Zoning Resolution

THE CITY OF NEW YORK
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CITY PLANNING COMMISSION
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42-31 - Special Regulations Applicable to Certain Districts

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42-31 - Special Regulations Applicable to Certain Districts

LAST AMENDED
12/5/2024

42-311 - Residential uses in M1-1D through M1-5D Districts

LAST AMENDED
12/5/2024

In M1-1D, M1-2D, M1-3D, M1-4D and M1-5D Districts, #residential uses# shall be permitted on #zoning lots# that include existing #residences# and are not located in either a designated area shown on the maps in APPENDIX J (Designated Areas Within Manufacturing Districts) of this Resolution or within 100 feet of Third Avenue in Brooklyn. Such #residential use# shall be subject to the regulations of Sections 43-61 (Bulk Regulations for Residential Uses in M1-1D Through M1-5D Districts) and 44-022 (Applicability of regulations in M1-1D through M1-5D Districts)

For all other #zoning lots#, new #residences# or #enlargements# of existing #residences# may be permitted by authorization of the City Planning Commission provided the #zoning lot# existing on June 20, 1988, meets the criteria of paragraphs (a), (b) or (c) of this Section.

(a) On #zoning lots# containing #residential# or #community facility# #uses#, new #residences# or #enlargements# of existing #residences# may be authorized, provided:

(1) the #zoning lot# contains a #building# that has one or more #stories# of lawful #residential# or #community facility# #uses# and no more than one #story# of #commercial# or #manufacturing# #uses# therein;

(2) the #zoning lot# contains no other #commercial# or #manufacturing# #uses#; and

(3) 25 percent or more of the aggregate length of the #block# fronts on both sides of the #street# facing each other is occupied by #zoning lots# containing #residential# or #community facility# #uses#.

(b) On vacant #zoning lots#, new #residences# may be authorized, provided:

(1) the #zoning lot# has been vacant continuously since June 20, l988, or has been vacant continuously for five years prior to the date of application for such authorization;

(2) a #zoning lot# #abutting# on one #side lot line# and fronting on the same #street# is occupied by a #community facility building# or a #building# containing #residences#; and

(3) either of the following conditions exist:

(i) such vacant #zoning lot# and any contiguous vacant #zoning lots# and #land with minor improvements# fronting on the same #street# aggregate no more than 10,000 square feet of #lot area#, and 50 percent or more of the aggregate length of the #block# fronts on both sides of the #street# facing each other is occupied by #zoning lots# containing #residential# or #community facility# #uses#; or

(ii) such vacant #zoning lot# and any contiguous vacant #zoning lots# and #land with minor improvements# fronting on the same #street# aggregate no more than 5,000 square feet of #lot area#, and 25 percent or more of the aggregate length of the #block# fronts on both sides of the #street# facing each other is occupied by #zoning lots# containing #residential# or #community facility# #uses#.

(c) On #land with minor improvements#, new #residences# may be authorized provided such #land with minor improvements# otherwise meets all the criteria for vacant #zoning lots# listed in paragraph (b) of this Section, except that new #residential use# shall not be authorized on #land with minor improvements# that:

(1) is used for parking, storage or processing in connection with a conforming, enclosed #commercial# or #manufacturing# #use# within the district; or

(2) has been so used within five years prior to the date of application, unless such land has not been so used since June 20, 1988.

(d) In determining eligibility for #residential use#, pursuant to paragraphs (a), (b) or (c) of this Section, the following regulations shall be applicable:

(1) In order to determine whether a #corner lot# meets the criteria of paragraph (a), (b) or (c) above, the aggregate length of the #block# fronts occupied by #zoning lots# that contain #residential# or #community facility# #uses# may be measured along any #block# front upon which such #corner lot# has frontage.

(2) In determining the percent of the aggregate length of the #block# fronts occupied by #zoning lots# that contain #residential# or #community facility# #uses#, the length along the #block# front of every #zoning lot#, whether occupied or not, shall be measured and aggregated, and this total shall be divided by the aggregate length of the #block# fronts occupied by #zoning lots# containing lawful #residential# or #community facility# #uses#. Vacant #zoning lots# and #land with minor improvements# shall not be counted as #residential# or #community facility# frontage.

