Zoning Resolution

THE CITY OF NEW YORK
Zohran K. Mamdani, Mayor

CITY PLANNING COMMISSION
Sideya Sherman, Chair

52-50 - DAMAGE OR DESTRUCTION

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52-50 - DAMAGE OR DESTRUCTION

LAST AMENDED
12/15/1961

52-51 - General Provisions

LAST AMENDED
6/6/2024

Except as set forth in Section 52-80 (REGULATIONS APPLYING TO NON-CONFORMING SIGNS), inclusive, if a #non-conforming# #building or other structure# is damaged, destroyed or demolished, the provisions set forth in Sections 52-52 to 52-56, inclusive, shall apply.

However, if a #non-conforming# #single-# or #two-family residence# in an R3, R4, or R5 District is damaged, destroyed or demolished, such #building# may be continued in #use# and 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.

52-52 - Land with Minor Improvements

LAST AMENDED
2/2/2011

In all districts, if a #non-conforming# #building or other structure# or other improvement located on #land with minor improvements# is damaged or destroyed by any means, including but not limited to,

any demolition ordered or permitted by the Department of Buildings, to the extent of 25 percent or more of the assessed valuation of all #buildings or other structures# or other improvements thereon (as determined from the assessment rolls effective on the date of damage or destruction), such #non-conforming# #use# shall terminate, and the #zoning lot# shall thereafter be used only for a conforming #use#.

52-53 - Buildings or Other Structures in All Districts

LAST AMENDED
12/15/1961

52-531 - Permitted reconstruction or continued use

LAST AMENDED
9/21/2011

In all districts, if any #building#, except a #building# subject to the provisions of Section 52-54 (Buildings Designed for Residential Use in Residence Districts), or of Section 52-56 (Multiple Dwellings in M1-1D Through M1-5D Districts), which is substantially occupied by a #non-conforming# #use#, is damaged or destroyed by any means, including any demolition as set forth in Sections 52-50 et seq., to the extent of 50 percent or more of its total #floor area#, such #building# may either:

(a) be repaired or #incidentally altered#, and the existing #non-conforming# #use# may be continued; or

(b) be reconstructed, but only for a conforming #use#; provided, however, that in no event shall any such reconstruction create a #non-compliance# or increase the degree of #non-compliance# of a #non-complying# #building#.

However, where the damage or destruction is so great that the provisions in Sections 54-41 and 54-42 relating to Damage, Destruction or Demolition in Non-Complying Buildings also apply, the latter Sections shall govern the permitted #bulk# of the reconstructed #building#.

In addition, the alteration of an 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 applying the provisions of this Section to damaged or destroyed structures, substantially utilized by a #non-conforming# #use#, any appropriate measure of the size of such structures shall be substituted for #floor area# in determining the extent of damage or destruction.

In the event that any demolition, damage or destruction of an existing #building# 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 50 percent or more of the total #floor area# of such #building#, then such #building# may be repaired or reconstructed only in accordance with the provisions of paragraph (a) or (b) in this Section.

For the purposes of this Section, any #single-family# or #two-family residence# located within an M1-1D, M1-2D, M1-3D, M1-4D, M1-5D or M1-6D District and existing on June 20, 1988, shall be a conforming #use#.

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#.

52-532 - Use of alternative formula

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 such damage or destruction.

If the Board finds that the costs of reconstructing the damaged or destroyed portion of such #building# to its previous condition exceed 50 percent of the costs of reconstructing the entire #building# to the condition existing on the date of such damage or destruction, the provisions of Section 52-531 (Permitted reconstruction or continued use) shall apply. In determining reconstruction costs, the cost of land shall be excluded.

52-54 - Buildings Designed for Residential Use in Residence Districts

LAST AMENDED
3/28/1985

In all #Residence Districts#, if the #floor area# occupied by #non-conforming# #uses# within a #building designed for residential use# is damaged or destroyed by any means, including but not limited to, any demolition ordered or permitted by the Department of Buildings, to the extent of 25 percent or more of such #floor area#, such #building# may be continued in #use# or reconstructed only in accordance with the provisions of Section 52-53 (Buildings or Other Structures in All Districts) except that the 25 percent ratio set forth in this Section shall apply instead of the 50 percent ratio set forth in Section 52-53.

52-55 - Lesser Damage or Destruction

LAST AMENDED
2/2/2011

In the event that a #building or other structure# substantially occupied or utilized by a #non-conforming# #use# is damaged or destroyed to a lesser extent than that specified in Sections 52-51 to 52-54, inclusive, relating to Damage, Destruction or Demolition, the #building or other structure# may be restored and the #non-conforming# #use# of such #building or other structure# or #zoning lot# may be continued, provided that such restoration shall not create a #non-compliance# or increase the degree of #non-compliance#, if any, existing prior to such damage, destruction or demolition.

52-56 - Multiple Dwellings in M1-1D Through M1-5D Districts

LAST AMENDED
12/5/2024

In the case of damage or destruction of less than 75 percent of the total #floor area# of a #non-conforming# #building# containing three or more #dwelling units# in an M1-1D, M1-2D, M1-3D, M1-4D or M1-5D District, such #building# may be repaired or reconstructed, and its #residential use# continued, subject to the following regulations:

(a) there shall be no increase in the number of #dwelling units# in the #building# beyond the lawful number in existence prior to such damage and destruction; and

(b) there shall be no increase to the pre-existing amount of #floor area# except as expressly provided in Section 52-46 (Conforming and Non-conforming Residential Uses in M1-1D

Through M1-5D Districts).

#Enlargements# in excess of those permitted, pursuant to paragraph (b) of this Section, may be permitted by authorization of the City Planning Commission pursuant to the regulations of Section 42-311 (Residential uses in M1-1D through M1-5D Districts).