



**BUILDINGS**  
**2022-004**  
**BULLETIN**

**ZONING**

**ISSUANCE DATE**  
March 10, 2022

**ISSUER:** Keith L. Wen, R.A.   
Assistant Commissioner, Code & Zoning Interpretation

**PURPOSE:** This Bulletin rescinds 1 Operations Policy and Procedure Notice, 25 Memoranda, 4 Directives, 10 Letters, and 1 Buildings Bulletin which were issued by the Department but are no longer applicable.

**SUBJECT(S):** Operations Policy and Procedure Notice, Directive, Letter, Memoranda, Buildings Bulletin, Rescind

**BULLETIN RESCINDS:**

**OPPN 2 of 1993**

**Memo 9-11-64, Memo 5-26-65, Memo 11-29-74, Memo 1-15-75, Memo 1-17-75, Memo 11-26-75, Memo 7-23-76, Memo 4-8-77, Memo 6-22-77, Memo 4-11-78, Memo 8-22-78, Memo 10-4-78, Memo 11-28-78, Memo 2-6-79, Memo 2-23-79, Memo 3-23-79, Memo 5-25-79, Memo 1-14-81, Memo 6-1-81, Memo 10-30-81, Memo 5-28-82, Memo 4-21-88, Memo 6-22-88, Memo 8-14-89, Memo 9-27-89**

**Directive 14 of 1967, Directive 31 of 1967, Directive 39 of 1967, Directive 3 of 1969**

**Letter 6-23-77, Letter 9-28-77, Letter 9-6-85, Letter 7-16-87, Letter 6-2-88, Letter 2-2-89, Letter 4-11-89, Letter 11-6-89, Letter 2-1-90 & Letter 8-20-91**

**Buildings Bulletin 2013-010**

**BACKGROUND**

The Department of Buildings periodically reviews published Buildings Bulletins (BB), Policy and Procedure Notices (Technical, Operational, Legal, Administrative, OTCR) and the various Directives, Executive Orders, Memoranda and Letters issued in the past in to ensure their continued consistency with current Departmental practice and to verify that new laws and regulations are incorporated into these documents.

The above listed Policy and Procedure Notice, Memoranda, Directives, Letters, and Buildings Bulletin are rescinded effective immediately. Rescinded documents are not applicable to any projects filed after the date this Bulletin was issued. The rescinded documents will appear on the Department's website with the watermark RESCINDED. Because this review is ongoing, documents not specifically listed in this Bulletin may be addressed in future Bulletins. Watermarked Memoranda, Directives, Executive Orders and Letters may be accessed through the online version of this Bulletin found on the Department's website at <https://www1.nyc.gov/site/buildings/codes/building-bulletins.page>.

**RESCINDED BY BUILDINGS  
BULLETIN 2022-004**



*The  
City  
of  
New York*

Issuance #392

DEPARTMENT OF BUILDINGS

EXECUTIVE OFFICES  
60 HUDSON STREET, NEW YORK, N.Y. 10013

RUDOLPH J. RINALDI, Commissioner

STEWART D. O'BRIEN  
Executive Deputy Commissioner  
(212) 312-8001

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OPERATIONS  
POLICY & PROCEDURE NOTICE # 2/93

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TO: Distribution  
FROM: Stewart D. O'Brien  
DATE: March 1, 1993  
SUBJECT: Resolution of Technical/Zoning Issues

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Purpose: To streamline procedures for the resolution of technical (Building Code) and zoning issues.

Effective: Immediately

Reference: January 12, 1993 BIAC minutes

Specifics: In connection with specific jobs, individuals with Building Code and/or Zoning Resolution interpretation or application issues must seek to resolve them at the borough offices. If the applicant seeks a reconsideration of a borough commissioner's decision, he/she should ask the borough commissioner to place it on the agenda for the Borough Commissioners' Technical Meeting. (Borough Commissioners may place items on the agenda upon their owner request.) In order to resolve outstanding issues as quickly as possible, the Borough Commissioners' Technical Meeting will occur every two weeks. The meeting is composed of the five borough commissioners and is chaired by the Deputy Commissioner for Technical Affairs with the input and guidance of the General Counsel and the Executive Engineer.

Individuals with Building Code or Zoning Resolution issues on specific projects will not be permitted to raise these issues with members of the Executive staff, without first going through the above process, unless they have the specific permission of the Commissioner. However, inquiries relating to the interpretation of Building Code requirements for fire alarm systems are to be referred to the Office of the Deputy Commissioner for Technical Affairs.

/sr

**RESCINDED BY BUILDINGS  
BULLETIN 2022-004**

DEPARTMENT OF BUILDINGS  
Intradepartmental Memorandum

To: Borough Superintendents

Date: September 11, 1964

From: Joseph Ferro  
Director of Operations

Subj: Interpretation of  
Section 12.10 of the  
Zoning Resolution

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Section 12.10 of the Zoning Resolution, relating to floor space, reads in part as follows:

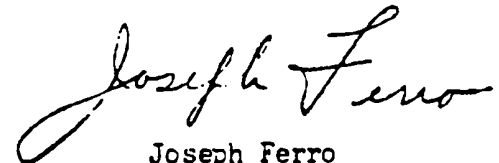
"However, the floor area of a building shall not include:

- (d) attic space (whether or not a floor actually has been laid) providing structural head room of less than eight feet"

It is clear from the above quotation that attic space having structural head room of less than eight feet is not included in the floor area of a building.

The only portion of the attic space considered as floor area is that having a head room of eight feet or more.

The portion having head room of less than eight feet shall not be considered as floor area even though no separation exists between the space having a ceiling height of eight feet or more and the space having less than a ceiling height of eight feet.



Joseph Ferro  
Director of Operations

JF:SF

cc: Comm. Birns  
Dep. Comm. Kane  
Dep. Comm. Gribetz  
Asst. Dir. of Oper. Schneider  
Exec. Eng. Asst. Cohen  
Exec. Hsg. Asst. Riley  
Ch. Insp. of Constr.-Oper. Breiner  
Ch. Insp. of Housing-Constr. Dell'Aira  
Senior Civil Engineer Nissen  
Spec. Asst. to Comm. Meyer  
Counsel Risi; Counsel Beck  
Records Unit

**A-33**

**RESCINDED BY BUILDINGS  
BULLETIN 2022-004**

DEPARTMENT OF BUILDINGS  
Intradepartmental Memorandum

To: Borough Superintendents      Date: May 26, 1965

From: Joseph Ferro                      Subj: Interpretation of Zoning Resolution  
Director of Operations                      Re: Group of Buildings in Single  
Ownership

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I received a number of inquiries as to how to apply the bulk provisions of the Zoning Resolution to a row of buildings that remain in single ownership.

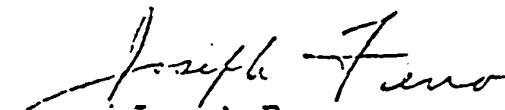
The Board of Standards and Appeals in a recent decision, under Resolution No. 92-65-A, involving three attached two-family dwellings in single ownership, ruled that each building need not comply with the bulk regulations on its own lot, provided adequate assurance of continued single ownership is submitted.

For a row of attached buildings that will remain in single ownership, each building is not required to satisfy the bulk requirements of the Zoning Resolution on its own individual lot provided that all of the buildings as a unit satisfy the bulk requirements computed on the basis of the area of the entire zoning lot.

The occupancy statement on the application for each building shall specify the limits of the zoning lot required to remain in one ownership in order to satisfy the requirements of the Zoning Resolution.

A declaration shall be filed in the Register's Office that the entire zoning lot required by the Zoning Resolution shall remain in one ownership. A certified copy of the declaration shall be filed prior to the approval of the application and made part of the record.

The certificate of occupancy for each building shall include the specification of the limits of the zoning lot required to remain in one ownership.

  
Joseph Ferro  
Director of Operations

JFB:dv

cc: Commr. Birns  
Dep. Commr. Kane  
Dep. Commr. Gribetz  
Asst. Dir. of Opers. Schneider  
Exec. Engr. Asst. Cohen  
Ch. Const. Insp. (Opers.) Breiner  
Sr. Civil Engr. Nissen

**A-36**

**RESCINDED BY BUILDINGS  
BULLETIN 2022-004**

THE CITY OF NEW YORK  
HOUSING AND DEVELOPMENT ADMINISTRATION  
DEPARTMENT OF BUILDINGS

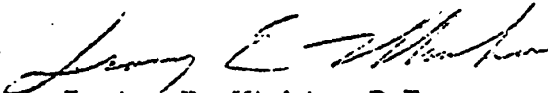
DEPARTMENTAL MEMORANDUM

DATE: November 29, 1974

TO: Borough Superintendent Dennis, P.E.  
FROM: Irving E. Minkin, P.E., Executive Engineer  
SUBJECT: Transit Easement Volumes

Herewith forwarded are copies of interim acknowledgements by the Chairman of the Planning Commission in regard to transit easement volumes, in accordance with Section 95-14 of the Zoning Resolution.

Applicants for building permits should be required to file a copy of the site plan referred to in Section 95-04.1 of the Zoning Resolution indicating the location and type of the easement volume certified by the Planning Commission, prior to issuance of an excavation permit.

  
Irving E. Minkin, P.E.  
Executive Engineer

IEE:mjnk

cc: Comm. Walsh  
Chairman Zuccotti, C.P.C.  
Dep. Comm. Jenkins  
Ass't Comm. Parascandola  
Burton P. Resnick  
Charles B. Benenson  
Joseph V. Giffuni

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RESCINDED BY BUILDINGS  
BULLETIN 2022-004

THE CITY OF NEW YORK  
HOUSING AND DEVELOPMENT ADMINISTRATION  
DEPARTMENT OF BUILDINGS

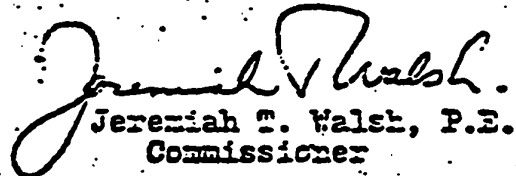
DEPARTMENTAL MEMORANDUM

DATE: January 15, 1975

TO: Borough Superintendents  
FROM: Jeremiah T. Walsh, P.E., Commissioner  
SUBJECT: Automobile Laundries - Section 32-25 Zoning  
Resolution

Herewith forwarded for your advice and guidance is a copy of an order of the Supreme Court of the State of New York relating to reservoir space for automobile laundries. While the decision of the court was predicated on mitigating circumstances, it brought to light the fact that several boroughs appear to be incorrectly applying the provisions of Section 32-25 of the Zoning Resolution.

