



## Zoning Resolution

THE CITY OF NEW YORK

Eric Adams, Mayor

CITY PLANNING COMMISSION

Daniel R. Garodnick, Chair

# **15-21 - Use Regulations – Transfer of Preservation Obligations and Conversion Rights**

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## 15-21 - Use Regulations – Transfer of Preservation Obligations and Conversion Rights

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LAST AMENDED

2/2/2011

In C6-2M, C6-4M, M1-5M and M1-6M Districts, the #conversion# of #floor area# to #residences# in existing #buildings#, or portions thereof is permitted subject to the certification by the Chairperson of the City Planning Commission that #floor area# has been preserved for #commercial# or #manufacturing# #uses# in accordance with the provisions of this Section. For the purposes of this Section only, the following mixed-#use# areas are defined:

Southeast Chelsea — All C6-2M, C6-4M, M1-5M and M1-6M Districts between 13th Street and 23rd Street, and between Park Avenue and Eighth Avenue.

Garment Center East — The C6-4M District located between West 34th Street and West 35th Street, and between Seventh Avenue and Eighth Avenue.

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### 15-211 - Floor area preservation

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LAST AMENDED

2/2/2011

The amount or configuration of #floor area# to be preserved may be modified in accordance with the provisions of Section [15-215](#) (Modification for existing dwelling units).

The amount of #floor area# to be preserved for permitted #commercial# or permitted #manufacturing# #uses# shall be in accordance with Table I of this Section, if the #floor area# to be #converted# is located in a C6-2M or C6-4M District, and in accordance with Table II of this Section, if the #floor area# to be #converted# is located in an M1-5M or M1-6M District, unless modified by the City Planning Commission pursuant to Section [15-51](#). Such #floor area# shall be comparable to the #floor area# to be #converted#, as required by Section 15-213.

Such #floor area# may be preserved in the #building# to be #converted#, or in any other #building# within the same mixed-#use# area, as defined in Section [15-21](#).

Except as provided in Section [15-215](#), #floor area# may not be preserved on portions of floors. If the #floor area# which must be preserved includes a fraction of a floor, the next highest number of full floors must be preserved for permitted #commercial# or permitted #manufacturing# #uses#. #Floor area# used for #home occupations# may not be used to meet the requirements of #floor area# and #stories# which must be preserved for #commercial# or #manufacturing# #use#. No #accessory# living or sleeping accommodations shall be permitted in the #floor area# preserved for permitted #commercial# or permitted #manufacturing# #uses#.

All requirements for preservation of #floor area# shall be determined by the entire #lot area# of the #zoning lot#, and by the total #floor area# of the #building# to be #converted#, regardless of the amount of #floor area# being #converted# within the #building#. For the purposes of this Section, any portion of the #building# to be #converted# that has a #residential# certificate of occupancy shall be excluded from the #building's# total #floor area#.

Any #building# that has been partially #converted# pursuant to Section [15-21](#) and has complied with the preservation requirements of such Section, shall not be required to preserve additional #floor area# for any subsequent #conversion#.

TABLE I

FOR CONVERSION IN C6-2M OR C6-4M DISTRICTS

FLOOR AREA PRESERVED FOR PERMITTED COMMERCIAL OR  
 PERMITTED MANUFACTURING USE\*

#Lot area#	Percentage of #building's# total #floor area# to be preserved
less than 5,000 sq. ft.	33.3
5,000 sq. ft. or more but less than 10,000 sq. ft.	50.0
10,000 sq. ft. or more	66.6

TABLE II  
 FOR CONVERSION IN MI-5M OR MI-6M DISTRICTS  
 FLOOR AREA PRESERVED FOR PERMITTED COMMERCIAL OR  
 PERMITTED MANUFACTURING USE\*

#Lot area#	Percentage of #building's# total #floor area# to be preserved
less than 5,000 sq. ft.	33.3
5,000 sq. ft. or more but less than 10,000 sq. ft.	66.6
10,000 sq. ft. or more	66.6

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\* All requirements for preservation of #floor area# shall be determined by the entire #lot area# of the #zoning lot#, and by the total #floor area# of the #building# to be #converted#, regardless of the amount of #floor area# being #converted# within the #building#.

