



Zoning Resolution

THE CITY OF NEW YORK

Bill de Blasio, Mayor

CITY PLANNING COMMISSION

Marisa Lago, Chair

Chapter 4 - Non-Complying Buildings

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Chapter 4 - Non-Complying Buildings

54-00 - GENERAL PROVISIONS

LAST AMENDED
12/15/1961

54-01 - Definitions

LAST AMENDED
11/19/1987

Words in italics are defined in Section 12-10 (DEFINITIONS) or, if applicable exclusively to this Chapter, in this Section.

54-02 - Applicability of Article V, Chapter 4

LAST AMENDED
10/10/2013

In the #flood zone#, the provisions of this Chapter are modified by the provisions of Article VI, Chapter 4.

54-10 - CONTINUATION OF USE

LAST AMENDED
12/15/1961

54-11 - General Provisions

LAST AMENDED
12/15/1961

The #use# of a #non-complying building or other structure# may be continued, except as otherwise provided in this Chapter.

54-20 - REPAIRS OR ALTERATIONS

LAST AMENDED
12/15/1961

54-21 - General Provisions

LAST AMENDED
12/15/1961

Repairs, #incidental alterations#, or structural alterations may be made in a #non-complying building or other structure#, except that such alterations made in the course of an #enlargement# shall be subject to the provisions of Section 54-31 (General Provisions).

54-30 - ENLARGEMENTS OR CONVERSIONS

54-31 - General Provisions

Except as otherwise provided in Section 54-313, a #non-complying building or other structure# may be #enlarged# or #converted#, provided that no #enlargement# or #conversion# may be made which would either create a new #non-compliance# or increase the degree of #non-compliance# of a #building or other structure# or any portion thereof.

54-311 - Buildings containing rooming units

If a #building# or portion of a #building# contains #rooming units#, such #rooming units# may be #converted# to #dwelling units# in accordance with the provisions of Section 15-111 (Number of permitted dwelling units).

54-312 - Modification of provisions

The Board of Standards and Appeals may modify the above requirements in accordance with the provisions of Sections 73-61 (General Provisions) and 73-65 (Enlargement of Public Utility Facilities).

54-313 - Single- or two-family residences with non-complying front yards or side yards

(a) In R4 Districts, except R4-1, R4A and R4B Districts, and in R5 Districts other than R5B Districts, for an existing #single-# or #two-family residence# with a #non-complying front yard#, an #enlargement# involving a vertical extension of existing #building# walls facing such #non-complying front yard# is permitted, provided the following conditions are met:

- (1) the portion of the #building# which is being vertically extended complies with the height and setback regulations specified for the district in which it is located; and
- (2) the #non-complying front yard# where the #building# wall is being vertically extended is at least 10 feet in depth.

Notwithstanding the above, the provisions of this paragraph (a) shall also be applicable in R4A Districts in #lower density growth management areas#.

(b) In all districts, for an existing #single-# or #two-family residence# with a #non-complying side yard#, an #enlargement# involving a vertical extension of existing #building# walls facing such #non-complying side yard# is permitted, provided the following conditions are met:

- (1) the portion of the #building# which is being vertically extended complies with the height and setback regulations

applicable to an R3-2 District;

- (2) the #non-complying side yard# where the #building# wall is being vertically extended is at least three feet in width and the minimum distance between such #building# wall and the nearest #building# wall or vertical prolongation thereof on an adjoining #zoning lot# across the common #side lot line# is eight feet;
- (3) the #enlarged building# does not contain more than two #dwelling units#;
- (4) there is no encroachment on the existing #non-complying side yard#, except as set forth in this Section; and
- (5) the #enlargement# does not otherwise result in the creation of a new #non-compliance# or in an increase in the degree of #non-compliance#.

Notwithstanding the provisions set forth in paragraphs (a)(1) and (b)(1) of this Section, when an existing #building# has added exterior wall thickness pursuant to Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents), such vertical extensions may align with the location of the finished exterior #building# wall of the existing #building#.

54-314 - Modification by authorization

LAST AMENDED

7/26/2001

In R6, R7 or R8 Districts, for any substantial rehabilitation of one or more #non-complying# multiple dwellings which were in existence prior to December 15, 1961, the City Planning Commission may authorize the existing #open space# on the #zoning lot# to be reduced by not more than five percent and the existing #building floor area# on such #zoning lot# to be increased by not more than five percent, if the Commission finds that such modification of the applicable #bulk# regulations as set forth in Section 54-31 will result in an improved apartment design with adequate access of light and air and an improved circulation system. In the #Special Clinton District#, such authorizations may apply to complying multiple dwellings and may include a five percent increase in #lot coverage# and #floor area#. The Commission, in making the findings above may round out the #floor area# or #lot coverage# increase to the nearest percent.

No increase in the existing density and apartment #floor area# shall be permitted for such #buildings#.

54-40 - DAMAGE OR DESTRUCTION IN NON-COMPLYING BUILDINGS

LAST AMENDED

2/2/2011

For the purposes of this Section, #buildings# that #abutted# one another on a single #zoning lot# on the date of such damage or destruction shall be considered a single #building#.

54-41 - Permitted Reconstruction

LAST AMENDED

2/2/2011

If a #non-complying building or other structure# is damaged or destroyed by any means, including any demolition as set forth in this Section, to the extent of 75 percent or more of its total #floor area#, such #building# may be reconstructed only in accordance with the applicable district #bulk# regulations, except in the case of a one- or two-family #residence#, such #residence# may be reconstructed provided that such reconstruction shall not create a new #non-compliance# nor increase the

pre-existing degree of #non-compliance# with the applicable #bulk# regulations. If the extent of such damage or destruction is less than 75 percent, a #non-complying building# may be reconstructed provided that such reconstruction shall not create a new #non-compliance# nor increase the pre-existing degree of #non-compliance# with the applicable #bulk# regulations.

In addition, the alteration of such existing #building# resulting in both the removal of more than 75 percent of the #floor area# and more than 25 percent of the perimeter walls of such existing #building#, and the replacement of any portion thereof, shall be considered a #development# for the purposes of the provisions set forth in Section 11-23 (Demolition and Replacement).

In the event that any demolition, damage or destruction of an existing #building# other than one- or two-family #residences# produces an unsafe condition requiring a Department of Buildings order or permit for further demolition of #floor area# to remove or rectify the unsafe condition, and the aggregate #floor area# demolished, damaged or destroyed including that ordered or permitted by the Department of Buildings constitutes 75 percent or more of the total #floor area# of such #building#, then such #building# may be reconstructed only in accordance with the applicable district #bulk# regulations.

54-42 - Use of Alternative Formula

LAST AMENDED
12/15/1961

In any case where the applicant alleges that #floor area# is an inappropriate measure of the extent of damage or destruction, and elects to substitute reconstruction costs for #floor area#, an application may be made to the Board of Standards and Appeals to determine the extent of the damage or destruction. Such a #building# may be reconstructed as provided in Section 54-41 (Permitted Reconstruction), substituting the ratio which the cost of reconstructing the damaged or destroyed portion of such #building# bears to the cost of reconstructing the entire #building#, for the percentage of total #floor area#. In determining reconstruction costs, the cost of land shall be excluded.