You are directed to instruct all Plan Examiners that the on-going official interpretation of this department, requiring a reservoir space for not less than 10 automobiles per washing lane in automobile laundries to be provided on the zoning lot awaiting entry into the washing equipment is to be strictly enforced.

  
Jeremiah T. Walsh, P.E.  
Commissioner

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THE CITY OF NEW YORK  
HOUSING AND DEVELOPMENT ADMINISTRATION  
DEPARTMENT OF BUILDINGS

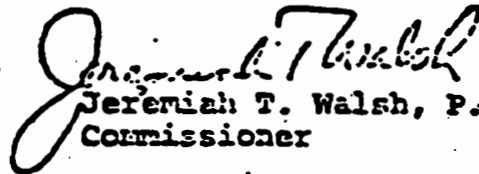
DEPARTMENTAL MEMORANDUM

DATE: January 17, 1975

TO: Borough Superintendents  
FROM: Jeremiah T. Walsh, P.E. Commissioner  
SUBJECT: Attics - Section 12-10 Zoning Resolution

Confirming the decision made at the Borough Superintendents Meeting on January 16, 1975, my memorandum of 12/17/74 is modified at this time so as to preclude any further approvals or permits where "attic" space is excluded from countable floor area for zoning purposes for applications filed subsequent to December 18, 1974.

A new memorandum setting forth what type of "attic" construction is considered in conformance with section 12-10 of the Zoning Resolution will be forthcoming shortly.

  
Jeremiah T. Walsh, P.E.  
Commissioner

CC: Dep. Comm. Jenkins  
Ass't Comm. Parascondola  
Exec. Staff  
Herbert Warren  
Jerome L. Grushkin  
Harold Diamond  
Difiora Giacobbe  
Willbur Lupo ECAC



RESCINDED BY BUILDINGS  
BULLETIN 2022-004

THE CITY OF NEW YORK  
HOUSING AND DEVELOPMENT ADMINISTRATION  
DEPARTMENT OF BUILDINGS

DEPARTMENTAL MEMORANDUM

DATE: November 26, 1975

TO: Cornelius F. Dennis, P. E.  
Borough Superintendent - Manhattan

FROM: Jeremiah T. Walsh, P.E.  
Commissioner

SUBJECT: Alt. S90/75; 565 West 170th Street, Manhattan

Re: Side Yards - Section  
23-462 Zoning  
Resolution

Request for reconsideration of objection no.  
C-4 dated November 7, 1975 has been reviewed.

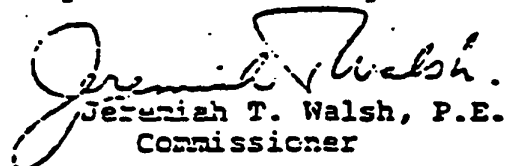
Said objection relates to a proposed two story enlargement at the front of an existing two story and basement one family residence located in an R7-2 district with the side walls being constructed as a straight line extension of the side walls of the original building.

The building presently has an existing 3 foot side yard on the westerly side. However, section 23-462 of the Zoning Resolution stipulates that while no side yard is required in R-7 districts, if an open space is provided along a side lot line, it shall be at least 8 feet wide.

The applicant has indicated that providing an 8 foot side yard at the proposed extension would make said extension impractical.

Further, he has verbally indicated that the adjacent property at the westerly lot line has a six story multiple dwelling thereon, with a 15 foot + side yard at the lot line involved. It is further noted that were the applicant to make the enlargement the full width of the lot, the light and air of the existing building would be diminished.

In view of all of the above, request for reconsideration is hereby granted. This should be considered a precedent in all districts in which side yards are not required.

  
Jeremiah T. Walsh, P.E.  
Commissioner

JTW:IEM:sb

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**RESCINDED BY BUILDINGS  
BULLETIN 2022-004**

**THE CITY OF NEW YORK  
HOUSING AND DEVELOPMENT ADMINISTRATION  
DEPARTMENT OF BUILDINGS**

**DEPARTMENTAL MEMORANDUM**

**DATE:** July 23, 1976

**TO:** Borough Superintendents  
**FROM:** Director of Operations Irving E. Minkin  
**SUBJECT:** INDIRECT SOURCE PERMIT FOR PARKING FACILITIES

Directive No. 11/73, issued November 20, 1973, relating to Environmental Review of Major Projects, includes within the list of "major projects" new parking facilities for more than 50 vehicles anywhere in the city.

On November 29, 1973, I issued a memorandum relating to Part 200 of the New York State Air Code, indicating requirements that Indirect Source Permits to construct certain parking facilities must be obtained from the New York State Department of Environmental Conservation.

We have now been informed that the latter regulations have been modified, and recodified as Part 203, and now require an Indirect Source Permit from the New York State Department of Environmental Conservation under the following circumstances insofar as construction of parking facilities is concerned.

"(A) For the boroughs of Brooklyn, Bronx, Richmond and Queens:

1. the construction of any new parking facility or other new indirect source with an associated parking area which adds new parking capacity of 1000 vehicles or more, and;
2. the modification of any parking facility or any associated parking area which, by itself or when added together with all parking capacity constructed subsequent to Nov. 4, 1973 or the date the latest permit to construct has been issued for such facility or area, will produce parking capacity of 500 vehicles or more, unless such modification is permitted under the latest permit to construct, and;

(B) For the borough of Manhattan, the construction or modification of any parking facility or any associated parking area regardless of size".

1198

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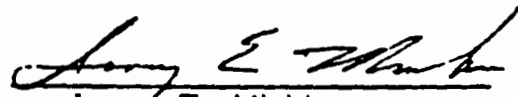
Since the New York City Environmental Protection Administration Office of Environmental Impact has been designated as the Department of Environmental Conservation's agent in New York City, no changes in procedures from those set forth in Directive #11/73 for implementation of Executive Order No. 87 are required in Bronx, Brooklyn, Queens and Richmond.

In Manhattan, however, we have been notified by the New York State Department of Environmental Conservation that despite the ongoing prerequisite of an Indirect Source Permit to construct a parking facility for one or more vehicles since November 5, 1973, there have been numerous instances of commencement of construction of such facilities by persons unaware of the state's requirements. In order to preclude recurrences of this, the following requirements shall be implemented in Manhattan, only, for the construction of, or new use of land for a parking facility for one or more vehicles:

1. An affidavit shall be required to be submitted by the applicant indicating that he (or she) has notified their client of the Indirect source permit requirements; and, that their client has indicated that he has filed (or will file within 10 days) for and will obtain such permit prior to construction. Alternately, a notarized affidavit from the owner alone will suffice.
2. No approval shall be issued for any new or enlarged parking facility unless such affidavit has been filed.
3. If, subsequent to approval and issuance of a permit, you are informed in writing by either the New York State Department of Environmental Conservation or the New York City Office of Environmental Impact that no Indirect Source Permit has been issued, the building permit is to be revoked, pursuant to section C26-118.7 of the Administrative Code.

Forwarded herewith is a copy of Part 203 of 6 NYCRR 203 for perusal by the public.

The memorandum of November 29, 1973, is hereby rescinded.

  
Irving E. Minkin  
Director of Operations

IEM/df  
Enc.  
CC: Exec. Staff  
Carolyn Konheim  
Dorothy Green  
BCAC

1199

**RESCINDED BY  
BUILDINGS BULLETIN 2022-004  
REFER TO 1 RCNY 23-01**

**THE CITY OF NEW YORK  
HOUSING AND DEVELOPMENT ADMINISTRATION  
DEPARTMENT OF BUILDINGS**

**DEPARTMENTAL MEMORANDUM**

**DATE:** April 8, 1977

**TO:** Borough Superintendents

**FROM:** Director of Operations Irving E. Minkin, P.E.

**SUBJECT:** NON-COMMERCIAL GREENHOUSES - ACCESSORY TO A  
DWELLING UNIT IN REQUIRED REAR YARDS OR REQUIRED  
REAR YARD EQUIVALENTS.

The use of a non-commercial greenhouse may be considered a use accessory to a dwelling unit in a single-family residence, a two-family residence, a multiple dwelling or a mixed building.

Under the provisions of Section 23-44 of the Zoning Resolution entitled "Permitted Obstructions in Required Yards or Rear Yard Equivalents," accessory non-commercial greenhouses are not considered obstructions when located within any required rear yard or required rear yard equivalent, unless that portion of a required rear yard equivalent is also a required front yard or required side yard.

An accessory non-commercial greenhouse with column supports, attached to a building and having access therefrom, may project into a required rear yard or required rear yard equivalent when contiguous with the residential building, under the following conditions:

- (a) The greenhouse may project a maximum of six feet into the required rear yard or required rear yard equivalent measured from the exterior face of the building wall.
- (b) The greenhouse may rest directly upon the grade level or may be supported on columns.
- (c) No offensive odors or dust are created by such use.
- (d) The greenhouse, together with its supports, is permanently constructed of non-combustible material.

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(e) Glazing is to be with plain or wire glass. Slow burning plastic is not permitted. A "greenhouse-type" glass constructed roof must be built as part of the enclosure. The roof is to be constructed for a live load in accordance with the provisions of Section C26-902.6 of the Administrative Code.

(f) The greenhouse floor construction shall be capable of sustaining a minimum live load of 75 lbs. per square foot.

