



BASEMENT APARTMENT PILOT IN EAST NEW YORK (LOCAL LAW 49 OF 2019)

presented by

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BUILD SAFE | LIVE SAFE CONFERENCE 2019

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DESCRIPTION

This presentation will provide an overview of the proposed Intro No. 1004-A, which was enacted by City Council on February 21st 2019 and established a demonstration program for the creation of residential units in the basements and cellars of certain one- and two-family dwellings in Brooklyn Community District 5. This upcoming local law is intended to provide more options for affordable housing in the City through the safe creation of habitable apartments located partially below grade. The discussion review the current New York City construction code requirements for creating dwelling units in basement stories as well as provisions related to the construction codes as outlined in the upcoming Local Law, such as minimum ceiling heights, additional allowances for window wells and sprinklers. The course will also provide a brief overview of the administrative provisions for the demonstration program, including the eligible program area and time limit to file construction drawings.

LEARNING OBJECTIVES

At the end of this presentation, you will be able to:

1. Recognize current construction code requirements applicable to the creation of dwelling units in basement stories.
2. Discuss and become familiar with provisions from the upcoming local law, related to the construction codes as part of the demonstration program for the creation of dwelling units in basement and cellars of certain one- and two-family dwellings.
3. Outline specific provisions, such as minimum ceiling heights, additional allowances for window wells and sprinklers, in creating basement or cellar dwelling units as part of the demonstration program.
4. Examine administrative provisions from the upcoming local law that will facilitate the demonstration program in Brooklyn Community District.

INTRODUCTION

- LL 49/2019, previously Intro No. 1004-A, enacted into law on March 4, 2019
 - Demonstration program for basement and cellar dwelling units in certain 1- and 2-family dwellings in Brooklyn Community Board 5 (East New York)
 - Effective date of **July 2, 2019**

BASEMENT APARTMENT PILOT: DEMONSTRATION PROGRAM

The screenshot shows the NYC Housing Connect website. At the top, there's a navigation bar with links for Home, About, Renter, Owner, Developer, Vendor, Community, and Sec. 8. Below this is a teal banner with buttons for 'Find Housing', 'Tenants' Rights', and 'Resources'. The main content area is titled 'Find Affordable Housing Opportunities' and features a large image of a modern apartment building at night. Below the image, there's a paragraph explaining that HPD and its partners create affordable rent-stabilized apartments. To the left of the main content, there's a sidebar with links for 'Find Affordable Housing Opportunities', 'Do You Qualify?', 'How to Apply', and 'Mitchell-Lama Rentals'. At the bottom of the sidebar, there are social media sharing icons and a 'Print' button. The footer of the website includes the NYC Department of Housing Preservation & Development logo and a 'NYC Housing Connect Lottery Map' section with a search bar.

LL 49/2019

- Basement and cellar apartments
 - New class of affordable housing

BASEMENT APARTMENT PILOT: DEMONSTRATION PROGRAM

LL 49/2019

- East New York
 - Studied as part of the rezoning plan for East New York (ENY)
 - Building stock with high potential for basement and cellar apartments

BASEMENT APARTMENT PILOT: DEMONSTRATION PROGRAM

LL 49/2019

- Creating more affordable housing options
 - Demonstrate that cellar occupancy may be safely accomplished
- Report summarizing impact of program to be submitted within 48 months of effective date

BASEMENT APARTMENT PILOT

- Current requirements for basement apartments
- LL 49/2019 provisions that modify or add to the current Construction Code requirements
- LL 49/2019 Administrative Provisions

BASEMENT APARTMENT PILOT: CURRENT REQUIREMENTS

- **Basement Apartments**
 - Zoning Resolution
 - Housing Maintenance Code
 - Construction Codes

