

# ZONING RESOLUTION Web Version

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## THE CITY OF NEW YORK



THE CITY OF NEW YORK  
Bill de Blasio, Mayor

CITY PLANNING COMMISSION  
Carl Weisbrod, Chairman

### Article V: Non-conforming uses and non-complying buildings Chapter 4 - Non-Complying Buildings

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CITY PLANNING COMMISSION  
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DEPARTMENT OF CITY PLANNING  
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(12/15/61)

**Chapter 4**  
**Non-Complying Buildings**

(12/15/61)

**54-00**  
**GENERAL PROVISIONS**

(12/15/61)

**54-01**  
**Definitions**

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

(12/15/61)

**54-10**  
**CONTINUATION OF USE**

(12/15/61)

**54-11**  
**General Provisions**

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

(12/15/61)

**54-20**  
**REPAIRS OR ALTERATIONS**

(12/15/61)

## **54-21**

### **General Provisions**

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).

(12/15/61)

## **54-30**

### **ENLARGEMENTS OR CONVERSIONS**

(2/2/11)

## **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.

(2/2/11)

## **54-311**

### **Buildings non-complying as to density regulations**

If a #building# or portion of a #building# has more #rooming units# than are permitted by the applicable district regulations, such #building# may be #converted# to #dwelling units# in accordance with the provisions of Section 15-111 (Number of permitted dwelling units).

(12/15/61)

## **54-312**

### **Modification of provisions**

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

(4/30/12)

#### **54-313**

#### **Single- or two-family residences with non-complying front yards or side yards**

- (a) In R4 Districts, except R4A, R4-1 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) that 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#.

(7/26/01)

#### **54-314**

##### **Modification by authorization**

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#.

(2/2/11)

#### **54-40**

## **DAMAGE OR DESTRUCTION IN NON-COMPLYING BUILDINGS**

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#.

(2/2/11)

### **54-41**

#### **Permitted Reconstruction**

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.

(12/15/61)

## 54-42

### Use of Alternative Formula

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.