

ZONING RESOLUTION Web Version

THE CITY OF NEW YORK



THE CITY OF NEW YORK
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CITY PLANNING COMMISSION
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Article I: General Provisions

Chapter 5 - Residential Conversion of Existing Non-Residential Buildings

Effective date of most recently amended section of Article I Chapter 5: 10/17/07

Correction: 15-41

Date of file creation: Web version of Article I Chapter 5: 4/21/08

CITY PLANNING COMMISSION
nyc.gov/planning



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7/26/01

Chapter 5

Residential Conversion of Existing Non-Residential Buildings

7/26/01

15-00

GENERAL PURPOSES

Special regulations for the conversion to dwelling units of non-residential buildings or portions thereof, have been established in order to promote and protect public health, safety and general welfare. These goals include, among others, the following specific purposes:

- (a) to permit owners to increase the return on their investment in appropriate existing non-residential buildings by authorizing the conversion to dwelling units without requiring such dwelling units to conform to the provisions of Article II of this Resolution;
- (b) to reduce the deleterious effects on commercial and manufacturing uses caused by the reduction of land and floor area available to such uses permitted under the provisions of this Chapter by providing relocation incentives for such uses;
- (c) to protect important job-producing industries, particularly those with a unique social or economic relationship to the surrounding community;
- (d) to provide sufficient space for commercial and manufacturing activities which are an integral part of New York City's economy;
- (e) to provide for adequate returns to property owners by allowing more profitable residential use with a limited mix of commercial and manufacturing uses;
- (f) to provide a new housing opportunity of a type and at a density appropriate to these Community Districts;
- (g) to ensure the provision of safe and sanitary housing units in converted buildings; and
- (h) to ensure the provision of adequate amenities in conjunction with residential development.

10/17/07

15-01

Applicability

In Manhattan Community Districts 1, 2, 3, 4, 5 and 6, Brooklyn Community Districts 1, 2, 6 and 8, and Queens Community Districts 1 and 2, the conversion to #dwelling units# of non-#residential buildings# or portions thereof, erected prior to December 15, 1961, shall be subject to the provisions of this Chapter. In addition, in Manhattan Community District 1, in the area south of Murray Street and its easterly prolongation and the Brooklyn Bridge, the conversion to #dwelling units# of non-#residential buildings#, or portion thereof, erected prior to January 1, 1977 shall be subject to the provisions of this Chapter. Existing floor space used for mechanical equipment and not counted as #floor area# in non-#residential buildings# built prior to January 1, 1977 may be converted to #dwelling units# under the provisions of this Chapter.

However, the conversion to #dwelling units# of non-#residential buildings# that meet all the requirements for new #residential development# of Article II (Residence District Regulations) and are located in R4, R5, R6, R7, R8, R9, R10, C1, C2, C3, C4, C5 or C6 Districts is exempt from the provisions of this Chapter. Except as modified by the express provisions of this Chapter, the regulations of the applicable zoning districts remain in effect.

New #developments# or #enlargements# shall be in accordance with the applicable requirements of Article II and Article III, except as provided by authorization pursuant to Section 15-41 (Enlargements of Converted Buildings).

9/10/07

15-011

Applicability within Special Districts

The provisions of this Chapter shall apply in any #Special Mixed Use District# as modified by Article XII, Chapter 3 (Special Mixed Use District).

The provisions of this Chapter shall apply in the #Special Downtown Jamaica District# as modified by Article XI, Chapter 5 (Special Downtown Jamaica District).

The Preservation Area of the #Special Clinton District# is excluded from the applicability of the provisions of this Chapter.

Except as specifically set forth in Sections 15-013 and 15-026, the provisions of this Chapter are not applicable in the #Special Tribeca Mixed Use District#.

For the purposes of this Chapter, districts indicated on the #zoning map# as M(R) shall be considered #Manufacturing Districts#, and districts indicated on the #zoning map# as R(M) shall be considered #Residential Districts#.

7/26/01

15-012

Applicability within C6-1G, C6-2G, M1-5A or M1-5B Districts

The conversion to #dwelling units# of non-#residential buildings#, or portions thereof, in C6-1G or C6-2G Districts shall be permitted only by special permit pursuant to Section 74-782 (Residential conversion within C6-1G, C6-2G, C6-2M, C6-4M, M1-5A, M1-5B, M1-5M and M1-6M Districts).

Except as specifically set forth in Sections 15-013 and 15-026, the provisions of this Chapter are not applicable in M1-5A or M1-5B Districts.

2/7/01

15-013

Building permits and variances issued before the effective date of amendment

- (a) Building permits in Manhattan Community Districts 1, 2, 3, 4, 5 and 6

If, before April 9, 1981, a building permit was lawfully issued for an alteration based upon plans filed and pending with the Department of Buildings on or before September 1, 1980, construction pursuant to such permit may be continued, at the option of the owner, without regard to the other provisions of this Chapter. In the event that the construction permitted herein is not completed within 2 years from the issuance of said building permit or prior to

April 9, 1982, whichever is later, and a temporary or permanent certificate of occupancy has not been issued, the building permit shall automatically lapse for any portion of a #building# for which a permanent or temporary certificate of occupancy has not been obtained and the right to continue construction on such #floor area# shall terminate, except that the Board of Standards and Appeals may reinstate said permit pursuant to the provisions of paragraphs (a)(1) or (a)(2) of this Section:

- (1) for all #floor area# for which the Board has made a finding that, as of April 9, 1981;
 - (i) there was substantial construction in compliance with the approved plans pursuant to which said lapsed permit had been granted; and
 - (ii) the completed construction demonstrated a physical commitment of the #floor area# to a layout as #residential# or #joint living-work quarters for artists use#, which construction could not be readily adapted to a non-#residential use# permitted by the Zoning Resolution.

