

In M1-1D, M1-2D, M1-3D, M1-4D and M1-5D Districts, new #residences# or #enlargements# of existing #residences# may be permitted by authorization of the City Planning Commission provided the #zoning lot# existing on June 20, 1988, meets the criteria of paragraphs (a), (b) or (c) of this Section.

- (a) On #zoning lots# containing #residential# or #community facility# #uses#, new #residences# or #enlargements# of existing #residences# may be authorized, provided:
  - (1) the #zoning lot# contains a #building# that has one or more #stories# of lawful #residential# or #community facility# #uses# and no more than one #story# of #commercial# or #manufacturing# #uses# therein;
  - (2) the #zoning lot# contains no other #commercial# or #manufacturing# #uses#; and
  - (3) 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 #residential# or #community facility# #uses#.
- (b) On vacant #zoning lots#, new #residences# may be authorized, provided:
  - (1) the #zoning lot# has been vacant continuously since June 20, 1988, or has been vacant continuously for five years prior to the date of application for such authorization;
  - (2) a #zoning lot# #abutting# on one #side lot line# and fronting on the same #street# is occupied by a #community facility building# or a #building# containing #residences#; and
  - (3) either of the following conditions exist:
    - (i) such vacant #zoning lot# and any contiguous vacant #zoning lots# and #land with minor improvements# fronting on the same #street# aggregate no more than 10,000 square feet of #lot area#, and 50 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 #residential# or #community facility# #uses#; or
    - (ii) such vacant #zoning lot# and any contiguous vacant #zoning lots# and #land with minor improvements# fronting on the same #street# aggregate no more than 5,000 square feet of #lot area#, and 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 #residential# or #community facility# #uses#.
- (c) On #land with minor improvements#, new #residences# may be authorized provided such #land with minor improvements# otherwise meets all the criteria for vacant #zoning lots# listed in paragraph (b) of this Section, except that new #residential use# shall not be authorized on #land with minor improvements# that:
  - (1) is used for parking, storage or processing in connection with a conforming, enclosed #commercial# or #manufacturing# #use# within the district; or
  - (2) has been so used within five years prior to the date of application, unless such land has not been so used since June 20, 1988.
- (d) In determining eligibility for #residential use#, pursuant to paragraphs (a), (b) or (c) of this Section, the following regulations shall be applicable:
  - (1) In order to determine whether a #corner lot# meets the criteria of paragraph (a), (b) or (c) above, the aggregate length of the #block# fronts occupied by #zoning lots# that contain #residential# or #community facility# #uses# may be measured along any #block# front upon which such #corner lot# has frontage.

- (2) In determining the percent of the aggregate length of the #block# fronts occupied by #zoning lots# that contain #residential# or #community facility# #uses#, the length along the #block# front of every #zoning lot#, whether occupied or not, shall be measured and aggregated, and this total shall be divided by the aggregate length of the #block# fronts occupied by #zoning lots# containing lawful #residential# or #community facility# #uses#. Vacant #zoning lots# and #land with minor improvements# shall not be counted as #residential# or #community facility# frontage.

For the purpose of this Section, the length along the #block# front of any #zoning lot# occupied by a #building# that contains one or more #stories# of #residential# or #community facility# #use# and no more than one #story# of #commercial# or #manufacturing# #use# shall be considered as a frontage of #residential# or #community facility# #uses#, and the length along the #block# front of any #zoning lot# occupied by a #building# that contains one or more #stories# of #residential# or #community facility# #use# and more than one #story# of #commercial# or #manufacturing# #uses# shall be considered as a frontage of #commercial# or #manufacturing# #uses#.

- (3) New #residential use# shall not be authorized on any #floor area# that is vacant or that is occupied by a #commercial# or #manufacturing# #use#, except that in a #building designed for residential use# where at least 50 percent of the #floor area# is occupied by #residential use#, the #residential use# may be #extended#.
- (4) In any #building#, no #residential use# may be located on or below a #story# occupied by a #commercial# or #manufacturing# #use#.
- (5) For the purposes of this Section, a #through lot# fronting on no more than two #streets# shall be treated as if it consisted of two separate #zoning lots# with #abutting# #rear lot lines# at a line midway between the two #street lines# upon which such #through lot# fronts. In the case of a #through lot# that fronts on more than two #streets#, the #through lot# portion shall first be considered as if it were so divided, and then any remaining portion shall be considered as if it were a separate #zoning lot#. Notwithstanding, in no event shall contiguous portions of a #through lot# that front on the same #street# be treated as if they were separate #zoning lots#.