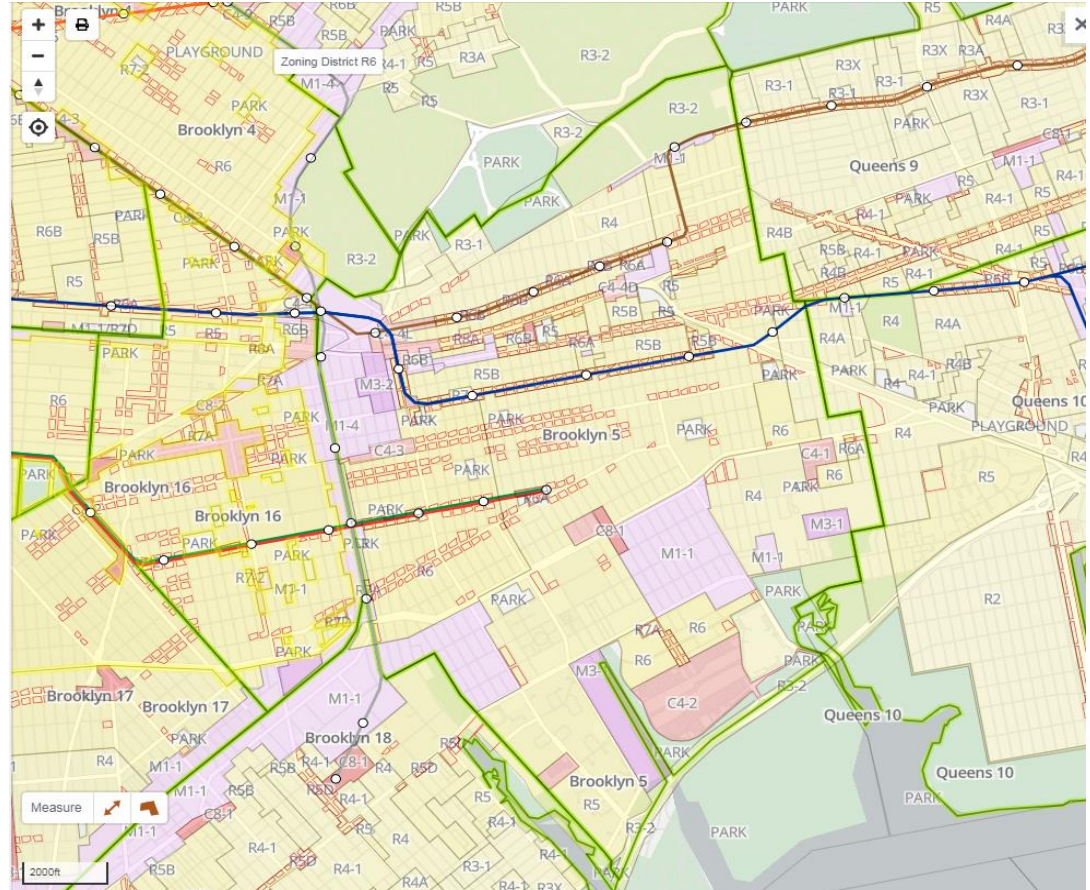
BASEMENT APARTMENT PILOT: CURRENT REQUIREMENTS

- **Zoning Resolution**

- Provisions based on project-specific zoning district

BASEMENT APARTMENT PILOT: CURRENT REQUIREMENTS

Zoning Districts

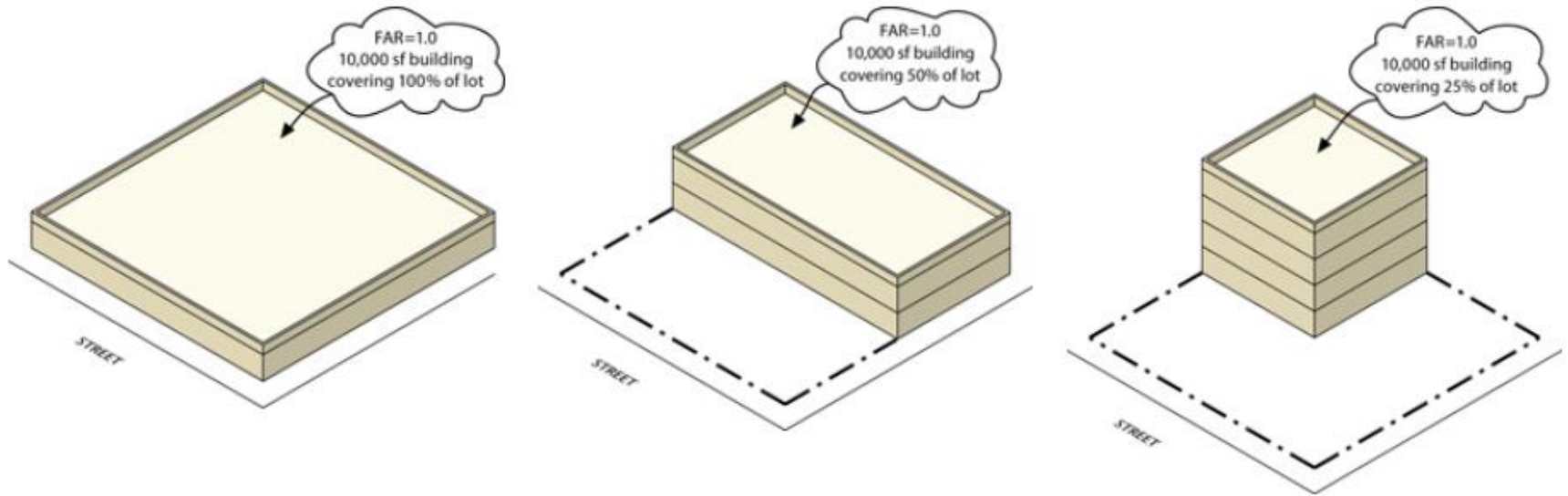


BASEMENT APARTMENT PILOT: CURRENT REQUIREMENTS

Zoning Resolution

- Floor Area Ratio
 - Cellar spaces used for dwelling purposes shall be counted toward floor area

BASEMENT APARTMENT PILOT: CURRENT REQUIREMENTS



BASEMENT APARTMENT PILOT: CURRENT REQUIREMENTS

Zoning Resolution

- Density
 - Maximum number of dwelling units

BASEMENT APARTMENT PILOT: CURRENT REQUIREMENTS

Zoning Resolution: Density

Residential Density	
District	Dwelling Unit Factor
R1-1	4,750
R1-2	2,850
R2 R2A	1,900
R2X	2,900
R3-1 R3-2 ¹	625
R3A	710
R3-2 R4 R4-1 R4B	870
R3X	1,000
R4A	1,280
R5 R5D	760
R4(infill) R5(infill) R5B	900
R5A	1,560
R5B ²	1,350
R6 R7	680
R8 R8A R8X R9 R9A	740
R9-1 R9X R10	790

¹ for single- and two-family detached and semi-detached residences

² for single- and two-family residences

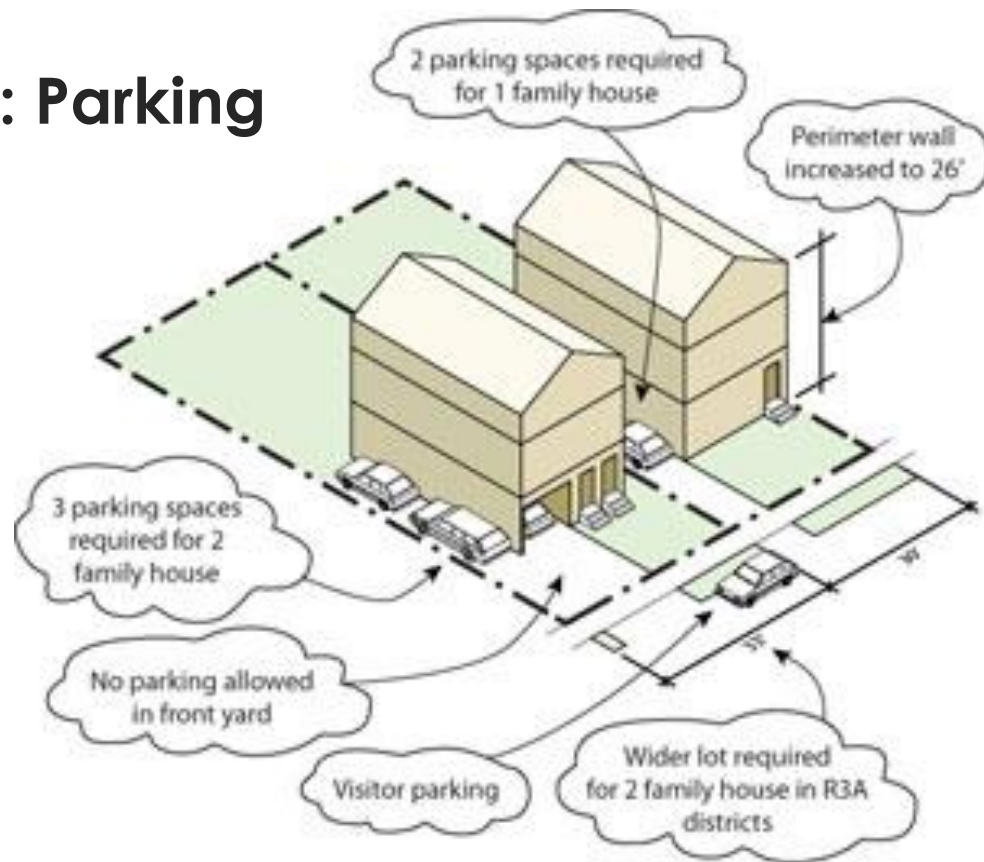
BASEMENT APARTMENT PILOT: CURRENT REQUIREMENTS

Zoning Resolution

- Parking
 - Additional parking space required for additional dwelling unit

BASEMENT APARTMENT PILOT: CURRENT REQUIREMENTS

Zoning Resolution: Parking



BASEMENT APARTMENT PILOT: CURRENT REQUIREMENTS

Housing Maintenance Code

- Cellar Occupancy
- Rental of Basement



BASEMENT APARTMENT PILOT: CURRENT REQUIREMENTS

2014 New York City Construction Codes

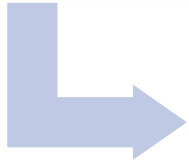
- Ceiling heights
- Light and ventilation
- Egress
- Optional use of the 1968 Code for Prior Code buildings, with exceptions

