



## **Zoning Resolution**

**THE CITY OF NEW YORK**  
**Zohran K. Mamdani, Mayor**

**CITY PLANNING COMMISSION**  
**Sideya Sherman, Chair**

# **64-61 - Special Provisions for Non-conforming Uses**

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## 64-61 - Special Provisions for Non-conforming Uses

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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#.

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

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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#.

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

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LAST AMENDED

5/12/2021

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.

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

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LAST AMENDED

5/12/2021

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#.

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## 64-614 - Process for establishing non-conforming uses

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LAST AMENDED

5/12/2021

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.