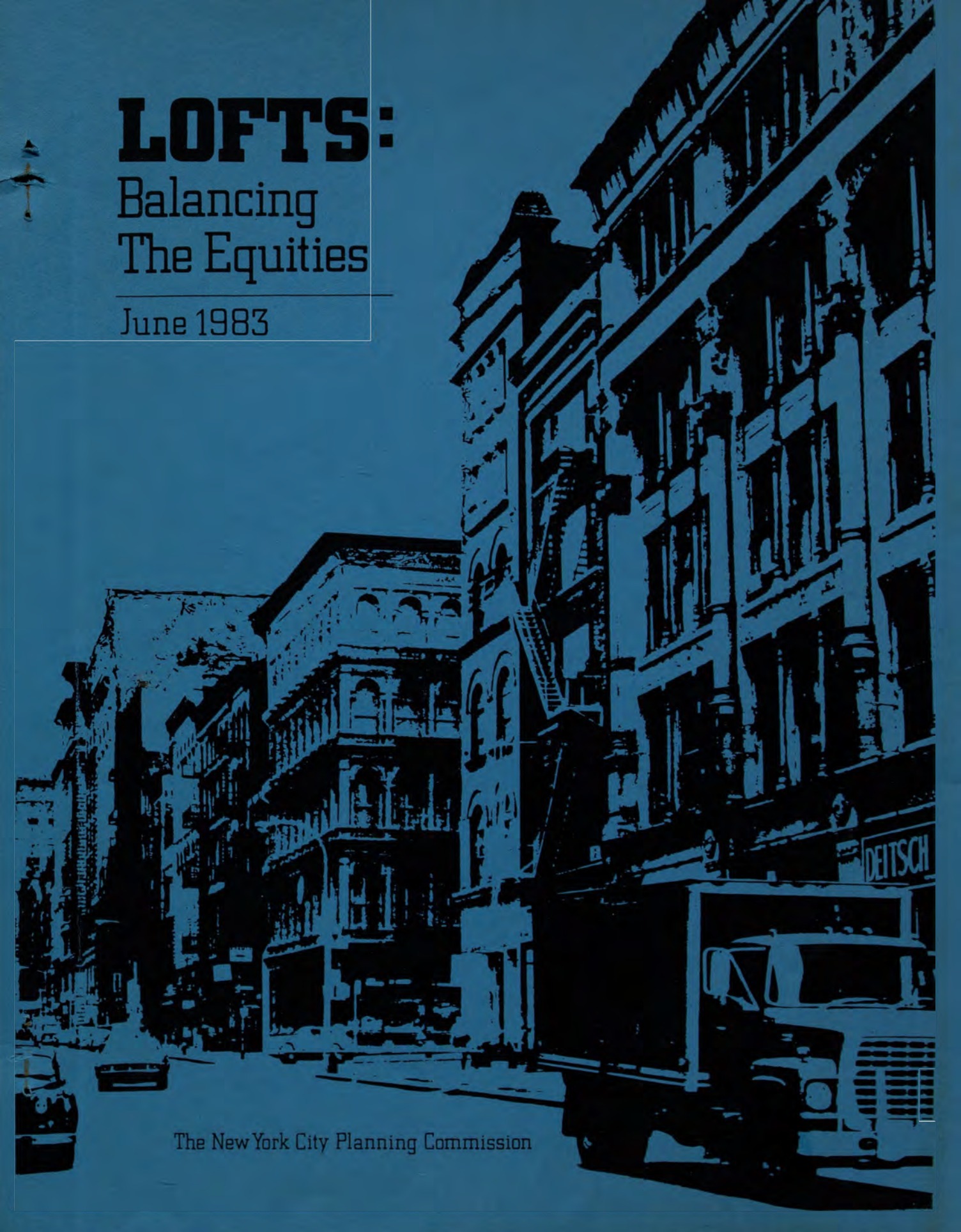


LOFTS:

Balancing The Equities

June 1983

The New York City Planning Commission



FROM THE COLLECTION OF
WILBUR L. WOODS
DIRECTOR
WATERFRONT AND OPEN SPACE PLANNING
NYC DEPARTMENT OF CITY PLANNING
1989 - 2011



LOFTS:

Balancing The Equities

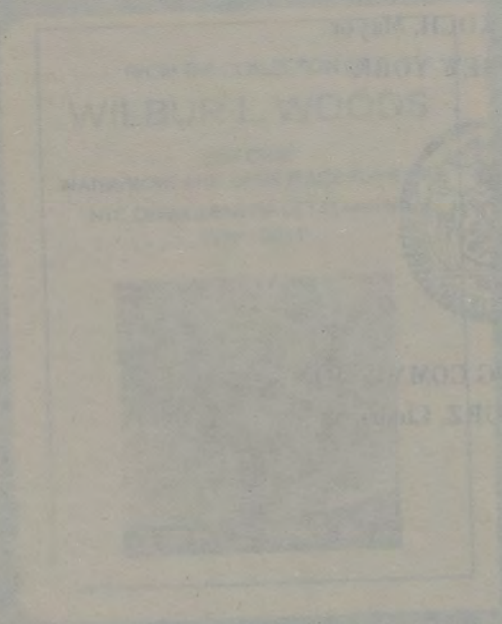
June 1983

EDWARD I. KOCH, Mayor
CITY OF NEW YORK



CITY PLANNING COMMISSION
HERBERT STURZ, Chairman

JUNE 1983
NYC DCP 82-02



INTRODUCTION

This booklet is an update of the City Planning Commission's February 1981 publication of New York City's comprehensive policy to deal with the loft conversion issue. This update is designed as an interim publication until a more complete re-printing of *Balancing The Equities* can be prepared over the next several months.

This report includes:

- Zoning maps of the predominant loft areas in Manhattan south of 59th Street.
- The text of the New York City Zoning Resolution pertaining to loft conversion. These regulations incorporate all amendments to the zoning text through March, 1982.
- A glossary of terms
- A list of governmental agencies to contact for more information on loft conversion.

Summary of Loft Actions

The Board of Estimate on April 9, 1981, approved a series of zoning measures for Manhattan south of 59th Street which are designed to safeguard industry while providing guidance for future residential conversion activity.

I. Issues

These proposals are part of the administration's response to the conflict between industrial and residential competitors for loft space in Manhattan south of 59th Street. Within the past few years, the combination of a relatively stabilized manufacturing base, the dearth of new residential construction, and the desire to live in this part of Manhattan has caused the surplus of loft space to disappear. Luxury loft housing is now successfully bidding for space occupied by the industrial and "pioneering" residential tenant.

Residential conversion in these areas has proceeded either illegally in disregard of land use and building code regulations, or by the grant of large numbers of variances. As a consequence, some areas which were zoned manufacturing no longer had an exclusively manufacturing character. Residential development has occasionally intruded into important industrial areas. The resulting dispersal of manufacturing firms and their attendant jobs has hurt the City's economy.

In addition, the safety and continued occupancy of illegal residential tenants is jeopardized by living outside of the framework of residential and building law protections.

II. The Comprehensive Proposal

In order to balance the legitimate but conflicting needs of industrial and residential uses for loft space, the City developed a program with the following elements:

1. Zoning map amendments which reflect land use changes since the 1961 zoning ordinance.
2. Zoning text changes which establish standards for recycled buildings.
3. Zoning text changes requiring, as a condition of conversion, relocation assistance for displaced industrial firms which relocate within New York City. These benefits will be funded by developers who convert to residential use.
4. Amendments to Article 7B of the Multiple Dwelling Law to simplify the standards for recycled buildings.
5. Removal of the tax incentive programs of J-51 and 421 used for residential conversion in Manhattan's loft districts reserved for business uses.
6. A special mayoral office for loft enforcement to create the proper deterrent to new illegal conversions and to monitor the legalization of existing illegal conversions. This office combines inspection and prosecutorial functions, and gives the City a strong zoning and code enforcement capability which it heretofore lacked.
7. State legislation recognizing the residential status of illegal loft dwellers and providing a framework for legalization.

III. The Zoning Actions

The City Planning Commission and the Board of Estimate approved a series of zoning map and text changes regarding the conversion of non-residential buildings to residential use in Manhattan Community Boards #1 through #6. These land use regulations are designed to ensure that adequate industrial loft space is retained for New York City's Manhattan based garment, meat and printing firms. These changes also provide continued and expanded opportunities to create habitable, legal housing in recycled buildings. Recycling is channeled to neighborhoods where residential use is appropriate and where conversion has minimal impact on industrial users.

The zoning map and text changes define three types of loft districts. Maps of these districts follow this summary.

A. Manufacturing Districts

These are currently manufacturing districts where industrial uses are concentrated in major market centers. Four existing districts have been reaffirmed as manufacturing only. These are the Garment Center, Northeast Chelsea (apparel related), the Meat Market, and the Graphic Arts Center. In addition, the midblock portions of the Garment Center East between 5th and 6th Avenues and between West 35th and the north side of West 39th Streets have been changed to a Manufacturing District. These blocks were initially proposed for mixed-use designation, but in response to requests from real estate and industrial representatives were changed on July 23, 1981 to manufacturing.

The Manufacturing Districts will protect approximately 50 million square feet of loft space. Manufacturing designation does not permit residential use, either by conversion or by the construction of new residential buildings. J-51 and 421 tax abatement and exemption programs are not available in these districts.

B. Mixed Use Districts

These are districts which contain substantial numbers of important industrial uses as well as significant residential use. Two new mixed use districts have been created as part of the zoning actions:

1. Southeast Chelsea and Southwest Portions of the Garment Center East

In these districts conversion is permitted provided that a specified amount of comparable space is preserved for non-residential use within each district. Developers may transfer the preservation obligation for non-residential space between buildings. This preservation obligation is ensured by the recording of a restrictive covenant. Housing standards have been established, including large unit sizes to provide opportunities for living-work situations, roof top open space, and light and air standards.

2. SoHo/NoHo and Washington Market/Tribeca

In the existing mixed use districts of SoHo/NoHo and Washington Market/Tribeca, the prohibition against the conversion of larger buildings which has proven vulnerable to variance applications has been modified by a City Planning Commission special permit. The granting of this special permit is predicated on objective findings demonstrating that

market conditions no longer justify the continued industrial use of the property.

C. Commercial and Residential Districts

These are districts which have minimal industrial use in areas predominately either residential or commercial in character. These districts encompass all of Manhattan south of 59th Street not zoned manufacturing or mixed use. The West Village has now been mapped as a commercial district. Residential use of entire buildings is permitted with no industrial preservation requirement. The zoning establishes housing standards appropriate to recycled buildings, including density, light and air, and an open space equivalent.

Other elements of the zoning text changes include:

Relocation Incentive Program

The zoning establishes a relocation assistance program to encourage dislocated industrial tenants to relocate within New York City. Tenants would receive \$4.50 per square foot directly from the developer when they move to another New York City location. If the tenant is not eligible, these funds are paid to the New York City Business Relocation Assistance Corporation. A companion relocation measure tied to J-51 conversions outside Manhattan's loft areas was approved by the City Council last spring.

Business Relocation Assistance Corporation

This not-for-profit corporation receives those monies which do not go to relocating tenants, for disbursement to relocatees within New York City who in certain cases need additional relocation assistance. The Board of Directors of BRAC consists of the Chairman of the City Planning Commission, the Commissioner/Executive Director of the Office of Economic Development, the Chairman of the Board of Standards and Appeals, the Commissioner of the Department of Housing Preservation and Development, the President of the New York City Public Development Corporation, and two representatives from the apparel and printing industries.

Industrial Loft Advisory Council

This council, representing the City's industries, will receive notice of all conversion applications in mixed use and manufacturing areas. This will permit an early warning system regarding possible future disruptions in the City's economy.

IV. Future Zoning Actions

The conflict between residential and industrial use of loft buildings is just beginning to be repeated in Brooklyn and Queens. Industrial areas in these boroughs are being studied now to develop City policies before widespread residential conversion takes place.

While the City's comprehensive loft conversion policy seeks to balance the equities between resi-

dential and industrial needs for loft space, it is important to recognize the need to encourage other residential housing opportunities in new construction as well as the rehabilitation of older residential buildings. Zoning will be one key to further this policy. The City, through zoning and other tools, will continue to recognize the important role industry contributes to its economy and to ensure that City policies provide maximum assistance to the industrial sector.