BASEMENT APARTMENT PILOT: ELIGIBILITY

Existing building
located in
East New York

BASEMENT APARTMENT PILOT: ELIGIBILITY

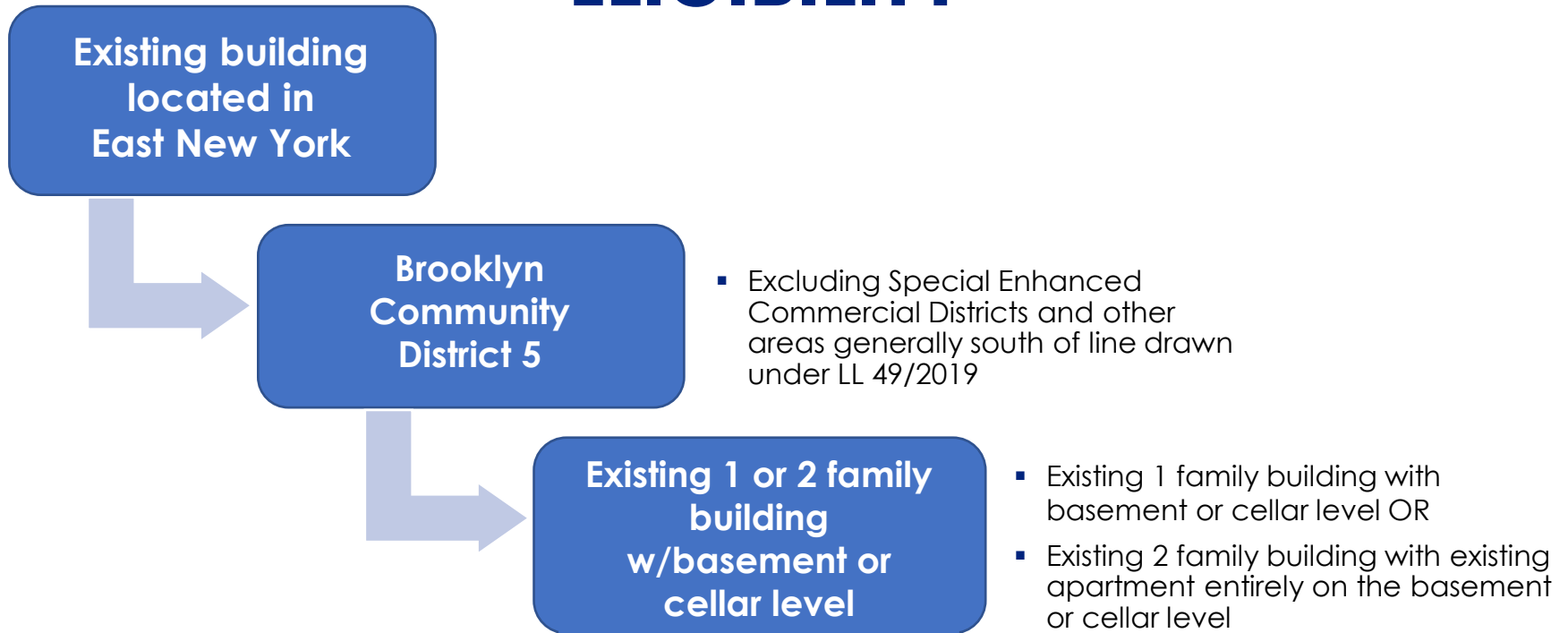
Existing building
located in
East New York



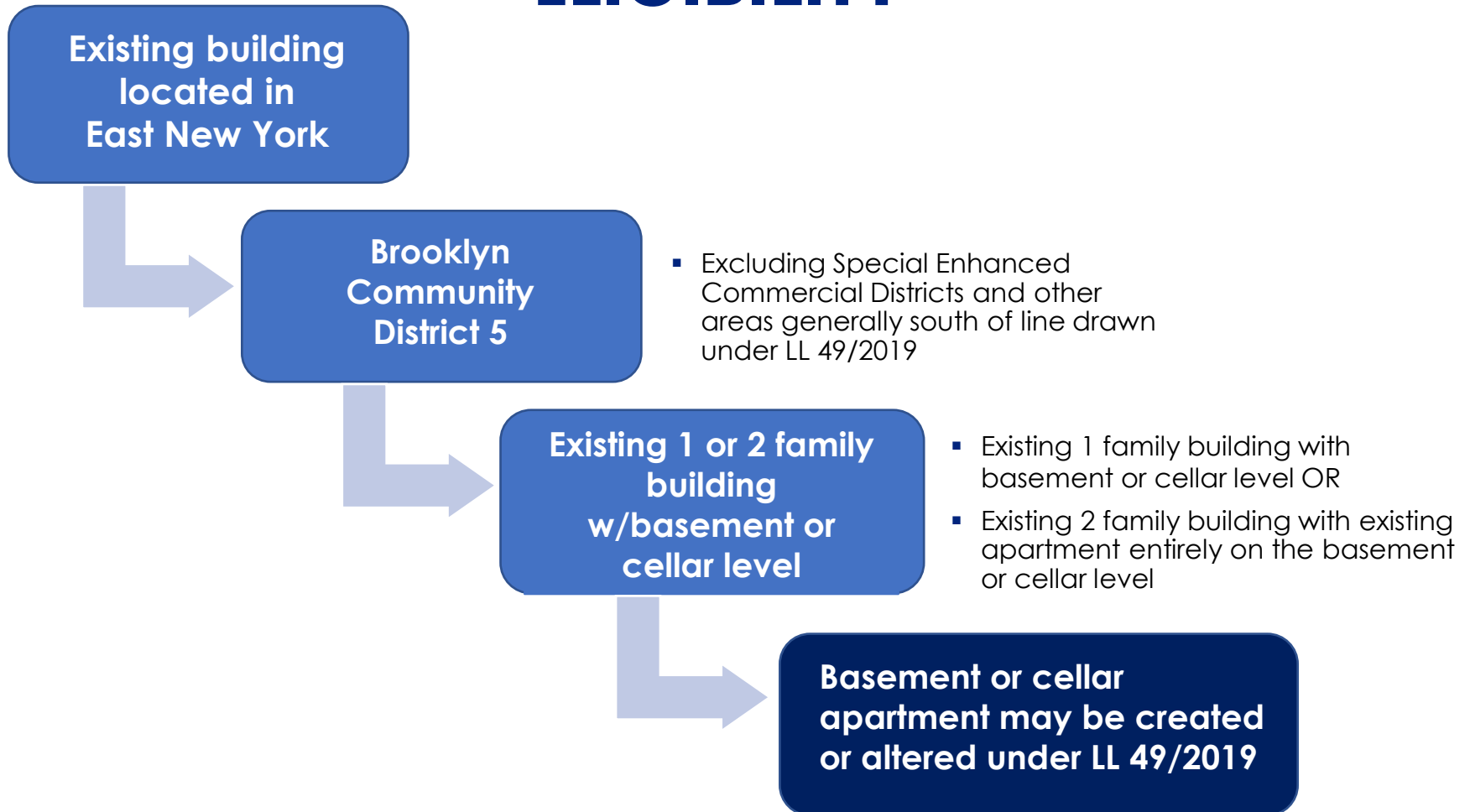
Brooklyn
Community
District 5

- Excluding Special Enhanced Commercial Districts and other areas generally south of line drawn under LL 49/2019

BASEMENT APARTMENT PILOT: ELIGIBILITY



BASEMENT APARTMENT PILOT: ELIGIBILITY



BASEMENT APARTMENT PILOT: PROGRAM AREA

Brooklyn Community Board 5

- All areas of East New York, including:
 - Cypress
 - Spring Creek
 - Starrett City
 - Gateway
 - Highland Park