Each resulting portion of such #through lot# on each #street# frontage shall be considered separately to determine whether it meets the criteria for new #residences# set forth in paragraphs (a), (b) or (c) of this Section, and only on such portion may new #residences# or #enlargements# of existing #residences# be authorized. Only the #lot area# of such portion shall be calculated in determining the permitted amount of #floor area# to be authorized pursuant to this Section.

- (6) A #zoning lot# or contiguous #zoning lots# existing on June 20, 1988, that have been vacant continuously since June 20, 1988, or have been vacant continuously for five years prior to the date of application for such authorization, that are contiguous to and front on the same #street# as a vacant #zoning lot# or #land with minor improvements# that meets all the requirements of paragraph (b) or (c) of this Section, may be combined with such eligible #zoning lot# in its application to authorize #residential use#. The aggregate #lot area# of all such contiguous vacant #zoning lots# or #land with minor improvements# shall be limited by the requirements of paragraph (b)(3).
- (e) In authorizing such #residential uses#, the Commission shall find that:
- (1) the #residential uses# will not be exposed to excessive noise, smoke, dust, noxious odor, toxic materials, safety hazards or other adverse impacts from current or previous #commercial# or #manufacturing# #uses#;
  - (2) there are no open #uses# listed under Sewage, Storm Water and Waste Infrastructure in Use Group IV(B) or Specialized Storage in Use Group IX(B) within 400 feet of the #zoning lot#;

- (3) the #residential uses# will not adversely affect #commercial# or #manufacturing# #uses# in the district; and
- (4) the authorization will not alter the essential character of the neighborhood or district in which the #use# is located, nor impair the future #use# or #development# of #commercial# and #manufacturing# #zoning lots#.

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

#Residential uses# authorized pursuant to this Section shall be subject to the regulations of Sections [43-61](#) (Bulk Regulations for Residential Uses in M1-1D Through M1-5D Districts) and [44-28](#) (Parking Regulations for Residential Uses in M1-1D through M1-5D Districts).

Regulations governing other #residential uses# in M1-D Districts are set forth in Article V, Chapter 2 (Non-conforming Uses).

#Residential uses# in M1-D Districts may #enlarge# pursuant to the regulations of Section [52-46](#) (Conforming and Non-conforming Residential Uses in M1-1D through M1-5D Districts) or of this Section.

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## 42-322 - Use regulations in M1-6D Districts

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LAST AMENDED

6/6/2024

All permitted #uses# in M1-6D Districts, as set forth in Sections [42-11](#) (Use Group I – Agriculture and Open Uses) through [42-20](#) (Use Group X – Production Uses) shall comply with the provisions set forth in this Section, inclusive.

(a) Residential use#

Residential use# shall be permitted in M1-6D Districts only in accordance with the provisions of this Section. For the purposes of this Section, a “qualifying #building#” shall be any #building# that existed on April 25, 2011, and which contained at least 40,000 square feet of #floor area# on such date.

(1) #Residential use# as-of-right#

Residential use# shall be permitted as-of-right on any #zoning lot# that, on April 25, 2011, was not occupied by a qualifying #building#. Such absence of a qualifying #building# on the #zoning lot# shall be demonstrated to the satisfaction of the Department of Buildings.

(2) #Residential use# by certification#

Residential use# shall be permitted on a #zoning lot# that, on April 25, 2011, was occupied by one or more qualifying #buildings#, only upon certification by the Chairperson of the City Planning Commission that the #zoning lot# will contain at least the amount of non-#residential floor area# that existed within qualifying #buildings# on the #zoning lot# on April 25, 2011, provided that:

- (i) preservation of non-#residential# #floor area# within existing non-qualifying #buildings# on the #zoning lot# shall not be counted toward meeting the requirements of this certification; and
- (ii) #floor area# from #community facility# #uses# with sleeping accommodations shall not be counted toward meeting the requirements of this certification.