For the purpose of this Section, the length along the #block# front of any #zoning lot# occupied by a #building# that contains one or more #stories# of #residential# or #community facility# #use# and no more than one #story# of #commercial# or

#manufacturing# #use# shall be considered as a frontage of #residential# or #community facility# #uses#, and the length along the #block# front of any #zoning lot# occupied by a #building# that contains one or more #stories# of #residential# or #community facility# #use# and more than one #story# of #commercial# or #manufacturing# #uses# shall be considered as a frontage of #commercial# or #manufacturing# #uses#.

(3) New #residential use# shall not be authorized on any #floor area# that is vacant or that is occupied by a #commercial# or #manufacturing# #use#, except that in a #building designed for residential use# where at least 50 percent of the #floor area# is occupied by #residential use#, the #residential use# may be #extended#.

(4) In any #building#, no #residential use# may be located on or below a #story# occupied by a #commercial# or #manufacturing# #use#.

(5) For the purposes of this Section, a #through lot# fronting on no more than two #streets# shall be treated as if it consisted of two separate #zoning lots# with #abutting# #rear lot lines# at a line midway between the two #street lines# upon which such #through lot# fronts. In the case of a #through lot# that fronts on more than two #streets#, the #through lot# portion shall first be considered as if it were so divided, and then any remaining portion shall be considered as if it were a separate #zoning lot#. Notwithstanding, in no event shall contiguous portions of a #through lot# that front on the same #street# be treated as if they were separate #zoning lots#.

Each resulting portion of such #through lot# on each #street# frontage shall be considered separately to determine whether it meets the criteria for new #residences# set forth in paragraphs (a), (b) or (c) of this Section, and only on such portion may new #residences# or #enlargements# of existing #residences# be authorized. Only the #lot area# of such portion shall be calculated in determining the permitted amount of #floor area# to be authorized pursuant to this Section.

(6) A #zoning lot# or contiguous #zoning lots# existing on June 20, 1988, that have been vacant continuously since June 20, 1988, or have been vacant continuously for five years prior to the date of application for such authorization, that are contiguous to and front on the same #street# as a vacant #zoning lot# or #land with minor improvements# that meets all the requirements of paragraph (b) or (c) of this Section, may be combined with such eligible #zoning lot# in its application to authorize #residential use#. The aggregate #lot area# of all such contiguous vacant #zoning lots# or #land with minor improvements# shall be limited by the requirements of paragraph (b)(3).

(e) In authorizing such #residential uses#, the Commission shall find that:

(1) the #residential uses# will not be exposed to excessive noise, smoke, dust, noxious odor, toxic materials, safety hazards or other adverse impacts from current or previous #commercial# or #manufacturing# #uses#;

(2) there are no open #uses# listed under Sewage, Storm Water and Waste Infrastructure in Use Group IV(B) or Specialized Storage in Use Group IX(B) within 400 feet of the #zoning lot#;

(3) the #residential uses# will not adversely affect #commercial# or #manufacturing# #uses# in the district; and

(4) the authorization will not alter the essential character of the neighborhood or district in which the #use# is located, nor impair the future #use# or #development# of #commercial# and #manufacturing# #zoning lots#.

In granting such authorization, the Commission may prescribe additional conditions and safeguards as the Commission deems necessary.

#Residential uses# authorized pursuant to this Section shall be subject to the regulations of Sections 43-61 (Bulk Regulations for Residential Uses in M1-1D Through M1-5D Districts) and 44-022

(Applicability of regulations in M1-1D through M1-5D Districts).

Regulations governing other #residential uses# in M1-D Districts are set forth in Article V, Chapter 2 (Non-conforming Uses).

#Residential uses# in M1-D Districts may #enlarge# pursuant to the regulations of Section 52-46 (Conforming and Non-conforming Residential Uses in M1-1D through M1-5D Districts) or of this Section.

42-312 - Use regulations in M1-6D Districts

LAST AMENDED
12/5/2024

All permitted #uses# in M1-6D Districts, as set forth in Sections 42-11 (Use Group I – Agriculture and Open Uses) through 42-20 (Use Group X – Production Uses) shall comply with the provisions set forth in this Section, inclusive.