A finding of substantial construction shall not be made unless, on April 9, 1981, the #floor area# was either vacant or occupied by #residential# or #joint living-work quarters for artists use#, and unless the expenditures prior to April 9, 1981 were significant in proportion to the costs of construction of the entire project, not including the costs of acquisition, demolition, professional fees or financing;

- (2) for all #floor area# for which the Board has made a finding that, as of the date said building permit lapsed, there was substantial construction in compliance with the approved plans pursuant to which said lapsed permit has been granted. A finding of substantial construction shall not be made unless, as of the date said permit lapsed, the #floor area# was either vacant or occupied by #residential# or #joint living-work quarters for artists use#, and unless the expenditures prior to the date said permit lapsed were significant in proportion to the costs of construction of the entire project, not including the costs of acquisition, demolition, professional fees or financing. Notwithstanding anything to the contrary above, the building permit shall only be reinstated pursuant to the provisions of this Section, provided that for any portion of the #building# for which said

permit is reinstated:

- (i) the conversion shall comply with the provisions of Sections 15-12, 15-24, 42-14 paragraph (D)(1)(e), or 111-112, as appropriate in the zoning district in which the #building# being converted is located, except that the Board may modify the requirements of Sections 15-12, 15-24, 42-14 paragraph (D)(1)(e), or 111-112, provided that the rooftop open space was not permitted under said building permit and the Board determines that the roof either is unsuited for open space #use# or cannot be made suitable for open space #use# at a reasonable cost;
 - (ii) there shall be double glazing on all windows in all #dwelling units# or such other window treatment as the Board deems appropriate;
- (b) Building permits in Brooklyn Community Districts 1, 2, 6 and 8 and Queens Community Districts 1 and 2

If, before October 25, 1984, a building permit was lawfully issued for an alteration based upon plans filed and pending with the Department of Buildings on or before April 1, 1984, construction pursuant to such permit may be continued.

- (c) Variances

If, before April 9, 1981, in Manhattan Community Districts 1, 2, 3, 4, 5 and 6, or before October 25, 1984, in Brooklyn Community Districts 1, 2, 6 and 8 and Queens Community Districts 1 and 2, a variance to permit the conversion of a #building# or portion thereof, to #residential# or #joint living-work quarters for artists use#, which variance has not lapsed pursuant to the provisions of Section 72-23, and a building permit was issued in accordance with the terms of said variance for such conversion by the Department of Buildings within two years of the grant of said variance, construction pursuant to such permit may be continued, without regard to the other provisions of this Chapter.

#Dwelling units# converted pursuant to the provisions of this Section which are not subject to the provisions of this Chapter shall also not be subject to the provisions of Section 32-42 (Location within Buildings).

15-02

General Provisions

10/17/07

15-021

Special use regulations

- (a) In C5 and C6 Districts in Manhattan Community Districts 1, 2, 3, 4, 5 and 6, all existing lawful #uses# in Use Groups 17B or E in #buildings# erected prior to December 15, 1961, shall be considered conforming. Such #uses# may be extended within such #buildings#.
- (b) In C6-2M and C6-4M Districts in Manhattan Community Districts 1, 2, 3, 4, 5 and 6, all new #uses# listed in Use Groups 17B or E are permitted as-of-right in #buildings# erected prior to December 15, 1961, subject to the provisions of Section 32-42 (Location within Buildings).
- (c) In M1-5 and M1-6 Districts located within the rectangle formed by West 23rd Street, Fifth Avenue, West 31st Street and Eighth 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 for a determination of occupancy is filed by the owner of the #building# or the occupant of a #dwelling unit# in such #building# not later than June 21, 1983. For the purposes of Article 7C of the New York State Multiple Dwelling Law, such a determination of #residential# occupancy on September 1, 1980, shall be deemed to permit #residential use# as-of-right for such #dwelling units#.

All #dwelling units# permitted pursuant to this paragraph (c) shall be required to comply with the requirements of Section 15-22 (Number of Permitted Dwelling Units) or Section 15-026 where applicable, and with Section 15-23 (Light and Air Provisions).