LIST OF GOVERNMENTAL AGENCIES - LOFT CONVERSIONS

BOARD OF STANDARDS AND APPEALS
80 Lafayette Street
New York, New York 10013

Att: Mr. Prakash Nair
ALC Examiner
566-5416

DEPARTMENT OF CITY PLANNING
2 Lafayette Street
New York, New York 10007

Att: Mr. Ralph DiBart, Director
Loft Conversion Unit
566-3977, 78

DEPARTMENT OF BUILDINGS
Municipal Building - 20th Floor
New York, New York 10007

Att: Mr. Gerald George
Principal Planner
566-2392, 93

OFFICE OF BUSINESS DEVELOPMENT
17 John Street - 14th Floor
New York, New York 10038

Att: Mr. Kenneth Wallach
Director of Land Use and Zoning
566-0232

BUSINESS RELOCATION ASSISTANCE CORPORATION
(BRAC)
17 John Street - 12th Floor
New York, New York 10038

Att: Ms. Beverly I. Moran, Esq.
Executive Director, 566-1358

INDUSTRIAL LOFT ADVISORY COUNCIL
(ILAC)
17 John Street - 14th Floor
New York, New York 10038





Att: Mr. Kenneth Wallach
Secretary, 566-0232

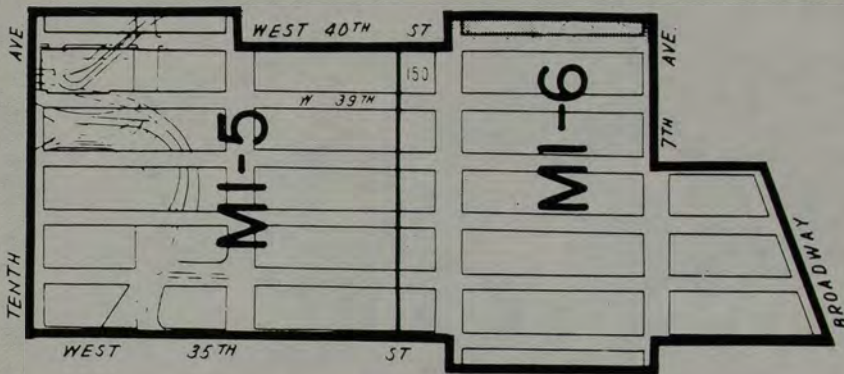
NEW YORK CITY LOFT BOARD
(formerly MAYOR'S OFFICE OF LOFT ENFORCEMENT)
116 Nassau Street - 11 Floor
New York, New York 10038

Att: Ms. Suzanne O'Keefe, Executive Director
566-1438

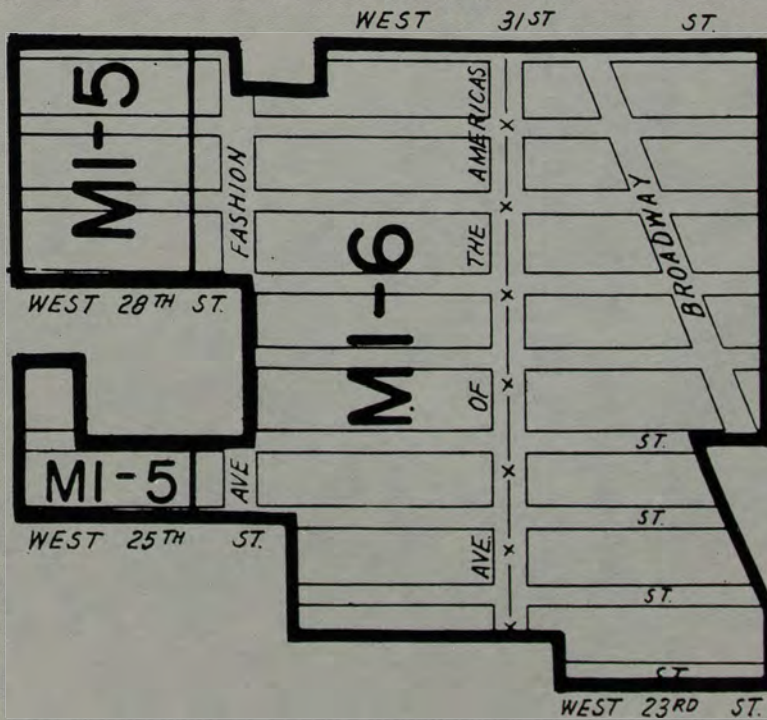
- 1 LOWER MANHATTAN CBD
- 2a&b WASHINGTON MARKET / TRIBECA
- 3 SOHO NOHO
- 4 GRAPHIC ARTS CENTER
- 5 WEST VILLAGE
- 6 MEAT MARKET
- 7 NORTHEAST VILLAGE
- 8a&b SOUTHEAST CHELSEA
- 9a&b NORTHEAST CHELSEA
- 10a GARMENT CENTER
- 10b GARMENT CENTER EAST
- 11 MADISON PARK AVENUES
- 12 WEST CHELSEA / CLINTON
- 13 UNION SQUARE
- 14 WALKER ST. CORRIDOR



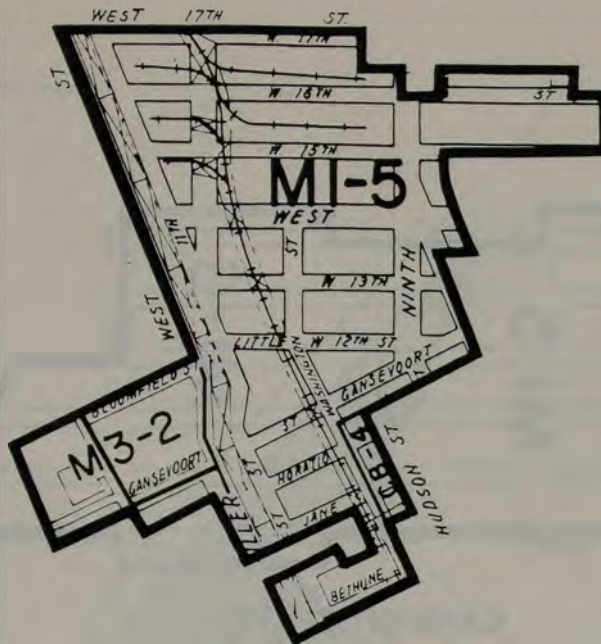
-  MANUFACTURING
-  COMMERCIAL
-  MIXED USE
-  MANUFACTURING, FURTHER STUDY NEEDED



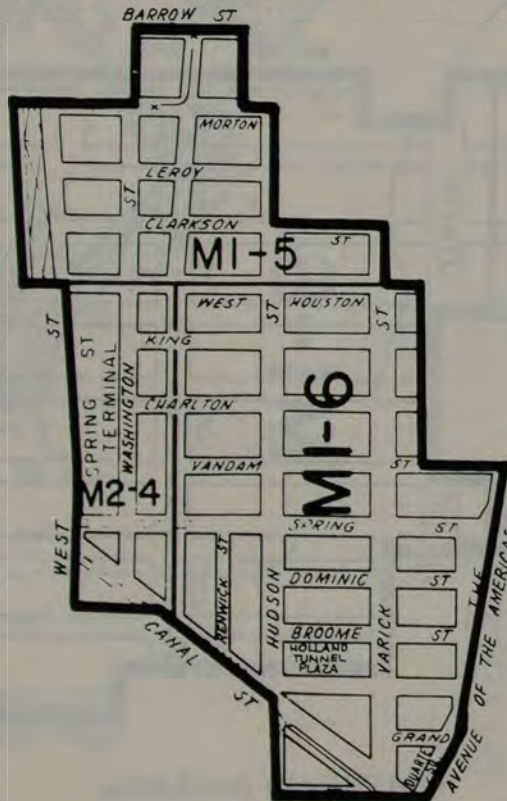
GARMENT CENTER
(MANUFACTURING DISTRICT)



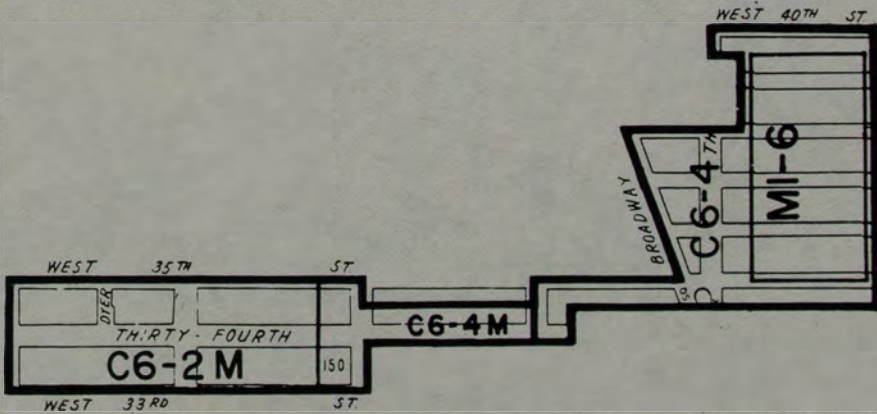
NORTHEAST CHELSEA
(MANUFACTURING DISTRICT)

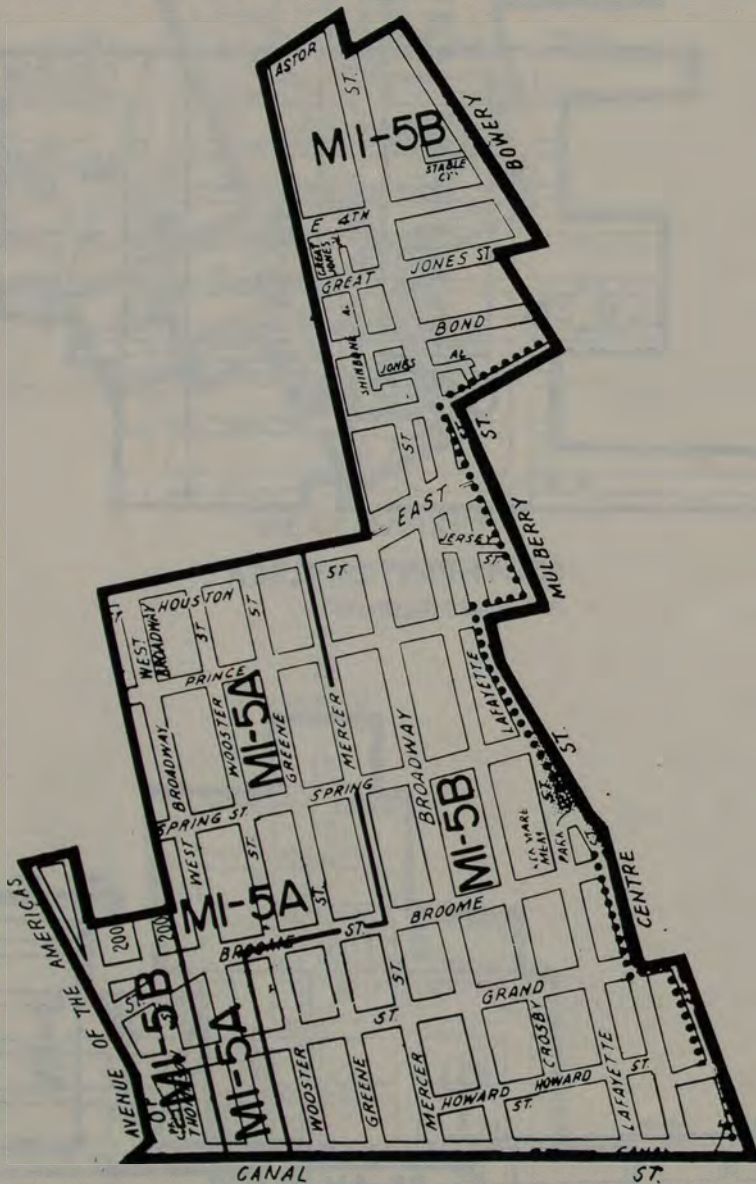


MEAT MARKET
(MANUFACTURING DISTRICT)