(g) The enclosed greenhouse shall contribute to the floor area of the building.

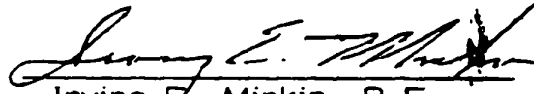
(h) The greenhouse enclosure shall contain openable windows or jalousies providing light and ventilation in any room or rooms opening upon the greenhouse in compliance with paragraph (4), Section 30 of the New York State Multiple Dwelling Law. In this regard, the windows or jalousies shall have at least the area of one-tenth of the combined floor area of such room or rooms and the portion of the greenhouse adjoining and in front of such room or rooms.

(i) The depth of the enclosed greenhouse shall not be included in the maximum permitted depth of a room without a window opening on a lawful court. See Section 30, subdivision 3, of the Multiple Dwelling Law.

An independent accessory greenhouse structure at grade may be located anywhere within the rear yard or rear yard equivalent, provided all other relevant requirements of law are complied with.

IEM/WCK/df

CC: Exec. Staff  
BCAC & Prof. Soc.

  
Irving E. Minkin, P.E.  
Director of Operations

1300

THE CITY OF NEW YORK  
HOUSING AND DEVELOPMENT ADMINISTRATION  
DEPARTMENT OF BUILDINGS

DEPARTMENTAL MEMORANDUM

DATE: June 22, 1977

TO: All Borough Superintendents

FROM: Irving E. Minkin, Director of Operations

SUBJECT: Board of Estimate Review of Decisions of the Board of Standards and Appeals relating to Zoning Variances and Special Permits under the Zoning Resolution

Section 66B(c) of the New York City Charter has been amended and reads as follows:

"c. Copies of a decision of the board of standards and appeals and copies of any recommendation of the affected community board or borough board shall be filed with the city planning commission and the board of estimate. Copies of the decision shall also be filed with the affected community board or borough board. Within thirty days of such decision, an appeal may be taken to the board of estimate by an applicant or other interested party, community board or borough board. In the event of an appeal, the board of estimate, in its discretion, may accept jurisdiction in such matter within thirty days after the filing of the appeal and shall render a decision within thirty days after accepting jurisdiction. In the case of an application to determine and vary the building zone resolution, review by the board of estimate shall be limited to an administrative determination as to whether the decision of the board of standards and appeals under each of the specific requirements of the zoning resolution was supported by substantial evidence before the board of standards and appeals. The board of estimate may approve or disapprove such decision and shall provide written findings and an explanation of the basis for its decision under the zoning resolution."

The time frame, therefore, is:

1. Within 30 days, an appeal may be taken to the Board of Estimate.
2. Within 30 days after the filing of the appeal, the Board of Estimate may accept jurisdiction.
3. Within 30 days after accepting jurisdiction, the Board of Estimate shall render a decision.

The Board of Estimate may approve or disapprove the decision of the Board of Standards and Appeals.

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**RESCINDED BY BUILDINGS  
BULLETIN 2022-004**



**DEPARTMENT OF BUILDINGS**

120 WALL STREET, NEW YORK, N.Y. 10005

JEREMIAH T. WALSH, P.E., Commissioner

April 11, 1978

Ms. Flora Schall  
Rosenman, Colin, Freund, Lewis & Cohen  
575 Madison Ave.  
New York, N. Y. 10022

Dear Ms. Schall:

Zoning Lot Ownership Declarations

This is to acknowledge receipt of your letter dated March 14, 1978, in which you summarized procedure concerning the above, and requested my comments.

Paragraphs 1 and 4 of your letter should be modified as follows:

1. The forms of Declarations of Restrictions which we had submitted to you were in compliance with said Section 12-10, except that each parcel would be referred to in a consistent manner by street address and tax lots in each Declaration and that each Declaration would include provisions regarding the building restrictions to be placed on the parcel transferring its unused excess floor area and other development rights.
4. Since Section 12-10 permits multiple ownership within a single zoning lot, the Department of Buildings would no longer require an amended certificate of occupancy for each parcel within the new zoning lot which had transferred unused excess floor area and development rights, and any municipal violations affecting such parcels would not affect or impede the issuance of a new certificate of occupancy for the new building contained within the zoning lot. However, existing certificates of occupancy for previously developed parcels would have annotated thereon a reference to the new alteration applications and Declarations.

Subsequently, a meeting was held with James M. Pedowitz, Vice President of The Title Guarantee Co., at which time forms offered by them were reviewed, and our satisfaction expressed.

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Ms. Flora Schall  
Rosenman, Colln, Freudn, Lewis & Cohen

April 11, 1978

It would be best for all concerned if there were not a proliferation of forms requiring continuing review.

Perhaps such might be agreed upon by the various title companies.

It would be appreciated if you would be able to take the initiative in this by contacting him.

Very truly yours,

Irving E. Minkln, P.E.  
Acting Commissioner

IEM/IP/df

CC: Boro. Supts  
Asst. Dir. of Ops. Kupfer  
Norman Marcus  
James M. Pedowitz, Title Guarantee Co.

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RESCINDED BY BUILDINGS  
BULLETIN 2022-004



DEPARTMENT OF BUILDINGS

120 WALL STREET, NEW YORK, N.Y. 10005

~~PERMANENTLY CLOSED~~

Irving E. Minkin, P. E., Acting Commissioner

August 22, 1978

Mr. Victor Miceli  
225 Scarsdale Road  
Yonkers, New York 10707

Re: Baseball Batting Range

Dear Sir:

Enclosed is a copy of letter received from Norman Marcus, Counsel, Department of City Planning, dated August 18, 1978, concerning my letter to you dated August 11, 1978, so that baseball batting ranges may be considered within Use Group 13A, Section 32-22 of the Zoning Resolution only for outdoor usage.

Since you had proposed an open usage, his letter will not affect you.

Very truly yours,

*Irving Polsky, P.E.*

Irving Polsky, P. E.  
Executive Engineer

cc:

Acting Comm., I. E. Minkin, P. E.  
Acting Dir. of Oper., P. E. Olin, P. E.  
Borough Supts.  
File

Norman Marcus, Esq., Counsel  
Department of City Planning  
2 Lafayette Street  
New York, N. Y. 10007



City of New York

## Department of City Planning

2 Lafayette Street, New York, N.Y. 10007 Telephone: 566-8569

OFFICE OF COUNSEL  
Norman Marcus, Counsel

August 18, 1978

Irving Polsky, P.E.  
Acting Executive Engineer  
Department of Buildings  
120 Wall Street  
New York, New York 10005

Re: Baseball Batting Range

Dear Mr. Polsky:

Thank you for sending me a copy of your letter of August 11, 1978 to Victor Miceli. In our view the letter is accurate with one exception:

1. Indoor Batting Ranges would properly fall within Use Group 15 and as a midway attraction reserved for C-7 Districts only.

This interpretation should be restricted to Outdoor Batting Ranges.

Sincerely,

A handwritten signature in cursive script that reads "Norman Marcus".

Norman Marcus  
Counsel

cc: Julius Spector  
Irving E. Minkin  
Philip E. Olin

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**RESCINDED BY BUILDINGS  
BULLETIN 2022-004**

DEPARTMENT OF BUILDINGS

DEPARTMENTAL MEMORANDUM

DATE: October 4, 1978

TO: Cornelius F. Dennis, P. E.  
Borough Superintendent, Manhattan

FROM: Philip E. Olin, P. E.  
Acting Director of Operations

SUBJECT: ADULT USES, PHYSICAL CULTURE ESTABLISHMENTS, ETC.

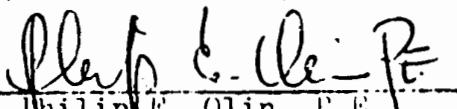
The following procedure shall be continued or instituted to improve the flow of information from this department to the Midtown Enforcement Project of the Office of the Mayor.

1. Completed Docket Information Sheets (B Form 6) for Altered Building and Building Notice Applications will be picked up at the Plan Desk of the Manhattan Borough Office daily by a representative of the Midtown Enforcement Project. It is expected that the previous day's sheets will be available for pick-up. In as much as the Docket Information Sheet, a copy of which is attached, already contains the address as well as the block and lot numbers for the particular application, it will not be necessary to prepare such information in another form.

2. Completed Docket Sheets (B Form 85) for Altered Building and Building Notice Applications will be picked up at the Borough Manager's Office of the Manhattan Borough office weekly by a representative of the Midtown Enforcement Project. A copy of B Form 85 is attached.

3. Requests for specific information will be made in writing, separately, for each particular premise, on a M.E.P. request form. Such requests will be made to the Manhattan Deputy Borough Superintendent. The representative of the Midtown Enforcement Project will search Building Department records as is necessary and if he is unsuccessful in obtaining the required information, will obtain assistance from a Building Department plan examiner (Norman Lehrman). In the event the required information is still not located, the Manhattan Borough Superintendent will be so notified.

4. Effective date of this procedure Monday, Oct. 9, 1978.

  
Philip E. Olin, P.E.  
Acting Director of Operations

Attachments

PEO:ah

cc: Carl B. Weisbrod, Director,  
Midtown Enforcement Project  
Comm. Fruchtman, Minkin, Parascandola.  
Messrs Olin, Kupfer (2), Coccolicchio,  
Ierman, Loudon, Rochicchio, Ms. Sparks

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**RESCINDED BY BUILDINGS  
BULLETIN 2022-004**

**THE CITY OF NEW YORK  
HOUSING AND DEVELOPMENT ADMINISTRATION  
DEPARTMENT OF BUILDINGS**

**DEPARTMENTAL MEMORANDUM**

**DATE:** November 28, 1978

**TO:** Borough Superintendents

**FROM:** Irwin Fruchtman, P.E. Commissioner


**SUBJECT:** Studios and "Accessory Living"

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It has recently been brought to my attention that plans indicating an arrangement and design for general residential uses have been approved as "studio and accessory living", apparently in violation of the Zoning Resolution and/or Multiple Dwelling Law, as well as possibly the Building Code.