Where the Chairperson of the City Planning Commission has determined that #floor area# was occupied as #dwelling units# on September 1, 1980, and where such #dwelling units# are located in a #building# which, on the date of application to the Department of City Planning under the provisions of this Section, also has #floor area# which is occupied by a #use# listed in Section 15-60 (REFERENCED

COMMERCIAL AND MANUFACTURING USES), the Chairperson may permit that any #floor area# in the #building# be used for #dwelling units# provided that:

- (1) the total amount of #floor area# to be used for #dwelling units# does not exceed the amount of #floor area# occupied as #dwelling units# on September 1, 1980;
 - (2) any #use# listed in Section 15-60 which is located on #floor area# to be used for #dwelling units# has been offered a new or amended lease within the #building#, with a minimum term of 2 years from the date of application, at a fair market rental for the same amount of #floor area# previously occupied, and such lease is not subject to cancellation by the landlord;
 - (3) any #residential# tenant who occupied a #dwelling unit# shall be relocated to a #dwelling unit# within the #building# with a #floor area# equal to not less than 95 percent of the amount of #floor area# in the #dwelling unit# previously occupied; and
 - (4) as a result of such action by the Chairperson #residential uses# will be located on #stories# above #manufacturing uses#.
- (d) In M1-6 Districts located within the rectangle formed by West 35th Street, Fifth Avenue, West 40th Street and Sixth Avenue, no #dwelling units# shall be permitted, except that:
- (1) #dwelling units# which the Chairperson of the City Planning Commission determines were occupied on May 18, 1981, 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 the #dwelling unit# not later than June 21, 1983. For the purposes of Article 7C of the New York State Multiple Dwelling Law, such a determination of #residential# occupancy shall be deemed to permit #residential use# as-of-right for such #dwelling unit#.
 - (2) in any #building# for which an alteration application for conversion of #floor area# used for non-#residential use# to #dwelling units# or for an #extension# or minor #enlargement# of existing #residential use#, was filed prior to May 18, 1981, #dwelling units# shall be permitted, provided that such alterations shall comply with the regulations in effect on the date of such filing. The right to convert to

#dwelling units# or #extend# or #enlarge# existing #residential use# pursuant to the provisions of this paragraph (d) shall expire one year from July 23, 1981, unless a temporary or permanent certificate of occupancy has been issued.

- (e) In C6-1G and C6-2G Districts, in all manufacturing and #commercial buildings# except police stations, courthouses and fire houses, or portions thereof, erected prior to December 15, 1961, #residential use# shall not be permitted unless the City Planning Commission has granted a special permit pursuant to Section 74-782 (Residential conversion in C6-1G, C6-2G, C6-2M, C6-4M, M1-5A, M1-5B, M1-5M and M1-6M Districts). However, if the Chairperson of the City Planning Commission determines that #floor area# in such #buildings# was occupied for #residential use# on April 1, 1984, such #residential use# shall be permitted to remain and no special permit shall be required, provided that a complete application for determination of occupancy is filed by the owner of the #building# or the occupant of a #dwelling unit# in such #building# not later than April 17, 1985.
- (f) In C8 and M1 Districts, no new #dwelling units# are permitted. However, within such districts in the following areas:
 - (1) Areas in Brooklyn Community District 1
 - (i) bounded by South 10th Street, Berry Street, Division Avenue and Wythe Avenue;
 - (ii) bounded by South 6th Street, Broadway, Driggs Avenue, South 8th Street and Wythe Avenue;
 - (iii) bounded by South 4th Street, Driggs Avenue, South 5th Street and Berry Street;
 - (iv) bounded by North 4th Street, Berry Street, North 3rd Street and Wythe Avenue;
 - (v) bounded by Metropolitan Avenue, Havemeyer Street, Hope Street and Roebling Street; and
 - (2) Area in Brooklyn Community District 2, bounded by Water Street, Washington Street, Plymouth Street, Bridge Street, Front Street, Jay Street, York Street, Washington Street, Front Street and Dock Street;

#dwelling units# which the Commissioner of the Department of

Buildings determines were occupied on June 4, 1981, and are located in a #building# in which more than 45 percent of the #floor area# consists of #dwelling units# that were occupied on June 4, 1981, shall be a permitted #use#, provided that a complete application for a determination of occupancy is filed by the owner of the #building# or the occupant of a #dwelling unit# in such #building# not later than May 30, 1986.

Such a determination of #residential# occupancy on June 4, 1981 shall be deemed to permit #residential use# as-of-right for such #dwelling units#.

The provisions of Section 15-025 (Double glazed windows) shall not apply to #dwelling units# permitted pursuant to this paragraph (f). All #dwelling units# permitted pursuant to this paragraph (f) shall be required to have double glazed windows.

4/9/81

15-022

Location within building

#Dwelling units# converted under the provisions of this Chapter are not subject to the provisions of Section 32-42 (Location Within Buildings).

4/9/81

15-023

Notice to residential tenants in mixed use buildings

The owner or developer of a #building# converted under the provisions of this Chapter and containing one or more #dwelling units# and one or more #commercial# or #manufacturing uses# above the first #story# shall be required to notify all prospective #residential# occupants of such #dwelling units# that:

- (a) such #dwelling units# are located in a mixed #use building# containing #commercial# or #manufacturing uses# which the City is committed to maintain; and
- (b) such prospective occupants should make any investigation they deem necessary to determine that the conditions

existing or permitted to exist are not offensive to such prospective occupant.

Prior to the issuance of a building permit, the owner or developer shall file an affidavit with the Department of Buildings that such notice will be provided in all #residential# leases and offering plans.

4/9/81

15-024

Notice of filing to create dwelling units

Within ten days of filing an application with the Department of Buildings for an alteration permit for #dwelling units#, a duplicate copy of such application shall be sent to the Department of City Planning by the applicant for information purposes.