(a) #Residential use#

#Residential use# shall be permitted in M1-6D Districts only in accordance with the provisions of this Section. For the purposes of this Section, a "qualifying #building#" shall be any #building# that existed on April 25, 2011, and which contained at least 40,000 square feet of #floor area# on such date.

(1) #Residential use# as-of-right#

#Residential use# shall be permitted as-of-right on any #zoning lot# that, on April 25, 2011, was not occupied by a qualifying #building#. Such absence of a qualifying #building# on the #zoning lot# shall be demonstrated to the satisfaction of the Department of Buildings.

(2) #Residential use# by certification

#Residential use# shall be permitted on a #zoning lot# that, on April 25, 2011, was occupied by one or more qualifying #buildings#, only upon certification by the Chairperson of the City Planning Commission that the #zoning lot# will contain at least the amount of non-#residential# #floor area# that existed within qualifying #buildings# on the #zoning lot# on April 25, 2011, provided that:

(i) preservation of non-#residential# #floor area# within existing non-qualifying #buildings# on the #zoning lot# shall not be counted toward meeting the requirements of this certification; and

(ii) #floor area# from #community facility# #uses# with sleeping accommodations shall not be counted toward meeting the requirements of this certification.

However, non-#residential# #floor area# #converted# to #residential# vertical circulation and lobby space need not be replaced as non-#residential# #floor area#.

A restrictive declaration acceptable to the Department of City Planning shall be executed and recorded, binding the owners, successors and assigns to provide the amount of non-#residential# #floor area# that existed within qualifying #buildings# on April 25, 2011, on the #zoning lot#. Such restrictive declaration shall be recorded in the Office of the City Register. A

copy of such declaration shall be provided to the Department of Buildings upon application for any building permit related to a change in #use# from non-#residential# to #residential#, or for a new #building# containing #residences#.

(b) #Community facility# #uses#

The regulations for Use Group III that are applicable in M1 Districts shall not apply in M1-6D Districts. In lieu thereof, all #uses# listed in Use Group III shall be permitted, except that #uses# listed in Use Group III(A) shall only be permitted in accordance with paragraphs (b)(1) or (b)(2) of this Section, as applicable.

For the purposes of this Section, a "qualifying #building#" shall be any #building# that existed on April 25, 2011, and which contained at least 40,000 square feet of #floor area# on such date.

(1) #Uses# listed in Use Group III(A) shall be permitted as-of-right on any #zoning lot# that, on April 25, 2011, was not occupied by a qualifying #building#. Such absence of a qualifying #building# on the #zoning lot# shall be demonstrated to the satisfaction of the Department of Buildings.

(2) #Uses# listed in Use Group III(A) shall be permitted on a #zoning lot# that, on April 25, 2011, was occupied by one or more qualifying #buildings#, only upon certification by the Chairperson of the City Planning Commission that the #zoning lot# will contain at least the amount of non-#residential# #floor area# that existed within qualifying #buildings# on the zoning lot on April 25, 2011, provided that:

(i) preservation of non-#residential# #floor area# within existing non-qualifying #buildings# on the #zoning lot# shall not be counted toward meeting the requirements of this certification; and

(ii) #floor area# from #community facility# #uses# with sleeping accommodations shall not be counted toward meeting the requirements of this certification.

However, non-#residential# #floor area# converted to vertical circulation and lobby space associated with a #use# listed in Use Group III(A) need not be replaced as non-#residential# #floor area#.

A restrictive declaration acceptable to the Department of City Planning shall be executed and recorded, binding the owners, successors and assigns to provide the amount of non-#residential# #floor area# that existed within qualifying #buildings# on April 25, 2011, on the #zoning lot#. Such restrictive declaration shall be recorded in the Office of the City Register. A copy of such declaration shall be provided to the Department of Buildings upon application for any building permit related to a change in #use# from non-#residential# to #uses# listed in Use Group III(A), or for a new #building# containing such a #use#.

(c) #Commercial# and #manufacturing# #uses#

The regulations applicable in #Special Mixed Use Districts#, as set forth in Section 123-21 (Modifications to M1 use regulations) and Section 123-22 (Additional conditions for certain uses), shall apply except that the size limitations for #uses# listed in Use Group VI, shall not apply.