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**15-212 - Reduced floor area preservation**

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Notwithstanding the provisions of Section [15-211](#), Table I as set forth in this Section may be substituted for Table I in Section [15-211](#), and Table II in this Section may be substituted for Table II in Section [15-211](#) governing the amount of #floor area# to be preserved, provided that such preserved #floor area# will be occupied by a #commercial# or #manufacturing# #use# that has been in occupancy for two years prior to the application for a certification under the provisions of Section [15-21](#) or by #referenced commercial or manufacturing uses#, and subject to the following conditions:

(a) Where the preserved #floor area# is occupied by an existing #commercial# or #manufacturing# #use# for two years immediately preceding the date of application for a certification under Section [15-21](#), or where the preserved #floor area# is occupied by #referenced commercial or manufacturing uses#, the landlord shall present a lease, signed by both the landlord and such tenant, and certified as recorded by the Office of the City Register of New York County.

Such lease shall:

- (1) be for a period of not less than three years from the date of application for such certification with provision for two years renewal at the tenant’s option; and
- (2) not be subject to cancellation by the landlord.

(b) Where the preserved #floor area# is occupied by any such #use# for two years immediately preceding the date of application under Section [15-21](#), and such occupant is the owner of said #floor area#, the Chairperson of the City Planning Commission shall require that the certificate of occupancy designate the preserved #floor area# for #referenced commercial or manufacturing uses# for a period of five years from the date of such certification.

(c) Where the preserved #floor area# will be occupied by #referenced commercial or manufacturing uses# but no such tenant is yet occupying the #floor area#, the owner shall covenant to preserve such #floor area# for #referenced commercial or manufacturing uses#, in the legal commitment required pursuant to Section 15-214.

TABLE I

FOR CONVERSION IN C6-2M OR C6-4M DISTRICTS

REDUCED FLOOR AREA AND FLOORS PRESERVED FOR PERMITTED

COMMERCIAL OR PERMITTED MANUFACTURING USE\*

#Lot area#	Percentage of #building's# total #floor area# to be preserved
less than 5,000 sq. ft.	one floor, plus, in #buildings# of more than 6 #stories#,  25% of the #floor area#  in excess of 6 #stories#
5,000 sq. ft. or more but less than 10,000 sq. ft.	33.3

10,000 sq. ft. or more	50.0
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TABLE II

FOR CONVERSION IN M1-5M OR M1-6M DISTRICTS

REDUCED FLOOR AREA AND FLOORS PRESERVED FOR PERMITTED

COMMERCIAL OR PERMITTED MANUFACTURING USE\*

#Lot area#	Percentage of #building's# total #floor area# to be preserved
less than 5,000 sq. ft.	one floor, plus, in #buildings# of more than 6 #stories#, 25% of the #floor area# in excess of 6 #stories#
5,000 sq. ft. or more but less than 10,000 sq. ft.	50
10,000 sq. ft. or more	50

\* All requirements for preservation of #floor area# shall be determined by the entire #lot area# of the #zoning lot#, and by the total #floor area# of the #building# to be #converted#, regardless of the amount of #floor area# being #converted# within the #building#.

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## 15-213 - Comparability

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LAST AMENDED  
2/2/2011

Where the #floor area# to be preserved is not located within the #building# to be #converted#, such #floor area# must be comparable to #floor area# in the #building# to be #converted#. Comparability, shown by an affidavit from a professional engineer or a registered architect, licensed under the laws of the State of New York, shall exist where the #floor area# to be preserved meets the following criteria:

(a) Elevators: load and number

The load and number requirements of this paragraph shall not apply when the #floor area# to be preserved is located on the ground floor or has level access to a #street# or loading facility.

(1) Load

Each elevator shall have a minimum load of 2,000 pounds. The total load of all elevators servicing the #floor

area# to be preserved shall be in accordance with the following ratio:

Total load	is greater than or equal to 80% of	Total load
Gross #floor area# of #building# to be preserved		Gross #floor area# of #building# to be #converted#

(2) Number

There shall be a minimum of two elevators. The number of elevators servicing the #floor area# to be preserved shall be in accordance with the following ratio:

Number of elevators	is greater than or equal to 80% of	Number of elevators
Gross #floor area# of #building# to be preserved		Gross #floor area# of #building# to be #converted#

Notwithstanding the above, where there is only one elevator servicing the #floor area# to be #converted#, there may be one elevator servicing the #floor area# to be preserved if the following exist:

- (i) the #floor area# to be serviced by the elevator in the #building# to be preserved does not exceed the #floor area# serviced by the elevator in the #building# to be #converted# by more than 10 percent; and
- (ii) the ratio of the volume of the elevator servicing the #floor area# to be preserved to the #floor area# to be preserved is at least 90 percent of the ratio of the volume of the elevator servicing the #floor area# to be #converted# to the #floor area# to be #converted#.

