Zoning Resolution

THE CITY OF NEW YORK
Zohran K. Mamdani, Mayor

CITY PLANNING COMMISSION
Sideya Sherman, Chair

52-30 - CHANGE OF NON-CONFORMING USE

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52-30 - CHANGE OF NON-CONFORMING USE

LAST AMENDED
12/15/1961

52-31 - General Provisions

LAST AMENDED
12/5/2024

For the purposes of this Chapter, a change of #use# is a change to another #use# listed in the same or any other Use Group. However, a change in ownership or occupancy shall not, by itself, constitute a change of #use#.

Except as provided in this Section, a #non-conforming# #use# may be changed to any conforming #use#, and the applicable district #bulk# regulations and #accessory# off-street parking requirements shall not apply to such change of #use# or to alterations made in order to accommodate such conforming #use#, but shall apply to any #enlargement#.

In #Mandatory Inclusionary Housing areas# and where made applicable pursuant to the provisions of Section 74-05 (General Provisions for Special Permit Uses), the #affordable housing# requirements of paragraph (a) of Section 27-131 (Mandatory Inclusionary Housing), except maximum #floor area ratio#, shall apply to such change of #use#.

The conversion of non-#residential# #floor area# to #residences# shall be subject to the provisions of Article I, Chapter 5 (Residential Conversion Within Existing Buildings), unless such #conversions# meet the requirements for #residential# #developments# of Article II (Residence District Regulations).

A #non-conforming# #use# may be changed to another #non-conforming# #use# only in accordance with the provisions of this Chapter.

Any such change of #use# permitted by this Chapter shall conform to the applicable district regulations on #accessory# off-street loading berths as set forth in Section 52-41 (General Provisions) and on #accessory# #signs#, except that in #Residence Districts# such change shall conform to the regulations on #accessory# #signs# applicable in a C1 District.

In the #Manhattan Core#, a #non-conforming# #use# may be changed to an automobile rental establishment as listed in Use Group VI, or to a #public parking garage# or #public parking lot# as listed in Use Group IX, only pursuant to the provisions of Article I, Chapter 3, and in the #Long Island City area#, as defined in Section 16-02 (Definitions), a #non-conforming# #use# may be changed to a #public parking garage# or #public parking lot# in Use Group IX only pursuant to the provisions of Article I, Chapter 6.

In the case of a conflict between these provisions and retail continuity provisions that apply to the ground floor of #buildings#, a #non-conforming# #use# on the ground floor in such #building# may be changed only to a conforming #use#.

52-32 - Land with Minor Improvements

LAST AMENDED
12/15/1961

In all #Residence# and #Commercial Districts#, a #non-conforming# #use# of #land with minor improvements# may be changed only to a conforming #use#.

52-33 - Certain Uses in Residence Districts

LAST AMENDED
6/6/2024

52-331 - Buildings designed for residential use

LAST AMENDED
6/6/2024

In all #Residence Districts#, a #non-conforming# #use# that is:

(a) listed in Use Groups IV, VI, VII, VIII, IX or X and not permitted as-of-right within C7 Districts; and

(b) which is located in a #building designed for residential use#,

may be changed only to a #use# permitted in #Residence Districts#.

52-332 - Other buildings or structures in Residence Districts

LAST AMENDED
6/6/2024

In all #Residence Districts#, a #non-conforming# #use# that is listed in Use Groups IV, VI, VII, VIII, IX or X and not permitted as-of-right within C7 Districts, and which is not subject to the provisions of Sections 52-32 (Land with Minor Improvements) or 52-331 (Buildings designed for residential use), may be changed either to a conforming #use# or:

(a) to any #commercial# #use# permitted as-of-right within C7 Districts, other than those listed in Use Group V, in which case any subsequent change of #use# shall conform to the provisions of Section 52-34 (Commercial Uses in Residence Districts); or

(b) in accordance with the provisions of the following table:

From Use Group	To Use Group
VI, VII, VIII, IX(A), IX(C)	VI, VII, VIII, IX(A), IX(C)
IV, IX(B), X	V, VI, VII, VIII, IX, X

provided that such changed #use# shall conform to all regulations on performance standards applicable in M1 Districts, and that any such changed #use#, or the storage of materials or products #accessory# to any changed #use#, which is not located within a #completely enclosed building#, shall be screened by a solid wall or fence (including solid entrance or exit gates) at least eight feet in height. Whenever a #use# located within a #completely enclosed building# is changed to another #use#, no activity related to such changed #use#, including the storage of materials or products, shall be located outside of such #building#.

In no event shall any change of #use# permitted in paragraph (b) of this Section extend the statutory period of useful life applicable under the provisions of Section 52-74 (Uses Objectionable in Residence Districts).

52-34 - Commercial Uses in Residence Districts

LAST AMENDED
6/6/2024

In all #Residence Districts#, a #non-conforming# #use# that is listed in Use Groups IV, VI, VII, VIII, IX or X and permitted as-of-right within C7 Districts, may be changed, initially or in any subsequent change, only to a conforming #use# or to a #commercial# #use# permitted as-of-right in C1 Districts, other than those listed in Use Group V. In the case of any such change any associated size limitation denoted with an "S" in the underlying Use Group tables, need not apply. Eating or drinking establishments where such establishment provides entertainment with a cover charge or specified showtime, or includes a dance floor, thus permitted as a change of #use#, shall be subject to the enclosure provisions of Section 32-411 (In C1, C5, C6-5 or C6-7 Districts).

52-35 - Certain Uses in Commercial Districts

LAST AMENDED
6/6/2024

In all #Commercial Districts#, a #non-conforming# #use# that is listed in Use Groups IV, VI, VII, VIII, IX or X and not permitted as-of-right within C7 Districts, and which is not subject to the provisions of Section 52-32 (Land with Minor Improvements), may be changed either to a conforming #use# or:

(a) to any #commercial# #use# permitted as-of-right within C7 Districts, other than those listed in Use Group V, in which case any subsequent change of #use# shall conform to the provisions of Section 52-36 (Non-Conforming Commercial Uses in Commercial Districts); or

(b) in accordance with the provisions of the following table:

From Use Group	To Use Group
VI, VII, VIII, IX(A), IX(C)	VI, VII, VIII, IX(A), IX(C)
IV, IX(B), X	IV, VI, VII, VIII, IX, X

provided that such changed #use# shall conform to all regulations on performance standards applicable in M1 Districts, and that any such changed #use# or any storage of materials or products #accessory# to any changed #use# shall be located within a #completely enclosed building#. Whenever a #use# located within a #completely enclosed building# is changed to another #use#, no activity related to such changed #use#, including the storage of materials or products, shall be located outside of such #building#.

52-36 - Non-Conforming Commercial Uses in Commercial Districts

LAST AMENDED
6/6/2024

In #Commercial Districts#, any #non-conforming# #commercial# #use# is listed in Use Groups IV, VI, VII, VIII, IX or X and permitted as-of-right within C7 Districts, may be changed, initially or in any subsequent change, only to a conforming #use# or to any #commercial# #use# permitted as-of-right in C2 Districts, other than those listed in Use Group V.

52-37 - Non-Conforming Commercial Uses in Manufacturing Districts

LAST AMENDED

In all #Manufacturing Districts#, any #non-conforming# #commercial# #use# may be changed, initially or in any subsequent change, only to a conforming #use# or to any #use# listed in Use Groups VI or VIII, other than an #outdoor amusement park#.

52-38 - Special Regulations for Adult Establishments

LAST AMENDED
10/25/1995

In all districts, a #non-conforming# #use# may not be changed, initially or in any subsequent change, to an #adult establishment#, except as provided in Sections 32-01 or 42-01 (Special Provisions for Adult Establishments).