(d) Streetscape provisions

For the purposes of applying the underlying #ground floor level# streetscape provisions set forth in Section 32-30 (STREETSCAPE REGULATIONS) to this Section, the streetscape regulations for C6 Districts shall apply in M1-6D Districts.#Ground floor level# #street frontages# along #wide streets# shall be considered #Tier C street frontages#. A #ground floor level# #street# frontage along any other #street# shall be considered a #Tier B street frontage#. Such #Tier B# provisions shall apply regardless of the zoning district designations on the same or an adjoining #block#, notwithstanding the exemptions within the definition of #Tier B street frontage#. Defined terms in this Section include those in Sections 12-10 and 32-301.

42-313 - Use regulations in M1-5M and M1-6M Districts

LAST AMENDED
12/5/2024

In M1-5M and M1-6M Districts, the #conversion# of non-#residential buildings#, or portions thereof, erected prior to December 31, 1990, to #dwellimng units# or #community facilities# with sleeping accommodations, shall be subject to the provisions of Article I, Chapter 5 (Residential Conversion Within Existing Buildings).

In M1-5M and M1-6M Districts, eating or drinking establishments, where such establishments provide entertainment with a cover charge or specified showtime, or includes a dance floor, and has a capacity of more than 200 persons, are permitted only by special permit of the Board of Standards and Appeals in accordance with Section 73-162 (Eating or drinking establishments).

42-314 - Use regulations in certain M1-1, M1-5 and M1-6 Districts

LAST AMENDED
8/14/2025

(a) In the M1-1 District bounded by 95th Avenue, 148th Street, 97th Avenue and 147th Place in Community District 12 in the Borough of Queens, the #use# regulations of an M1 District shall apply, except that #residential use# is allowed subject to the #bulk# regulations of Section 43-01 (Applicability of This Chapter) and the #accessory# off-street parking regulations of Section 44-024 (Applicability of regulations in an M1-1 District in Community District 12 in the Borough of Queens).

(b) In M1-5 and M1-6 Districts, except for M1-6D Districts, located within the rectangle formed by West 31st Street, Eighth Avenue, West 30th Street, and Sixth Avenue, no new #dwelling units# shall be permitted. However, #dwelling units# which the Chairperson of the City Planning Commission determines were occupied on September 1, 1980, shall be a permitted #use# provided that a complete application to permit such #use# is filed by the owner of the #building# or the occupant of a #dwelling unit# in such #building# not later than June 21, 1983.

Such #dwelling units# shall comply with the requirements of Section 15-024 (Special bulk regulations for certain pre-existing dwelling units and joint living-work quarters for artists). For the purposes of Article 7C of the New York State Multiple Dwelling Law, such a determination of #residential# occupancy on September 1, 1980, shall be deemed to permit #residential use# as-of-right for such #dwelling units#.

42-315 - Use regulations in M1-5B Districts

LAST AMENDED
12/5/2024

The regulations governing M1 Districts shall apply in M1-5B Districts except where the special #use# regulations set forth in paragraphs (a) and (b) of this Section, provide otherwise.

(a) #Joint living-work quarters for artists# in #buildings# in M1-5B Districts, provided:

(1) Such #building# was erected prior to December 15, 1961.

(2) The #lot coverage# of such #building# does not exceed 5,000 square feet except that in #buildings# with frontage along Broadway the #lot coverage# shall not exceed 3,600 square feet. However, such quarters may also be located in a #building# occupying more than 5,000 square feet of #lot area# if the entire #building# was held in cooperative ownership by #artists# on September 15, 1970. #Joint living-work quarters for artists# are permitted in other #buildings or other structures# only by minor modification of the Chairperson of the City Planning Commission pursuant to paragraph (c)(5) of this Section or by authorization of the Commission pursuant to paragraph (d) of this Section.

(3) In M1-5B Districts in #buildings# occupying less than 3,600 square feet of #lot area#, #joint living-work quarters for artists# may not be located below the floor level of the second #story# unless modified by the Chairperson of the City Planning Commission pursuant to paragraph (c) of this Section, Section 74-781 (Modification by special permit of the Commission of uses in M1-5B Districts), or by authorization of the Commission pursuant to paragraph (d) of this Section.