10/17/07

15-025

Double glazed windows

All #dwelling units# in #buildings# which contain one or more #uses# listed in Section 15-60 (REFERENCED COMMERCIAL AND MANUFACTURING USES) and converted under the provisions of this Chapter shall be required to have double glazing on all windows.

However, #dwelling units# occupied by #residential# tenants on September 1, 1980, in Manhattan Community Districts 1, 2, 3, 4, 5 and 6, or in Brooklyn Community Districts 1, 2, 6 and 8, and Queens Community Districts 1 and 2, shall not be required to have double glazed windows.

2/11/92

15-026

Special bulk regulations for certain pre-existing dwelling units, joint living-work quarters for artists and loft dwellings

- (a) The minimum size, #yard#, and density requirements of Sections 15-111, 15-22, 43-17 and 111-111 may be replaced by the requirements of this Section for #dwelling units#, #joint living-work quarters for artists# or #loft

dwelling#:

- (1) existing on September 1, 1980 for which a determination of #residential# or #joint living-work quarters for artists# occupancy has been made pursuant to Sections 15-021 paragraph (c), 15-215, 42-133 paragraph (a), 42-141 paragraph (b), 74-782, or 111-201 paragraph (a); or
 - (2) that are registered Interim Multiple Dwellings or are found covered by the New York City Loft Board pursuant to Article 7C of the New York State Multiple Dwelling Law; or
 - (3) that the Loft Board determines were occupied for #residential use# or as #joint living-work quarters for artists# on September 1, 1980.
- (b) Unless required by the Loft Board for the legalization of Interim Multiple Dwelling Units in the implementation of Article 7C of the New York State Multiple Dwelling Law, #dwelling units# or #joint living-work quarters for artists# described in paragraph (a) and existing on such dates may not be divided subsequently into units or quarters of less than 1,200 square feet, and #loft dwellings# may not be divided subsequently into dwellings that do not meet the requirements of Section 111-111 paragraphs (a), (b)(1) and (c).

No #building# that meets the density requirements of Sections 15-111 or 111-111 paragraph (c), may subsequently add additional units or quarters except in accordance thereof. No #building# to which the regulations of this Section have been applied may subsequently add additional units or quarters except in accordance with the requirements of Sections 15-111 or 111-111 paragraph (c).

- (c) In lieu of the stated minimum size, #yard#, and density requirements of Sections 15-111, 15-22, 43-17 and 111-111, the following regulations shall apply:
- (1) The minimum size of a #dwelling unit#, #joint living-work quarters for artists#, or #loft dwelling# may be no less than 415 square feet of #floor area#, provided that all of the following requirements are met:
 - (i) the unit or quarters shall contain one or more windows that open onto a #street# or thirty foot #yard#;
 - (ii) the area of such required window shall be not less

than eight percent of the #floor area# of the unit or quarters and 50 percent of the area of such required window shall be openable; and

(iii) the interior dimension of the wall in which such required window is located shall be no less than 12 feet in width; or

(2) The minimum size of a #dwelling unit#, #joint living-work quarters for artists#, or #loft dwelling# may be no less than 600 square feet of #floor area#, provided that all of the following requirements are met:

(i) the unit or quarters shall contain one or more windows that open onto either:

(a) a ten foot #yard#, where the window sill of such required window is at least 23 feet above #curb level#; or

(b) a 15 foot #yard#, where the window sill of such required window is less than 23 feet above #curb level#; or

(c) a #court# with a minimum dimension of 15 feet perpendicular to such required window and 375 square feet or more in area; or

(d) a #street#;

(ii) the minimum horizontal distance between such required window opening onto a #yard# and any wall opposite such window on the same or another #zoning lot# shall be at least 15 feet;

(iii) the area of such required window shall be no less than five percent of the #floor area# of the unit or quarters, and 50 percent of the area of such required window shall be openable;

(iv) the interior dimension of the wall in which such required window is located shall be no less than 12 feet in width;

(v) the average width of such unit or quarters shall be no less than 14 feet; and

(vi) not less than two-thirds of the #floor area# of the unit or quarters shall have a floor-to-ceiling height of nine feet or more.

4/9/81

15-10

REGULATIONS GOVERNING CONVERSIONS TO DWELLING UNITS OF NON-RESIDENTIAL BUILDINGS IN RESIDENTIAL AND COMMERCIAL DISTRICTS, EXCEPT C6-2M AND C6-4M DISTRICTS

7/26/01

15-11

Bulk Regulations

For the conversion of non-#residential buildings# to #dwelling units#, the applicable density requirements shall be modified in accordance with the provisions of Section 15-111 (Number of permitted dwelling units), and the regulations governing #open space ratio#, #yards#, the minimum distance between two or more #buildings# on a single #zoning lot# and the minimum distance between windows and walls or #lot lines# are hereby superseded and replaced by the requirements of Sections 15-112 (Light and air provisions) and 15-12 (Open Space Equivalent).

7/26/01

15-111

Number of permitted dwelling units

The maximum number of #dwelling units# permitted shall be determined in accordance with the applicable district regulations. However, where the total #floor area# on the #zoning lot# exceeds the maximum #floor area# permitted by the applicable district regulations, such excess #floor area# may be converted in its entirety to #dwelling units#. Such excess #floor area# shall be included in the amount of #floor area# divided by the applicable factor in Section 23-20 (DENSITY REGULATIONS).