FOR ILLUSTRATION PURPOSES ONLY – PROGRAM AREA OUTLINED IN LL 49/2019

Excluded from program area due to future flood risk

FOR ILLUSTRATION
PURPOSES ONLY –
PROGRAM AREA
OUTLINED IN LL
49/2019

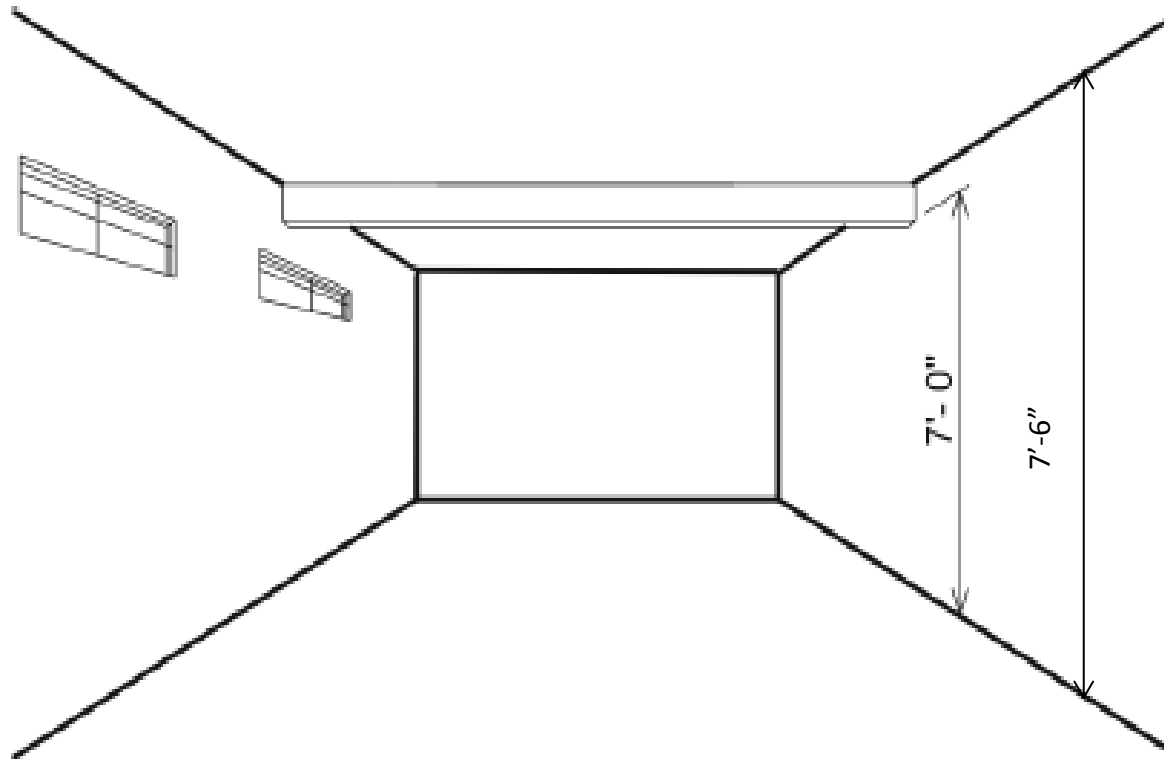


NYC
Buildings

BASEMENT APARTMENT PILOT: CEILING HEIGHT

Minimum room ceiling height at **7'-6"** with projections as allowed in 2014 BC 1208.2

BASEMENT APARTMENT PILOT: CEILING HEIGHT



Modified from 2009 IBC Commentary

BASEMENT APARTMENT PILOT: CEILING HEIGHT

- Fully detached homes with **no exterior walls less than 3' from property line**
 - Minimum ceiling height at **7'-0"** with no projections below

BASEMENT APARTMENT PILOT: CEILING HEIGHT



BASEMENT APARTMENT PILOT: FIRE PROTECTION

- Automatic sprinkler system per BC 903 **required** for basement or cellar unit

BASEMENT APARTMENT PILOT: FIRE PROTECTION



BASEMENT APARTMENT PILOT: FIRE PROTECTION

- Smoke and carbon monoxide (CO) detectors per BC 907

BASEMENT APARTMENT PILOT: FIRE PROTECTION



BASEMENT APARTMENT PILOT: FIRE PROTECTION

- Fire Separation – 1 hour fire-resistance rating
 - Boiler and furnaces

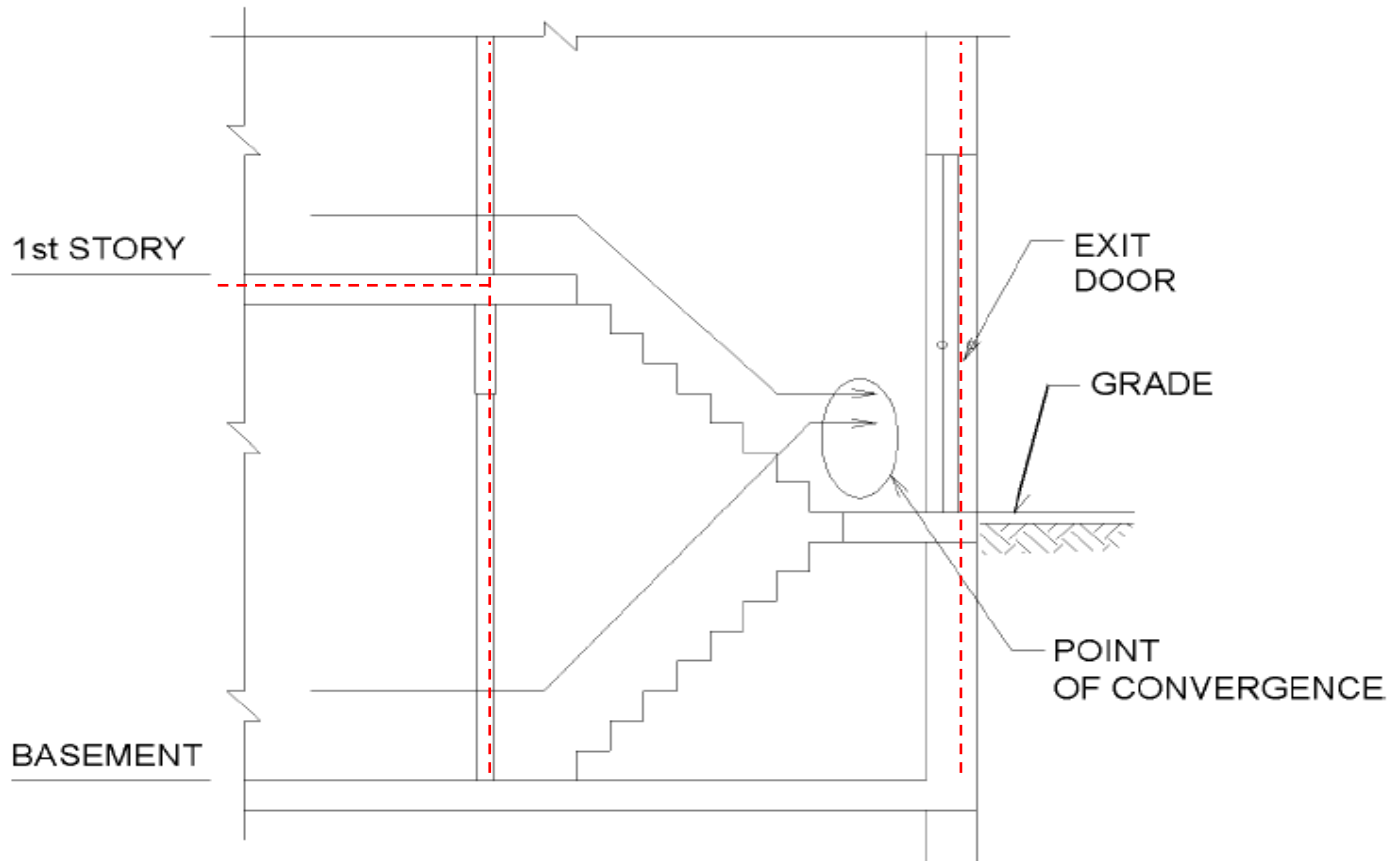
BASEMENT APARTMENT PILOT: FIRE PROTECTION



BASEMENT APARTMENT PILOT: FIRE PROTECTION

- Fire separation – 1 hour fire-resistance rating
 - Egress stairs
 - Existing unit above