Hereafter, no approval shall be given for such uses.

Further, no amendments for such applications previously approved shall hereafter be approved, nor shall any certificate of occupancy be issued therefor without specific authorization by the Borough Superintendent in writing, after consultation with me.

  
Irwin Fruchtman, P.E.  
Commissioner

**CC:** D/C Minkin  
D/C Parascandola  
Executive Staff  
BCAC

**RESCINDED BY BUILDINGS  
BULLETIN 2022-004**



**DEPARTMENT OF BUILDINGS**

EXECUTIVE OFFICES  
120 WALL STREET, NEW YORK, N.Y. 10005

IRWIN FRUCHTMAN, P.E. Commissioner  
248-8811

**BORO OFFICES:**  
**MANHATTAN**  
MUNICIPAL BUILDING  
NEW YORK, N. Y. 10007  
**BRONX**  
1932 ARTHUR AVENUE  
BRONX, N. Y. 10457  
**BROOKLYN**  
MUNICIPAL BUILDING  
BROOKLYN, N. Y. 11201  
**QUEENS**  
126-06 QUEENS BLVD.  
KEW GARDENS, N. Y. 11413  
**STATEN ISLAND**  
BOROUGH HALL  
ST. GEORGE N. Y. 10301

February 6, 1979

Mr. Norman L. Reiffman, P.E.  
Reiffman Granblatt Associates, Inc.  
600 Hempstead Turnpike  
West Hempstead, New York 11552

Re: Drive-In Facilities  
Pass-Thru Windows

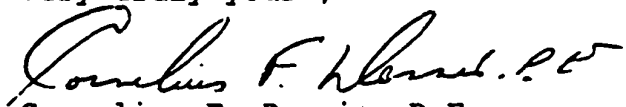
Dear Sir:

Your letter of May 1, 1978 has been reviewed in relation to continuing dialogue with the City Planning Commission, and review of additional site plans related to the above referenced zoning matters.

Section 32-15 of the Zoning Resolution provides for eating and drinking establishments with outdoor table services. Openable service windows located in a manner accessory to outdoor table service are permitted. Such windows located accessory to a vehicle drive-in capability are part of a U.G. 7 or 13 function providing a transient service related to a refreshment stand drive-in. U.G. 7 is not permitted in a C-1 Zone.

Where the submitted plans show a "Drive-In" purpose, such plans will not be approved as a U.G.6 Use. Where an existing U.G.6 establishment provides "Drive-In" service, a formal proposal and acceptance by the department is required. Such an approval in a R or C-1 Zone would not be granted.

Very truly yours,

  
Cornelius F. Dennis, P.E.  
Director of Operations

CFD:rmr

cc: Executive Staff  
Borough Superintendents  
Mr. J. Spector, City Planning Commission.

1594

RESCINDED BY BUILDINGS  
BULLETIN 2022-004



*Re: 2/23*  
DEPARTMENT OF BUILDINGS  
120 WALL STREET, NEW YORK, N. Y. 10005  
IRWIN FRUCHTMAN, P.E. Commissioner

February 23, 1979

Hon. Robert Wagner, Jr., Chairman  
City Planning Commission  
2 Lafayette Street  
New York, New York

Re: Zoning Interpretation Related  
to Conversion under Sect. 54-311

Dear Chairman *JL* Wagner:

At a meeting held in my office on February 21, 1979 between Mr. Julie Spector, of City Planning, and members of my staff, we reviewed the problem of different interpretations of Section 54-311 of the Zoning Resolution.

It was agreed that for all applications not yet approved, the Building Department would only permit this section to be used for buildings which presently have density controls from which a theoretical lot area can be computed. The discussion brought out that the Building Department was using this section for commercial conversions also, because the resolution is not clear as how to handle such conversions. It was pointed out by the Building Department staff that if a particular commercial building is to be converted to residential use and exceeds the bulk regulations, it is legal to use the entire floor area for the residential use. However, if the allowable zoning room calculations were based on the actual zoning lot, not on the theoretical zoning lot, it is obvious that there would be too few zoning rooms and the builder would have only two choices available to him if he wanted to build an all residential building. He could either go to the Board of Standards and Appeals to add more zoning rooms to match his floor area or he could use the familiar density evasion techniques such as super-kitchens, super-living rooms or some other large room layout which cuts down zoning rooms. These layouts, of course, encourage the insertion of partitions which results in a de facto situation which would have been legal if the same principle as allowed in Section 54-311 was applied.

Mr. Spector indicated that the staff of the Commission intends to present a zoning text change which addresses this problem

1596

- 2 -

Chairman Robert Wagner, continued:-

in a manner modelled after the text change made for the Polyclinic conversion and contemplated for the proposed Sheraton conversion.

I would urge that this be made a high priority matter for the reasons stated above. In the interim period, we have agreed to review proposed conversions hereafter, in accordance with the Commission's staff interpretation.

Sincerely,

  
Irwin Fruchtman, P.E.  
Commissioner

cc: *Jule P. Bentler*  
*Dr. Neuman*  
*Mr. Dennis*  
*Dr. Polinsky*



**RESCINDED BY BUILDINGS  
BULLETIN 2022-004**

**THE CITY OF NEW YORK  
DEPARTMENT OF BUILDINGS**

**DEPARTMENTAL MEMORANDUM**

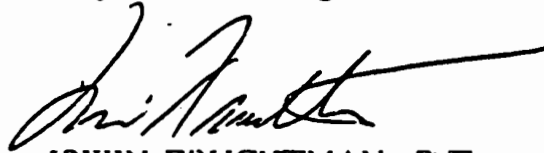
**DATE** March 23, 1979

**TO:** BOROUGH SUPERINTENDENTS  
**FROM:** IRWIN FRUCHTMAN, P.E., COMMISSIONER  
**SUBJECT:** GYMNASIUMS - USE GROUP 9

---

Herewith forwarded is a copy of a letter received from Chairman Wagner of the Planning Commission, in which he notes that racquet-ball is included within the demonination of squash, within the intent of the zoning amendment adopted November 16, 1978 which limited as of right gymnasiums to those used exclusively for basketball, handball, squash and tennis.

I concur with Chairman Wagner, and you are to be guided accordingly.



IRWIN FRUCHTMAN, P.E.  
COMMISSIONER

**cc:**  
Chairman Wagner  
Deputy Commissioner Minkin  
Deputy Commissioner Parascandola  
Assistant Commissioner Dennis  
Executive Staff

1605

**RESCINDED BY BUILDINGS  
BULLETIN 2022-004**

**THE CITY OF NEW YORK  
DEPARTMENT OF BUILDINGS**

**DEPARTMENTAL MEMORANDUM**

**DATE: May 25, 1979**

**TO: Borough Superintendents**

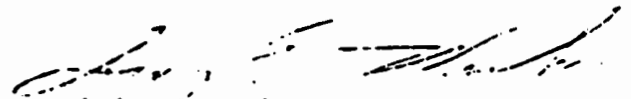
**FROM: Irving E. Minkin, P.E., Deputy Commissioner**

**SUBJECT: Open Accessory Off-Street Parking Spaces in the  
Front Yard of Predominantly Built-up Areas  
Section 23-44 Z.R.**

All applications that are subject to the Special Optional Provisions of R-4 and R-5 zoning districts shall have "Open accessory off-street parking spaces" of Section 23-44 Z.R. read as follows:

In a 'predominantly built-up area' utilizing the special optional regulations, only one 'accessory' off-street parking space shall be permitted in a 'front yard' [that is not] and need not be screened. Such space may be located only in front of an 'accessory' garage.

The Special Optional Provisions are intended to enable curb-side street parking.



**Irving E. Minkin, P.E.  
Deputy Commissioner**

**IEM: IP:se**

**cc: Executive Staff  
Robert F. Wagner, CPC**

**'existing italics'  
[delete]  
new**

**1612**

THE CITY OF NEW YORK  
DEPARTMENT OF BUILDINGS

DEPARTMENTAL MEMORANDUM

DATE: January 14, 1981

TO: BOROUGH SUPERINTENDENTS  
FROM: Deputy Commissioner Irving E. Minkin, P.E.  
SUBJECT:

Community Residences (Supplements memorandum dated March 10/1980  
Regarding Community Residence for the Mentally Disabled)

-----

The state has recently embarked on a crash program for filing and approvals of community residences leased projects.

Pending the owner's signatures on applications authorizing submission and approval for such applications, they are to be accepted for filing, and examined in normal sequence despite the absence of such authorization, with official approval being held in abeyance, until such authorization is actually obtained.

Where an applicant expresses a request for expeditious action, a copy of the request is to be immediately forwarded to this office for consideration. In the case of Manhattan, the applicant is to be authorized, anticipating transfer out of borough for examination, to be permitted to assemble necessary back-up records to expedite transmittal of the application to another borough for expeditious review. However, this office should be consulted before such transfer is made.

  
Irving E. Minkin, P.E.  
Deputy Commissioner

HEM:AP

cc:  
Commissioner Fruchtman  
Deputy Commissioner Parascandola  
Assistant Commissioner Dennis  
Executive Staff  
File

1755

DEPARTMENT OF BUILDINGS

DEPARTMENTAL MEMORANDUM

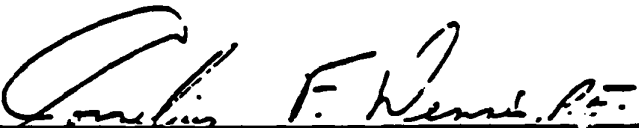
DATE: June 1, 1981

TO: Borough Superintendents  
FROM: Cornelius F. Dennis, P.E., Assistant Commissioner-Operations  
SUBJECT: MARQUEES - C26-408.1 (a) (4)

The above referenced section of law provides for permissible projections beyond street lines. In this section is a provision that "marquees shall not be thicker nor shall the facia be higher than 3 feet.

