Zoning Resolution

THE CITY OF NEW YORK
Zohran K. Mamdani, Mayor

CITY PLANNING COMMISSION
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64-62 - Special Provisions for Non-complying Buildings

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64-62 - Special Provisions for Non-complying Buildings

LAST AMENDED
5/12/2021

For all #non-complying# #buildings or other structures#, the provisions of Sections 54-20 (REPAIRS OR ALTERATIONS), 54-30 (ENLARGEMENTS OR CONVERSIONS), and 54-40 (DAMAGE OR DESTRUCTION IN NON-COMPLYING BUILDINGS), inclusive, shall be modified to allow a #non-compliance# to be continued, and such #non-complying# #building or other structure# to be altered, #enlarged#, relocated or reconstructed to comply with #flood-resistant construction standards#, subject to the permitted thresholds of Sections 54-41 (Permitted Reconstruction) and 54-42 (Use of Alternate Formula), and the provisions of this Section.

In addition, such altered, #enlarged#, relocated or reconstructed #building or other structure# may create a new #non-compliance# with, or increase the degree of existing #non-compliance# with the applicable #bulk# regulations for the district, subject to the applicable provisions of this Section, inclusive.

64-621 - Special floor area regulations for non-complying buildings

LAST AMENDED
5/12/2021

For #buildings# with #non-complying# #floor area#, the maximum amount of #floor area# in the altered, #enlarged#, relocated or reconstructed #building# shall not exceed the amount of pre-existing #floor area#, nor shall it exceed the maximum #floor area# permitted by the applicable district regulations by more than 20 percent. In addition, subsequent to such alteration, #enlargement#,

relocation or reconstruction, no #extension# or change of #use# may create a new #non-compliance# or increase the degree of existing #non-compliance# with #floor area#.

64-622 - Special open area regulations for non-complying buildings

LAST AMENDED
12/5/2024

The following provisions may apply to #non-complying# #buildings or other structures#.

(a) Relocation allowances

#Non-complying# #buildings or other structures# may continue an existing #non-compliance#, increase the degree of an existing #non-compliance#, or create a new #non-compliance# with #yards#, #open space#, #open space ratio#, #lot coverage#, #courts#, minimum distances between two or more #buildings#, or minimum distances between #legally required windows# and walls or #lot lines#, in order to relocate or alter the footprint of the #building#, provided that:

(1) 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 alteration, #enlargement#, relocation or reconstruction work or the amount permitted by the district, as applicable, whichever is greater, except that, where the provisions of paragraph (b) of this Section are utilized, the #first story above the flood elevation# and any #stories# below, may be exempted from such calculation;

(2) 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 alteration, #enlargement#, relocation or reconstruction work, except that such limitation shall not apply:

(i) where the pre-existing #building or other structure# is located either partially or entirely seaward of the #shoreline#, and such #building or other structure# will be altered, #enlarged#, relocated or reconstructed to be repositioned landward of the #shoreline# on the same #zoning lot#; or

(ii) where additional distance is necessary to accommodate access, including stairs, ramps or lifts in a required #yard#, provided that any additional encroachment is limited to the depth of such access;

(3) 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) 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#; and

(4) the height of #buildings or other structures# within #non-complying# #yards# or #open space#, as measured from the #reference plane#, shall not exceed the height set forth in

paragraph (a) of Section 64-623 (Special height regulations for non-complying buildings).

(b) Allowances for horizontal expansions

The #first story above the flood elevation# and #stories# located below such #story#, may create a new #non-compliance# with, or increase the degree of existing #non-compliance# with the applicable #rear yards#, #open space#, #open space ratio#, or #lot coverage# regulations for the district, provided that:

(1) the increased #lot coverage# does not exceed an additional 20 percent of such #lot coverage# permitted by Section 23-361 (Maximum lot coverage in R1 through R5 Districts);

(2) for #single-# or #two-family residences#, the encroachment into a #rear yard# does not result in a #rear yard# with a depth of less than 10 feet; and

(3) in all districts, the encroachment into a required open area does not exceed a height of 15 feet, as measured from the #first story above the flood elevation#.

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

64-623 - Special height regulations for non-complying buildings

LAST AMENDED
12/5/2024

For #buildings or other structures# that are #non-complying# with the applicable district height and setback regulations, the maximum height of such altered, #enlarged#, relocated or reconstructed #building or other structure#, shall not exceed the height permitted pursuant to either paragraph (a) or (b) of this Section, as applicable. An alteration, #enlargement#, relocation or reconstruction pursuant to this Section may continue an existing #non-compliance#, increase the degree of an existing #non-compliance#, or create a new #non-compliance# with height and setback regulations, and may continue or increase a #non-compliance# with other #bulk# regulations associated with such #non-complying# height, subject to the limitations of this Section. All permitted obstruction) allowances shall be measured with respect to the modified envelopes of this Section.

(a) For pre-existing #buildings or other structures# that do not exceed the overall permitted height

Where the height of a pre-existing #building or other structure# does not exceed the overall height permitted by the applicable district regulations, as measured from the top of the #lowest usable floor# to the highest point of such pre-existing #building#, the height of such altered, #enlarged#, relocated or reconstructed #building or other structure# shall not exceed:

(1) the applicable #sky exposure plane#, for #buildings# governed by #sky exposure planes# as measured from the #reference plane#; or

(2) a horizontal plane equivalent to the maximum #building# height permitted by the applicable district for all other #buildings# as measured from the #reference plane#.

(b) For pre-existing #buildings or other structures# that exceed the overall permitted height

Where the height of a pre-existing #building or other structure# exceeds the overall height permitted by the applicable district regulations, as measured from the top of the #lowest usable floor# to the highest point of such pre-existing #building#:

(1) the height of such altered, #enlarged#, relocated or reconstructed #building or other structure# as measured from the #reference plane# shall not exceed 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#, provided also that such height shall not exceed the overall height permitted by the applicable district regulations by 10 percent, or 10 feet, whichever is less; and

(2) for #buildings# or other #structures# subject to the regulations of Section 23-421 (Basic pitched-roof envelopes for certain districts), where the degree of the alteration or reconstruction exceeds 75 percent of the #floor area#, the height of a perimeter wall of such altered, #enlarged#, relocated or reconstructed #building or other structure# as measured from the #reference plane# shall not exceed the higher of the maximum perimeter wall height for the district, or the pre-existing height of such perimeter wall, as measured from the top of the #lowest usable floor# to the highest point in such pre-existing #building# before setback.

However, the height allowances of this Section shall not apply to #single# or #two-family residences# that are not #non-complying# with #floor area# requirements, or where the provisions of paragraph (b) of Section 64-622 (Special open area regulations for non-complying buildings) are utilized.

64-624 - Process for establishing non-compliances

LAST AMENDED
5/12/2021

For all #non-complying# #buildings or other structures# utilizing any of the provisions of this Section, the amount of pre-existing #non-compliances# shall be based either on the construction documents of such #building or other structure# previously approved by the Department of Buildings at the time of construction, #enlargement#, or subsequent alteration of such #building or other structure#, as applicable, or, where an approved set of construction documents does not exist for such #building or other structure#, 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-compliances#. 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 #non-compliances# pursuant to the provisions of this Section.