However, non-#residential# #floor area converted# to #residential# vertical circulation and lobby space

need not be replaced as non-residential floor area.

A restrictive declaration acceptable to the Department of City Planning shall be executed and recorded, binding the owners, successors and assigns to provide the amount of non-residential floor area that existed within qualifying buildings on April 25, 2011, on the zoning lot. Such restrictive declaration shall be recorded in the Office of the City Register. A copy of such declaration shall be provided to the Department of Buildings upon application for any building permit related to a change in use from non-residential to residential, or for a new building containing residences.

(b) Community facility uses

The regulations for Use Group III that are applicable in M1 Districts shall not apply in M1-6D Districts. In lieu thereof, all uses listed in Use Group III shall be permitted, except that uses listed in Use Group III(A) shall only be permitted in accordance with paragraphs (1) or (2) of this Section, as applicable.

For the purposes of this Section, a “qualifying building” shall be any building that existed on April 25, 2011, and which contained at least 40,000 square feet of floor area on such date.

- (1) Uses listed in Use Group III(A) shall be permitted as-of-right on any zoning lot that, on April 25, 2011, was not occupied by a qualifying building. Such absence of a qualifying building on the zoning lot shall be demonstrated to the satisfaction of the Department of Buildings.
- (2) Uses listed in Use Group III(A) shall be permitted on a zoning lot that, on April 25, 2011, was occupied by one or more qualifying buildings, only upon certification by the Chairperson of the City Planning Commission that the zoning lot will contain at least the amount of non-residential floor area that existed within qualifying buildings on the zoning lot on April 25, 2011, provided that:
  - (i) preservation of non-residential floor area within existing non-qualifying buildings on the zoning lot shall not be counted toward meeting the requirements of this certification; and
  - (ii) floor area from community facility uses with sleeping accommodations shall not be counted toward meeting the requirements of this certification.

However, non-residential floor area converted to vertical circulation and lobby space associated with a use listed in Use Group III(A) need not be replaced as non-residential floor area.

A restrictive declaration acceptable to the Department of City Planning shall be executed and recorded, binding the owners, successors and assigns to provide the amount of non-residential floor area that existed within qualifying buildings on April 25, 2011, on the zoning lot. Such restrictive declaration shall be recorded in the Office of the City Register. A copy of such declaration shall be provided to the Department of Buildings upon application for any building permit related to a change in use from non-residential to uses listed in Use Group III(A), or for a new building containing such a use.

(3) Commercial and manufacturing uses

The regulations applicable in Special Mixed Use Districts, as set forth in Section 123-21 (Modifications to M1 use regulations) and Section 123-22 (Additional conditions for certain uses), shall apply except that the size limitations for uses listed in Use Group VI, shall not apply.

(c) Streetscape provisions

For the purposes of applying the underlying #ground floor level# streetscape provisions set forth in Section [32-30](#) (STREETSCAPE REGULATIONS) to this Section, the streetscape regulations for C6 Districts shall apply in M1-6D Districts. #Ground floor level# #street frontages# along #wide streets# shall be considered #Tier C street frontages#. A #ground floor level# #street# frontage along any other #street# shall be considered a #Tier B street frontage#. Such #Tier B# provisions shall apply regardless of the zoning district designations on the same or an adjoining #block#, notwithstanding the exemptions within the definition of #Tier B street frontage#. Defined terms in this Section include those in Sections [12-10](#) and 32-301.

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## 42-323 - Use regulations in M1-5M and M1-6M Districts

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LAST AMENDED

6/6/2024

In M1-5M and M1-6M Districts in Manhattan Community Districts 1, 2, 3, 4, 5 and 6, the #conversion# to #dwelling units# of non-#residential buildings#, or portions thereof, erected prior to December 15, 1961, shall be subject to the provisions of Article I, Chapter 5 (Residential Conversion Within Existing Buildings).

In M1-5M and M1-6M Districts, eating or drinking establishments, where such establishments provide entertainment with a cover charge or specified showtime, or includes a dance floor, and has a capacity of more than 200 persons, are permitted only by special permit of the Board of Standards and Appeals in accordance with Section 73-162.

