



BUILDINGS
2023-018
BULLETIN
TECHNICAL

ISSUANCE DATE
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Code & Zoning Interpretation

PURPOSE: This Bulletin clarifies the technical and administrative requirements when Joint Living-Work Quarters for Artists (JLWQA) are converted to general residential use.

SUBJECT(S): Conversions to residential units in SoHo/NoHo Mixed Use District

RESCINDED CODE SECTIONS & RESOURCES

ZR 143-13, ZR 15-112, MDL 276, MDL 277, 1 RCNY 1101-01

I. BACKGROUND

On Dec. 15, 2021, the City Council approved the SoHo/NoHo Neighborhood Plan amending the NYC Zoning Resolution (ZR). The Plan created the Special Soho-NoHo Mixed Use District (SNX) and includes changes to the use of Joint Living-Work Quarters for Artists (JLWQA) in this newly created special district. The Plan also replaced the existing M1-5A and M1-5B designations with M1-5 and more notably, includes a voluntary path to convert existing conforming JLWQA use to residential use while supporting the arts. Existing JLWQA use (or JLWQAs) may continue, subject to the same occupancy restrictions as prior to this zoning change.

Note on Loft Law buildings and Interim Multiple Dwellings (IMD): Any IMD unit that has entered the Loft Board jurisdiction is not subject to the conversion process outlined in this Bulletin and may be occupied as residential use with no NYC Department of Cultural Affairs (DCLA) artist certification required, in accordance with the provisions of the NYS Multiple Dwelling Law (MDL) Article 7-C (aka the Loft Law) and other applicable law. For questions about the status about Loft Law buildings and IMDs, please reach out to the Loft Board (NYCLoftBoard@buildings.nyc.gov).

II. JOINT-LIVING-WORK QUARTERS FOR ARTISTS (JLWQA)

JLWQA is a designation of zoning use, Use Group (UG) 17D, which in part, allows artists and certain other individuals to live and work in manufacturing spaces. JLWQA is defined in Section 12-10 of the Zoning Resolution (<https://zr.planning.nyc.gov/article-i/chapter-2/12-10>).

The lawful occupancy of JLWQA is described in subsections (a), (b) and (c) of the definition of JLWQA in the Zoning Resolution, Section 12-10. In general, a JLWQA can be occupied by (a) up to four unrelated artists as certified by DCLA, (b) an artist and the artist's household, by households who registered with DCLA, or (c) by persons entitled to occupancy by any other provision of law.

An *artist*, as defined in ZR 12-10, is a person who is so certified by DCLA. Artist certification information can be found at www1.nyc.gov/site/dcla/cultural-funding/artist-certification.page.

The zoning changes prohibit conversions to JLNQA use after December 15, 2021. However, these zoning changes do not affect the occupancy status for any unit identified for JLNQA use prior to December 15, 2021. Additionally, on July 21, 2022, MDL §276 (www.nysenate.gov/legislation/laws/MDW/276) was amended to state that any permanent occupant whose residence therein began on or before December 15, 2021 shall be deemed to meet such occupancy requirements under the same right as a certified artist.

III. CODE REQUIREMENTS FOR CONVERSIONS TO GENERAL RESIDENTIAL USE

If the occupant cannot come under the JLNQA definition, the unit is required to be converted to zoning UG 2. Such conversions of JLNQA use may be filed individually on a unit-by-unit basis for alteration work to be done within the individual unit and would not trigger building-wide conversion.

The JLNQA unit is considered residential under the building occupancy classification in both prior and current NYC Building Code. Therefore, conversions of units from JLNQA to zoning UG 2 would not be considered a change in building code occupancy and therefore, even a change in the majority of the units in the building from JLNQA to UG 2 residential would not affect the “main use or dominant occupancy” of the building as defined in the NYC Administrative Code (AC) Section 28-101.5.

The conversion is subject to the technical requirements in Part III and the administrative requirements in Part IV. Consult with a NYS registered design professional who is a NYS licensed architect or professional engineer (RDP) to verify.

As with any other conversion of a unit from one zoning use group to another, a JLNQA converting to zoning UG 2 will be required to comply with regulations (such as light and air, egress, and accessibility) governing the new use. In this case, the regulations governing JLNQA and zoning UG2 are identical in some respects, and very similar in others. Thus, currently compliant JLNQA are not expected to require significant reconfiguration to meet the regulations applicable to a UG2.