For the conversion to #dwelling units# of non-#residential buildings#, or portions thereof, pursuant to Section 74-71 (Landmark Preservation), in C7, C8 and #Manufacturing Districts#, the maximum number of #dwelling units# shall equal the total #floor area# to be converted to #residential use# divided by the applicable factor listed in the following table. Fractions equal to or greater than three quarters resulting from this calculation

shall be considered to be one #dwelling unit#.

MAXIMUM NUMBER OF DWELLING UNITS

District	Factor
C7 C8-1 C8-2 M1-1 M1-2 M2-1 M2-3 M3	680
C8-3 C8-4 M1-4 M1-5 M2-2 M2-4	740
M1-6	790

In addition, the following provisions shall apply:

No #building# shall be converted to #rooming units#. #Dwelling units# may be distributed anywhere within a #building# provided that any portion of a #dwelling unit# located in a #cellar# shall also comply with the provisions of Section 15-112 (Light and air provisions.)

Mezzanines constructed pursuant to Chapter 26 of the Administrative Code shall be allowed within individual #dwelling units# provided that the gross area of such mezzanine does not exceed 33 1/3 percent of the #floor area# contained within such #dwelling unit#. Such mezzanines are permitted only in #buildings# with an existing #floor area ratio# of 12 or less, and only between floors, or between a floor and a roof, existing on January 22, 1998, that are to remain. Such mezzanines shall not be included as #floor area# for the purpose of calculating the minimum required size of a #dwelling unit# or for calculating #floor area# devoted to #dwelling units#.

The density provisions of this Section may be replaced by the regulations of Section 15-026 for #dwelling units# that are registered Interim Multiple Dwellings or are covered by the New York City Loft Board pursuant to Article 7C of the New York State Multiple Dwelling Law or that the Loft Board determines were occupied for #residential use# on September 1, 1980.

7/26/01

15-112

Light and air provisions

(a) Spaces other than #rooms#:

(1) Mezzanines shall be lit and ventilated in accordance

with the provisions of subarticle 1202.0 and subarticle 1205.0 of the Administrative Code.

- (2) #Cellar# space is not permitted in #dwelling units# with three and one-half #rooms# or fewer, unless such #dwelling units# contain at least 1,200 square feet of interior #floor area#.
 - (3) Spaces, other than "living rooms," kitchens, bathrooms or mezzanines, with a minimum width of five feet in the narrowest dimension measured perpendicular to a wall enclosing such space, are not permitted in #dwelling units# with two #rooms# or fewer, unless such #dwelling units# contain at least 1,200 square feet of interior #floor area#.
- (b) Every #dwelling unit# shall meet the light and air requirements of Section 277 of the Multiple Dwelling Law.
- (c) Width to depth ratio

Where there is more than one #dwelling unit# per #story#, the average width of each #dwelling unit# shall be at least one fourth of the depth. Depth is the farthest point within the #dwelling unit# from the exterior building wall containing windows used to meet the requirements of paragraph (b) of this Section, measured perpendicular to such building wall. Width is the distance between exterior #dwelling unit# walls measured perpendicular to the depth.

4/9/81

15-12

Open Space Equivalent

At least 30 percent of the gross roof area of a #building# containing 15 #dwelling units# shall be developed for recreational use. For each additional #dwelling unit#, 100 square feet of additional roof area shall be developed 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 Section 15-30.

8/27/98

15-13

Special Home Occupation Provision

- (a) In C6 Districts, the #home occupation# provisions of Section 12-10 (DEFINITIONS - Home occupation) shall apply, except that up to 49 percent of the total #floor area# of a #dwelling unit# may be used for a #home occupation#.
- (b) In C5 and C6 Districts, in Manhattan, in the area south of Murray Street and its easterly prolongation and the Brooklyn Bridge, the #home occupation# provisions of Section 12-10 shall apply, except that up to 49 percent of the total #floor area# of a #dwelling unit# may be used for a #home occupation#.

In addition:

- (1) businesses operated as #home occupations# may have up to three non-#residential# employees; and
- (2) notwithstanding the listing of specific #uses# prohibited in the definition of #home occupations# in Section 12-10, a #home occupation# may include any permitted #commercial use#, except beauty parlors, veterinary medicine and those #uses# listed in Use Group 12.

Such #home occupation# may occupy more than 500 square feet of #floor area# and, for the purposes of this Section, mezzanines shall be counted as #floor area#.

7/26/01

15-20

REGULATIONS GOVERNING CONVERSIONS TO DWELLING UNITS OF NON-RESIDENTIAL BUILDINGS IN C6-2M, C6-4M, M1-5M AND M1-6M DISTRICTS

- (a) The #lot area# requirements of the following Sections are hereby superseded and replaced with the requirements of Sections 15-21 and 15-22 for the conversion of non-#residential buildings# to #dwelling units#:

Sections 23-20 through 23-26 (DENSITY REGULATIONS);

Section 24-20 (APPLICABILITY OF DENSITY REGULATIONS TO ZONING LOTS CONTAINING BOTH RESIDENTIAL AND COMMUNITY

FACILITY USES));

Section 35-40 (APPLICABILITY OF DENSITY REGULATIONS TO MIXED BUILDINGS); and

Section 54-31 (Enlargements or Conversions).