The measurement of the three foot thickness or height shall be made from the top to the bottom but shall be limited to the summation of the vertical projection of the supporting or solid opaque elements and shall not include clear glass or clear plastic elements which contains no signage.

In no event shall the maximum height of the marquee including clear glass or clear plastic exceed 1 1/2 times the horizontal projection.

  
\_\_\_\_\_  
Cornelius F. Dennis, P.E.  
Assistant Commissioner - Operations

CFD:rmr  
cc: Executive Staff  
Industry  
file

1779

**RESCINDED BY BUILDINGS  
BULLETIN 2022-004**

THE CITY OF NEW YORK  
DEPARTMENT OF BUILDINGS

ADMINISTRATIVE MEMORANDUM

DATE: October 30, 1981

Borough Superintendents

TO: Irwin Fruchtman, P. E., Commissioner

SUBJECT:

Interpretation of Lot Coverage, Multiple Buildings on a Zoning Lot, Enlargements and Mezzanines

-----

In view of the recently adopted loft zoning amendments, this memorandum is issued to clarify the subject issues. It supercedes all previous memos and directives on these subjects that conflict with the interpretations set forth herein.

1. Section 42-14D, 43-17, and Section 111-103  
Lot Coverage (Building Size Limitation)

The lot coverage restrictions for conversion are to preserve buildings which the Board of Estimate determined are suitable for industrial and commercial uses. Buildings which exceed the prescribed lot coverage cannot be converted without a Special Permit from the City Planning Commission, which affords the Planning Commission and the Board of Estimate the opportunity to assess the economic impact of the conversion ( Section 74-782 ) or for the preservation of a landmark (Section 74-711). Therefore, all buildings exceeding the 3,600 or 5,000 square foot limitation by an amount, regardless of the magnitude, will be referred to the City Planning Commission.

All abutting buildings on a single zoning lot shall be considered as a single building, subject to the above-mentioned limitations and restrictions, unless:

1. The buildings are separated by individual load bearing walls, without openings, for the full length of their contiguity; and
2. Evidence is submitted of the independent functional use of each building prior to 12/15/61.

II. Enlargements and Roof Mezzanine

The amendments to Article 7B which were passed in November, 1980 permit enlargements and mezzanine additions on the roofs of converted buildings only in certain instances. ( Art. 7B MDL, §§ 277 (2) D (d), lines 29-35, and lines 41-45.)

The April, 1981 loft zoning is more restrictive than Article 7B in some instances:

1795A

- 2 -

1. In all R districts, C1 through C6 districts, and C6-2M and C6-4M districts, enlargements are permitted by the zoning if the underlying bulk regulations for new residential construction are followed.

Mezzanines can be added in these districts to converted buildings only if they are less than a third of the unit's area and if the existing floor area ratio is 12 or less and only within existing floors as specified in Section 15-111, and 15-22 (b).

Roof mezzanines are enlargements and are permitted only if they meet the residential bulk requirement of the underlying district.

2. The only enlargements that are permitted in M1-5M, M1-6M and M1-5A, M1-5B, and in the LMM District are: mezzanines between existing floors in buildings with a Floor Area Ratio of 12 or less in accordance with the provisions of Section 15-22b, 43-17 and 111-111 (d).

3. Any other enlargements are prohibited unless the enlarged building complies with both the underlying zoning bulk regulations, and the multiple dwelling law provisions for new buildings in all respects.

IF:IEM:ap

  
Irwin Fruchman, P.E.  
Commissioner

1795B



**RESCINDED BY BUILDINGS  
BULLETIN 2022-004**

THE CITY OF NEW YORK  
DEPARTMENT OF BUILDINGS

DEPARTMENTAL MEMORANDUM

DATE: May 23, 1982

TO: Borough Superintendents  
FROM: Deputy Commissioner Irving E. Minkin, P.E.  
SUBJECT: Yards in Irregular Lots

-----

Irregular lots often have, by definition, several "rear" lot lines, while Section 23-47 of the Zoning Resolution requires only a single rear yard, adjacent to "the" rear lot line.

In situations where the lot is shaped as "a flag pole" lot, as indicated in the enclosed sketches, you are hereafter to be guided by the following interpretation:

1. Where there is inadequate building frontage, as required by Section C26-401.1 of the Administrative Code, the yards in question shall be required to comply with rear yard requirements, in order to meet the requirements for frontage space in sub-article 201 of the Building Code, as well as the rear yards adjacent to the remotest rear lot line.
2. If there is adequate building frontage, then the following criteria shall apply:
  - a. In districts where front yards are required, the yards in question shall be of the depth required for front yards.
  - b. In districts where no front yards are required the minimum dimension of the yards in question shall be minimum dimension for side yards.
  - c. The foregoing provisions are conditioned upon the following (otherwise, rear yards shall be required at the yards in question as well as at the remotest rear lot lines).
    1. The intervening lots between the lot lines involved and the street line have lawful rear yards in accordance with the current Zoning Resolution.
    2. The rear yard at the remotest lot line is for a width equal to or exceeding the minimum required for the lot.
    3. There are no legally required windows fronting on the questionable yards.

  
Irving E. Minkin, P.E.  
Deputy Commissioner

1849



**RESCINDED BY BUILDINGS  
BULLETIN 2022-004**



**DEPARTMENT OF BUILDINGS**

EXECUTIVE OFFICES  
60 HUDSON STREET, NEW YORK, NY 10013

CHARLES M. SMITH, Jr., R.A., Commissioner

Issuance # 99

**GEORGE E. BERGER, P.E.**  
Assistant Commissioner  
Building Construction

---

**TECHNICAL  
POLICY AND PROCEDURE NOTICE NO. 5 /88**

---

**TO:** BOROUGH SUPERINTENDENTS

**FROM:** George E. Berger, P.E. *GEB*  
Assistant Commissioner

**DATE:** April 21, 1988

**SUBJECT:** SECTION 12-10 ZONING RESOLUTION FLOOR AREA

---

Under Item (i) for the definition of 'Floor Area' under Section 12-10 of the New York City Zoning Resolution, "except in R-4 and R-5 Districts, the lowest story (whether a basement or otherwise) of a residential building" is exempt from floor area under certain conditions.

Item (2) requires as one of the conditions that the lowest story and the immediate story above are portions of the same dwelling unit.

Item (3) also requires as one of the conditions that the lowest story be used for purposes which are customarily found in basements.

Commencing immediately, if any portion of the lowest story contains living space charged to floor area (whether undivided or not) none of the lowest story shall be exempt from floor area except for the garage portion. In order to be exempt from 'Floor Area' the entire lowest story must be used with the dwelling unit immediately above, as well as, containing only uses indicated in Item (3). In order to show compliance with item (2), in other than one-family dwellings, there must be a direct access from the lowest story to the dwelling unit immediately above within the apartment.

This change in Department interpretation shall be treated as an Amendment to the Zoning Resolution subject to the provisions of Section 11-33.

GEB:rmr

**RESCINDED BY BUILDINGS  
BULLETIN 2022-004**



**DEPARTMENT OF BUILDINGS**

EXECUTIVE OFFICES  
60 HUDSON STREET, NEW YORK, NY 10013

CHARLES M. SMITH, Jr., R.A., Commissioner

**GEORGE E. BERGER, P.E.**  
Assistant Commissioner  
Building Construction

**TO:** BOROUGH SUPERINTENDENTS

**FROM:** George E. Berger, P.E.  
Assistant Commissioner

**DATE:** June 22, 1988

**SUBJECT:** Accessory Bathrooms and Kitchen Facilities  
in Connection with Commercial Uses  
(Department Memo dated February 18, 1982)

-----

The departmental memo dated February 18, 1982, paragraph E of part 2, indicates that bathrooms with more than 2 fixtures, multiple of 2 fixtures within a bathroom and more than one additional sink outside of the bathroom require the approval of the Commissioner of Buildings.

Such approval may be granted by the Borough Superintendents. A copy of the request by the applicant must be sent by him to the Mayor's Office of Loft Enforcement for information purposes.

This memorandum supplements the departmental memo dated February 18, 1982.

GEB:RD:lg

**RESCINDED BY BUILDINGS  
BULLETIN 2022-004**



DEPARTMENT OF BUILDINGS  
EXECUTIVE OFFICES  
60 HUDSON STREET, NEW YORK, NY 10013  
CHARLES M. SMITH, Jr., R.A., Commissioner

ISSUANCE #185

CHARLES R. FOY, Esq.  
General Counsel  
&  
Director, Office of Legal Affairs

---

**LEGAL  
POLICY AND PROCEDURE NOTICE #3/89**

---

To: DISTRIBUTION

From: CHARLES R. FOY *CR Foy*  
General Counsel &  
Director, Office of Legal Affairs

Date: August 14, 1989

Re: Medical Offices  
Section 22-14, N.Y.C. Zoning Resolution

---

We have been asked to clarify the Department's position concerning use of medical offices in residential areas. The practice of the Department has been and shall continue to be, to include as a Use Group 4 Community Facility medical offices operated and supervised by doctors of medicine, dentists, osteopaths and podiatrists. The use of medical offices in residential districts under such classification is limited to these practicing doctors as defined under New York State Education Law Sections 6521 (Doctors of Medicine and Osteopathy), 6601 (Doctors of Dentistry) and 7001 (Doctors of Podiatry).

**RESCINDED BY BUILDINGS  
BULLETIN 2022-004**



**DEPARTMENT OF BUILDINGS**

**EXECUTIVE OFFICES  
60 HUDSON STREET, NEW YORK, NY 10018**

**CHARLES M. SMITH, Jr., R.A., Commissioner**

**TO: BOROUGH SUPERINTENDENTS**

**FROM: George E. Berger, P.E.** *GEB* **GEORGE E. BERGER, P.E.**  
**Assistant Commissioner** **Assistant Commissioner**  
**Building Construction**

**DATE: September 27, 1989**

**SUBJECT: CONTEXTUAL ZONING - CLARIFICATION OF PARKING,**  
**ZONING RESOLUTION SECTION 23-12 and BUILDING**  
**HEIGHT, ZONING RESOLUTION SECTION 119-212**

-----

The recently enacted Lower Density Contextual Zoning Text contains Sections which need clarifications. In this memorandum, the issues of Parking per Z.R. Section 23-12 and Building Height, per Z.R. Section 119-212 will be addressed.