(4) In #buildings# occupying more than 3,600 square feet of #lot area#, #joint living-work quarters for artists# may not be located below the floor level of the second #story# unless modified by the Chairperson of the City Planning Commission pursuant to paragraph (c) of this Section, 74-781 or by authorization of the Commission pursuant

to paragraph (d) of this Section.

(5) At least 30 percent of the gross roof area of a #building# containing 15 #joint living-work quarters for artists# shall be provided for recreational use. For each additional #joint living-work quarters for artists#, 100 square feet of additional roof area shall be provided for recreational use up to a maximum of 50 percent of the gross roof area. This recreational area shall be accessible to all the occupants of said #building# and their guests. No fees shall be charged to the occupants or their guests. The provisions of this Section may be modified pursuant to paragraph (c) of this Section.

(6) In any #building# which, as a result of #zoning map# change CP-23167 is zoned M1-5B, any existing occupant of a #joint living-work quarters for artists# which cannot meet the qualifications of the Department of Cultural Affairs may remain as a lawful #use#. This lawful #use# is non-transferable and ceases immediately upon the vacating of such space. Such occupants must register with the Department of Cultural Affairs not later than August 31, 1983, in order to preserve their lawful status in their existing space.

(7) In a #building# for which an alteration permit for #joint living-work quarters for artists# was requested prior to April 27, 1976, such alterations may comply with the regulations effective prior to such date.

(b) #Uses# permitted in M1 Districts, pursuant to Sections 42-11 (Use Group I – Agriculture and Open Uses) through 42-20 (Use Group X – Production Uses), inclusive, shall be allowed below the floor level of the second #story# except that all eating or drinking establishments, as listed in Use Group VI, shall be limited to 5,000 square feet of floor area per establishment. Such #use# provisions may be modified by the Chairperson of the City Planning Commission pursuant to paragraph (c) of this Section or by the Commission pursuant to Section 74-781 (Modifications by special permit of the Commission of uses in M1-5B Districts).

(c) Modification by certification of the Chairperson of the City Planning Commission of uses in M1-5B Districts

In M1-5B Districts, the requirements of paragraphs (a)(2), (a)(3), (a)(4) and (a)(5) or paragraph (b) of this Section may be modified by certification of the Chairperson of the City Planning Commission as provided in this Section. A copy of any request for modification under this Section shall be sent by the applicant to the applicable Community Board at least 20 days prior to the next regularly scheduled Community Board meeting. If the Community Board elects to comment on such requests, it must do so within 31 days of such notification.

(1) The provisions of paragraphs (a)(3) or (a)(4) or paragraph (b) of this Section may be modified if the #floor area# below the level of the second #story# was vacant as of January 28, 1976, and a complete application under this provision is filed with the City Planning Commission not later than June 21, 1983.

(2) The provisions of paragraphs (a)(3) or (a)(4) of this Section may be modified, provided that:

(i) the #floor area# below the level of the second #story# was occupied by #joint living-work quarters for artists# as of September 1, 1980, and a complete application for a determination of occupancy has been filed by the owner of the #building#, or the occupant of a #joint living-work quarters for artists# in the #building#, with the Department of City Planning not later than June 21, 1983. For the purpose of Article 7C of the New York State Multiple Dwelling Law, such a determination of #joint living-work quarters for artists# occupancy by the Chairperson of the City Planning Commission shall be deemed to permit #residential use# as-of-right for such quarters; or

(ii) the Chairperson finds that the space below the floor level of the second #story# is required by an #artist# whom the Department of Cultural Affairs has certified as working in a heavy or bulky medium which is not easily transported to the upper floors.

(3) The provisions of paragraph (b) of this Section may be modified provided a #use# not otherwise permitted occupied the #floor area# below the level of the second #story# as of September 1, 1980, and an application under this provision has been filed with the City Planning Commission not later than June 21, 1983.

(4) The requirements of paragraph (a)(5) of this Section may be modified provided that the Chairperson of the Commission has administratively certified to the Department of Buildings that the roof either is unsuited for open space use or cannot be made suitable for open space use at a reasonable cost.