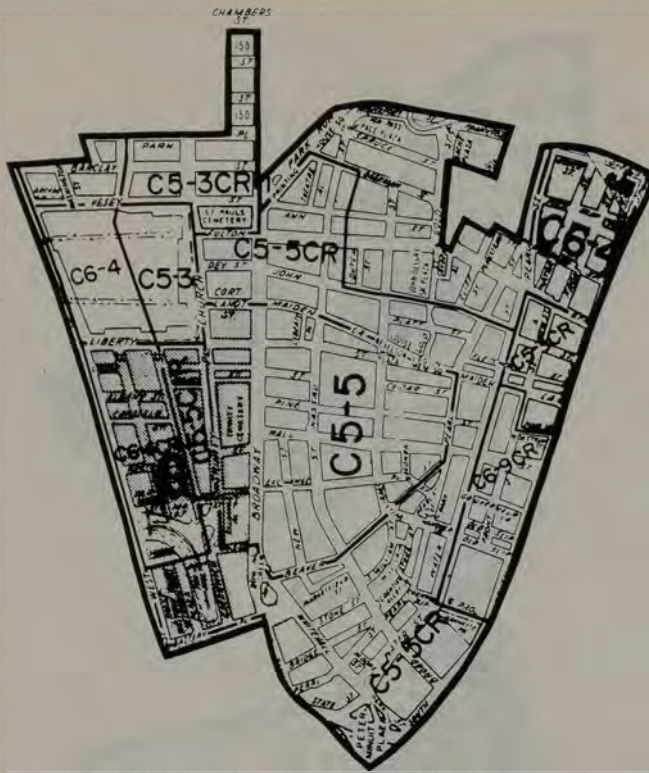


GRAPHIC ARTS CENTER
(MANUFACTURING DISTRICT)

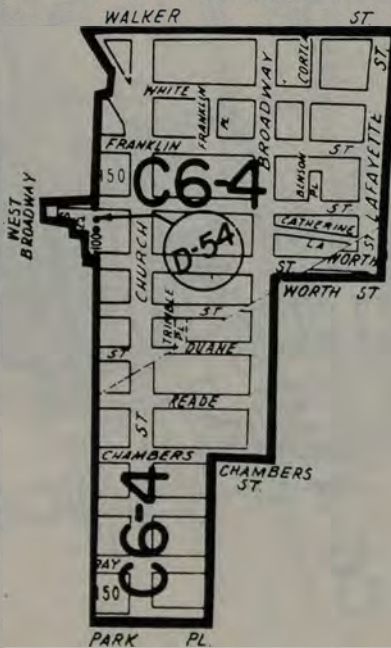




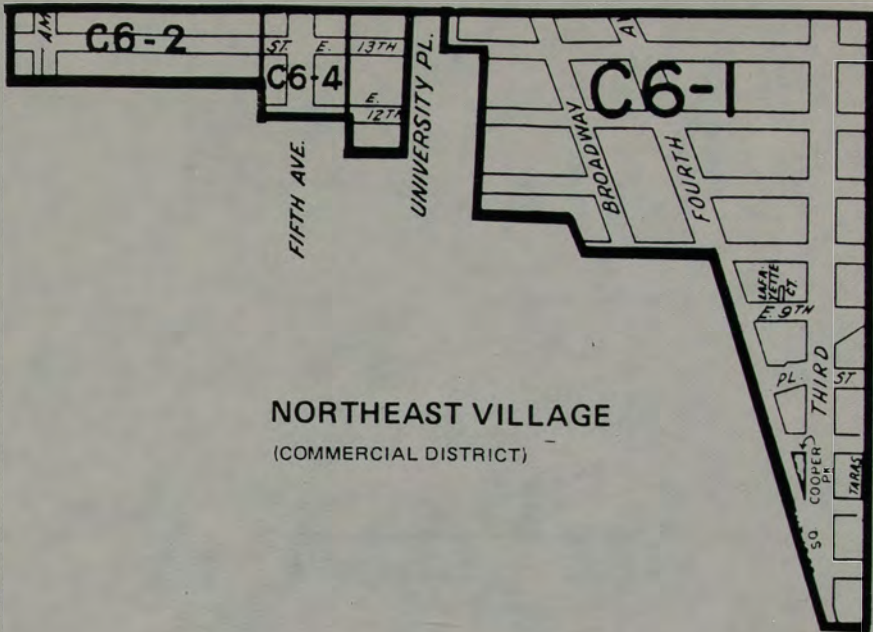
SOHO / NOHO
(MIXED USE DISTRICT)



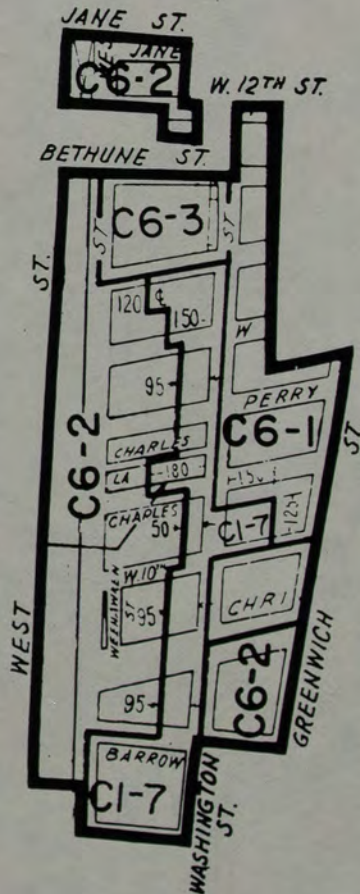
LOWER MANHATTAN CBD
(COMMERCIAL DISTRICT)



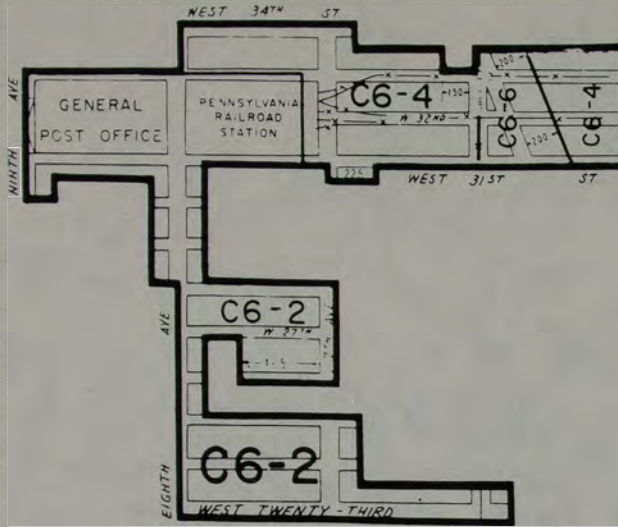
WASHINGTON MARKET / TRIBECA
(COMMERCIAL DISTRICT)



NORTHEAST VILLAGE
(COMMERCIAL DISTRICT)

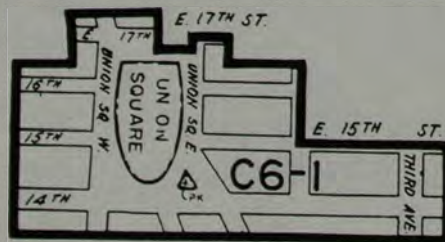
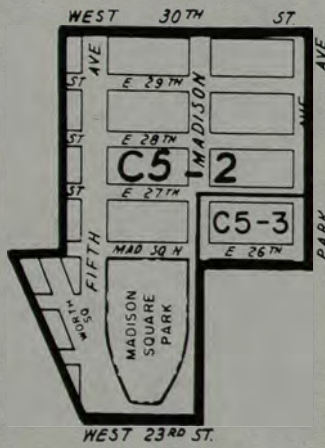


WEST VILLAGE
(COMMERCIAL DISTRICT)

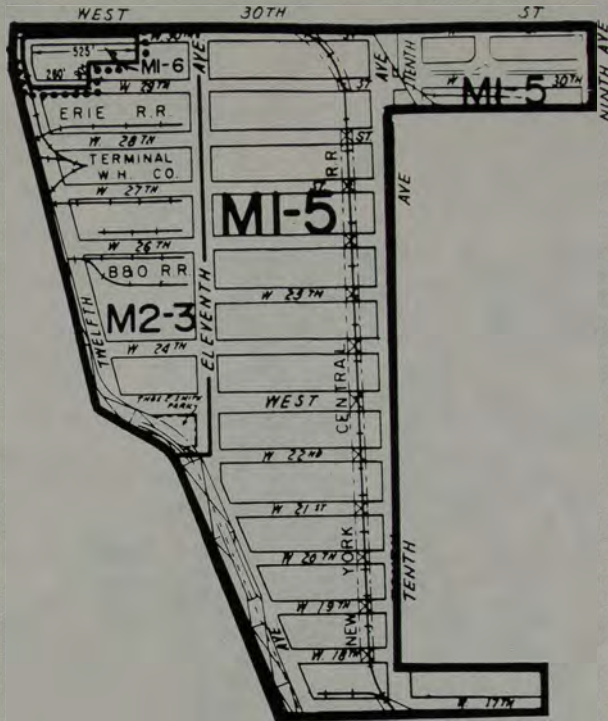


NORTHEAST CHELSEA
(COMMERCIAL DISTRICT)

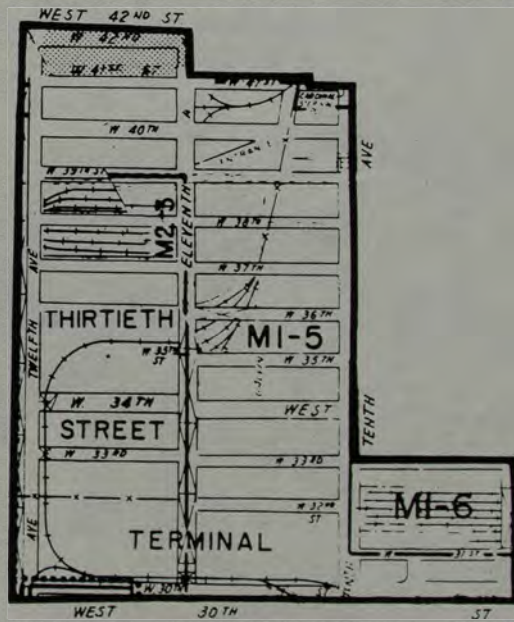
MADISON / PARK AVENUES
(COMMERCIAL DISTRICT)



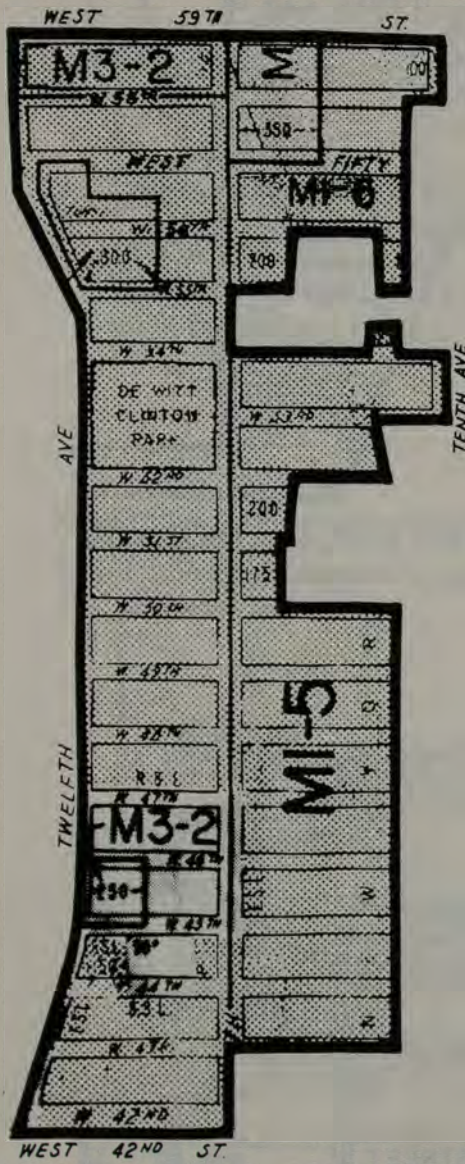
UNION SQUARE
(COMMERCIAL DISTRICT)



WEST CHELSEA / CLINTON
 (MANUFACTURING FOR FURTHER STUDY)



WEST CHELSEA / CLINTON
 (MANUFACTURING FOR FURTHER STUDY)
 (CONVENTION STUDY AREA)



WEST CHELSEA / CLINTON
 (MANUFACTURING FOR FURTHER STUDY)

LOFT ZONING REGULATIONS

(as amended through February 1983)

Notes: 1. Whenever the text refers to "the effective date of this Amendment", the actual date is April 9, 1981.

STATUTORY TEXT: LOFT ZONING REGULATIONS

Article 1 General Provisions

Chapter 1 Title, Establishment of Controls, and Interpretation of Regulations

11-12

Establishment of Districts

In order to carry out the purposes and provisions of this resolution, the following districts are hereby established:

Manufacturing Districts

- M1-5A Light Manufacturing District
(High Performance)
- M1-5B Light Manufacturing
(High Performance)
- M1-5M Light Manufacturing District
(High Performance)
- M1-6M Light Manufacturing District
(High Performance)

Commercial Districts

* * *

- C6-2M General Central Commercial District
- C6-4M General Central Commercial District

* * *

11-27 Alteration Permits Filed or Residential Occupancy Prior to May 18, 1981, in Certain M1-6 Districts

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:

- a) *dwelling units* which the Chairman 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 Multiple Dwelling Law, such a determination of residential occupancy shall be deemed to permit residential use as-of-right for such *dwelling unit*.
- b) 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 subsection shall expire one year from July 23, 1981, unless a temporary or permanent certificate of occupancy has been issued.