In addition, the regulations governing #open space ratio#, #yards#, the minimum distance between two or more #buildings# on a single #zoning lot# and the minimum distance between windows and walls or #lot lines# are hereby superseded and replaced by the requirements of Sections 15-23 and 15-24.

(b) In C6-2M, C6-4M, M1-5M and M1-6M Districts, the requirements of Section 15-21 (Use Regulations - Transfer of Preservation Obligations and Conversion Rights) may be waived by authorization of the City Planning Commission in connection with the conversion of all or any portion of a non-#residential building# to a #residential use#, provided that:

- (1) such non-#residential building# is either a landmark or lies within a Historic District designated by the Landmarks Preservation Commission;
- (2) any alterations to the subject #building#, required in connection with such conversion to #residential use#, have received a Certificate of Appropriateness or other permit from the Landmarks Preservation Commission;
- (3) a 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; and
- (4) such non-#residential buildings#, or portions thereof, being converted to #residential use#, shall comply with the density requirements set forth in Section 74-711 (Landmark preservation in all districts), paragraph (a)(3).

In order to grant an authorization, the City Planning Commission shall find that such waiver 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 #development# and to minimize adverse effects on the character of the surrounding area.

7/23/81

15-21

Use Regulations - Transfer of Preservation Obligations and Conversion Rights

In C6-2M, C6-4M, M1-5M and M1-6M Districts, the conversion of #floor area# to #dwelling units# in existing non-#residential buildings#, or portions thereof is permitted subject to the certification by the Chairperson of the City Planning Commission that #floor area# has been preserved for #commercial# or #manufacturing uses# in accordance with the provisions of this Section. The applicant shall provide a copy of any application for a certification under this Section to the #Industrial Loft Advisory Council#, c/o Mayor's Office of Economic Development. For the purposes of this Section only, the following mixed-#use# areas are defined:

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

Garment Center East - The C6-2M and C6-4M Districts located between West 33rd Street and West 35th Street, and between Seventh Avenue and Tenth Avenue.

10/17/07

15-211

Floor area preservation

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

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

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

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

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

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

TABLE 1
 FOR CONVERSION IN C6-2M OR C6-4M DISTRICTS
 FLOOR AREA PRESERVED FOR PERMITTED COMMERCIAL OR
 PERMITTED MANUFACTURING USE*

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

TABLE II

FOR CONVERSION IN M1-5M OR M1-6M DISTRICTS
FLOOR AREA PRESERVED FOR PERMITTED COMMERCIAL OR
PERMITTED MANUFACTURING USE*

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

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

10/17/07

15-212

Reduced floor area preservation

Notwithstanding the provisions of Section 15-211, Table I as set forth in this Section may be substituted for Table I in Section 15-211, and Table II in this Section may be substituted for Table II in Section 15-211 governing the amount of #floor area# to be preserved, provided that such preserved #floor area# will be occupied by a #commercial# or #manufacturing use# that has been in occupancy for two years prior to the application for a certification under the provisions of Section 15-21 or by a #use# listed in Section 15-60 (REFERENCED COMMERCIAL AND MANUFACTURING USES), and subject to the following conditions:

- (a) Where the preserved #floor area# is occupied by an existing #commercial# or #manufacturing use# for two years immediately preceding the date of application for a certification under Section 15-21, or where the preserved #floor area# is occupied by a #use# listed in Section 15-60, the landlord shall present a lease, signed by both the landlord and such tenant, and certified as recorded by the Office of the City Register of New York County.

Such lease shall:

- (1) be for a period of not less than three years from the date of application for such certification with provision for two years renewal at the tenant's option; and
 - (2) not be subject to cancellation by the landlord.
- (b) Where the preserved #floor area# is occupied by any such #use# for two years immediately preceding the date of application under Section 15-21, and such occupant is the owner of said #floor area#, the Chairperson of the City Planning Commission shall require that the certificate of occupancy designate the preserved #floor area# for a #use# listed in Section 15-60 for a period of five years from the date of such certification.
- (c) Where the preserved #floor area# will be occupied by a #use# listed in Section 15-60 but no such tenant is yet occupying the #floor area#, the owner shall covenant to preserve such #floor area# for a #use# listed in Section 15-60, in the legal commitment required pursuant to Section 15-214.

TABLE I
FOR CONVERSION IN C6-2M OR C6-4M DISTRICTS
REDUCED FLOOR AREA AND FLOORS PRESERVED FOR PERMITTED
COMMERCIAL OR PERMITTED MANUFACTURING USE*

#Lot area#	Percentage of #building's# total #floor area# to be preserved
	one floor, plus, in #buildings# of more than 6 #stories#, 25% of the #floor area# in excess of 6 #stories#
less than 5,000 sq. ft.	
5,000 sq. ft. or more but less than 10,000 sq. ft.	33.3%
10,000 sq. ft. or more	50.0%

TABLE II

FOR CONVERSION IN M1-5M OR M1-6M DISTRICTS
REDUCED FLOOR AREA AND FLOORS PRESERVED FOR PERMITTED
COMMERCIAL OR PERMITTED MANUFACTURING USE*

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

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

2/11/92

15-213
Comparability

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

- (a) Elevators: load and number

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

- (1) Load

Each elevator shall have a minimum load of 2,000 pounds. The total load of all elevators servicing the #floor area# to be preserved shall be in accordance with the following ratio:

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

(2) Number

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

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

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

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

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

(b) Floor load

The floors shall have a minimum live load capacity of 100

pounds per square foot (100 psf).

