



BUILDINGS BULLETIN 2011-010

Technical

Supersedes: Supersedes Directive 5 of 1977

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First Deputy Commissioner

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Purpose: This document clarifies the conditions for installing a bathroom containing three fixtures in the cellar of a one- or two-family dwelling.

Related Code/Zoning Section(s):

HMC	27-2087
ZR	12-10 (Definition of "Floor Area")
AC	28-210.1

Subject(s): One-family dwelling, cellar, bathroom; Two-family dwelling, cellar, bathroom; Bathroom fixtures; Cellar use; Zoning Resolution, Floor area

A. Introduction

Section 12-10 of the Zoning Resolution ("ZR") allows a cellar to contain accessory spaces not used for dwelling purposes. A bathroom is generally not considered a habitable room. Accordingly, a cellar in a one- or two-family dwelling may contain a minimally-sized powder room with two fixtures consisting of a lavatory and water closet.

However, subject to the review and acceptance of the borough commissioner (or his or her designee), a cellar in a one or two-family dwelling may contain a full bathroom with a lavatory, a water closet and a shower or bathtub ("three-fixture bathroom") that complies with the requirements of this bulletin.

B. Requirements

A cellar in a one- or two-family dwelling may contain a three-fixture bathroom provided the following conditions are met:

- 1) The cellar is open without partitions except for enclosures for:
 - a. a boiler room
 - b. a laundry room
 - c. windowless storage and/or utility rooms limited to less than 60 square feet
- 2) The cellar is connected via an unenclosed stair to the residence above except for a door at the top of the stair.
- 3) The cellar has direct access to the outdoors via stairs and an operable door.
- 4) The cellar is equipped with smoke and carbon monoxide detectors.

- 5) The cellar does not contain any other fixtures or roughing for future fixtures; however, laundry (slop) sinks, washers, gas dryers and related piping shall be permitted.
- 6) The boiler room shall be enclosed with one-hour fire-rated construction and properly ventilated.
- 7) Where the cellar contains a garage, such garage shall be separated from the cellar by one-hour fire-rated construction.

C. Filing

- a) Where the three-fixture bathroom in the cellar of the one- or two-family dwelling is created in association with an Alteration Type-2, a restrictive declaration prohibiting the use of the cellar for living, sleeping, cooking or separate rental shall be filed and recorded.
- b) Where the three-fixture bathroom in the cellar of the one- or two-family dwelling is created in association with an Alteration Type-1 or a New Building application, the Schedule A and the new or amended certificate of occupancy shall contain the following notation: "The three-fixture bathroom located in the cellar shall be used solely in connection with the dwelling unit above. No living, sleeping or cooking is permitted in the cellar, and in no case shall the cellar be rented independent of the dwellings above."

D. Zoning

A cellar in a one- or two-family dwelling that contains a three-fixture bathroom in compliance with this bulletin shall not, by reason of its having such three-fixture bathroom, be considered used for dwelling purposes as per ZR 12-10 (definition of "Floor Area").

E. Enforcement

The creation or maintenance of a three-fixture bathroom in a cellar of a one- or two-family dwelling in connection with illegal residential conversion shall subject the owner of the building to violations and fines pursuant to section AC 28-210.1.