11-28

Alteration Application Filed Prior to Effective Date of Amendment C 821182 ZMM Rezoning the Area between Canal Street, Baxter Street, White Street and Broadway.

In the manufacturing district located in the area between Canal Street, Baxter Street, Waiker Street, Centre Street, White Street and Broadway, residential use shall not be permitted. However

- a. all *dwelling units* for which an alteration application to permit such use was filed with the Department of Buildings prior to December 16, 1982, and a temporary or permanent certificate of occupancy is obtained not later than December 16, 1984, shall be a permitted use; and
- b. *dwelling units* which the Chairman of the City Planning Commission determines were occupied on August 31, 1982 shall be a permitted use provided that a complete application to permit such use is filed by the owner of the building or the occupant of a *dwelling unit* in such building not later than August 31, 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*.

Chapter 2 Construction of Language and Definitions

12-10 DEFINITIONS

Words in the text or tables of this resolution which are *italicized* shall be interpreted in accordance with the provisions set forth in this Section.

Accessory use, or accessory

An "accessory use":

(a) Is a *use* conducted on the same *zoning lot* as the principal *use* to which it is related (whether located within the same or an *accessory building* or *other structure*, or as an *accessory use* of land), except that, where specifically provided in the applicable district regulations, *accessory* off-street parking or loading need not be located on the same *zoning lot*; and

(b) Is a *use* which is clearly incidental to, and customarily found in connection with, such principal *use*; and

(c) Is either in the same ownership as such principal *use*, or is operated and maintained on the same *zoning lot* substantially for the benefit or convenience of the owners, occupants, employees, customers, or visitors of the principal *use*.

When "accessory" is used in the text, it shall have the same meaning as *accessory use*.

An *accessory use* includes:

(a) Living or sleeping accommodations for servants in connection with a *use* listed in Use Groups 1 and 2;

(b) Living or sleeping accommodations for caretakers in connection with any *use* listed in Use Group 3 through 18, inclusive, provided that:

1. no *building* contains more than one living or sleeping accommodation, for caretakers;

2. no such living or sleeping accommodation shall exceed 1200 square feet of floor area;

3. the owner shall sign a Restrictive Declaration that any such caretaker will provide maintenance and/or repair services, and containing a list of services to be performed by such caretaker. Such restrictive Declaration shall be recorded in the Office of the City Register, or, where applicable, the County Clerk's Office, of the county where the *building* is located. A copy of such declaration shall be provided to the Department of Buildings; and

4. in C6-2M, C6-4M, M1-5M, M1-6M, M1-5A, M1-5B districts and the LMM Special District, no living or sleeping accommodation for caretakers is permitted in any *building* which contains a *residential use* or a *joint living-work quarter for artists*.

(c) Living or sleeping accommodations in connection with *commercial* or *manufacturing uses*, including living or sleeping accommodations in connection with a studio listed in Use Group 9, provided that

1. no *building* contains more than two kitchens and

2. no such living or sleeping accommodations are located in a C7, C8 or *manufacturing district*.

Home occupation

A "home occupation" is an *accessory use* which:

(a) Is clearly incidental to or secondary to the *residential use* of a *dwelling unit* or *rooming unit*, and

(b) Is carried on within a *dwelling unit*, *rooming unit*, or *accessory building* by one or more occupants of such *dwelling unit* or *rooming unit*, except that, in connection with the practice of a profession, one person not residing in such *dwelling unit* or *rooming unit* may be employed, and

(c) Occupies not more than 25 percent of the total floor area of such *dwelling unit* or *rooming unit* and in no event more than 500 square feet of floor area.

In connection with the operation of a *home occupation* it shall not be permitted:

(a) To sell articles produced elsewhere than on the premises

(b) To have exterior displays, or a display of goods visible from the outside

(c) To store materials or products outside of a principal or *accessory building* or *other structure*

(d) To display, in an R1 or R2 District, a nameplate or other *sign* except as permitted in connection with the practice of a profession

(e) To make external structural alterations which are not customary in *residential buildings*

(f) To produce offensive noise, vibration, smoke, dust or other *particulate matter*, odorous matter, heat, humidity, glare, or other objectionable effects.

Home occupations include, but are not limited to:

(a) Fine arts studios

(b) Professional offices

(c) Teaching of not more than four pupils simultaneously, or, in the case of musical instruction, of not more than a single pupil at a time.

However, *home occupations* shall not include:

(a) Advertising or public relations agencies

(b) Barber shops

(c) Beauty parlors

(d) Commercial stables or kennels

(e) Depilatory, electrolysis, or similar offices

(f) Interior decorators' offices or workshops

(g) Ophthalmic dispensing

(h) Pharmacy

(i) Real Estate or insurance offices

(j) Stockbrokers' offices

(k) Veterinary medicine.

Industrial Loft Advisory Council

The "Industrial Loft Advisory Council" shall be the council in the Mayor's Office for Economic Development created by Executive Order of the Mayor and composed of representatives of local industry, which may advise the Mayor, the City Planning Commission and its Chairman, or the Board of Standards and Appeals concerning applications pursuant to the Zoning Resolution. The ILAC shall be an interested party for the purpose of Section 668(c) of the New York City Charter.

12-10 DEFINITIONS

Joint Living-Work Quarters for Artists

A "joint living-work quarters for artists" consists of one or more *rooms* in a *non-residential building*, on one or more floors, which are arranged and designed for use by, and are used by not more than four non-related *artists*, or an *artist* and his family maintaining a common household, with lawful cooking space and sanitary facilities including the requirements of the Housing Maintenance Code, and including adequate working space reserved for the *artist* or *artists* residing therein. An artist is a person so certified by the New York City Department of Cultural Affairs. Regulations governing *joint living-work quarters for artists* are set forth in Section 42-14D (Use Group 17—Special Uses), 43-17 (Special Provisions for Joint Living-Work Quarters for Artists), 74-18 (Modification by Special Permit of the City Planning Commission uses in M1-5A and M1-5B Districts) and 42-141 (Modification by certification of the City Planning Commission of *uses* in M1-5A and M1-5B Districts), and Article XI Chapter 1 Special Lower Manhattan Mixed Use District).

An "*artists*" is a person so certified by the New York City Department of Cultural Affairs.

Article I, Chapter 5—Residential Conversion of Existing Non-Residential Buildings in Community Districts 1, 2, 3, 4, 5, and 6 in the Borough of Manhattan.

15-00 GENERAL PURPOSES

In Manhattan Community Districts 1, 2, 3, 4, 5 and 6, special regulations for the conversion to dwelling units of non-residential buildings or portions thereof, erected prior to December 15, 1961, 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 2 of this resolution upon payment of a conversion contribution;
- (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;
- (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;
- (h) To ensure the provision of adequate amenities in conjunction with residential development.

15-01

Applicability

In Manhattan Community Districts 1, 2, 3, 4, 5 and 6 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.

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 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.

15-011

Special Clinton District

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

15-012

M1-5A, M1-5B, or the LMM Districts

Except as specifically set forth in Sections 15-41 and 15-50 and except for the provisions of Section 15-013, the provisions of this chapter are not applicable in M1-5A, M1-5B or the LMM districts.

A. Building Permits

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 1 or 2, below:

1. for all *floor areas* for which the Board has made a finding that, as of April 9, 1981,
 - a) there was substantial construction in compliance with the approved plans pursuant to which said lapsed permit had been granted, and
 - b) 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 areas* 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:
 - a) the conversion shall comply with the provisions of Sections 15-12, 15-24, 42-14 D1(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 D1(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;
 - b) there shall be double glazing on all windows in all *dwelling units* or such other window treatment as the Board deems appropriate;
 - c) for any *floor area* occupied on September 1, 1980 by a *commercial or manufacturing use* listed in Section 15-58, the owner shall make a reduced conversion contribution under the provisions of Section 15-555.

In addition to the above, amendments filed after September 1, 1980 which create additional *dwelling units or joint living work quarters for artists*, or increase the amount of *floor area* to be converted to such units shall be subject to the requirements of this chapter; and if a temporary or permanent Certificate of Occupancy has not been obtained within two years from the issuance of said building permit, and the *floor area* or any portion thereof for which said building permit was issued was occupied on April 9, 1981 by a *commercial or manufacturing use* listed in Section 15-58, the provisions of Section 15-50 et seq. shall apply for such *floor area*.

B. Variances

If, before April 9, 1981, a variance was granted by the Board of Standards and Appeals 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 34-42 (Location within Buildings).

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 Chairman 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 subsection shall be required to comply with the requirements of Section 15-22 (Number of permitted Dwelling Units) and Section 15-23 (Light and Air Provisions).

Such *dwelling units* are subject to the requirements of Section 15-50 *et seq.* Notwithstanding the above, where the

Chairman 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 15-58 (Eligible Commercial and Manufacturing Uses), the Chairman may permit that any *floor area* in the *building* be used for *dwelling units* provided that

- i) 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;
 - ii) any *use* listed in Section 15-58 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;
 - iii) the provisions of Section 15-50 *et seq.* shall be complied with for the *floor area* to be converted, if such *floor area* was used for a *use* listed in Section 15-58 on the date of application to the [Board] Department of City Planning pursuant to this section;
 - iv) 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% of the amount of *floor area* in the *dwelling unit* previously occupied, and
 - v) as a result of such action by the Chairman 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:
- i) *dwelling units* which the Chairman 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*.

ii) 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 subsection shall expire one year from

July 23, 1981, unless a temporary or permanent certificate of occupancy has been issued.

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).

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.

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.

15-025

Double Glazed Windows

All *dwelling units* in *buildings* which contain one or more *uses* listed in Section 15-58 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, shall not be required to have double glazed windows.

15-10
REGULATIONS GOVERNING CONVERSIONS TO DWELLING UNITS OF NON-RESIDENTIAL BUILDINGS IN RESIDENTIAL AND COMMERCIAL DISTRICTS, EXCEPT C6-2M AND C6-4M DISTRICTS.

15-11
Bulk Regulations

The *lot area* requirements of the following sections are hereby superseded and replaced with the requirements of Section 15-11 for the conversion of non-*residential buildings to dwelling units*: Sections 23-20 through 23-28 (Density Regulations—Required Lot Area per Dwelling Unit, Lot Area per Room, or Floor Area per Room), 24-20 (Lot Area Requirements for Buildings Used Partly for Residential Use), 35-40 through 35-43 (Applicability of Lot Area Requirements to Mixed Buildings) and 54-31 (Enlargements or Conversions).

15-111
Number of Permitted Dwelling Units

The number of *dwelling units* permitted is the total number calculated under Section 15-111 (a) and (b), and may be distributed anywhere within the *building* except in the *cellar*. Portions of a *dwelling unit* located in the *cellar* shall comply with the provisions of Section 15-112.

(a) *Floor area* which does not exceed the maximum *residential floor area* permitted by the provisions of the applicable district may be converted to *dwelling units*. The number of *dwelling units* attributable to the *floor area* permitted under the provisions of the applicable district shall be determined by the following tables:

Minimum Floor Area per Dwelling Unit in Specific Zoning Districts

Applicable District	Maximum Residential Floor Area Ratio Permitted	Minimum Floor Area Per Dwelling Unit Permitted
R6 or equivalent	2.43	700 square feet
R7 or equivalent	3.44	745 square feet
R8 or equivalent	6.02	790 square feet
R9 or equivalent	7.52	880 square feet
R10 or equivalent	10.00	900 square feet

(b) In existing non-*residential buildings* the *residential floor area* which exceeds the *residential floor area* permitted by the provisions of the applicable district may be converted to *dwelling units* provided that there shall be not less than 1,800 square feet of *gross floor area* per *dwelling unit* in such excess *residential floor area*.

For the purpose 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 $\frac{1}{3}$ % 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 existing floors that are to remain. No mezzanine shall 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*.

15-112

Light and Air Provisions

- (a) For purposes of this section a "living room" is defined by Section 4 of the Multiple Dwelling Law.
- (b) Spaces other than "living rooms"
- (i) 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.
 - (ii) *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*.
 - (iii) Spaces, other than "living rooms", kitchens, bathrooms or mezzanines, with a minimum width of 5 feet in the narrowest dimension measured perpendicular to a wall enclosing such space, are 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*.
- (c) Every *dwelling unit* shall meet the light and air requirements of Section 277 of the Multiple Dwelling Law.
- (d) 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 15-112(c) (Light and Air Provisions), measured perpendicular to such *building wall*. Width is the distance between exterior *dwelling unit* walls measured perpendicular to the depth.