(c) Size of floors

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

(d) Loading facilities

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

(e) Column spacing

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

(f) Height of #stories#

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

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

2/11/92

15-214

Certification and other requirements of preservation and conversion

- (a) Prior to the issuance of an alteration permit for the conversion of #floor area# to #residential use#, the Chairperson of the City Planning Commission shall certify compliance with the requirements of Section 15-21 upon proof

of a legal commitment to preserve and maintain the required #floor area# for permitted #commercial# or permitted #manufacturing use#. Such legal commitment shall be executed by all parties having any interest in the #floor area# to be preserved as shown by a certificate issued by a title insurance company licensed to do business in the State of New York showing all such parties in interest.

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

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

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

2/11/92

15-215
Modification for existing dwelling units

The requirements of Section 15-211 or 15-212 regarding the amount or configuration of #floor area# to be preserved for permitted #commercial# or permitted #manufacturing uses# may be modified by the Chairperson of the City Planning Commission provided that:

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

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

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

1/22/98

15-22

Number of Permitted Dwelling Units

- (a) In #buildings# converted to #dwelling units# under Section 15-21 (Use Regulations - Transfer of Preservation Obligations and Conversion Rights) where there is more than one #dwelling unit# per #story#, there shall be a minimum #dwelling unit# size of 1,200 square feet of interior #floor area# unless modified pursuant to Section 15-30 (MINOR MODIFICATIONS).

However, the minimum #dwelling unit# size requirement may be replaced by the requirements of Section 15-026 for #dwelling units# existing on September 1, 1980

- (1) for which the Chairperson of the City Planning Commission has made a determination of #residential# occupancy on September 1, 1980 pursuant to Sections 15-021(c) or 15-215; or
- (2) that are registered Interim Multiple Dwellings or are found covered by the New York City Loft Board pursuant to Article 7C of the New York State Multiple Dwelling Law; or
- (3) that the Loft Board determines were occupied for #residential use# on September 1, 1980.

#Dwelling units# existing on September 1, 1980 may not be subsequently divided into units of less than 1,200 square feet, unless required by the Loft Board for the legalization of Interim Multiple Dwelling Units in the implementation of Article 7C of the New York State Multiple Dwelling Law.

- (b) For the purposes of this Section only, mezzanines constructed pursuant to Chapter 26 of the Administrative Code shall be allowed within individual #dwelling units# provided that the gross area of such mezzanine does not exceed 33 and 1/3 percent of the #floor area# contained within such #dwelling unit#. Such mezzanines are permitted only in #buildings# with an existing #floor area ratio# of 12 or less, and only between floors, or between a floor and a roof, existing on January 22, 1998, that are to remain. Such mezzanines shall not be included as #floor area# for the purpose of calculating the minimum required size of a #dwelling unit# or for calculating #floor area# devoted to #dwelling units#.

4/9/81

15-23

Light and Air Provisions

- (a) Every #dwelling unit# shall meet the light and air requirements of Section 277 of the Multiple Dwelling Law.
- (b) Mezzanines shall be lit and ventilated in accordance with the provisions of sub-article 1202.0 and sub-article 1205.0

of the Administrative Code.

(c) Width to depth ratio

Where there is more than one #dwelling unit# per #story#, the average width of each #dwelling unit# shall be at least one fourth of the depth. Depth is the farthest point within the #dwelling unit# from the exterior building wall containing windows used to meet the requirements of Section 15-23 (a) above, measured perpendicular to such building wall. Width is the distance between exterior #dwelling unit# walls measured perpendicular to the depth.

4/9/81

15-24

Open Space Equivalent

At least 30 percent of the gross roof area of a #building# containing 15 #dwelling units# shall be #developed# for recreational #use#. For each additional #dwelling unit#, 100 square feet of additional roof area shall be #developed# 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 Section 15-30.

4/9/81

15-25

Home Occupations

A #home occupation# may occupy a #dwelling unit# as an #accessory use# in excess of the #floor area# limitations of Section 12-10 (DEFINITIONS), and subject to the following:

- (a) Businesses operated as #home occupations# may have up to three non-#residential# employees.
- (b) In addition to the #uses# listed in Section 12-10, a #home occupation# may include a permitted #commercial# or permitted #manufacturing use#. It shall not include the sale of merchandise produced elsewhere.
- (c) The Commissioner of Buildings may issue rules and regulations setting forth appropriate standards to implement

the intent of this Section.

4/9/81

15-26

Collection of Residential and Commercial Refuse

All #residential# trash shall be consolidated with the trash from the #commercial# or #manufacturing use# tenants and collected in the same manner as the trash from such commercial or manufacturing tenants. Such collection shall be the responsibility of the owner of the #building# or portion thereof.