The attached letter of September 10, 1989 by Mr. Tony Levy, Deputy Director of the Zoning Study Group of the Department of City Planning indicates their intentions.

Section 23-12, Permitted Obstructions in Open Space, paragraph (a)(2) indicating 33 Percent, should have been 66 Percent. This would be consistent with the intent of Section 25-64, Restrictions on Use of Required Open Space for Parking where 66 Percent of the required open space may be used for parking and driveways in R4 or R5 Districts.

Section 119-212, Height Limit Controls, establishes maximum heights by measuring all points adjacent to the building from the adjoining ground. For R3, R4 and R5 Zones, Section 23-631 establishes a base plane from which height is measured. For predominantly built-up areas, height limitation of Section 23-691 uses the curb level for measurement. These last two means are not appropriate for Section 119-212 of the Special Hillside Preservation District. All Heights for Section 119-212 shall be measured from the adjoining grade.

Amendments to the Zoning Resolution to clarify Sections 23-12 and 119-212 will be forthcoming.

Enclosures  
GEB:AL:rmr

**RESCINDED BY BUILDINGS  
BULLETIN 2022-004**

City of New York  
DEPARTMENT OF BUILDINGS

DIRECTIVE No. 14-1967

To: Borough Superintendents

Date: May 16, 1967

From: Julius W. Schneider  
Director of Operations

Subj: Section 23-33 Zoning Res-  
olution - Special Provisions  
for Existing Small Lots

---

This directive supersedes all previous directives, procedures and memoranda on this subject.

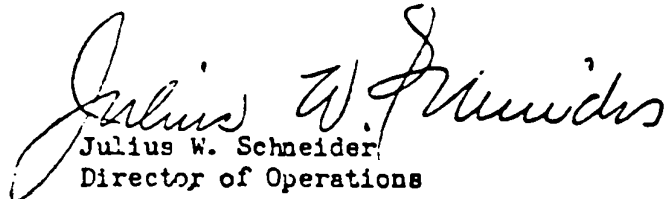
The general provisions regarding minimum lot size are contained in Section 23-32 of the Zoning Resolution.

Exceptions to the general provisions of Section 23-32 are contained in Section 23-33 entitled REGULATIONS APPLYING IN SPECIAL SITUATIONS.

Section 23-33 shall be interpreted as follows - these exceptions will not apply if -

- 1 - the undersized lot was in common ownership with a contiguous lot located within a single block on the effective date of the Zoning Resolution, December 15, 1961, or
- 2 - the undersized lot was in common ownership with a contiguous lot at the time application for a building permit is made.

JWS:SF

  
Julius W. Schneider  
Director of Operations

cc: Comm. Moerdler  
Dep. Comm. Ferro  
Dep. Comm. Diamond  
Asst. Comm. Debrot  
First Asst. Counsel Beck  
Asst. Comm. Narvaez  
Dir. of Investigations Colon  
Asst. Comm. Unger  
Asst. to Comm. Perlmutter  
Dir. of Bldg. Constr. Burke

cc: Ch. Insp. of Constr-Oper. Breiner  
Executive Engineer Minkin  
Plan Examiner Sakona  
Dir. of Housing Riley  
Exec. Hq. Asst. Dell'Aira  
Senior Administrator Greenberg  
Administrator Kehoe  
Actg. Administrator Kopunek  
Actg. Dir. of Training Nathan  
Analysis Unit

A-14

**RESCINDED BY BUILDINGS  
BULLETIN 2022-004**

City of New York  
DEPARTMENT OF BUILDINGS

DIRECTIVE NO. 31 of 1967

To: Borough Superintendents

Date: August 15, 1967

From: Thomas V. Burke  
Director of Construction

Subject: Show windows in non-conforming stores in residence districts - Section 52-21 Zoning Resolution.

Where existing, legal, non-conforming stores exist or are permitted in Residence districts, new show windows shall not be permitted, nor shall enlargement of existing show windows be permitted, except in those locations where show windows can not be placed or do not exist on a frontage zoned for Commercial or Manufacturing use. In such locations new show windows or enlargement of existing show windows may be permitted for stores within Residence districts.

Since new non-conforming uses, as well as existing non-conforming uses, are permitted in Residence districts under sections 52-10 and 52-30 of the Zoning Resolution, denial of a permit to construct show windows for a store would nullify such sections.

Incidental alterations are permitted by section 52-21 for non-conforming uses. The definition of incidental alterations in section 12-10 permits "making windows or doors in exterior walls." Show windows may therefore be permitted for non-conforming stores under the foregoing conditions.

This directive shall supersede Directive No. 24, issued on July 13, 1967.

  
Thomas V. Burke  
Director of Construction

TVB/df

CC: Act. Comm. Diamond  
Dep. Comm. Ferro  
Act. Dep. Comm. Samnick  
Asst. Comms. Debrot,  
Unger, Narvaez  
Counsel Beck  
Dir. of Ops. Schneider  
Dir. of Investigations Colon  
Asst. to Comm. Perlmutter  
Ch. Insp. Bldg. Div. Linker  
Exec. Engr. Minkin  
Plan Examiner Sakona  
Dir. of Hous. Riley  
Exec. Hous. Asst. Dell'Aira

Admins. Greenberg, Kopunek,  
Kehoe  
Dir. of Training Lipowsky  
Methods Analyst Caiafa

**A-15**

**RESCINDED BY BUILDINGS  
BULLETIN 2022-004**

The City of New York  
Department of Buildings

DIRECTIVE 39-1967

To: Borough Superintendents  
Date: October 20, 1967  
From: Julius W. Schneider  
Director of Operations  
Subj.: Variances previously  
authorized under the  
1916 Zoning Resolution  
Section 11/41. Zoning  
Resolution.

---

When an application is filed for a proposed change to a conforming use for a premises subject to previous variances granted by the Board of Standards and Appeals for use and bulk under the 1916 Zoning Resolution, Section 52-31, Zoning Resolution shall be interpreted to apply to permit a change of use to a conforming use without referral to Board.

Signed

Julius W. Schneider  
Director of Operations

*A-18*



C O P Y

City of New York DEPARTMENT OF BUILDINGS DIRECTIVE NO. 3-1969

Public Parks  
ZR - Section 11-13  
ZR - Section 12-10

Borough Superintendents

DATE: March 24, 1969

FROM: John T. O'Neill, Commissioner

SUBJECT: Section 11-13 and Section 12-10, Zoning Resolution - Public Parks

Section 11-13 of the Zoning Resolution states, in part, in regard to "Public Parks", that district designations indicated on zoning maps do not apply to public parks.

Section 12-10 of the Zoning Resolution defines a Public Park as follows:

"A" public park" is any publicly-owned park, playground, beach, parkway or roadway within the jurisdiction and control of the Commissioner of Parks, except for park strips or malls in a street, the roadways of which are not within his jurisdiction and control."

Section 76-00 of the Zoning Resolution, in regard to procedure for amendments, stipulates that the City Planning Commission shall adopt resolutions to amend the text of this resolution or the zoning maps incorporated therein, and the Board of Estimate shall act upon such amendments, in accordance with the provisions of the New York City Charter.

Pursuant to an action of the Board of Estimate establishing a park addition at a site for which a foundation permit had been issued, this office considered said remapping pertinent in regard to invoking Section 11-33 of the Zoning Resolution relating to building permits for minor or major developments issued before the effective date of an amendment to the Zoning Resolution.

The decision of the Board of Standards and Appeals, acting on an appeal from the decision of the Department that the building permit had lapsed, pursuant to Section 11-331 of the Zoning Resolution, since the foundation had not been completed, stated in part as follows:

"The Board has been advised by the Corporation Counsel that the mapping of a park by the Board of Estimate does not constitute an amendment to the Zoning Resolution".

The premises in question was privately owned property.

You are to be guided by the above mentioned decision hereafter in similar instances.

(signed)  
John T. O'Neill, Commissioner

- 131-132-



HOUSING AND DEVELOPMENT ADMINISTRATION  
THOMAS APPLEBY, Administrator

Department of Buildings  
120 WALL STREET, NEW YORK, N.Y. 10005

JEREMIAH T. WALSH, P.E., Commissioner

June 23, 1977

Mr. Joel A. Miele, P.E.  
Miele Associates  
81-01 Furmanville Ave.,  
at Dry Harbor Road  
P.O. Box 427  
Middle Village, N.Y. 11379

**RESCINDED BY  
BUILDINGS BULLETIN 2022-004  
REFER TO  
BUILDINGS BULLETIN 2010-002**

Dear Mr. Miele:

Model Home Sales

This is in response to your letter of May 24, 1977, relating to the appropriate zoning and filing procedures with respect to the construction of a model home intended for sales purposes only, for construction sites outside the city.

Such enterprises can be reasonably construed to fall within the category of business offices, provided the only personnel involved would be one or two sales representatives and one or two office employees, and thereby a use in Use Group 6.

Since the building, in order to portray the appearance at the construction site, would probably be of frame construction and thereby contrary to the Building Code at most sales sites, the following shall be required:

1. A Building Notice application should be filed and authorization given by the borough office for a limited period of time only, without issuance of a certificate of occupancy.
2. The occupancy limitation shall conform with the limitations noted above.
3. All partitions and floor and ceiling construction shall be required to have at least one-hour rating.

1323

-2-

Mr. Joel A. Miele, P.E.  
Miele Associates

June 23, 1977

4. There shall be no overnight use of the premises; and, the occupied sales office shall be located on the first floor only.