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.

15-13

Special Home Occupation Provision

In C6 districts 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*. Such *home occupation* may occupy more than 500 square feet of *floor area*. For the purposes of this section, mezzanines shall be counted as *floor area*.

15-20

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

The *lot area* requirements of the following sections are hereby superseded and replaced with the requirements of Section 15-21 and 15-22 for the conversion of non-residential buildings to *dwelling units*: Sections 23-20 through 23-28 (Density Regulations—Required Lot Area per Dwelling Unit, Lot Area per Room, or Floor Area per Room), 24-20 (Lot Area Requirements for Buildings Used Partly for Residential Use), 35-40 through 35-43 (Applicability of the Lot Area Requirements to Mixed Buildings) and 54-31 (Enlargements or Conversions).

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 Chairman 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.

Floor Area Preservation

The amount of *floor area* to be preserved for permitted *commercial* or permitted *manufacturing uses* shall be in accordance with Table I below if the *floor area* to be converted is located in a C6-2M or C6-4M district, and in accordance with Table II below 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 15-41. Such *floor area* shall be comparable to the *floor area* to be converted, as required by Section 15-213.

The amount of *floor area* to be preserved may be reduced in accordance with the provisions of Section 15-215 (Existing Non-Conforming Dwelling Units).

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 above.

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*.

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

Area of Zoning Lot Containing Floor Area to be Converted	Less than 5,000 sq. ft.	5,000 sq. ft. or more but less than 10,000 sq. ft.	10,000 sq. ft. or more
Amount of Floor Area to be Preserved as a Percentage of Floor Area of the Building to be Converted	33.3% of floor area	50% of floor area	66.6% of floor area

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

Area of Zoning Lot Containing Floor Area to be Converted	Less than 5,000 sq. ft.	5,000 sq. ft. or more but less than 10,000 sq. ft.	10,000 sq. ft. or more
Amount of Floor Area to be Preserved as a Percentage of Floor Area of the Building to be Converted	33.3% of floor area	66.6% of floor area	66.6% of floor area

15-212

Reduced Floor Area Preservation

Notwithstanding the provisions of Section 15-211, Table I set forth in this Section 15-212 may be substituted for Table I in Section 15-211, and Table II in this Section 15-212 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 which has been in occupancy for 2 years prior to the application for a certification under the provisions of Section 15-21 or by a use listed in Section 15-58, and subject to the following conditions:

(a) Where the preserved floor area is occupied by an existing commercial or manufacturing use for 2 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 15-58, 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:

- (i) be for a period of not less than 3 years from the date of application for such certification with provision for 2 years renewal at the tenants option, and
- (ii) not be subject to cancellation by the landlord.

(b) Where the preserved floor area is occupied by any such use for 2 years immediately preceding the date of application under Section 15-21, and such occupant is the owner of said floor area, the Chairman of the City Planning Commission shall require that the Certificate of Occupancy designate the preserved floor area for a use listed in Section 15-58 for a period of 5 years from the date of such certification.

(c) Where the preserved floor area will be occupied by a use listed in Section 15-58 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 15-58, 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**

Area of Zoning Lot Containing Floor Area to be Converted	Less than 5,000 sq. ft.	5,000 sq. ft. or more but less than 10,000 sq. ft.	10,000 sq. ft or more
Amount of Floor Area to be Preserved as a Percentage of Floor Area of the Building to be Converted	1 floor, plus, in Buildings of more than 6 stories, 25% of the floor area in excess of 6 stories.	33.3% of floor area	50% of floor area

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

Area of Zoning Lot Containing Floor Area to be Converted	Less than 5,000 sq. ft.	5,000 sq. ft. or more but less than 10,000 sq. ft.	10,000 sq. ft. or more
Amount of Floor Area to be Preserved as a Percentage of Floor Area of the Building to be Converted	1 floor, plus, in Buildings of more than 6 stories, 25% of the floor area in excess of 6 stories.	50% of floor area	50% of floor area

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:

1) Elevators: Load and number

(a) 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	Gross <i>floor area</i> of <i>building</i> to be preserved	Is greater than or equal to 80% of	Total Load	Gross <i>floor area</i> of <i>building</i> to be converted
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(b) 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	Gross <i>floor area</i> of <i>building</i> to be preserved	Is greater than or equal to 80% of	Number of Elevators	Gross <i>floor area</i> of <i>building</i> to be converted
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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) NUMBER

Notwithstanding the above, where there is only 1 elevator servicing the *floor area* to be converted, there may be 1 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%, 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% of the ratio of the volume of the elevator servicing the *floor area* to be converted to the *floor area* to be converted.

2) Floor Load

The floors shall have a minimum live load capacity of 100 pounds per square foot (100 psf).

3) Size of Floors

The *floor area* shall be located on floors of not less than 3,000 square feet or 50% of the size of the floors in the *building* to be converted, whichever is greater. *Floor area* may not be preserved on portions of floors.

4) 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.

5) 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% of the average distance between columns in the *building* to be converted.

6) Height of Stories

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

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 Chairman 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) The amount of *floor area* required to be preserved in any *building* pursuant to Section 15-211 or 15-212 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*.

15-215

Existing Non-Conforming Dwelling Units

The requirements of Section 15-211 regarding the amount of *floor area* to be preserved for permitted *commercial* or permitted *manufacturing uses* may be waived by the Chairman of the City Planning Commission if such *floor area* was occupied as *dwelling units* as of September 1, 1980, provided that

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

Number of Permitted Dwelling Units

(a) In *buildings* converted to *dwelling units* under Section 15-20 (Regulations Governing Conversions to Dwelling Units of Non-Residential Buildings in C6-2M, C6-4M, M1-5M and M1-6M Districts) 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).

(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 $\frac{1}{3}$ per cent 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 existing floors that are to remain. No mezzanine shall 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*.

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) (Light and Air Provisions), measured perpendicular to such *building* wall. Width is the distance between exterior *dwelling unit* walls measured perpendicular to the depth.

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.

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 (Definitions), 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.

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.

15-30 MINOR MODIFICATIONS

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

(a) The requirements of Section 15-22 (a) relating to *dwelling unit* size may be modified provided that the Chairman 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 5 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 Chairman 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.

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.

15-40 SPECIAL PERMIT

15-41

Residential Conversion in C6-2M, C6-4M, M1-5M, M1-6M, M1-5A, M1-5B and LMM Districts

In C6-2M, C6-4M, M1-5M and M1-6M Districts, the City Planning Commission may permit modification of the requirements of Section 15-21; in M1-5A and M1-5B districts the City Planning Commission may permit the modification of the requirements of Section 42-14D1(b) and in the LMM Special Purpose District the City Planning Commission may permit the modification of the requirements of Section 111-103, in accordance with the provisions of Section 74-711 or 74-78.

15-50 RELOCATION INCENTIVE PROGRAM

15-51

Preamble

In order to reduce the deleterious effects on commercial and manufacturing uses caused by the reduction of existing floor area available to such uses as the result of the conversion of nonresidential buildings to dwelling units or Joint living-work quarters for artists, while permitting owners to convert such buildings to dwelling units or Joint living-work quarters for artists, thereby increasing the value of such buildings, a Relocation Incentive Program is established. These general goals include, among others, the following specific objectives:

- (a) To provide incentives for eligible commercial and manufacturing uses displaced by the conversion of commercial or manufacturing buildings, or portions thereof, to dwelling units, to relocate within the City of New York.
- (b) To provide certainty to eligible commercial and industrial tenants as to the extent and availability of relocation incentives.
- (c) To ensure that such incentives are available to the eligible commercial or manufacturing uses at the time they relocate.
- (d) To assist in the retention of industrial firms and industrial relocation within the City of New York in accordance with the intent of this Chapter.

Under the Relocation Incentive Program, owners who plan to convert space used for commercial and manufacturing uses to dwelling units or Joint living-work quarters for artists under the provisions of this chapter of Sections 42-14D, 74-711, 74-78 and 111-00 of this resolution will be required to pay a conversion contribution or provide direct relocation payments before they can obtain an Alteration Permit. The conversion contribution will be paid into the Industrial Relocation Fund to be administered by the New York City Business Relocation Assistance Corporation. These funds will be used to provide industrial relocation assistance in accordance with the intent of this Chapter.

Building owners may receive a discount from the conversion contribution if they provide direct assistance to manufacturing tenants which relocate in New York City. The Board of Standards and Appeals shall admin-

istratively review applications, authorize discounts or exclusions, and certify that the appropriate relocation assistance has been provided.

Prior to the issuance of an Alteration Permit for the development of dwelling units or Joint living-work quarters for artists, an owner must present proof of either payment of the conversion contribution or BSA approval of direct relocation payments.

15-52

Definitions

For the purposes of sections 15-50 through 15-58 matter in *italics* is defined in this Section or in Section 12-10.

Applicable Building

An "applicable building" is any existing *building* or other structure, erected prior to December 15, 1961, which

1. (a) is located in a R6, R7, R8, R9, R10, C1, C2, C4, C5, C6, M1-5A, M1-5B, M1-5M, M1-6M or LMM district, and
(b) (i) on September 1, 1980 was used for a *use* listed in Section 15-58, or
(ii) was vacant on September 1, 1980 and was used within 3 years prior to such date for a *use* in such Use Groups; or
2. (a) is granted a *use* variance pursuant to the provisions of Sections 72-21 and 72-221; and
(b) (i) on (the effective date of this amendment) was used for a *use* listed in Section 15-58, or
(ii) was vacant on (the effective date of this amendment) and was used within 3 years prior to such date for a *use* in such Use Groups.

Conversion Contribution

A "conversion contribution" is the contribution to the Industrial Relocation Fund provided by the owner of an *applicable building*. Such contribution shall be provided by the owner in order to convert such *building* to *dwelling units* or *Joint living-work quarters for artists* without meeting the requirements for the development of *dwelling units* in Article 2. (Residence District Regulations)

The Corporation

The "Corporation" is the New York City Business Relocation Assistance Corporation, a not-for-profit Corporation. The Board of Directors of the Corporation shall consist of the Commissioner or Executive Director of the Office of Economic Development, the Chairman of the City Planning Commission, the Chairman of the Board of Standards and Appeals, the Commissioner of the Department of House Preservation and Development, the President of the New York City Public Development Corporation and two industrial representatives.

Eligible Tenant

An "eligible tenant" is a commercial or manufacturing tenant, or commercial or manufacturing owner/occupant, determined by the *Corporation* to be engaged in a business listed in Section 15-58 and who:

- (i) occupied and used space within an *applicable building* for not less than 24 months immediately prior to vacating,
- (ii) vacated the premises on or after (the effective date of this amendment), and
- (iii) either purchased, or leased for a term of not less than 24 months, other premises within the City of New York for the purpose of engaging in a business listed in Section 15-58.

A sub-tenant shall be eligible to receive a relocation incentive in accordance with the provisions of Section 15-50 et seq. notwithstanding any lack of eligibility of its prime tenant.

The Fund

The "Fund" is the Industrial Relocation Fund. The *Fund* is established within the *Corporation*. The *Corporation* shall accept the *conversion contribution* to be accredited to the *Fund* and apply such monies toward the relocation of industrial tenants, including any verification action required under the provisions of Section 15-50 et seq. (Relocation Incentive Program), or toward the administration of the *Fund*, and for such other purposes relating to industrial relocation as the *Corporation* may determine.

The Industrial Relocation Fund will be administered by the *Corporation*.

15-521

Rules and Regulations for the Fund

The *Corporation* shall promulgate rules and regulations for the distribution of monies from the *Fund*. The *Corporation* shall provide a copy of all proposed rules and regulations and any proposed amendments thereto to:

- a) Manhattan Community Boards 1 through 6,
- b) the City Planning Commission,
- c) the Office of Economic Development,
- d) the Board of Standards and Appeals,
- e) Members of the Board of Estimate, and
- f) the *Industrial Loft Advisory Council*.

In addition, the *Corporation* shall publish notice of the existence of proposed rules and regulations and any proposed amendments thereto for five business days in a newspaper of general circulation in the City of New York, and shall make all such proposed rules, regulations and amendments available to the public. Comments on such proposed rules, regulations and amendments shall be accepted for 30 days thereafter. The rules and regulations, or amendments thereto, as adopted, shall be provided to all persons listed in subdivisions (a) through (f) above, and shall be made available to the general public.