BASEMENT APARTMENT PILOT: FIRE PROTECTION

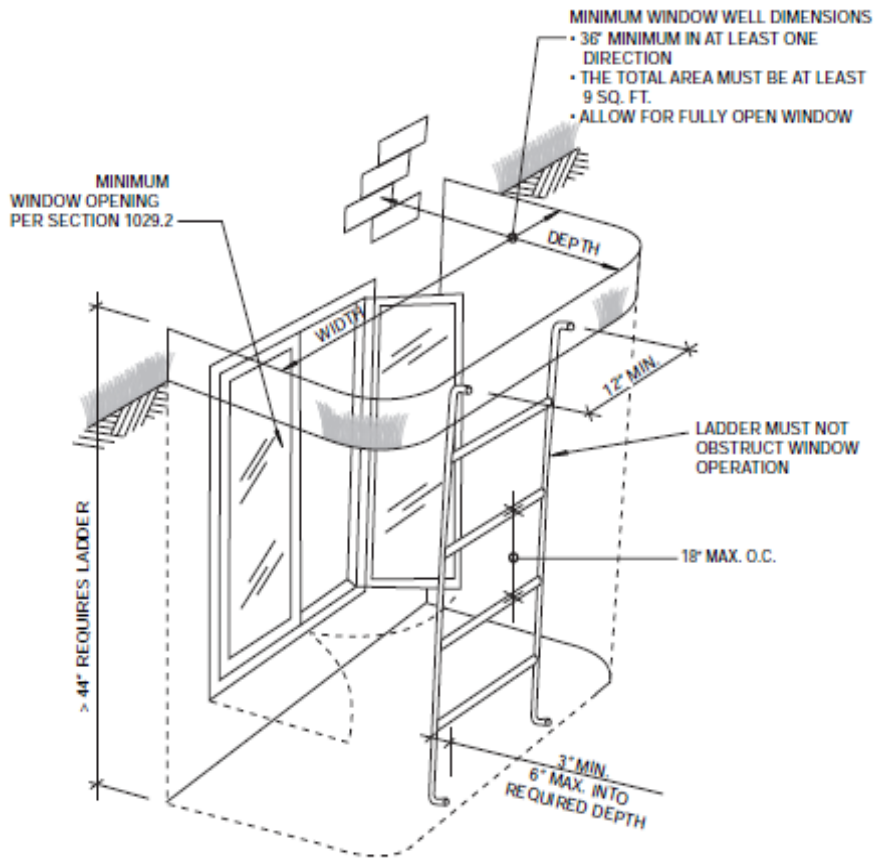


From 2009 IBC Commentary

BASEMENT APARTMENT PILOT: EGRESS

- Emergency escape and rescue windows
 - Required at all sleeping rooms per 2014 BC 1029 and 2014 FC 1025

BASEMENT APARTMENT PILOT: EGRESS



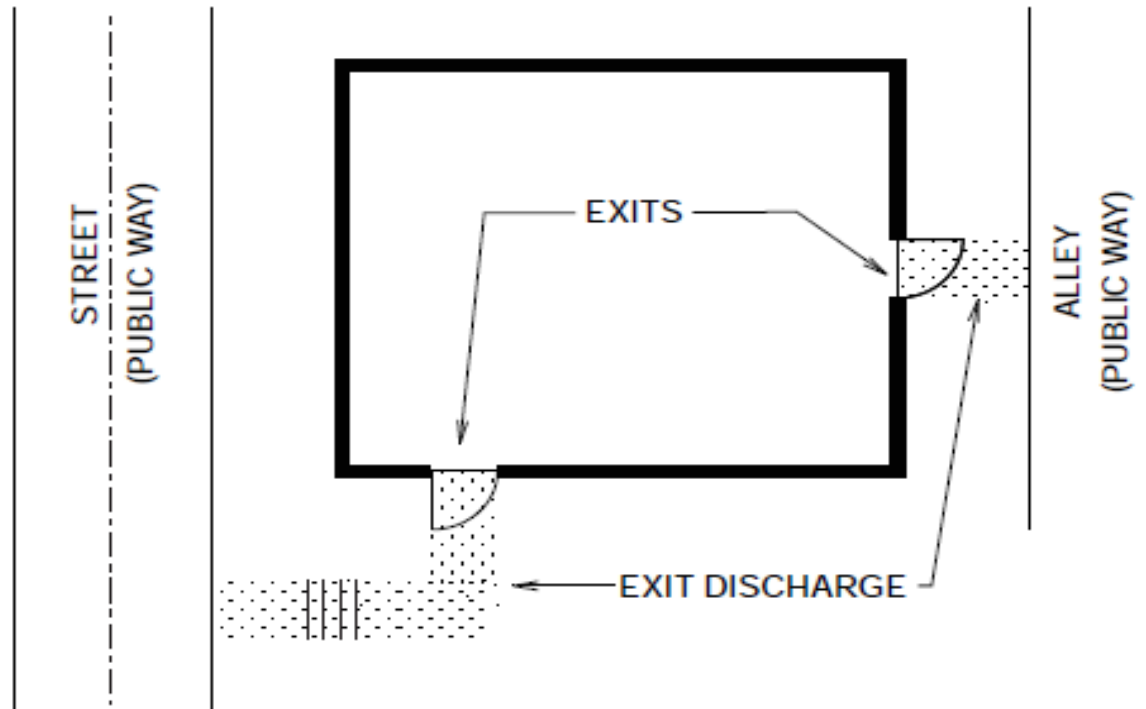
From 2009 IBC Commentary



BASEMENT APARTMENT PILOT: EGRESS

- Means of egress directly to the outdoors
 - Provide exit per 2014 BC 10, including access to a public way

BASEMENT APARTMENT PILOT: EGRESS



From 2009 IBC Commentary

BASEMENT APARTMENT PILOT: LIGHT & VENTILATION

- Light and ventilation requirements per 2014 BC Chapter 12
 - **Natural Ventilation:** minimum 1 window to provide 6 SF openable area with additional windows as needed to meet required glazed area for natural light

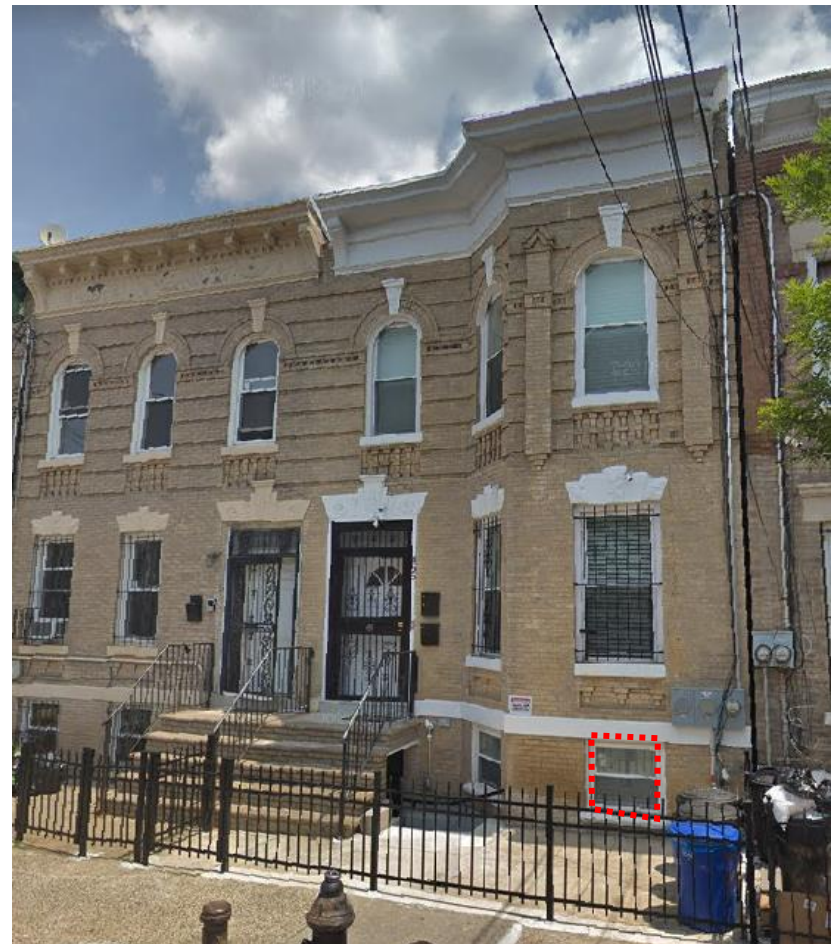
BASEMENT APARTMENT PILOT: LIGHT & VENTILATION