5. Such additional temporary fire protection as the Borough Superintendent deems appropriate shall be installed.

I trust the above information will be of assistance to you.

Very truly yours,



Jeremiah T. Walsh, P.E.  
Commissioner

JTW/IEM/df

CC: Exec. Staff  
Boro. Supts.

1324



City of New York

## City Planning Commission

2 Lafayette Street, New York, N.Y. 10007

September 28, 1977

Hon. Jeremiah T. Walsh  
Commissioner  
Department of Buildings  
120 Wall Street  
New York, New York 10005

Dear Commissioner Walsh:

I was pleased to learn of the constructive meeting which occurred in your office yesterday regarding administration of the new Zoning Lot Definition, adopted by the Board of Estimate last month. Besides yourself, the meeting included your Director of Operations Irving Minkin, your Executive Engineer Irving Polsky, your General Counsel Louis Beck, two representatives of the City Bar Association Committee James J. Pedowitz and Donald H. Siskind, my Counsel Norman Marcus and Deputy Chief Engineer Julius Spector.

In the course of the meeting, two clarifications of the new Zoning Lot Definition were resolved. The first clarification related to our intention to require recordation of ownership, metes and bounds, and tax block and lot, prior to permit issuance for enlargements or new developments as opposed to changes of use or premises alterations which do not result in the creation of additional floor area. It was agreed that no purpose would be served by requiring recordation in the latter instances. The other clarification would insure that the place of recordation in both portions of the zoning lot amendment dealing with recordation, be in the "Conveyances Section" of the Office of the City Register or County Clerk. This carries forward our intent of facilitating the notice process resulting from title search which could otherwise be impeded where recordation occurred for example in the "Miscellaneous Section" of the Office of the City Register or County Clerk.

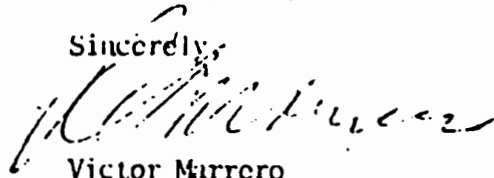
In my view, both of these minor modifications of the text reflect the basic ordinance intention of providing notice of floor area increments within the zoning lot and simply clarify and refine the earlier language which inadvertently failed to be sufficiently precise on these points. It is our intention to include these clarifications in the final printed text of the Zoning Resolution. The clarified passage would read as follows:

1365

Prior to the issuance of any permit for a development or enlargement pursuant to this Resolution a complete metes and bounds of the zoning lot, the tax lot number, the block number, and the ownership of the zoning lot as set forth in paragraphs (a), (b), (c) and (d) herein shall be recorded by the applicant in the Conveyances Section of the Office of the City Register (or, if applicable, the County Clerk's Office) of the county in which the said zoning lot is located.

I very much appreciate the helpful cooperation of your agency in moving forward with this major improvement in basic mechanics of the ordinance which practitioners in the real estate field have long sought.

Sincerely,



Victor Marrero  
Chairman

1366

RESCINDED BY BUILDINGS  
BULLETIN 2022-004



DEPARTMENT OF BUILDINGS

EXECUTIVE OFFICES  
120 WALL STREET, NEW YORK, N.Y. 10005

CHARLES M. SMITH, Jr., R.A., Commissioner  
248-8811

September 6, 1985

Mr. Samuel H. Lindenbaum  
Rosenman Colin Freund Lewis  
& Cohen  
575 Madison Avenue  
New York, New York 10022

Re: Custom Printing  
Use Group 11  
75 Park Place,  
Manhattan

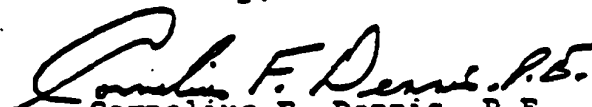
Dear Sir:

Your letter of September 4th has been referred to me for reply.

As stated in your letter "printing, custom" Use Group 11 is permitted in a C6-4 district and is not further limited due to the Special Lower Manhattan Mixed Use District.

A tenant who provides customized printing services for individual firms fits the definition of such a business. The samples of services provided are acceptable.

Sincerely,

  
Cornelius F. Dennis, P.E.  
Deputy Commissioner

cc: Commissioner Smith  
Assistant Commr. Berger  
Boro. Supt. Sakona  
Exec. Engr. Polsky  
File

2045

**RESCINDED BY BUILDINGS  
BULLETIN 2022-004**



**DEPARTMENT OF BUILDINGS**

EXECUTIVE OFFICES  
60 HUDSON STREET, NEW YORK, NY 10013

CHARLES M. SMITH, Jr., R.A., Commissioner

July 16, 1987

CORNELIUS F. DENNIS, P.E.  
Deputy Commissioner  
312-8120

Mr. Larry Chase, Director  
Bureau of Inspection &  
Certification  
New York State Office  
of Mental Health  
44 Holland Avenue  
Albany, New York 12229

Re: Community Residence for the  
Mentally Disabled

---

Dear Mr. Chase:

Your letter of May 18th is being answered in two parts. The site specific question was answered in a separate letter. A discussion of the departmental memo of March 10, 1980 follows:

A family may reside in any otherwise legal apartment in New York City. A family is defined in different ways by the New York State Multiple Dwelling Law and by the New York City Building Code, Zoning Resolution & Housing Maintenance Code. The most restrictive in regard to this subject matter limits the family to two unrelated adults. Therefore any apartment in a multiple dwelling may be occupied by one person or by two unrelated persons maintaining a common household. Thus a multiple dwelling with more than 7 apartments may have an occupancy of mental care clients which exceed 14 clients. In a private residence an apartment may be occupied by up to three unrelated persons maintaining a common household.

Continued.....

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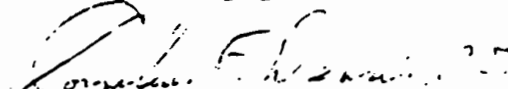


- 2 -

An underlying requirement is that these persons be capable of self preservation. That they have a form of mental disability is not pertinent. The determination of 'capable of self preservation' will be up to medical staff of your agency or the New York State Office of Mental Retardation & Development Disabilities. The Department of Buildings will not make such a judgment.

Departmental memo of March 10, 1980 expands on the applicable code definitions and authorizes a maximum of one apartment in a non-fireproof multiple dwelling and a maximum of two apartments in a fireproof multiple dwelling to be occupied as a Community Residence Facility operated or subject to license by the Office of Mental Health or the Office of Mental Retardation & Development Disabilities to be occupied by up to fourteen mentally disabled persons all of whom are capable of self preservation. Prior to the actual occupancy of such an apartment or apartments an Altered Building application must be filed and a new Certificate of Occupancy obtained as detailed in paragraphs 1 through 3 of this memo.

Very truly yours,

  
Cornelius F. Dennis, P.E.  
Deputy Commissioner

Enclosure: Departmental Memo - March 10, 1980  
Letter dated June 1, 1987

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**RESCINDED BY BUILDINGS  
BULLETIN 2022-004**



DEPARTMENT OF BUILDINGS

EXECUTIVE OFFICES  
60 HUDSON STREET, NEW YORK, NY 10013

CHARLES M. SMITH, Jr., R.A., Commissioner

June 2, 1988

Mr. Gerald M. Daub  
Daub & Daub Architects  
64 Fulton Street  
New York, New York 10038

CORNELIUS F. DENNIS, P.E.  
Deputy Commissioner  
312-8120

RE: Existing Small Zoning Lot

Dear Mr. Daub:

Your letter of April 29th has been referred to this office for reply.

Residences are permitted in residence zones and most commercial zones. When located in commercial zones in conjunction with other uses in the community facility or commercial Use Groups, the building is known as a mixed building and is subject to the controls of Article III Chapter 5 of the New York City Zoning Resolution. Section 35-10 Z.R. provides that residential portions of 'mixed buildings' are subject to the provisions of Article II Chapter 3 Z.R. except as modified.

I agree with your contention that a mixed building may be constructed in a commercial zone on a small zoning lot and that the residential portion is limited to a single Class A apartment. The zoning lot must comply with the stipulations of Section 23-33 Z.R.

This agreement does not extend to a community facility building located in a residence zone.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Cornelius F. Dennis, P.E.", written over a white background.

Cornelius F. Dennis, P.E.  
Deputy Commissioner

cc: Commissioner Charles M. Smith Jr., R.A.  
Asst. Commissioner George E. Berger, P.E.  
Exec. Engineer Irving Polsky, P.E.  
Borough Superintendents  
Tony Patrissi, City Planning Commission



**RESCINDED BY BUILDINGS  
BULLETIN 2022-004**

DEPARTMENT OF BUILDINGS

EXECUTIVE OFFICES  
60 HUDSON STREET, NEW YORK, NY 10013

CHARLES M. SMITH, Jr., R.A., Commissioner

CORNELIUS F. DENNIS, P.E.  
Deputy Commissioner  
312-8120

February 2, 1989

Mr. Jesse Masyr  
Myerson & Kuhn  
110 East 59th Street  
New York, New York 10022

Re: 200 Varick Street  
Manhattan  
C. of O. 86567

Dear Mr. Masyr:

This is in reply to your letters of January 25th, 1989.

The New York City Zoning Resolution in effect prior to December 1961 provided for a prohibition on factory use in a Business District. This prohibition was modified by permitting up to 25% of the floor area within the Business District. At 200 Varick Street the floor space within 100' of Varick Street may be used 100% by factory uses. The floor space more than 100' east of Varick Street is limited to 25% used for manufacturing purposes. The remaining 75% may be used for non-manufacturing purposes such as receiving, storage, shipping, experimental and quality control testing and clerical, supervisory or engineering design offices.

I hope this letter is helpful to your client.

