



Zoning Resolution

THE CITY OF NEW YORK

Eric Adams, Mayor

CITY PLANNING COMMISSION

Daniel R. Garodnick, Chair

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

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LAST AMENDED

5/12/2021

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 the underlying regulations in R1-2A, R2A, R3-1, R3-2, R4, R4B, R5, R5B, and R5D Districts;
- (2) the increased #lot coverage# does not exceed an additional 20 percent of the maximum footprint permitted by applying the applicable district #rear#, #side# and #front yard# regulations in R2X, R3A, R3X, R4-1, R4A, and R5A Districts;
- (3) 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 20 feet; and
- (4) 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.