15-53

Conversion Contribution

15-531

Rate of Contribution

The *conversion contribution* shall be paid into the *Fund*. If tendered prior to September 1, 1982, such contribution shall be at the rate of \$9.00 per square foot of the gross *floor area* to be used for *dwelling units* or *Joint living-work quarters for artists* and stairwells, elevator shafts, halls and other common *floor areas* of the *building* used in conjunction with such *dwelling units* or *Joint living-work quarters for artists*, excluding ground floor lobbies, less any dis-

count authorized under the provisions of Section 15-54 (Direct Help) or Section 15-55 (Additional Discounts or Exclusions from Conversion Contributions). On September 1, 1982, and on each subsequent September 1, the *Corporation* shall establish the monetary rate at which the *conversion contribution* is to be paid during that year. Said rate change shall be based on the Gross National Product Implicit Price Deflators for the Trucking and Warehousing Industry, prepared by the U.S. Department of Commerce.

15-532

Contribution Procedure

a) Prior to the issuance of an Alteration Permit, the owner shall pay the *conversion contribution*, in an amount equal to the rate applicable at the date of payment multiplied by the gross *floor area* as provided in Section 15-531. The amount of such contribution may be reduced by authorization of the Board of Standards and Appeals pursuant to Section 15-54 (Direct Help) or Section 15-55. (Additional Discounts or Exclusions from Conversion Contributions). Nothing in this section shall be construed to require such owner to pay the *conversion contribution* in accordance with the provisions of this section more than once on any particular *floor area*. Upon proof of payment of the *conversion contribution* by the owner, or upon receipt of an authorization exclusion, pursuant to Section 15-551 (Existing Conversion) or Section 15-554 (Exclusion for Certain Vacated Space), the Board shall notify the Department of Buildings that the requirements of Section 15-50 et seq. have been met.

(b) The *conversion contribution* shall be paid into the *Fund* primarily for the benefit of the commercial or manufacturing tenant who last occupied the *floor area* to be converted and subsequently relocated within the City of New York. Within six months of the payment of the *conversion contribution*, and upon verification by the *Corporation* that said tenant is an *eligible tenant*, the *Corporation* shall pay to said tenant the appropriate portion of the *conversion contribution*. The appropriate portion of the *conversion contribution* shall be equal to the amount produced by multiplying the rate of *conversion contribution* applicable at the time of payment of the *conversion contribution* by either the *floor area* occupied by such tenant prior to relocation, or the *floor area* occupied by such tenant after relocation, whichever is less.

The *Corporation* shall determine whether a commercial or manufacturing tenant is an *eligible tenant* within 15 days after a request by said tenant, and, in appropriate cases, verify the eligibility of said tenant. Where a commercial or manufacturing tenant is not an *eligible tenant*, the *Fund* shall retain the *conversion contribution*. Where an *eligible tenant* does not seek verification of eligibility within six months of the payment of the *conversion contribution*, such tenant shall be ineligible to receive any payment or assistance from the *Corporation*.

*Effective 4:30 PM, November 2, 1983, the rate is \$10.60.

Notwithstanding the above, where the *eligible tenant* has received assistance from the *Corporation*, the amount of such assistance will be subtracted from the amount to which said tenant is eligible under this section, and the remainder shall be retained by the *Corporation*.

15-54

Direct Help

The Board of Standards and Appeals shall issue an authorization for a discount from all or part of the amount of the *conversion contribution* when it determines that the owner of an *applicable building* has made a direct help payment in accordance with Section 15-541 through Section 15-546. The amount of the discount shall be twice the direct help payment provided to the recipients as required in Section 15-541.

The owner of an *applicable building* shall include a copy of each escrow agreement signed pursuant to Section 15-542 with the application to the Board for the authorization for a direct help discount. The owner of an *applicable building* applying for a direct help discount shall, on the date of such application, provide the Office of Economic Development with a copy of said application. Within 30 days of the receipt of any such application, the Office of Economic Development may provide the Board of Standards and Appeals with a report on the history of commercial and manufacturing tenancy of such *building*.

15-541

Amount of Direct Help Payment

a) The direct help payment shall be equal to 50% of the *conversion contribution*. To entitle the owner of an *applicable building* to be eligible for the discount authorized under the provisions of Section 15-54, such owner shall make direct help payments in accordance with the following:

b) Direct Help Payments When Tenant Relocates to a Smaller Space

In no event shall an *eligible tenant* receive a direct help payment of more than 50% of the amount produced by multiplying the currently applicable rate of *conversion contribution* by the *floor area* occupied by such tenant after relocation. If, as a result of such tenant relocating to a smaller space, the amount of direct help payment provided by an owner to an *eligible tenant* is less than the amount of the direct help payment the owner is required to provide pursuant to the provisions of Section 15-541a, the remainder shall be paid to the *Corporation*. The *Corporation* shall determine if there has been relocation to a smaller space. The owner shall be entitled to a discount for all such direct help payments.

Condition of the Space to be Converted	Recipient of the Direct Help Payment	% of Conversion Contribution Each Recipient Receives
Vacant since September 1, 1980.	The <i>Corporation</i>	50%
In R6, R7, R8, R9, R10, C1, C2, or C4 districts, vacant since January 1, 1981.	The <i>Corporation</i>	50%
Vacant more than 24 months.	The <i>Corporation</i>	50%
Occupied by an <i>eligible tenant</i> listed in Section 15-581.	The Tenant	50%
Occupied by an <i>eligible tenant</i> listed in Section 15-582.	The Tenant The <i>Corporation</i>	25% 25%
Occupied by a commercial or manufacturing tenant for more than 24 months but such tenant did not relocate within New York City	The <i>Corporation</i>	50%
Occupied by a commercial or manufacturing use not listed in Section 15-58 for more than 24 months	The <i>Corporation</i>	50%

Establishment of Escrow Accounts

To receive a discount under the provisions of Section 15-54 (Direct Help), the owner of an *applicable building* shall establish an escrow account in accordance with the provisions established in this section.

a) Such owner shall deposit a sum of money equal to the amount of the direct help payment required under Section 15-541 in an escrow account in a banking institution located in the City of New York. The escrow agent shall be such bank or the owner's attorney. The escrow account shall be established pursuant to an agreement signed by the owner and the escrow agent, which agreement shall be on a form provided by the *Corporation*. Where the commercial or manufacturing tenant is listed in Section 15-581, said escrow agreement shall contain the specific provisions in subsection (i) below; where the commercial or manufacturing tenant is listed in Section 15-582, said escrow agreement shall contain the specific provisions listed in subsection (ii) below:

(i) The escrow property delivered hereunder shall be held in escrow by (the escrow agent) to be delivered to (the tenant) at such time as the New York City Business Relocation Assistance Corporation, hereinafter called the *Corporation*, has verified that (the tenant) is an *eligible tenant* under the terms of Section 15-50 et seq. of the Zoning Resolution of the City of New York. This escrow property shall be paid in full to (the tenant) within 15 days of such verification, unless the *Corporation* has made a determination that (the tenant) has relocated to a smaller space in accordance with the provisions of Section 15-541b of the Zoning Resolution. Where the *Corporation* has determined that (the tenant) has relocated to a smaller space, (the tenant) shall receive payment from the escrow account in an amount equal to that required by Section 15-541b of the Zoning Resolution within 15 days of such verification. The remainder of the escrow property shall be paid to the *Corporation* at the same time. In the event that the *Corporation* issues a statement of non-eligibility under Section 15-544(c)

of the Zoning Resolution, this escrow property will be paid to the *Corporation* within 15 days of the issuance of such statement. In the event that these conditions are not met within six months from the earlier to occur of the date (the tenant) vacates space in (address of the building) or the date of the establishment of this escrow account, (the escrow agent) shall pay the escrow property delivered hereunder to the *Corporation* at the expiration of said 6-month period.

Notwithstanding the foregoing, where the *Corporation* notifies (the escrow agent) that (the owner) and (the tenant) have entered into a new lease of the premises at (address of the building) for a term of more than three months, the escrow property delivered hereunder shall be returned to (the owner/escrowor) within 15 days of such notification.

(ii) The escrow property delivered hereunder shall be held in escrow by (the escrow agent) until such time as the New York City Business Relocation Assistance Corporation, hereinafter called the *Corporation*, has verified that (the tenant) is an *eligible tenant* under the terms of Section 15-50 et seq. of the Zoning Resolution of the City of New York. Within 15 days of such verification, (the escrow agent) shall pay 50% of the escrow property hereunder to (the tenant) and 50% of the escrow property to the *Corporation*, unless the *Corporation* has made a determination of relocation to a smaller space in accordance with the provisions of Section 15-541b of the Zoning Resolution. Where the *Corporation* has determined that (the tenant) has relocated to a smaller space, (the tenant) shall receive payment from the escrow account in an amount equal to that required by Section 15-541b of the Zoning Resolution within 15 days of such verification. The remainder of the escrow property shall be paid to the *Corporation* at the same time. In the event that the *Corporation* issues a statement of non-eligibility under Section 15-544(c) of the Zoning Resolution, this escrow property will be paid to the *Corporation* within 15 days of the issuance of such statement.

In the event that the above conditions are not met within six months from the earlier to occur of the date (the tenant) vacates space in (address of the building) or the date of the establishment of this escrow account, (the escrow agent) shall pay the escrow property delivered hereunder to the *Corporation* at the expiration of said 6-month period.

Notwithstanding the foregoing, where the *Corporation* notifies (the escrow agent) that (the owner) and (the tenant) have entered into a new lease of the premises at (address of the building) for a term of more than three months, the escrow property delivered hereunder shall be returned to the (the owner/escrowor) within 15 days of such notification.

b) All interest which accrues on the escrow account shall be paid to the owner who establishes such escrow account. Any expenses incurred in establishing such account shall be paid by said owner. A copy of all escrow agreements shall be delivered by said owner to the *Corporation*.

c) For the purposes of this Section 15-542 only, an owner shall be deemed to include an agent of the owner or a contract vendee.

15-543

Time for Establishment of Escrow Accounts

For the purpose of this section only, an *eligible tenant* shall not be required to have purchased or leased other premises within the City of New York.

Escrow accounts shall be established on the dates provided in this section. However, the escrow account shall not be established more than two months prior to the expiration of the tenant's lease, except by mutual consent of the owner and tenant.

(a) Lease Termination

In the event that an *eligible tenant* has a lease with a term of at least one year, and the owner of an *applicable building* notifies said *eligible tenant* that his tenancy will be terminated on the date said tenant's lease expires, or, if there has been no such notification by the owner and said tenant's lease has not been renewed, such owner shall establish the escrow account at least 30 days prior to the date of termination of tenancy.

(b) Holdover or Short-Term Lease

In the event that an *eligible tenant* has a lease of less than one year, or is a holdover tenant with no lease for the space in the *applicable building*, the

owner of the *building* shall establish the escrow account not later than 90 days after said tenant notifies the owner of the date said tenant intends to vacate the premises, or 30 days prior to said tenant's date of termination of tenancy, whichever occurs later.

An owner of an *applicable building* shall notify the *eligible tenant* in writing of the establishment of the escrow account within 5 days of the establishment of such account. Such notice shall include a copy of the escrow agreement.

15-544

Payment of Funds from Escrow Account

a) An *eligible tenant* shall receive its share of the direct help payment from the funds held in the escrow account pursuant to the provisions of Section 15-541 within 15 days of the date the *Corporation* verifies that such tenant is an *eligible tenant*.

b) If the *eligible tenant* fails to seek verification from the *Corporation* within 6 months after the earlier of the date such tenant vacates space in the *applicable building* or the date of the establishment of the escrow account, the escrow property shall be paid to the *Fund*. Such tenant shall then be ineligible to receive any relocation assistance either in the form of a direct help payment or assistance from the *Corporation*. Notwithstanding the above, where there is a dispute as to payment of the escrow account to be resolved under the provisions of Section 15-545, and the expiration of the above 6-month period has resulted in payment to the *Fund*, such tenant shall remain eligible to receive relocation payment from the *Corporation* in an amount equal to the direct help payment for which such tenant was eligible under Section 15-541.

c) In the event that a commercial or manufacturing tenant does not relocate in New York City, or for any other reason is not an *eligible tenant*, the *Corporation* shall issue a statement of non-eligibility. Within 15 days of the issuance of said statement, the *Fund* shall receive payment from the escrow account. The acceptance of the direct help payment by the *Corporation* shall not imply the authorization of the direct help payment credit by the Board of Standards and Appeals. Should such authorization be denied, any funds paid to the *Corporation* under this provision shall be considered part of the *conversion contribution*.