Sincerely,

  
Cornelius F. Ennis, P.E.  
Deputy Commissioner

**RESCINDED BY BUILDINGS  
BULLETIN 2022-004**



DEPARTMENT OF BUILDINGS

EXECUTIVE OFFICES  
60 HUDSON STREET, NEW YORK, NY 10013

CHARLES M. SMITH, Jr., R.A., Commissioner

CORNELIUS F. DENNIS, P.E.  
Deputy Commissioner

April 11, 1989 312-8120

Kapell & Kastow  
560 Broadway  
New York, New York 10012

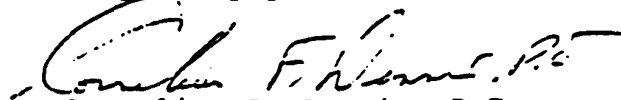
Re: 1 Varick Street  
Manhattan

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Dear Mr. Kapell:

In response to your letter inquiring whether the above-noted building located in an M1-5 use district can be occupied as a College. As you have noted the school has been chartered by the State of New York as a College. Your description of the curriculum, the type of degrees granted, lack of campus of dormitory facilities and that the majority of students are working adults, would in the opinion of this office classify the proposed College as a "Trade, or other schools for adults" or "business school or colleges" as per Use Group 9 of the New York City Zoning Resolution Section 32-18, therefor a permitted use in an M1-5 use district.

Very truly yours,

  
Cornelius F. Dennis, P.E.  
Deputy Commissioner

CFD:PAI:ap  
cc: Commissioer Charles Smith  
Assistant Commissioner Berger  
Tony Patrissi, City Planning Commission  
File



**RESCINDED BY BUILDINGS  
BULLETIN 2022-004**

DEPARTMENT OF BUILDINGS

EXECUTIVE OFFICES  
60 HUDSON STREET, NEW YORK, NY 10013

CHARLES M. SMITH, Jr., R.A., Commissioner

November 6, 1989

CORNELIUS F. DENNIS, P.E.  
Deputy Commissioner  
312-8120

Mr. Costas Kondylis, Architect  
200 Madison Avenue  
New York, New York 10016-3942

Re: Floor Area  
Section 12-10 NYCZR  
N.B. 93/88  
346-350 East 79th Street,  
Manhattan

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Dear Mr. Kondylis:

Your letter of November 2nd has been reviewed with staff of this department.

There are two sections within the definitions of Section 12-10 of the New York City Zoning Resolution which preclude the removal of 'floor area' which previously existed or was usable on a zoning lot. They are:

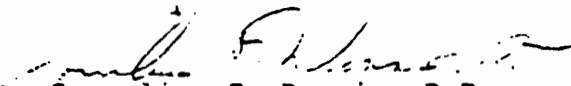
- (k) floor space within an existing building which is or becomes unused or inaccessible.
- (l) floor space which has been eliminated from the volume of an existing building in conjunction with the development of a new building or in the case of a major enlargement of another building on the same zoning lot.

In your letter you state that the prior existing floor area will be demolished. Such floor area does not nearly "become (s) unused or inaccessible" and therefore is not required to count as 'floor area' under par. (k) after the contemplated construction is completed.

You further state that at the completion of construction of the currently planned demolition and alteration in conjunction with a new structure that all structures will be contiguous and thus constitute a single building. Again such 'floor area' eliminated from an existing building is not required under par. (l) to count as 'floor area' since there is no new 'building' or another building on the zoning lot.

Enclosed herewith are two documents dated November 30th, 1979 and January 16, 1980 which may shed light on the matter. The important point is that par. (1) only applies when there are two or more buildings on a zoning lot. Two or more contiguous structures constitute a single building under the New York City Zoning Resolution.

Sincerely,



Cornelius F. Dennis, P.E.  
Deputy Commissioner

Enclosures: 1-Memo dated 11/30/79  
1-Letter dated 1/16/80

cc: Commissioner Smith  
Assistant Commissioner Berger  
General Counsel Foy  
Executive Engineer Polsky  
Borough Superintendents  
File



**RESCINDED BY BUILDINGS  
BULLETIN 2022-004**

DEPARTMENT OF BUILDINGS

EXECUTIVE OFFICES  
60 HUDSON STREET, NEW YORK, NY 10013

CHARLES M. SMITH, Jr., R.A., Commissioner  
312-8100

February 1, 1990

Mr. Bruce Zaretsky, P.E.  
Analytical Engineering Company  
1661 Sheepheadbay Road  
Brooklyn, New York 11235

Re: BASEBALL BATTING CAGES - USE GROUPS

Dear Mr. Zaretsky:

In reply to your request for designation of Use Groups for Baseball Batting Cages, whether open or enclosed, it would be consistent with Zoning Resolution Section 32-22, Use Group 13A.

This Open or Enclosed Amusement Use would have Parking Requirement E, and be permitted in C7 or C8 Districts.

The Occupancy Classification under the Building Code would be F2 if the use was outdoors, or F3 if the use was enclosed within a building.

Very truly yours,

  
Anthony Lee, R.A.  
Executive Assistant

AL:rmr

cc: Deputy Commissioner G. E. Berger, P.E.  
Borough Superintendents

Director of Zoning, Sandy Hornick  
City Planning Commission



**RESCINDED BY BUILDINGS  
BULLETIN 2022-004**



**DEPARTMENT OF BUILDINGS**

EXECUTIVE OFFICES  
40 HUDSON STREET, NEW YORK, N.Y. 10013

RUDOLPH J. RINALDI, Commissioner

312-8100

August 20, 1991

Mr. Edward Lauria, P.E.  
Lauria Associates  
4200 Hylan Boulevard  
Staten Island, New York 10308

Dear Mr. Lauria,

Re: NB#500021898  
Block:3231 Lot:47  
16 Radcliff Road  
Staten Island, N.Y.

Your letter of July 29, 1991 to Commissioner Rinaldi regarding the attic space at the subject premises was forwarded to me for a response.

The Technical Policy and Procedures Notice (TPPN) #13/88 dated June 14, 1988, which you refer to in your letter is applicable to a building in a R-2 zoning district. It is not superceded in this matter by the lower density contextual zoning adopted in 1989.

Accordingly, an attic used for dwelling purposes shall have the entire attic, regardless of headroom, considered as floor area. An enclosed storage space within the attic with no head room of eight feet or more shall not be considered as floor area, provided the space meets the guidelines set forth in TPPN #13/88.

The attic space in question is floor area pursuant to Section 12-10 of the Zoning Resolution.

Very truly yours,

A handwritten signature in cursive script that reads "Richard C. Visconti".

Richard C. Visconti, A.I.A.  
Assistant Commissioner

### I. Background

Zoning Resolution (ZR) section 12-10 definition states in part,

“A *physical culture or health establishment* is any establishment or facility, including *commercial* and non-*commercial* clubs, which is equipped and arranged to provide instruction, services, or activities which improve or affect a person's physical condition by physical exercise or by massage. Physical exercise programs include aerobics, martial arts or the use of exercise equipment...*physical culture or health establishments* are only permitted pursuant to the provisions of Section 73-36...”

ZR 73-36 states, in part, that in certain commercial, manufacturing and special districts,

“...the Board of Standards and Appeals may permit *physical culture or health establishments* as defined in Section 12-10, including gymnasiums (not permitted under Use Group 9) or massage establishments...”

ZR 32-18 classifies certain retail stores under Use Group (UG) 9A

ZR 32-15 classifies certain retail stores under Use Group (UG) 6C

<b>Supersedes:</b>	None
<b>Issuer:</b>	James P. Colgate, RA, Esq. Assistant Commissioner for Technical Affairs and Code Development
<b>Issuance Date:</b>	August 12, 2013
<b>Purpose:</b>	This bulletin clarifies zoning requirements when establishing yoga studios in buildings or portions thereof.
<b>Related Code/Zoning Section(s):</b>	ZR 32-15 ZR 12-10 (definition of "physical culture or health establishments") ZR 73-36
<b>Subject(s):</b>	Yoga studio; Use group, physical culture or health establishment, Board of Standards and Appeals (BSA) permit; Zoning Use Group classification (UG); Use Group 6C, Retail / Service Establishment; Use Group 9A, Retail Establishment Studio, art, music, dancing or theatrical

## BUILDINGS BULLETIN 2013-010 Zoning



NYC Buildings Department  
280 Broadway, New York, NY 10007  
Robert D. LiMandri, Commissioner

**RESCINDED BY  
BUILDINGS BULLETIN 2022-004**



## **II. Clarification of Zoning Use Group**

“Yoga” is typically defined as a series of postures and breathing exercises, which are practiced to achieve control of the body and mind, tranquility, or similar.

Commercial yoga instruction is typically provided in an open floor plan arrangement similar to both a dance studio, UG 9A, which does not require exercise equipment, and similar to a retail or service establishment, meeting hall, UG 6C. Many yoga students are allowed to pay for one class at a time. As a result, yoga studios typically allow walk-in students, similar to the other uses listed in both Use Groups 6 and 9.

Therefore, the Borough Commissioner may classify a commercial yoga studio under zoning UG 6C “Retail / Service Establishment” or UG 9A “Retail Establishment Studio, art, music, dancing or theatrical” using the following conditions as a guide:

- Each individual yoga establishment shall have no more than one student instruction area, with an open floor plan arrangement. This instruction area shall not exceed 1500 square feet. If more than one yoga establishment is located within the same building, then the establishments shall be operated by separate entities and shall not share ownership or facilities.
- The yoga instruction area shall not be a Public Assembly (PA) space, and may at no time have an occupancy capacity that exceeds 74 persons, including the staff and instructors.
- There shall be no accessory showers or bathtubs to the establishment. No showers or bathtubs shall be installed nor utilized by the establishment’s staff or students in the yoga studio or in any other portion of the building.
- The yoga studio shall not be accessory to a “physical culture or health establishment” e.g. a fitness gym or any similar facility requiring a BSA permit, nor shall a physical culture or health establishment be accessory to a yoga studio.

Where the Borough Commissioner finds the subject establishment meets the definition of a Physical Culture Establishment per ZR 12-10, a BSA special permit is required per ZR 73-36.