If the number of elevators required pursuant to the above ratio includes a fraction of an elevator, this fraction shall be rounded to the nearest whole number.

(b) Floor load

The floors shall have a minimum live load capacity of 100 pounds per square foot (100 psf).

(c) Size of floors

- (1) The #floor area# shall be located on floors of not less than 3,000 square feet or 50 percent of the size of the floors in the #building# to be #converted#, whichever is greater.
- (2) #Floor area# may not be preserved on portions of floors.

(d) Loading facilities

The loading facilities shall be at least equal in number to those in the #building# to be #converted#. In addition, if such #building# has an off-street loading dock, the #building# containing the #floor area# to be preserved must have such off-street loading facilities.

(e) Column spacing

There shall be a minimum distance between columns of 15 feet, measured on center. In addition, the average distance between columns shall not be less than 90 percent of the average distance between columns in the #building# to be #converted#.

(f) Height of #stories#

The #stories# shall have an average minimum height of 10 feet.

The Chairperson of the City Planning Commission may authorize a modification of the requirements listed in paragraphs (a), (c)(1) or (d) of this Section, pursuant to the regulations of paragraph (c) of Section [15-30](#) (MINOR MODIFICATIONS).

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## **15-214 - Certification and other requirements of preservation and conversion**

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LAST AMENDED

2/2/2011

- (a) Prior to the issuance of an alteration permit for the #conversion# of #floor area# to #residential use#, the Chairperson of the City Planning Commission shall certify compliance with the requirements of Section [15-21](#) upon proof of a legal commitment to preserve and maintain the required #floor area# for permitted #commercial# or permitted #manufacturing# #use#. Such legal commitment shall be executed by all parties having any interest in the #floor area# to be preserved as shown by a certificate issued by a title insurance company licensed to do business in the State of New York showing all such parties in interest.

A "party in interest" in the tract of land shall include only (W) the fee owner thereof, (X) the holder of any enforceable recorded interest superior to that of the fee owner and which could result in such holder obtaining possession of all or substantially all of such tract of land, (Y) the holder of any enforceable recorded interest in all or substantially all of such tract of land which would be adversely affected by the preservation as required herein, and (Z) the holder of any unrecorded interest in all or substantially all of such tract of land which would be superior to and adversely affected by the preservation required herein and which would be disclosed by a physical inspection of the tract of land.

A copy of the legal commitment required herein shall be recorded in the Conveyances Section of the Office of the City Register of New York County upon certification.

- (b) The #floor area# to be preserved shall not already have been preserved by a legal commitment under the provisions of Section [15-21](#), as evidenced by the report from the title company issued pursuant to (a) above.
- (c) When preservation obligations pursuant to Section [15-211](#) or [15-212](#) are transferred between #buildings#, the amount of #floor area# required to be preserved shall not be reduced by the existence of a previously issued legal commitment for preservation on a portion of the #floor area# in the #building#.
- (d) Any #building# that has been partially #converted# pursuant to Section [15-21](#) and has complied with the preservation requirements of such Section, shall not be required to preserve additional #floor area# for any subsequent #conversion#.

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## **15-215 - Modification for existing dwelling units**

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LAST AMENDED

2/11/1992

The requirements of Section [15-211](#) or [15-212](#) regarding the amount or configuration of #floor area# to be preserved for

permitted #commercial# or permitted #manufacturing# #uses# may be modified by the Chairperson of the City Planning Commission provided that:

- (a) such #floor area# has a #residential# certificate of occupancy, or consists of registered Interim Multiple Dwellings, or is found covered by the New York City Loft Board pursuant to Article 7C of the New York State Multiple Dwelling Law, or was occupied as #dwelling units# as of September 1, 1980, and a complete application for determination of occupancy has been filed with the Department of City Planning by the owner of the #building# or the occupant of a #dwelling unit# in the #building# not later than June 21, 1983. For the purposes of Article 7C of the New York State Multiple Dwelling Law, such a determination of #residential# occupancy shall be deemed to permit #residential use# as-of-right for such #floor area#; and
- (b) as a result of such #residential# occupancy, the remaining amount of #floor area# in the #building# is less than the amount required to be preserved for permitted #commercial# or #manufacturing# #uses# pursuant to Section [15-211](#) or [15-212](#), or consists of portions of floors.

Such modification of the preservation requirement shall be the minimum necessary in order to permit the legalization of existing #dwelling units# for which a determination of occupancy has been made.

Notwithstanding the above, the Chairperson of the City Planning Commission shall not issue a certification pursuant to Section [15-21](#) until an application for such certification and modification is submitted by the owner of the #building#.