BASEMENT APARTMENT PILOT: LIGHT & VENTILATION

- Window with portions below grade may be counted for natural light

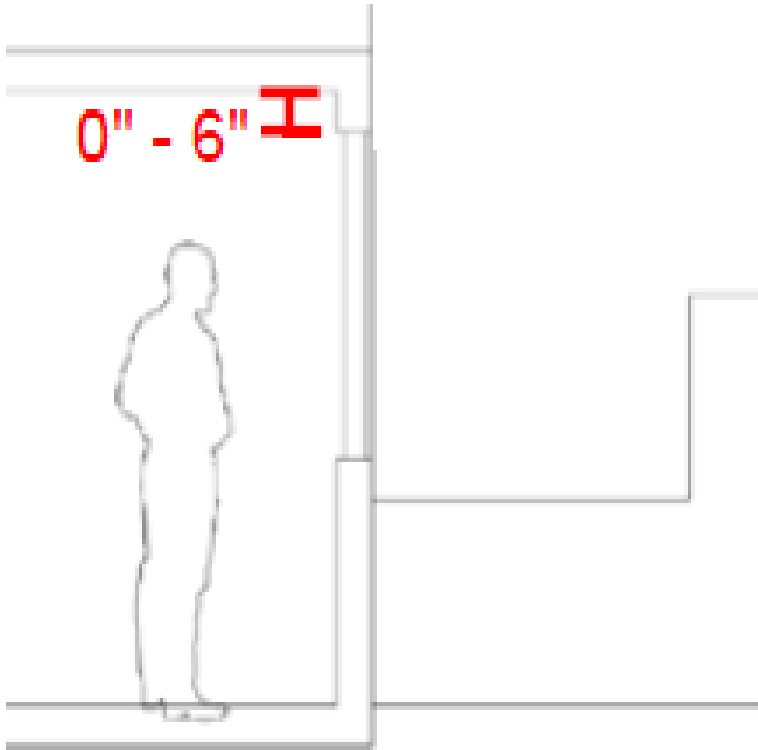
BASEMENT APARTMENT PILOT: LIGHT & VENTILATION



BASEMENT APARTMENT PILOT: LIGHT & VENTILATION

- Window head is 6" maximum below ceiling, or lowest permitted projection

BASEMENT APARTMENT PILOT: LIGHT & VENTILATION



BASEMENT APARTMENT PILOT: LIGHT & VENTILATION

- Window well at exterior

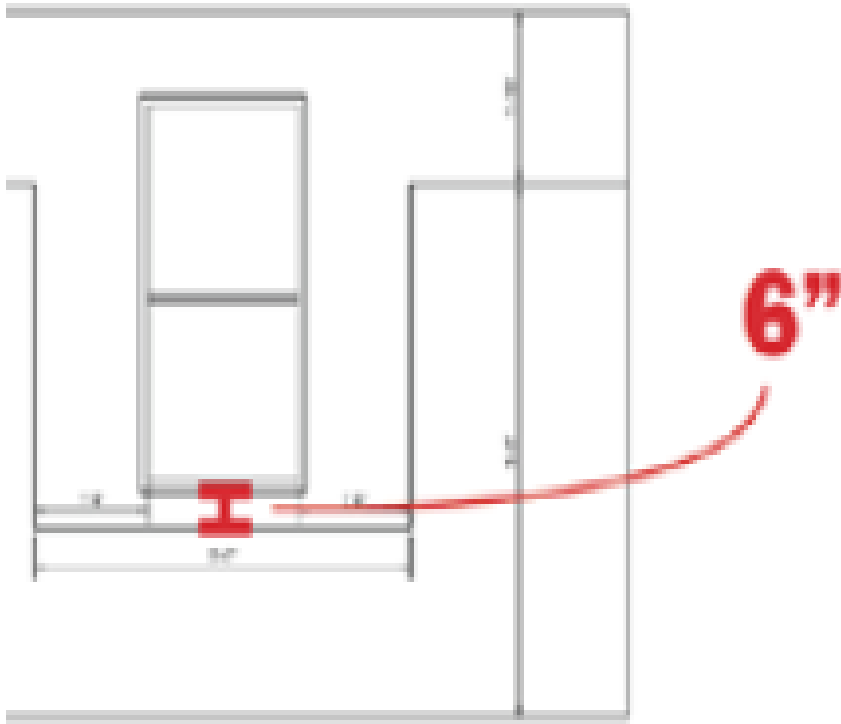
BASEMENT APARTMENT PILOT: LIGHT & VENTILATION



BASEMENT APARTMENT PILOT: LIGHT & VENTILATION

- Window well at exterior
 - Bottom of window well at least 6" below window sill
 - Area drain provided at bottom of window well

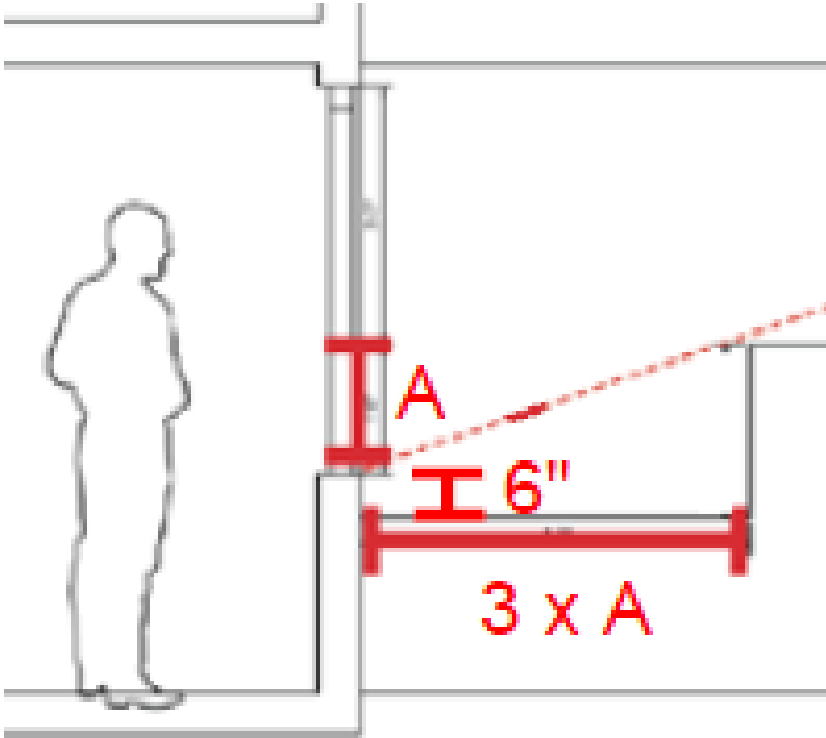
BASEMENT APARTMENT PILOT: LIGHT & VENTILATION



BASEMENT APARTMENT PILOT: LIGHT & VENTILATION

- Window well at exterior
 - Window well extends at least 3 times depth of window portions below grade from window/building