A. Natural Light and Air (Windows) – ZR 15-112

In order to have been converted as a JLNQA from a manufacturing use, a unit would have complied with ZR 15-024 and MDL §277(7)(a) for light and air requirements. Because these are generally more restrictive requirements than those set forth in MDL §277(7)(b) for general residential units, it is expected that existing compliant JLNQA already meet the light and air requirements for general residential units. For example, MDL §277(7)(b)(ii)(B) allows the window area to be reduced where the floor area served is greater than 500 sf, up to a minimum ratio of 5% window area to floor area, and such allowance does not exist for JLNQA.

B. Egress and Fire Protection

The egress and fire protection requirements found at MDL §277(9) govern both JLNQA and general residential units, it is expected that an existing lawful JLNQA unit converting to a residential unit already complies with the applicable MDL requirements. As there is no change in the Building Code occupancy classification, there would be no additional egress and fire protection requirements triggered for the building or unit as part of the conversion. If there is work within the unit, such work must comply with applicable requirements. For example, work that includes the removal of existing, or installation of new, interior walls or ceilings, smoke and/or carbon monoxide detectors are required as part of such work and must comply with Chapter 9 of the current NYC Building Code (BC).

C. Accessibility

Since JLVQA is zoning UG 17D and residential use is zoning UG 2, accessibility features are required to be provided in the unit because of the change from one zoning UG to another, as required by the BC. The residential unit is required to have accessible features such as doors, interior paths, kitchens, and bathrooms. Bathrooms and powder rooms in units that were occupied on or before March 13, 1991 as JLVQA are permitted to comply with the NYC-specific prototype layouts established by rule 1 RCNY 1101-01 (www1.nyc.gov/assets/buildings/rules/1_RCNY_1101-01.pdf). Providing such accessible features may require general construction work to provide wider doorways or reinforcements in walls for grab bars.

IV. ADMINISTRATIVE REQUIREMENTS FOR CONVERSIONS

Units being converted to a zoning UG 2 residential use are subject to the following DOB administrative requirements, and an application may be submitted to the NYC Department of City Planning for an administrative approval by the Chairperson of the City Planning Commission: www1.nyc.gov/site/planning/applicants/applicant-portal/step3_zc-soho-noho.page. Administrative requirements of other NYC agencies are posted on their respective websites.

A. CPC chairperson certification pursuant to Section 143-13 of the Zoning Resolution.

The CPC chairperson certification approval must be obtained and submitted to DOB at the time when the RDP files the application for construction document approval for the conversion with DOB.

- To obtain CPC chairperson certification, a one-time contribution to the SoHo/NoHo Arts Fund is required (the contribution rate is \$100 per square foot of converted floor area).

B. Permits

- Any work that may be triggered as mentioned above will require a DOB permit. After the approval is obtained, a DOB permit must be pulled before the approved work can start.
- Once the permitted work is completed, a new or amended CO can be obtained as long as applicable requirements are satisfied. Additional information on obtaining a CO is available at www.nyc.gov/site/buildings/property-or-business-owner/certificate-of-occupancy.page.
- If the building is under a cooperative or condominium forms of ownership, the application shall also contain a statement by the cooperative or condominium board in accordance with AC 28-104.8.2.

C. Certificate of Occupancy (CO)

A new or amended CO is issued for the entire building upon completion of the conversion. Note that where a new or amended CO is issued due to conversion of a single unit, the remainder of the building as previously indicated on the prior CO will be carried over into the new CO. A new or amended CO does not constitute a building-wide conversion.

- JLVQA is commonly identified as **Res** (i.e., Residential) or may be identified as **J-2** on the CO. While the notations over time have varied on COs, JLVQA is understood to be a residential use for building code purposes. Once the conversion from Zoning UG 17D JLVQA to Zoning UG 2 is complete, the new or amended CO will identify the unit as Zoning UG 2 and Building Code Occupancy Group R-2 (i.e., the current equivalent of **Res** or **J-2**).

V. ENFORCEMENT

- It is considered unlawful to occupy or use any building or space that is in conflict with or in violation of the Zoning Resolution or NYC Construction Codes, which includes NYC Building Code.
- Units identified for JLWQA use that are purchased after 12/15/2021 will be identified by the Department of Finance (DOF) and subject to audits for compliance with the Zoning Resolution and NYC Construction Codes.
- If a unit is found to be out of compliance with the requirements of the Zoning Resolution or NYC Construction Codes, violations may be issued, and penalties may be imposed.