(5) The requirements of paragraph (a)(2) of this Section relating to #joint living-work quarters for artists# in #buildings# where the #lot coverage# is 5,000 square feet or more, or 3,600 square feet or more in #buildings# with frontage along Broadway, may be modified, provided that:

(i) such #floor area# was occupied on September 1, 1980, as #joint living-work quarters for artists#, 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;

(ii) such #building# consisted, on June 21, 1983, of two or more contiguous sections separated structurally by load-bearing walls, with independent entrances,

independent addresses, and other evidence of the independent functional use of each section of the #building#, which evidence may include but is not limited to separate deeds, separate tax lots, separate certificates of occupancy or separate utilities or systems for the entirety of each section of the #building#; and

(iii) the section within which such #floor area# is located has a #lot coverage# of less than 5,000 square feet of #lot area#, except that in #buildings# with frontage along Broadway the #lot coverage# shall not exceed 3,600 square feet.

(d) Modification by authorization of the City Planning Commission of use regulations in M1-5B DistrictsIn M1-5B Districts, the requirements of paragraphs (a)(2), (a)(3) and (a)(4) of this Section may be modified by authorization of the City Planning Commission, provided that:such #non-residential building# is either a landmark or lies within a Historic District designated by the Landmarks Preservation Commission;any alterations to the subject #building# required in connection with such #conversion# to #joint living-work quarters for artists# have received a Certificate of Appropriateness or other permit from the Landmarks Preservation Commission; anda program has been established for continuing maintenance that will result in the preservation of the subject #building# or #buildings# as evidenced by a report from the Landmarks Preservation Commission.In order to grant an authorization, the City Planning Commission shall find that such modification of #use# requirements shall have minimal adverse effects on the conforming #uses# located within the #building# and in the surrounding area.The City Planning Commission may prescribe appropriate additional conditions and safeguards in order to enhance the character of the subject #building# and to minimize adverse effects on the character of the surrounding area.

42-316 - Use regulations in Manufacturing Districts with an A suffix

LAST AMENDED
6/6/2024

In Manufacturing Districts with an A suffix, the applicable #use# regulations shall be modified as follows:

(a) In M1 Districts with an A suffix:

(1) all retail and service #uses# listed in Use Group VI shall be permitted, and no associated size limitations shall apply to grocery and convenience retailers and specialty food retailers;

(2) all recreation, entertainment and assembly space #uses# listed in Use Group VIII shall be permitted;

(3) all #community facility uses# without sleeping accommodations listed in Use Group III(B) shall be permitted.

(b) In M2 Districts with an A suffix, the #use# regulations for an M1 District without an A suffix shall apply, inclusive of performance standards, supplementary use regulations, and #sign# regulations. However, grocery and convenience retailers and specialty food retailers listed in Use Group VI shall be limited to 30,000 square feet of #floor area# per establishment.

(c) In M3 Districts with an A suffix, the following special permits by the Board of Standards and Appeals or the City Planning Commission shall not be applicable:

Section 73-161 (Retail and service uses)
Section 73-162 (Eating or drinking establishments)
Section 73-181 (Recreation, entertainment and assembly space uses)
Section 74-161 (Retail and service uses)
Section 74-181 (Recreation, entertainment, and assembly space uses)

Section 74-182 (Arenas, auditoriums, stadiums or trade expositions)

Section 74-183 (Drive-in theaters)

Section 74-184 (Racetracks).

(d) In all Manufacturing Districts with an A suffix, for #public parking garages# and #public parking lots#, as listed in Use Group IX, the following provisions shall apply:

(1) outside the #Greater Transit Zone#, #public parking garages# and #public parking lots# with a capacity of up to 150 spaces are permitted. The City Planning Commission may permit #public parking garages# or #public parking lots# with more than 150 spaces pursuant to Section 74-194 (Public parking garages or public parking lots outside high density areas); and

(2) inside the #Greater Transit Zone#, #public parking garages# are not permitted as-of-right, and #public parking lots# with a capacity of up to 150 spaces are permitted. The City Planning Commission may permit #public parking garages# with any capacity or #public parking lots# with more than 150 spaces pursuant to Section 74-195 (Public parking garages or public parking lots in high density central areas).