2/11/92

15-30

MINOR MODIFICATIONS

On application, the Chairperson of the City Planning Commission may grant minor modifications to the following provisions of this Chapter:

- (a) The requirements of Section 15-22 paragraph (a), relating to #dwelling unit# size may be modified provided that the Chairperson of the Commission has administratively certified to the Department of Buildings that the division of one or more #stories# into #dwelling units# with an area of at least 1,200 square feet cannot be accomplished without practical difficulties because the #floor area# of such #story#, exclusive of exterior walls, and common areas, is within five percent of a multiple of 1,200 square feet.
- (b) The requirements of Section 15-12 and Section 15-24 relating to the #open space# equivalent 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 reasonable cost.
- (c) The requirements of paragraphs (a) or (d) of Section 15-213 (Comparability) relating to comparability of elevators or loading facilities may be modified provided that the Chairperson of the City Planning Commission has administratively certified to the Department of Buildings that the elevators or loading facilities serving the #floor area# to be preserved provide facilities for #manufacturing#

or #commercial uses# that are equivalent or superior to those serving the #floor area# to be converted.

The requirements of paragraph (c)(1) of Section 15-213 relating to comparability of size of floors may be modified provided that the Chairperson of the City Planning Commission has administratively certified to the Department of Buildings that the #floor area# to be preserved consists of floors that are of equivalent or larger size than the floors in the #building# to be converted.

A developer must send a copy of any request for modification pursuant to this Section to the applicable Community Board at least 20 days prior to the next regularly scheduled Board meeting. If the Community Board chooses to comment on such requests it must do so within 31 days of such notification.

10/17/07

**15-40
AUTHORIZATION**

10/17/07

**15-41
Enlargements of Converted Buildings**

In all #Commercial# and #Residence Districts#, for #enlargements# of non-#residential buildings# converted to #dwelling units#, the City Planning Commission may authorize:

- (a) a waiver of the requirements of Section 15-12 (Open Space Equivalent) for the existing portion of the #building# converted to #dwelling units#; and
- (b) the maximum #floor area ratio# permitted pursuant to Section 23-142 for the applicable district without regard for #height factor# or #open space ratio# requirements.

In order to grant such authorization, the Commission shall find that:

- (1) the #enlarged building# is compatible with the scale of the surrounding area;
- (2) open areas are provided on the #zoning lot# that are of

sufficient size to serve the residents of the #building#. Such open areas, which may be located on rooftops, courtyards, or other areas on the #zoning lot#, shall be accessible to and usable by all residents of the #building#, and have appropriate access, circulation, seating, lighting and paving;

- (3) the site plan includes superior landscaping for all open areas on the #zoning lot#, including the planting of #street trees#; and
- (4) the #enlarged building# will not adversely affect structures or #open space# in the vicinity in terms of scale, location and access to light and air.

The Commission may prescribe additional conditions and safeguards to minimize adverse effects on the character of the surrounding area.

10/17/07

**15-50
SPECIAL PERMIT**

10/17/07

**15-51
Residential Conversion in C6-1G, C6-2G, C6-2M, C6-4M, M1-5M and M1-6M Districts**

In C6-1G, C6-2G, C6-2M, C6-4M, M1-5M and M1-6M Districts, the City Planning Commission may permit modification of the requirements of Sections 15-021 paragraph (e), or 15-21 in accordance with the provisions of Sections 74-711 (Landmark preservation in all districts) or 74-782 (Residential conversion in C6-1G, C6-2G, C6-2M, C6-4M, M1-5A, M1-5B, M1-5M and M1-6M Districts).

10/17/07

**15-60
REFERENCED COMMERCIAL AND MANUFACTURING USES**

The following #uses# shall be applicable to Sections 15-021, 15-025, 15-212 and 73-53.

In Use Group 7B:

Exterminators

Gun repair

Sailmaking establishments

Taxidermists* shops

Trade embalmers

Window cleaning contracting establishments

In Use Group 8B:

Upholstering shops

In Use Group 9A:

Blueprinting or photostating establishments

Medical or dental laboratories

Musical instrument repair shops

Plumbing, heating or ventilating equipment showrooms

Printing establishments

Studios - art, music, dancing or theatrical

Typewriter or other small business machine sales, rental or repairs

Umbrella repair shops

In Use Group 9B:

Hair products for head wear, wholesaling

In Use Group 10A:

Depositories for storage of office records, etc.

Photographic or motion picture production studios, radio or television studios.

In Use Group 10B:

All #uses#

In Use Group 11A:

All #uses#

In Use Group 11B:

All #uses#

In Use Group 16A:

Blacksmith shops

Carpentry, custom woodworking or furniture making shops

Electrical, glazing, heating, painting, paperhanging,
plumbing, roofing or ventilating contractor's establishments

Household or office equipment or machinery repair shops

Machinery rental or sales establishments

Mirror silvering or glass cutting shops

Poultry or rabbit killing establishments

Sign painting shops

Silver plating shops

Soldering or welding shops

Tool, die or pattern-making establishments or similar small
machines

In Use Group 16D:

Carpet cleaning establishments

Dry cleaning or cleaning and dyeing establishments

Laundries

Linen, towel or diaper supply establishments

Moving or storage offices

Packing or crating establishments

Photographic developing or printing establishments

Warehouses

Wholesale establishments

In Use Group 17A:

Building material and contractor's yards

Produce or meat markets, wholesale

In Use Group 17B:

All #uses#

In Use Group 17C:

Trucking terminals or motor freight stations