Zoning Resolution

THE CITY OF NEW YORK
Zohran K. Mamdani, Mayor

CITY PLANNING COMMISSION
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64-61 - Special Provisions for Non-conforming Uses

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64-61 - Special Provisions for Non-conforming Uses

LAST AMENDED
5/12/2021

For all #buildings# with #non-conforming# #uses#, the provisions of Sections 52-20 (REPAIRS OR ALTERATIONS), 52-40 (ENLARGEMENTS OR EXTENSIONS), and 52-50 (DAMAGE OR DESTRUCTION), inclusive, shall be modified to allow a #non-conforming# #use# to be continued, and a #building# with #non-conforming# #uses# to be altered, #enlarged#, relocated or reconstructed to comply with #flood-resistant construction standards#, pursuant to the provisions of this Section, inclusive.

Where a #building# with #non-conforming# #uses# is also #non-complying# with the applicable #bulk# regulations, #non-compliances# may be continued, increased or newly created only in accordance with the provisions of Section 64-612 (Special floor area regulations for buildings with non-conforming uses), Section 64-613 (Special height regulations for buildings with non-conforming uses), and Section 64-614 (Process for establishing non-conforming uses), except that Section 64-622 (Special open area regulations for non-complying buildings) and Section 64-624 (Process for establishing non-compliances) may also apply.

In addition, damage and destruction provisions set forth in Section 64-611 (Special regulations for damage or destruction provisions for buildings with non-conforming uses) shall apply to such #buildings#.

64-611 - Special regulations for damage or destruction provisions for buildings with non-conforming uses

LAST AMENDED

5/12/2021

The provisions set forth in Sections 52-53 (Buildings or Other Structures in All Districts) and 52-54 (Buildings Designed for Residential Use in Residence Districts) shall be modified to allow all #buildings# containing #non-conforming# #uses# to be reconstructed, provided that:

(a) for #non-conforming# #single-# and #two-family residences# in #Residence Districts# and #Commercial Districts#, except C8 Districts, such reconstruction may exceed 75 percent of the total #floor area# of the #building#;

(b) for #non-conforming# #single-# and #two-family residences# in C8 Districts or #Manufacturing Districts#, such reconstruction may exceed 75 percent of the total #floor area# of the #building# provided that 25 percent or more of the aggregate length of the #block# frontage on both sides of the #street# facing each other is occupied by #zoning lots# containing #residential# or #community facility uses#;

(c) for all other #buildings# with #non-conforming# #uses#, the extent of reconstructed #floor area# shall not exceed 75 percent of the total #floor area# of the #building#.

64-612 - Special floor area regulations for buildings with non-conforming uses

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The maximum amount of #non-conforming# #floor area# in the altered, #enlarged#, relocated or reconstructed #building# shall not exceed the amount of #non-conforming# #floor area# existing prior to the alteration or reconstruction work.

64-613 - Special height regulations for buildings with non-conforming uses

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The maximum height of such altered, #enlarged#, relocated or reconstructed #building# with #non-conforming# #uses#, shall not exceed the maximum height permitted by the applicable district regulations, except that for #non-conforming# #residences# in C8 Districts or #Manufacturing Districts#, the maximum height of such altered, #enlarged#, relocated or reconstructed #building#, shall comply with one of the following options:

(a) for #single# or #two-family residences#, a horizontal plane equivalent to a height of 35 feet, and for #buildings# other than #single-# or #two-family residences#, the applicable #sky exposure plane# for the district; or

(b) for all #residences# a horizontal plane equivalent to the pre-existing height of such #building#, as measured from the top of the #lowest usable floor#, to the highest point of such pre-existing #building#, as measured from the #reference plane#.

64-614 - Process for establishing non-conforming uses

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For all #buildings# with #non-conforming# #uses# utilizing any of the provisions of this Section, the amount of pre-existing #non-conforming# #floor area# and pre-existing #non-compliances#, as applicable, shall be based either on construction documents for such #building# that were previously approved by the Department of Buildings at the time of construction, #enlargement#, or subsequent alteration, as applicable, of the #building# or, where an approved set of construction documents does

not exist for such #building#, an as-built drawing set completed by a professional engineer or architect. The Department of Buildings may request additional information to substantiate proof of #non-conformances# and #non-compliances#, as applicable. Verification by the Department of Buildings of such documentation shall be a pre-condition prior to any demolition for reconstruction work, or alteration permit issued by the Department of Buildings for a #zoning lot# altering or reconstructing #buildings# with #non-conforming# #uses# and #non-compliances#, as applicable, pursuant to the provisions of this Section.