



## Zoning Resolution

THE CITY OF NEW YORK

Eric Adams, Mayor

CITY PLANNING COMMISSION

Daniel R. Garodnick, Chair

# Chapter 4 - Non-Complying Buildings

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# Chapter 4 - Non-Complying Buildings

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## 54-00 - GENERAL PROVISIONS

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LAST AMENDED  
12/15/1961

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### 54-01 - Definitions

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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.

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### 54-02 - Applicability of Article V, Chapter 4

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LAST AMENDED  
10/10/2013

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

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### 54-10 - CONTINUATION OF USE

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LAST AMENDED  
12/15/1961

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### 54-11 - General Provisions

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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.

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### 54-20 - REPAIRS OR ALTERATIONS

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LAST AMENDED  
12/15/1961

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### 54-21 - General Provisions

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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).

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### 54-30 - ENLARGEMENTS OR CONVERSIONS

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## 54-31 - General Provisions

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LAST AMENDED  
12/5/2024

Except as otherwise provided in this Chapter, 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. A #building# that is complying with the applicable #bulk# regulations may be #enlarged# or #converted#, provided that no #enlargement# or #conversion# may be made that would create a new #non-compliance#, except as set forth in Section [54-50](#) (MODIFICATIONS TO THE PROVISIONS OF THIS CHAPTER), inclusive.

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### 54-311 - Buildings containing rooming units

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LAST AMENDED  
12/5/2024

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 [23-50](#) (DENSITY REGULATIONS), inclusive.

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### 54-312 - Modification of provisions

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LAST AMENDED  
12/5/2024

The Board of Standards and Appeals may permit #enlargements# or #conversions# that create a new #non-compliance#, or increase an existing #non-compliance# with applicable #bulk# regulations in accordance with the provisions of Section [73-60](#) (MODIFICATIONS OF BULK REGULATIONS), inclusive.

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

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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#.

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### 54-41 - Permitted Reconstruction

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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.

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## 54-42 - Use of Alternative Formula

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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.

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## 54-50 - MODIFICATIONS TO THE PROVISIONS OF THIS CHAPTER

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LAST AMENDED  
12/5/2024

The provisions of this Section may be combined, except that individual #bulk# allowances to increase the height of a #building# or diminish the amount of an open area through an #enlargement# shall not be aggregated.

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## 54-51 - Energy Infrastructure or Retrofits

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LAST AMENDED  
12/6/2023

Notwithstanding the other provisions of this Chapter, in all districts, a #development#, #enlargement# or alteration comprised exclusively of the addition of #energy infrastructure equipment#, #accessory# mechanical equipment, or #qualifying exterior wall thickness#, whether to a #building# or to an open area of the #zoning lot#, may create a new #non-compliance# or increase the degree of #non-compliance# of a #building# or other structure#, provided that:

- (a) where locating such equipment in a #non-complying# #open space#, #yard#, #rear yard equivalent#, or #court#, as applicable, such equipment shall comply with the applicable height and area restrictions for the respective open area set forth in the applicable underlying district regulations, as applied to the level and size of the #non-complying# open area;
- (b) where locating such equipment on the rooftop of a #building# that is #non-complying# with respect to height and setback regulations, such equipment shall comply with the height and area regulations for such permitted obstruction set forth in the applicable underlying district regulations, as applied to the level of the rooftop, inclusive of any #non-

compliance# into a required setback area, #yard#, or other required open area;

- (c) at any level, all #energy infrastructure equipment# or #accessory# mechanical equipment will be enclosed or screened in compliance with the applicable provisions for such permitted obstructions; and
- (d) where locating #qualifying exterior wall thickness# into either a #non-complying# #open space#, #yard#, #rear yard#, or #court#, or into a #non-complying# distance between two #buildings# or a #non-complying# distance between a #building# and #lot line#, or in a location not otherwise permitted by underlying #street wall location rules#, such additional encroachment of wall thickness shall not exceed the depth permitted by the underlying permitted obstruction regulations.

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## 54-52 - Accessibility or Safety Retrofits

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LAST AMENDED  
12/5/2024

Notwithstanding the other provisions of this Chapter, in all districts, an #enlargement#, #extension#, #conversion#, change of #use# or other alteration to a #building# that furthers the design and construction of facilities for accessibility for individuals with disabilities or furthers #building# safety by greater conformance with the most recent New York City Construction Codes, may create a new #non-compliance# or increase the degree of a #non-compliance#, provided that increases to existing #non-compliances#, or the creation of new #non-compliances#, with regard to:

- (a) maximum #floor area ratio# shall not exceed ten percent of the existing #floor area#, or 1,000 square feet, whichever is less;
- (b) required #open space#, #yards#, #rear yard equivalents#, or #courts#, as applicable, shall not diminish the size of the required or existing open area, as applicable, by more than 20 percent, and no further encroachment to a #non-complying# #yard# shall be closer to a #lot line# than an existing #building# on the #zoning lot#; and
- (c) the permitted height and setback of a #building#, shall be limited to one #story# or 15 feet, whichever is less, measured relative to the height of the existing #building#.

Allowances for permitted obstructions may be applied to an existing #building#, including as modified pursuant to the provisions of this Section.

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## 54-53 - Residential Retrofits

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LAST AMENDED  
12/5/2024

Notwithstanding the other provisions of this Chapter, in all districts, for #buildings# where 75 percent or more of the existing floor space is allocated to #residential uses#, an #enlargement#, #extension#, #conversion#, change of #use# or other alteration to such #building# that increases or improves the #residential# floor space within a #building#, may create a new #non-

compliance# or increase the degree of a #non-compliance#, provided that increases to existing #non-compliances#, or the creation of new #non-compliances#, with regard to:

- (a) maximum #residential# #floor area ratio# shall be limited in size to floor space existing within the volume of a #building# on the #zoning lot#. For #multiple dwelling residences#, such allowance shall be limited to #buildings# existing on December 5, 2024;
- (b) required #open space#, #yards#, #rear yard equivalents#, or #courts#, as applicable, shall not diminish the area of the existing open area by more than 20 percent and no further encroachment to a #non-complying# #yard# shall be closer to a #lot line# than an existing #building# on the #zoning lot#; and
- (c) the permitted height and setback of a #building#, shall be limited to one #story# or 15 feet, whichever is less, measured relative to the height of the existing #building#.

Allowances for permitted obstructions may be applied to an existing #building#, including as modified pursuant to the provisions of this Section.