15-545

Disputed Payments from Escrow Account

Any dispute in the computation of the amount of the direct help payment to each recipient in accordance with the provisions of Section 15-541 through 15-543, or as to the eligibility of a commercial or manufacturing tenant for relocation assistance, shall be resolved by the Board of Directors of the Corporation within six months.

15-546

Direct Payment to the Corporation

An owner shall make the direct help payment to the Corporation, and shall not be required to establish an escrow account, in the following situations:

- (a) where the floor area to be converted has been vacant since September 1, 1980;
- (b) where the floor area is located in R6, R7, R8, R9, R10, C1, C2 or C4 district, and such floor area has been vacant since January 1, 1981;
- (c) where the floor area to be converted has been vacant for more than 24 months prior to the filing for the authorization for the direct help payment discount under Section 15-541; or
- (d) where the owner applies to the Board of Standards and Appeals for an authorization for a discount for certain vacated space under Section 15-553.
- (e) where the floor area was occupied by a use not listed in Section 15-58.

The acceptance of the direct help payment by the Corporation shall not imply the authorization of the direct help payment credit by the Board of Standards and Appeals. Should such authorization be denied, any funds paid to the Corporation under this provision shall be considered part of the *conversion contribution*.

15-55

Additional Discount or Exclusions from Conversion Contributions

A copy of any application under this section shall be sent by the applicant to the Office of Economic Development at the time of filing. The Office of Economic Development may provide additional information to the Board.

Authorizations issued under this section shall not expire during the existence of the Relocation Incentive Program.

15-551

Existing Conversion

If the Board of Standards and Appeals determines that floor area was used as *dwelling units* or *Joint Living-Work quarters for artists* on September 1, 1980, the Board shall authorize that such floor area not be included in computing the *conversion contribution*, provided that a complete application for an authorization under this provision was filed with the Board of Standards and Appeals prior to September 1, 1983.

15-552

Non-industrial Related Uses

The Board of Standards and Appeals shall issue an authorization that floor area used for a *use* not listed in Section 15-58 shall not be included in the computation of the *conversion contribution* provided that:

- (a) the Board determines that *uses* not listed in Section 15-58 occupied at least 50% of the floor area of the *building* on September 1, 1980, and
- (b) such floor area was not vacant on September 1, 1980.

For the purposes of this section, common areas of the *building* shall not be included in the computation of the floor area occupied by such uses. The burden of proof is on the applicant to show that the requirements of this section have been met.

15-553

Discount for Certain Vacated Space

The Board of Standards and Appeals may authorize a discount from the *conversion contribution* in an amount equal to 50% of the *conversion contribution* where there is substantial evidence to support a finding that a commercial or a manufacturing tenant engaged in a business listed in Section 15-58 and occupying floor area within an applicable building for at least 24 months immediately prior to an application under this Section had

- (a) vacated floor area in an applicable building more than 6 months prior to the expiration of said tenant's lease, and there is no evidence of harassment by the landlord or the landlord's agent; or
- (b) vacated floor area in an applicable building not earlier than 6 months prior to the expiration of said tenant's lease, and the owner can demonstrate that said tenant was offered a lease renewal or extension at fair market rental not less than

6 months prior to the expiration of said lease. Such renewal or extension shall have been for a period of at least 3 years unless the landlord notified said tenant in writing that:

- (i) such lease renewal or extension was an interim measure until the conversion of such *floor area*, and
- (ii) at the termination of such interim renewal or extension said tenant would receive a direct help payment in accordance with the provisions of Section 15-54.

Where the Board issues an authorization under this section, the direct help payment shall be made to the *Corporation*.

15-554

Exclusion for Certain Vacant Space

Upon proof that *floor area* has been vacant since September 1, 1979, or for a minimum of 5 years, immediately preceding the date of application for an exclusion under this section, the Board of Standards and Appeals shall issue an authorization that no *conversion contribution* shall be required to be made for such *floor area*.

15-555

Discount for Building Permit Issued Before April 9, 1981

- a) The Board of Standards and Appeals may authorize a discount from the *conversion contribution* in an amount equal to 50% of the *conversion contribution*, where the Board determines that there was substantial construction in accordance with the provisions of Section 15-013.
- b) The Board of Standards and Appeals may authorize a reduction in the amount of the *conversion contribution* under paragraph (a) of this section, by an amount equal to any relocation payments provided by the developer, property owner, or contract vendor provided that the Board finds that:
 - (i) such tenant occupied the *floor area* being converted on September 1, 1980, and for not less than 24 months immediately prior to vacating;
 - (ii) such tenant relocated to other premises within the City of New York which such business either purchased, or leased for a term of not less than 24 months, and
 - (iii) such amount was paid to such business within 30 days after said relocation.

15-56

Verification of Relocation Requirements

Within 15 days after a request by a tenant, but in no event prior to the date of relocation, the *Corporation* shall determine whether a commercial or manufacturing tenant is an *eligible tenant* and, in appropriate cases, verify that relocation has occurred. The *Corporation* shall also determine whether there has been relocation to a smaller space under the provisions of Section 15-541b. Notwithstanding the above, a commercial or manufacturing tenant may notify the *Corporation*, prior to relocation, of the date of relocation and the *Corporation* may agree with such tenant to determine whether such tenant is an *eligible tenant* on a specific date subsequent to the relocation.

15-57

Special Provisions

15-571

Non-Separability

The provisions of Sections 15-50 through 15-58 (Relocation Incentive Program) shall be deemed to be an integral part of article I, chapter 5. If any sentence, clause, paragraph or part of Sections 15-50 through 15-58 shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not be confined in its operation to the sentence, clause, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered, but shall be construed to invalidate and impair the remainder of Article I, Chapter 5, in addition thereto. However, any such judgment shall not act to invalidate any other sentence, paragraph, clause, section or chapter of the Zoning Resolution.

15-572

Termination

The provisions of Sections 15-50 through 15-58 shall cease to have all force and effect on January 1, 1991, unless re-adopted by the City Planning Commission on or before such date.

15-573

Applicability

Where an *applicable building* is being converted, the provisions of Sections 15-50 through 15-58 (Relocation Incentive Program) shall apply in lieu of the relocation benefits authorized under subdivision 10 of Section 489 of the New York Real Property Tax Law.

Eligible Commercial and Manufacturing Uses**15-581****Group A**

The following *uses* are included in Section 15-581. *Accessory uses* shall be considered part of such *use*. *Uses* which are encompassed within categories under more than one Use Group are included in Section 15-581 as long as one such category is included below:

In Use Group 9A:

Blueprinting or Photostating establishments
 Medical or dental laboratories
 Printing establishments
 Studios, art, music, dancing or theatrical

In Use Group 10A:

Photographic or Motion Picture Production Studios, Radio or television studios.

In Use Group 11A:

All *uses*

In Use Group 16A:

Blacksmith shops
 Carpentry, custom woodworking or furniture making shops
 Household or office equipment or machinery repair shops
 Machinery rental or sales establishments
 Mirror silvering or glass cutting shops
 Silverplating 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
 Photographic developing or printing establishments

In Use Group 17A:

Produce or meat markets, wholesale

In Use Group 17B:

All *uses*

In Use Group 18A, only for the purposes of the Relocation Incentive Program:

All *uses*.

Group B

The following *uses* are included in Section 15-582. *Accessory uses* shall be considered part of such *uses*. *Uses* which are encompassed within categories under more than one Use Group are included in Section 15-582 as long as one such category is included below:

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:

Musical instrument repair shops
 Plumbing, heating or ventilating equipment showrooms
 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.

In Use Group 10B:

All *uses*

In Use Group 11B:

All *uses*

In Use Group 16A:

Electrical, glazing, heating, painting, paper-hanging, plumbing, roofing, or ventilating contractors establishments
 Poultry or rabbit killing establishments
 Sign painting shops

In Use Group 16D:

Linen, towel, or diaper supply establishments
 Moving or storage offices
 Packing or crating establishments
 Warehouses
 Wholesale establishments

In Use Group 17A:

Building material and contractors yards

In Use Group 17C:

Trucking terminals or motor freight stations

In Use Group 18B, only for the purposes of the Relocation Incentive Program:

All *uses*.

Article II
Residence District Regulations

**Chapter 3 Bulk Regulations for Residential Buildings
in Residence Districts**

23-01

Applicability of this Chapter

* * *

† In Manhattan Community Districts 1, 2, 3, 4, 5, and 6, 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 Article I, Chapter 5 (Residential Conversion of Existing Non-Residential Buildings in Community Districts 1, 2, 3, 4, 5, and 6 in the Borough of Manhattan), unless such conversions meet the requirements for new *residential development* of Article II (Residence District Regulations).

* * *

Article III

Commercial District Regulations

Chapter 1 Statement of Legislative Intent

31-15

C5 Restricted Central Commercial Districts

These districts are designed to provide for office buildings and the great variety of large retail stores and related activities which occupy the prime retail frontage in the central business district, and which serve the entire metropolitan region. The district regulations also permit a few high-value custom manufacturing establishments which are generally associated with the predominant retail activities, and which depend on personal contacts with persons living all over the region. The district regulations are also designed to provide for continuous retail frontage.

31-16

C6 General Central Commercial Districts

These districts are designed to provide for the wide range of retail, office, amusement service, custom manufacturing, and related uses normally found in the central business district and regional commercial centers, but to exclude nonretail uses which generate a large volume of trucking.

Chapter 2 Use Regulations

32-00 GENERAL PROVISIONS

In order to carry out the purposes and provisions of this resolution, the *uses of buildings or other structures* and of tracts of land have been classified and combined into Use Groups. A brief statement is inserted at the start of each Use Group to describe and clarify the basic characteristics of that Use Group. Use Groups 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16, including each use listed separately therein, are permitted in Commercial Districts as indicated in Sections 32-11 to 32-25, inclusive.

In Manhattan Community Districts 1, 2, 3, 4, 5, and 6, 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 Article 1, Chapter 5 (Residential Conversion of Existing Non-Residential Buildings in Community Districts 1, 2, 3, 4, 5, and 6 in the Borough of Manhattan), unless such conversions meet the requirements for new *residential development* of Article II, Residence District Regulations.

All C6-1A Districts shall comply with the regulations of C6-1 Districts except as set forth in Sections 32-15, 32-16, 32-17, 32-20, and 32-644.

In a C8 District, any *use* listed in Use Group 11A or 16 which involves the production, processing, cleaning, servicing, testing, or repair of products, goods, or materials shall conform to the performance standards for the M1 Districts as set forth in Sections 42-20 and 42-28 inclusive, relating to Performance Standards.

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 existing enclosed *buildings* erected prior to December 15, 1961 shall be considered conforming and shall conform to the performance standards for the M1 Districts as set forth in Sections 42-20 and 42-28 inclusive relating to Performance Standards. Such *uses* may be extended within *buildings*.

The following chart sets forth the Use Groups permitted in the various Commercial Districts.

Chapter 3 Bulk Regulations for Commercial or Community Facility Buildings in Commercial Districts

33-01

Applicability of this Chapter

* * *

In Manhattan Community Districts 1, 2, 3, 4, 5, and 6, 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 Article I, Chapter 5 (Residential Conversion of Existing Non-Residential Buildings in Community Districts 1, 2, 3, 4, 5, and 6 in the Borough of Manhattan), unless such conversions meet the requirements for new *residential development* of Article II (Residence District Regulations).

Chapter 4 Bulk Regulations for Residential Buildings in Commercial Districts

34-01

Applicability of this Chapter

* * *

In Manhattan Community Districts 1, 2, 3, 4, 5, and 6, 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 Article I, Chapter 5 (Residential Conversion of Existing Non-Residential Buildings in Community Districts 1, 2, 3, 4, 5, and 6 in the Borough of Manhattan), unless such conversions meet the requirements for new *residential development* of Article II (Residence District Regulations).

Chapter 5 Bulk Regulations for Mixed Buildings in Commercial Districts

35-01

Applicability of this Chapter

* * *

In Manhattan Community Districts 1, 2, 3, 4, 5, and 6, 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 Article I, Chapter 5 (Residential Conversion of Existing Non-Residential Buildings in Community Districts 1, 2, 3, 4, 5, and 6 in the Borough of Manhattan), unless such conversions meet the requirements for new *residential development* of Article II (Residence District Regulations).