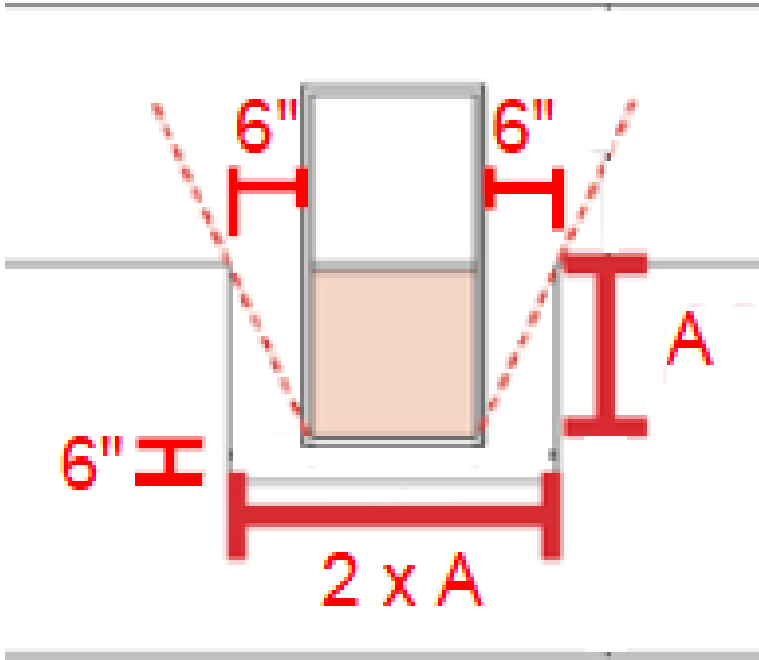
BASEMENT APARTMENT PILOT: LIGHT & VENTILATION



BASEMENT APARTMENT PILOT: LIGHT & VENTILATION

- Window well at exterior
 - Window well extends at least 2 times the depth of window below grade, with minimum 6" on each side of the window

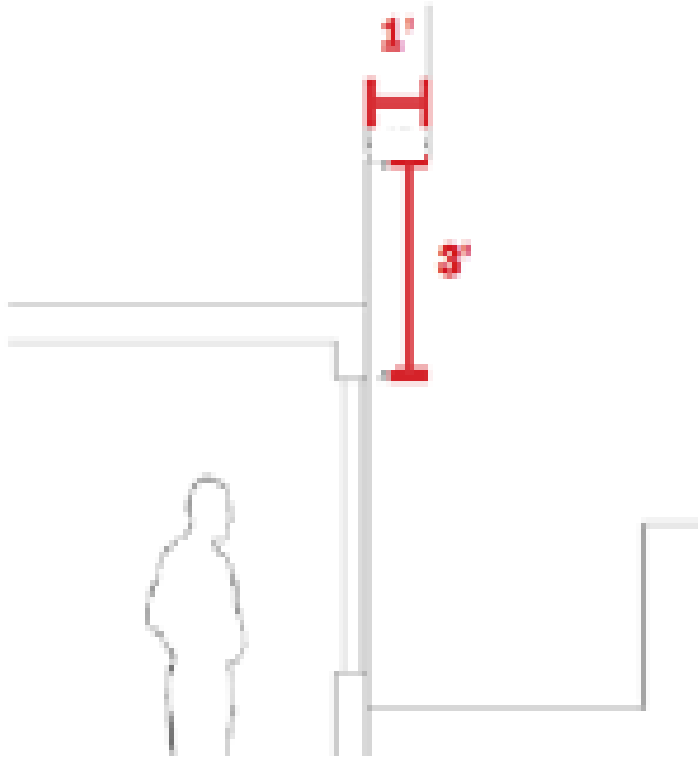
BASEMENT APARTMENT PILOT: LIGHT & VENTILATION



BASEMENT APARTMENT PILOT: LIGHT & VENTILATION

- No cantilever or other obstruction over window that less than 3' above window or projects more than 12" from window/building

BASEMENT APARTMENT PILOT: LIGHT & VENTILATION



BASEMENT APARTMENT PILOT: CELLARS

- Dwelling unit in cellar may be created

BASEMENT APARTMENT PILOT: CELLARS



BASEMENT APARTMENT PILOT: CELLARS

- 2 independent, remote **means of egress** from cellar unit

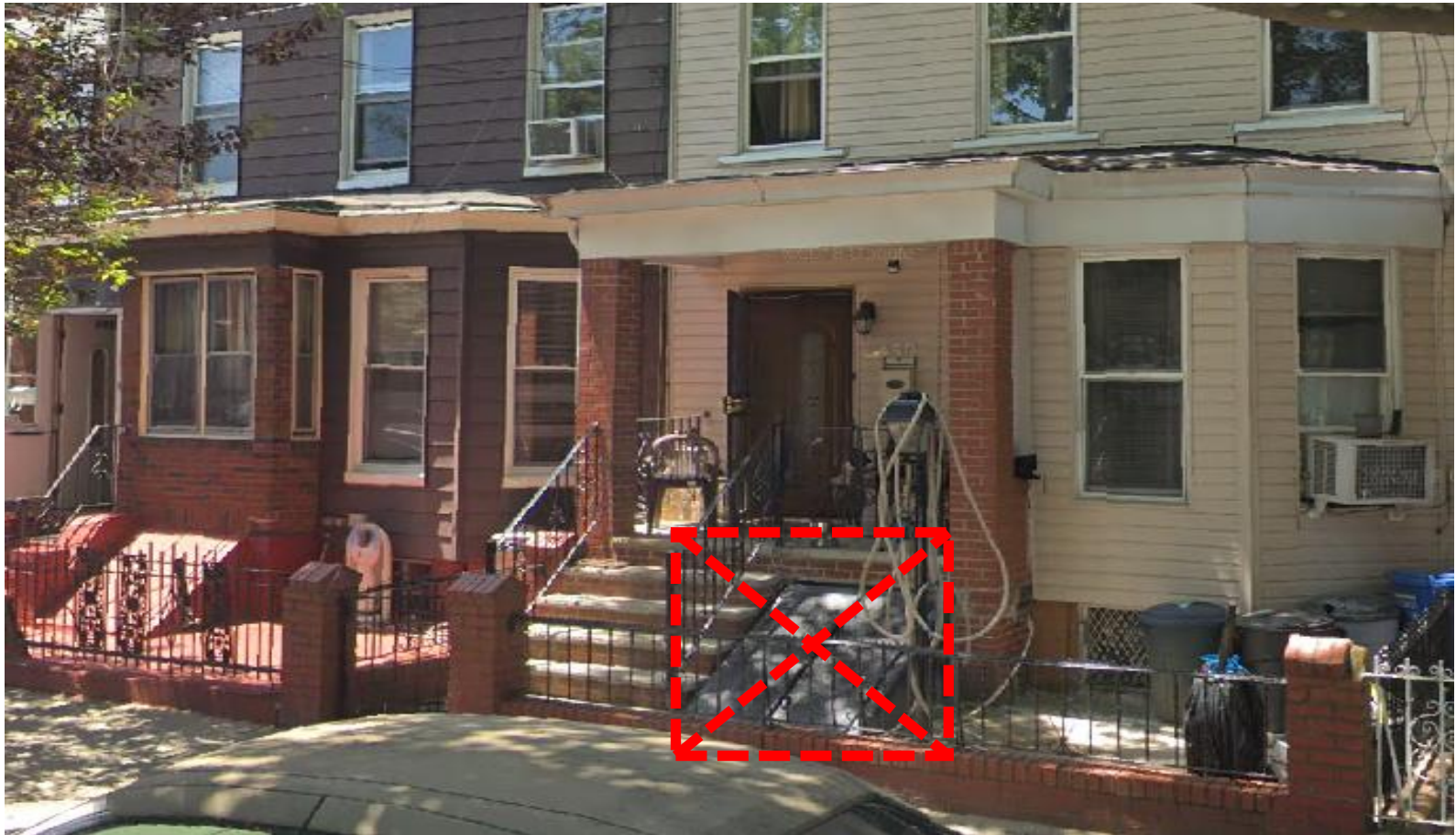
BASEMENT APARTMENT PILOT: CELLARS



BASEMENT APARTMENT PILOT: CELLARS

- 2 independent, remote **means of egress** from cellar unit

BASEMENT APARTMENT PILOT: CELLARS



BASEMENT APARTMENT PILOT: CELLARS

- Finished ceiling **must** be min. 2' above grade
- Cellar will be counted as a story for building code and zoning