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## 42-324 - Use regulations in certain M1-1, M1-5 and M1-6 Districts

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LAST AMENDED

6/6/2024

- (a) In the M1-1 District bounded by 95th Avenue, 148th Street, 97th Avenue and 147th Place in Community District 12 in the Borough of Queens, the #use# regulations of an M1 District shall apply, except that #residential use# is allowed subject to the #bulk# regulations of Section [43-01](#) (Applicability of This Chapter) and the #accessory# off-street parking regulations of Section [44-025](#) (Applicability of regulations in an M1-1 District in Community District 12 in the Borough of Queens).
- (b) In M1-5 and M1-6 Districts, except for M1-6D Districts, located within the rectangle formed by West 23rd Street, Fifth Avenue, West 31st Street, and Eighth Avenue, no new #dwelling units# shall be permitted. However, #dwelling units# which the Chairperson of the City Planning Commission determines were occupied on September 1, 1980, shall be a permitted #use# provided that a complete application to permit such #use# is filed by the owner of the #building# or the occupant of a #dwelling unit# in such #building# not later than June 21, 1983.

Such #dwelling units# shall comply with the requirements of Sections [15-024](#) (Special bulk regulations for certain pre-existing dwelling units, joint living-work quarters for artists and loft dwellings) or [15-22](#) (Number of Permitted Dwelling Units), where applicable and with Section [15-23](#) (Light and Air Provisions). For the purposes of Article 7C of the New York State Multiple Dwelling Law, such a determination of #residential# occupancy on September 1, 1980, shall be deemed to permit #residential use# as-of-right for such #dwelling units#.

- (c) In M1-6 Districts located within the rectangle formed by West 35th Street, Fifth Avenue, West 40th Street and Sixth Avenue, no #dwelling units# shall be permitted, except that:
  - (1) #dwelling units# which the Chairperson of the City Planning Commission determines were occupied on May 18,



1981, shall be a permitted #use# provided that a complete application to permit such #use# is filed by the owner of the #building# or the occupant of the #dwelling unit# not later than June 21, 1983. For the purposes of Article 7C of the New York State Multiple Dwelling Law, such a determination of #residential# occupancy shall be deemed to permit #residential use# as-of-right for such #dwelling unit#;

- (2) in any #building# for which an alteration application for #conversion# of #floor area# used for non-#residential use# to #dwelling units# or for an #extension# or minor #enlargement# of existing #residential use#, was filed prior to May 18, 1981, #dwelling units# shall be permitted, provided that such alterations shall comply with the regulations in effect on the date of such filing. The right to #convert# to #dwelling units# or #extend# or #enlarge# existing #residential use# pursuant to the provisions of this Section shall expire one year from July 23, 1981, unless a temporary or permanent certificate of occupancy has been issued; and
- (3) in M1-6D Districts, #residential use# shall be permitted as-of-right subject to the #use# regulations set forth in Section [42-322](#) (Use regulations in M1-6D Districts).

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## 42-325 - Use regulations in M1-5B Districts

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LAST AMENDED  
6/6/2024

The regulations governing M1 Districts shall apply in M1-5B Districts except where the special #use# regulations set forth in paragraphs (a) and (b) of this Section, provide otherwise.

