

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

DIRECTIVE NO. 5 of 1977.

DATE: November 4, 1977

TO: Borough Superintendents
FROM: Jeremiah T. Walsh, P.E., Commissioner
SUBJECT:

QUESTIONABLE PLANS OF TWO-FAMILY DWELLINGS

This directive supercedes Directive 6 of 1973 and all prior Memorandums and Directives on this subject Directive.

BACKGROUND:

This directive is issued to achieve a uniform application between the boroughs for the above subject matter particularly in regard to egress, fire protection, noise control and facilities for the handicapped.

The illegal conversion of ostensible 2-family dwellings to 3-family dwellings has serious ramifications, both zoning wise as well as Building Code.

Also, the New York State Multiple Dwelling Law states that a "multiple dwelling" is a dwelling which is either rented, leased, let or hired out, to be occupied, or is occupied as the residence or home of three or more families living independently of each other.

Said law takes precedence over local law when its prima facie that usage is intended for more than two families.

When a 2-family dwelling is illegally converted to 3 (or more) family occupancy, much fire protection, and other requirements, included in the Building Code for multiple dwellings is omitted.

APPLICABILITY:

- a. This directive applies to all New and Existing 3 story (basement and attic count as stories) residential buildings, filed for 2-family occupancy.
- b. Buildings with an "E" occupancy on the lowest level and with two families above, shall be reviewed to determine if the requirement of this memo shall be complied with.

PROCEDURE:

1. Buildings of frame construction, Class II-D, or II-E may not be converted to use by more than two families.
2. When plans are filed for a 3 story residential building of other than Class II-

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D or II-E construction indicating dwelling units, on the upper 2 levels, in other than R1, R2 and R3-1 Zoning Districts, no partitions or plumbing fixtures shall be permitted in the cellar or basement, or in the first story where plans indicate dwelling units on two upper stories above the first story, except as follows:

- (a) Enclosed garage
- (b) Boiler room enclosure
- (c) Auxiliary recreation room without closets in a cellar or basement if not provided on the first story.
- (d) Additional partitions and plumbing fixtures, when reviewed by the Chief Engineer (Engineering), Deputy Borough Superintendent or Borough Superintendent, may be permitted if all construction features listed in (3), without, exception, are provided.

3. Additional partitions to form accessory kitchens with a sink and range and a three fixture bathroom and rooms for laundry and storage may be provided in the cellar, basement or first story if all construction features listed below, without exception are provided.

(a) Boiler room enclosure, with proper ventilation, of non-combustible construction having a one hour rating with 3/4 hour F.P.S.C. door. Borough Superintendents may allow non-combustible partitions for existing building where sufficient safeguards are provided to his satisfaction.

(b) All egress stairs shall be enclosed with either a combustible or non-combustible enclosure having a one hour rating with 3/4 hour F.P.S.C. doors and shall be protected with an automatic sprinkler system complying with construction provisions of article 17 Building Code. Where each apartment has private and direct access to the street, stairs need not be enclosed or sprinklered, however, where closets are located under stairs that lead to the street, the closets, shall be sprinklered.

(c) Ceilings of all stories, including the cellar, shall be fire retarded with material having at least a one hour fire resistance rating. Section C16-504.3 Administrative Code.

(d) "Kitchenettes", if provided, shall have one hour fire-retarded walls and ceilings, or sprinklered in lieu thereof.

(e) Where sprinklers are required the minimum size of the service pipe for the sprinkler system shall be 1½" inside diameter. A curb valve must also be provided. The domestic water supply system may be used to supply sprinklers as permitted in Section C26-1703.9 (e). No miscellaneous application shall be required where no more than 10 heads are supplied from a domestic water riser.

4. Where permitted by the Zoning Resolution and the Building Code to have bedroom(s) on the first story or basement, all construction requirements of item (3) must be installed.

5. SPECIAL SITUATIONS:

In R1, R2 and R3-1 Zoning Districts, unless there are no plumbing fixtures whatsoever, no construction other than a garage and a boiler room shall be permitted in the story in which the garage is located.

6. SPECIAL REQUIREMENTS:

(a) Where a convenience kitchen is provided or roughing for same is installed:

(1) For existing buildings the Public Hall doors of all apartments shall have a minimum impact noise rating (INR) of 0.

(2) In new construction the premises shall comply with the noise control requirements of Section C26-1208.0 Administrative Code.

(3) Facilities for the handicapped are required for buildings constructed after the effective date of the New Building Code. The Borough Superintendent may waive this in the alteration of buildings constructed under prior codes where compliance would impose such a hardship because of the physical impossibility of construction of the required ramp or access without making the building virtually unusable.

(4) In new construction the entrance hall shall be at least 4 feet in clear width, and the door shall be not less than three feet in width.

(b) An accessory attached garage accommodating not more than three non-commercial motor vehicles shall comply with C26-711.3.

(c) The Specification Sheet and the Certificate of Occupancy shall contain the following statement in capital letters:

"THIS IS A TWO FAMILY DWELLING
and occupancy by more than two families is unlawful."

(d) "Convenience Kitchen" shall not be shown on specification sheet, but may appear in description of proposed work.

(e) Within one week prior to issuance of a certificate of occupancy, an inspection must be made to ascertain that there are no more than 2 doorbells, mail boxes and electric or gas meters on the premises.

The procedure set up with the Bureau of Gas & Electricity in departmental memorandums of November 13, 1975 and November 24, 1975 are to be followed in the case of existing buildings.


Jeremiah T. Walsh, P.E.
Commissioner

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