BASEMENT APARTMENT PILOT: CELLARS



PHOTO OF CELLAR APARTMENT FROM EXTERIOR

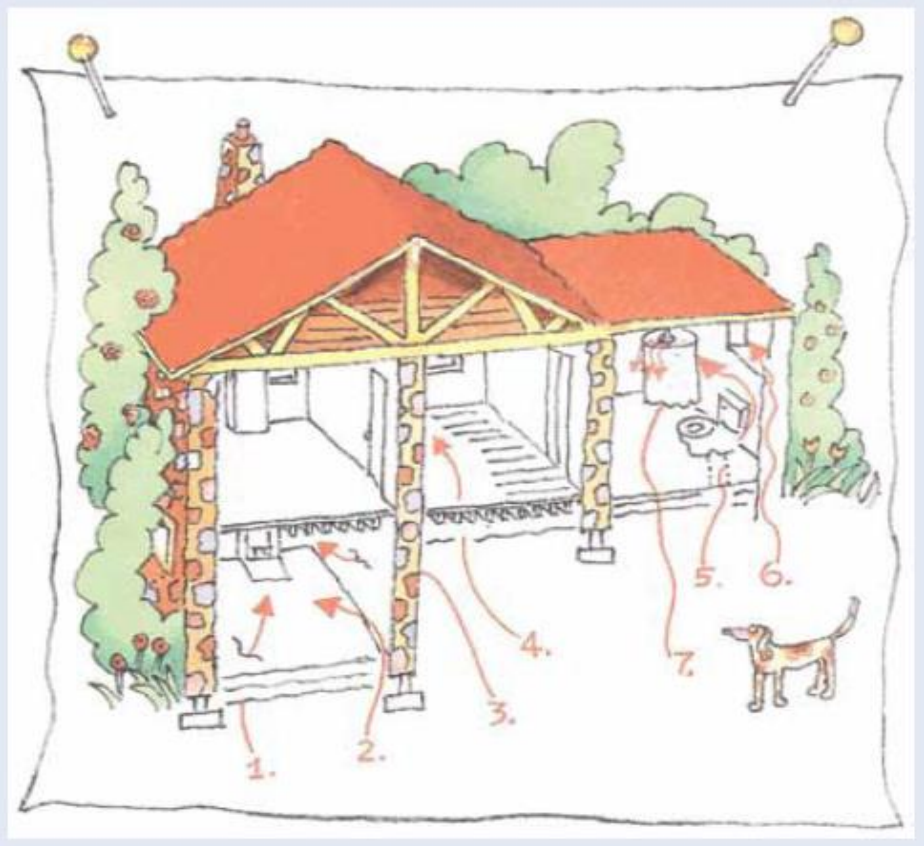
BASEMENT APARTMENT PILOT: OTHER AGENCY REQUIREMENTS

- Radon testing certification shall be submitted
- Required as part of DOB application

BASEMENT APARTMENT PILOT: OTHER AGENCY REQUIREMENTS

RADON GETS IN THROUGH:

1. *Cracks in solid floors.*
2. *Construction joints.*
3. *Cracks in walls.*
4. *Gaps in suspended floors.*
5. *Gaps around service pipes.*
6. *Cavities inside walls.*
7. *The water supply.*



from a Citizen's Guide to Radon

BASEMENT APARTMENT PILOT: OTHER AGENCY REQUIREMENTS

- Vapor barriers, where no existing slab or soil excavation required inside the unit
 - Must be provided in newly created unit, certification shall be submitted
 - For existing units, environmental certification required
- Required as part of DOB application

BASEMENT APARTMENT PILOT: OTHER AGENCY REQUIREMENTS



BASEMENT APARTMENT PILOT: ADMINISTRATIVE PROVISIONS

Filing Applications

- Brooklyn borough office **ONLY**
- **Alteration Type 1**

BASEMENT APARTMENT PILOT: ADMINISTRATIVE PROVISIONS

Alteration per LL 49 of 2019 on PW1

PW1

PAGE 3

11 Job Description					11A Related DOB Job Numbers				
					11B Primary application job no. _____				
12 Zoning Characteristics									
12A District(s) _____					12B Street legal width: _____ ft.				
Overlay(s) _____					Street Status: <input type="checkbox"/> Public <input type="checkbox"/> Private				
Special Dist.(s) _____					If the zoning lot includes multiple tax lots, list all tax lots here ►				
Map Number _____									
12C Proposed: Use*		Zoning Floor Area	District	FAR	Proposed Lot Details:			Proposed Yard Details:	
		sq. ft.			Lot Type: <input type="checkbox"/> Corner <input type="checkbox"/> Interior <input type="checkbox"/> Through			Check here if no yards: <input type="checkbox"/> or	
		sq. ft.			Lot Coverage _____ %			Front Yard _____ ft.	

BASEMENT APARTMENT PILOT: ADMINISTRATIVE PROVISIONS

Filing Applications

- All drawings and Schedule A shall be noted with **Alteration per LL 49 of 2019**

BASEMENT APARTMENT PILOT: ADMINISTRATIVE PROVISIONS

Certificate of Occupancy

- Partial or Amended
- For newly created unit

BASEMENT APARTMENT PILOT: ADMINISTRATIVE PROVISIONS

Certificate of Occupancy

- Violations
 - Pre-existing
 - Violations during course of construction

BASEMENT APARTMENT PILOT: ADMINISTRATIVE PROVISIONS

Penalties

- Deferred

DOB Fees Waived

- Applicants participating in HPD's program

BASEMENT APARTMENT PILOT: ADMINISTRATIVE PROVISIONS

Time Limit

- 18 months to file application with DOB from effective date
- File by **January 2, 2021**

BASEMENT APARTMENT PILOT: ADMINISTRATIVE PROVISIONS



More Information

Project Guidelines on
DOB website

www1.nyc.gov/site/buildings/business/project-guidelines.page

BASEMENT APARTMENT PILOT: ADMINISTRATIVE PROVISIONS

NYC
Housing Preservation & Development

Kreyòl Ayisyen | Translate | Text-Size

Home About Renter **Owner** Developer Vendor Community Sec. 8 Search

Opportunities Responsibilities Resources

Homeownership

Mitchell-Lama

HomeFirst Down Payment Assistance

Homeowner Repair Loans

[Basement Conversion Pilot Program](#)

Foreclosure Prevention

Mortgage Servicing

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Basement Apartment Conversion Pilot Program

Administered by the New York City Department of Housing Preservation and Development, in partnership with Cypress Hills Local Development Corporation, a local non-profit, the **Basement Apartment Conversion Pilot Program (BACPP)** (the "pilot program" or "program") provides eligible low- to middle-income homeowners living in one- to three-family homes in East New York and Cypress Hills, Brooklyn (Community District 5) with low or no-interest, or possible forgivable, loans to convert their basement or cellar into a safe, legal, and rentable apartment, based on altered building code legislation passed in February 2019, Intro. 1004. The homeowner is also provided with technical assistance needed to close on a loan and complete the construction project.

This pilot program will help to create safe housing for tenants or occupants, while providing homeowners an opportunity to earn rental income.

For information on loan terms and the program, see the BACPP term sheet: [English](#) | [Spanish](#)

Pilot Program Eligibility



More Information

HPD's Basement Apartment Conversion Pilot Program (BACPP) at www1.nyc.gov/site/hpd/developers/development-programs/basement-conversion.page

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