- (a) #Joint living-work quarters for artists# in #buildings# in M1-5B Districts, provided:
  - (1) Such #building# was erected prior to December 15, 1961.
  - (2) The #lot coverage# of such #building# does not exceed 5,000 square feet except that in #buildings# with frontage along Broadway the #lot coverage# shall not exceed 3,600 square feet. However, such quarters may also be located in a #building# occupying more than 5,000 square feet of #lot area# if the entire #building# was held in cooperative ownership by #artists# on September 15, 1970. #Joint living-work quarters for artists# are permitted in other #buildings# or other structures# only by special permit of the City Planning Commission pursuant to Section [74-782](#) (Residential conversion in C6-1G, C6-2G, C6-2M, C6-4M, M1-5B, M1-5M and M1-6M Districts) by minor modification of the Chairperson of the City Planning Commission pursuant to paragraph (c)(5) of this Section or by authorization of the Commission pursuant to paragraph (d) of this Section.
  - (3) In M1-5B Districts in #buildings# occupying less than 3,600 square feet of #lot area#, #joint living-work quarters for artists# may not be located below the floor level of the second #story# unless modified by the Chairperson of the City Planning Commission pursuant to paragraph (c) of this Section, Section [74-781](#) (Modification by special permit of the Commission of uses in M1-5B Districts), or by authorization of the Commission pursuant to paragraph (d) of this Section.
  - (4) In #buildings# occupying more than 3,600 square feet of #lot area#, #joint living-work quarters for artists# may not be located below the floor level of the second #story# unless modified by the Chairperson of the City Planning Commission pursuant to paragraph (c) of this Section, [74-781](#) or by authorization of the Commission pursuant to paragraph (d) of this Section.
  - (5) At least 30 percent of the gross roof area of a #building# containing 15 #joint living-work quarters for artists# shall be provided for recreational use. For each additional #joint living-work quarters for artists#, 100 square feet

of additional roof area shall be provided for recreational use up to a maximum of 50 percent of the gross roof area. This recreational area shall be accessible to all the occupants of said #building# and their guests. No fees shall be charged to the occupants or their guests. The provisions of this Section may be modified pursuant to paragraph (c) of this Section.

- (6) In any #building# which, as a result of #zoning map# change CP-23167 is zoned M1-5B, any existing occupant of a #joint living-work quarters for artists# which cannot meet the qualifications of the Department of Cultural Affairs may remain as a lawful #use#. This lawful #use# is non-transferable and ceases immediately upon the vacating of such space. Such occupants must register with the Department of Cultural Affairs not later than August 31, 1983, in order to preserve their lawful status in their existing space.
  - (7) In a #building# for which an alteration permit for #joint living-work quarters for artists# was requested prior to April 27, 1976, such alterations may comply with the regulations effective prior to such date.
- (b) #Uses# permitted in M1 Districts, pursuant to Sections [42-11](#) (Use Group I – Agriculture and Open Uses) through [42-20](#) (Use Group X – Production Uses), inclusive, shall be allowed below the floor level of the second #story# except that all eating or drinking establishments, as listed in Use Group VI, shall be limited to 5,000 square feet of floor area per establishment. Such #use# provisions may be modified by the Chairperson of the City Planning Commission pursuant to paragraph (c) of this Section or by the Commission pursuant to Section [74-781](#) (Modifications by special permit of the Commission of uses in M1-5B Districts).
- (c) Modification by certification of the Chairperson of the City Planning Commission of uses in M1-5B Districts

In M1-5B Districts, the requirements of paragraphs (a)(2), (a)(3), (a)(4) and (a)(5) or paragraph (b) of this Section may be modified by certification of the Chairperson of the City Planning Commission as provided in this Section. A copy of any request for modification under this Section shall be sent by the applicant to the applicable Community Board at least 20 days prior to the next regularly scheduled Community Board meeting. If the Community Board elects to comment on such requests, it must do so within 31 days of such notification.

- (1) The provisions of paragraphs (a)(3) or (a)(4) or paragraph (b) of this Section may be modified if the #floor area# below the level of the second #story# was vacant as of January 28, 1976, and a complete application under this provision is filed with the City Planning Commission not later than June 21, 1983.
- (2) The provisions of paragraphs (a)(3) or (a)(4) of this Section may be modified, provided that:
  - (i) the #floor area# below the level of the second #story# was occupied by #joint living-work quarters for artists# as of September 1, 1980, and a complete application for a determination of occupancy has been filed by the owner of the #building#, or the occupant of a #joint living-work quarters for artists# in the #building#, with the Department of City Planning not later than June 21, 1983. For the purpose of Article 7C of the New York State Multiple Dwelling Law, such a determination of #joint living-work quarters for artists# occupancy by the Chairperson of the City Planning Commission shall be deemed to permit #residential use# as-of-right for such quarters; or
  - (ii) the Chairperson finds that the space below the floor level of the second #story# is required by an #artist# whom the Department of Cultural Affairs has certified as working in a heavy or bulky medium which is not easily transported to the upper floors.
- (3) The provisions of paragraph (b) of this Section may be modified provided a #use# not otherwise permitted occupied the #floor area# below the level of the second #story# as of September 1, 1980, and an application under this provision has been filed with the City Planning Commission not later than June 21, 1983.

- (4) The requirements of paragraph (a)(5) of this Section may be modified provided that the Chairperson of the Commission has administratively certified to the Department of Buildings that the roof either is unsuited for open space use or cannot be made suitable for open space use at a reasonable cost.
- (5) The requirements of paragraph (a)(2) of this Section relating to #joint living-work quarters for artists# in #buildings# where the #lot coverage# is 5,000 square feet or more, or 3,600 square feet or more in #buildings# with frontage along Broadway, may be modified, provided that:
  - (i) such #floor area# was occupied on September 1, 1980, as #joint living-work quarters for artists#, or consists of registered Interim Multiple Dwellings, or is found covered by the New York City Loft Board pursuant to Article 7C of the New York State Multiple Dwelling Law;
  - (ii) such #building# consisted, on June 21, 1983, of two or more contiguous sections separated structurally by load-bearing walls, with independent entrances, independent addresses, and other evidence of the independent functional use of each section of the #building#, which evidence may include but is not limited to separate deeds, separate tax lots, separate certificates of occupancy or separate utilities or systems for the entirety of each section of the #building#; and
  - (iii) the section within which such #floor area# is located has a #lot coverage# of less than 5,000 square feet of #lot area#, except that in #buildings# with frontage along Broadway the #lot coverage# shall not exceed 3,600 square feet.
- (d) Modification by authorization of the City Planning Commission of use regulations in M1-5B DistrictsIn M1-5B Districts, the requirements of paragraphs (a)(2), (a)(3) and (a)(4) of this Section may be modified by authorization of the City Planning Commission, provided that:such #non-residential building# is either a landmark or lies within a Historic District designated by the Landmarks Preservation Commission;any alterations to the subject #building# required in connection with such #conversion# to #joint living-work quarters for artists# have received a Certificate of Appropriateness or other permit from the Landmarks Preservation Commission; anda program has been established for continuing maintenance that will result in the preservation of the subject #building# or #buildings# as evidenced by a report from the Landmarks Preservation Commission.In order to grant an authorization, the City Planning Commission shall find that such modification of #use# requirements shall have minimal adverse effects on the conforming #uses# located within the #building# and in the surrounding area.The City Planning Commission may prescribe appropriate additional conditions and safeguards in order to enhance the character of the subject #building# and to minimize adverse effects on the character of the surrounding area.

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## **42-326 - Use regulations in Manufacturing Districts with an A suffix**

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LAST AMENDED  
6/6/2024

In Manufacturing Districts with an A suffix, the applicable #use# regulations shall be modified as follows:

- (a) In M1 Districts with an A suffix:
  - (1) all retail and service #uses# listed in Use Group VI shall be permitted, and no associated size limitations shall apply to grocery and convenience retailers and specialty food retailers;
  - (2) all recreation, entertainment and assembly space #uses# listed in Use Group VIII shall be permitted;
  - (3) all #community facility uses# without sleeping accommodations listed in Use Group III(B) shall be permitted.

- (b) In M2 Districts with an A suffix, the #use# regulations for an M1 District without an A suffix shall apply, inclusive of performance standards, supplementary use regulations, and #sign# regulations. However, grocery and convenience retailers and specialty food retailers listed in Use Group VI shall be limited to 30,000 square feet of #floor area# per establishment.
- (c) In M3 Districts with an A suffix, the following special permits by the Board of Standards and Appeals or the City Planning Commission shall not be applicable:

Section [73-161](#) (Retail and service uses)

Section [73-162](#) (Eating or drinking establishments)

Section [73-181](#) (Recreation, entertainment and assembly space uses)

Section [74-161](#) (Retail and service uses)

Section [74-181](#) (Recreation, entertainment, and assembly space uses)

Section [74-182](#) (Arenas, auditoriums, stadiums or trade expositions)

Section [74-183](#) (Drive-in theaters)

Section [74-184](#) (Racetracks).