Article IV Manufacturing District Regulations

Chapter 1. Statement of Legislative Intent

41-10 PURPOSES OF SPECIFIC MANUFACTURING DISTRICTS

41-11

M1 Light Manufacturing Districts (High Performance)

These districts are designed for a wide range of manufacturing and related uses which can conform to a high level of performance standards. Manufacturing establishments of this type, within completely enclosed buildings, provide a buffer between Residence (or Commercial) Districts and other industrial uses which involve more objectionable influences. New residential development is excluded from these districts, except for joint living-work quarters for artists in M1-5A and M1-5B Districts and dwelling units in M1-5M and M1-6M Districts, both to protect residences from an undesirable environment and to ensure the reservation of adequate areas for industrial development.

Chapter 2 Use Regulations

42-131

M1-5A and M1-5B Districts

The regulations governing M1 districts shall apply in M1-5A and M1-5B districts except where the special use regulations set forth in Section 42-14D (Special Uses in M1-5A and M1-5B Districts) provide otherwise.

42-132

M1-5M and M1-6M Districts

In M1-5M and M1-6M Districts in Manhattan Community Districts 1, 2, 3, 4, 5 and 6, 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 Article I, Chapter 5 (Residential Conversion of Existing Non-Residential Buildings in Community Districts 1, 2, 3, 4, 5, and 6 in the Borough of Manhattan.)

42-133

Provisions for Dwelling Units in Certain M1-5 or M1-6 Districts

- a) In M1-5 and M1-5 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 Chairman of the City Planning Commission determines were occupied on September 1, 1980 shall be a permitted use provided that a complete application to permit such use is filed by the owner of the building or the occupant of a *dwelling unit* in such building not later than June 21, 1983. 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*.
- (b) 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:
 - i) *dwelling units* which the Chairman 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*.
 - ii) 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 subsection shall expire one year from July 23, 1981, unless a temporary or permanent certificate of occupancy has been issued.

Special Uses in M1-5A and M1-5B Districts

1. *Joint living-work quarters for artists in buildings* in M1-5A and M1-5B Districts provided:

(a) Such *building* was erected prior to December 15, 1961.

(b) The *lot coverage* of such *building* does not exceed 5,000 square feet except that in *buildings* with frontage along Broadway the *lot coverage* shall not exceed 3,600 square feet. However, such quarters may also be located in a *building* occupying more than 5,000 square feet of *lot area* if the entire *building* was held in cooperative ownership by artists on September 15, 1970. *Joint living-work quarters for artists* are permitted in other *buildings* or other structures only by special permit of the City Planning Commission pursuant to Section 74-782.

(c) In M1-5B Districts in *buildings* occupying less than 3,600 square feet of *lot area*, *Joint living-work quarters for artists* may not be located below the floor level of the second *story* unless modified by the Chairman of the City Planning Commission pursuant to Section 42-141 (Modification by Certification of the Chairman of the City Planning Commission of uses in M1-5A and M1-5B Districts) or Section 74-781 (Modification by Special Permit of the City Planning Commission of Uses in M1-5A and M1-5B Districts) or Section 74-781 (Modification by Special Permit of the City Planning Commission of Uses in M1-5A and M1-5B Districts).

(d) In *buildings* occupying more than 3,600 square feet of *lot area*, *Joint living-work quarters for artists* may not be located below the floor level of the second *story* unless modified by the Chairman of the City Planning Commission pursuant to Section 42-141 (Modification by Certification of the Chairman of the City Planning Commission of uses in M1-5A and M1-5B Districts) or Section 74-781 (Modification by Special Permit of the City Planning Commission of Uses in M1-5A and M1-5B Districts).

(e) At least 30 percent of the gross roof area of a *building* containing 15 *Joint living-work quarters for artists* shall be developed for recreational use. For each additional *Joint living-work quarters for artists*, 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 42-141.

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

(g) In a *building* for which an alteration permit for *Joint living-work quarters for artists* was requested prior to the effective date of amendment (CP-23170), such alterations may comply with the regulations effective prior to such date.

(h) Prior to the issuance of an Alteration Permit for *Joint living-work quarters for artists use*, the owner shall pay a conversion contribution in accordance with the provisions of Article 1, Chapter 5.

2. Commercial and manufacturing uses below the floor level of the second *story* provided:

(a) In M1-5A Districts, in *buildings* occupying more than 3,600 square feet of *lot area*, only uses listed in Use Groups 7, 9, 11, 16, 17A, 17B, 17C or 17E shall be allowed below the floor level of the second *story* of such *buildings*, unless modified by the Chairman of the City Planning Commission pursuant to Section 42-141 (Modification by Certification of the City Planning Commission of uses in M1-5A and M1-5B Districts) or Section 74-781 (Modification by Special Permit of the City Planning Commission of uses in M1-5A and M1-5B Districts).

- (b) In M1-5B Districts, in any *buildings*, only *uses* listed in Use Groups 7, 9, 11, 16, 17A, 17B, 17C, or 17E shall be allowed below the floor level of the second *story* of such *buildings* unless modified by the **Chairman of the City Planning Commission** pursuant to Section 42-141 (Modification by Certification of the **Chairman of the City Planning Commission** of *uses* in M1-5A and M1-5B Districts) or Section 74-781 (Modification by Special Permit of the **City Planning Commission** of *uses* in M1-5A and M1-5B Districts);
3. In addition to the above restrictions, the following *uses* are not permitted as of right in any *building* or *other structure* or on any tract of land in M1-5A or M1-5B Districts:
- (a) All eating or drinking places as listed in Use Groups 6A, 10A, or 12A of more than 5,000 square feet of floor space, except that any eating or drinking place which is listed in Use Group 6A, which had obtained an Alteration Permit prior to July 14, 1976 is permitted.
 - (b) Eating or drinking places of less than 5,000 square feet without restriction on entertainment or dancing as listed in Use Groups 10A or 12A. However, such *uses* are permitted only by special permit of the Board of Standards and Appeals in accordance with standards set forth in Section 73-241.
 - (c) Non-Commercial clubs as listed in Use Groups 6E and 14B.
 - (d) All *uses* listed in Use Group 8A except that theaters are permitted only by special permit of the Board of Standards and Appeals in accordance with standards set forth in Section 73-202. However, this provision shall not apply to theaters with a capacity of less than 100 seats.
 - (e) Banquet Halls, Wedding Chapels, Catering Establishments, Physical culture or health establishments, including gymnasiums, reducing salons, massage establishments, or steam baths. However, this provision shall not apply to gymnasiums occupying not more than 10,000 square feet and used exclusively for the following sports facilities: basketball, handball, squash, and tennis.
 - (f) All *uses* listed in Use Group 12A.
 - (g) All *uses* listed in Use Group 13 except that theaters are permitted only by special permit of the Board of Standards and Appeals in accordance with standards set forth in Section 73-202. However, this provision shall not apply to theaters with a capacity of less than 100 seats.
4. (a) Any use which became *nonconforming* after April 27, 1976 shall be governed by Article V of this resolution (Non-Conforming Uses and Non-Complying Buildings), except that in M1-58 and M1-5B districts Section 52-37 is hereby superseded and replaced by Section 42-14 D 4 (b).
- (b) In M1-5A and M1-5B districts any *non-conforming use* listed in Use Groups 5, 6, 8, 10, 12, 13, 14, or 15 may be changed, initially or in any subsequent change, only to a *conforming use* or a *use* listed in Use Group 6.

Modification by Certification of the Chairman of the City Planning Commission of Uses in M1-5A and M1-5B Districts

In M1-5A and M1-5B Districts the requirements of Sections 42-14 D 1(c), (d) and (e) or 42-14 D 2 may be modified by certification of the Chairman of the City Planning Commission as provided in this Section. A copy of any request for modification under this section shall be sent by the applicant to the applicable Community Board at least twenty days prior to the next regularly scheduled Community Board meeting. If the Community Board elects to comment on such requests it must do so within 31 days of such notification.

- a) The provisions of Section 42-14 D 1(c) or (d) or Section 42-14 D 2 may be modified if the *floor area* below the level of the second story was vacant as of January 28, 1976 and a complete application under this provision is filed with the City Planning Commission not later than June 21, 1983;
- b) The provisions of Section 42-14 D 1(c) or (d) may be modified provided that:
 - (i) the *floor area* below the level of the second story was occupied by *joint living-work quarters for artists* as of September 1, 1980, and a complete application for a determination of occupancy has been filed by the owner of the *building* or the occupant of a *joint living quarters for artists* in the *building* with the Department of City Planning not later than June 21, 1983. For the purpose of Article 7C of the New York State Multiple Dwelling Law, such a determination of *joint living-work quarters for artists* occupancy by the Chairman of the City Planning Commission shall be deemed to permit residential use as-of-right for such quarters; or
 - (ii) The Chairman finds that the space below the floor level of the second story is required by an *artist* whom the Department of Cultural Affairs has certified as working in a heavy or bulky medium which is not easily transported to the upper floors;
- c) The provisions of Section 42-14 D 2 may be modified provided a *use* other than those listed in Use Groups 7, 9, 11, 16, 17A, 17B, 17C or 17E occupied the *floor area* below the level of the second story as of September 1, 1980 and an application under this provision has been filed with the City Planning Commission not later than June 21, 1983; or
- d) The requirements of Section 42-14 D 1.(e) may be modified provided that the Chairman 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.

Chapter 3 Bulk Regulations

43-01

Applicability of this Chapter

* * *

In Manhattan Community Districts 1, 2, 3, 4, 5, and 6, 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 Article I, Chapter 5 - Residential Conversion of Existing Non-Residential Buildings in Community Districts 1, 2, 3, 4, 5, and 6 in the Borough of Manhattan, unless such conversions meet the requirements for new *residential development* of Article II (Residence District Regulations).

Special Provisions for Joint Living-Work Quarters for Artists in M1-5A and M1-5B Districts

In the district indicated, no building containing *Joint living-work quarters for artists* shall be *enlarged*, except that mezzanines are allowed within individual quarters, in *buildings* with an existing *floor area ratio* of 12 or less, and only between existing floors that are to remain, provided that such mezzanines do not exceed 33⅓ percent of the gross *floor area* of such individual quarters. No mezzanine shall be included as *floor area* for the purpose of calculating minimum required size of a *Joint living-work quarters for artists*.

In the districts indicated no *building* containing *Joint living-work quarters for artists* shall be subdivided into quarters of less than 1,200 square feet except where no *story* contains more than one *Joint living-work quarters for artists* unless modified pursuant to Section 43-171.

In the districts indicated, two or more *buildings* which are separated by individual load bearing walls and contain *Joint living-work quarters for artists*, each of which *building* conforms to the regulations set forth in Section 42-14 may be combined to produce a *lot area* covered by *buildings* in excess of 3,600 square feet.

43-171**Minor Modifications**

On application, the Chairman of the City Planning Commission may grant minor modifications to the requirements of Section 43-17 relating to *Joint living-work quarters for artists* size, provided that the Chairman of the City Planning Commission had administratively certified to the Department of Buildings that the division of one or more *stories* into *Joint living-work quarters for artists* 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 5 percent of a multiple of 1,200 square feet.

A developer must send a copy of any request for a modification pursuant to this section to the applicable Community Board at least twenty days prior to the next regularly scheduled Community Board meeting.

Article V
Non-Conforming Uses and
Non-Complying Buildings

Chapter 2 Non-Conforming Uses

**52-30 CHANGE OF NON-
CONFORMING USE**

52-31

General Provisions

For the purposes of this Chapter, a change of *use* is a change to another *use* listed in the same or any other Use Group; however, a change in ownership or occupancy shall not, by itself, constitute a change of *use*.

A *non-conforming use* may be changed to any conforming *use*, and the applicable district *bulk* regulations and *accessory* off-street parking requirements shall not apply to such change of *use* or to alterations made in order to accommodate such conforming *use*, but shall apply to any *enlargement*. However, notwithstanding the provisions above, in Manhattan Community Districts 1, 2, 3, 4, 5, and 6, 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 Article I, Chapter 5 (Residential Conversion of Existing Non-Residential Buildings in Community Districts 1, 2, 3, 4, 5, and 6 in the Borough of Manhattan), unless such conversions meet the requirements for new *residential development* of Article II (Residence District Regulations).

A *non-conforming use* may be changed to another *non-conforming use* only in accordance with the provisions of this Chapter.

Any such change of *use* permitted by this Chapter shall conform to the applicable district regulations on *accessory* off-street loading berths as set forth in Section 52-41 (General Provisions) and on *accessory signs*, except that in Residence Districts such change shall conform to the regulations on *accessory signs* applicable in a C1 District.

Article VII Administration

Chapter 2 Interpretations and Variances

72-00 POWERS OF THE BOARD OF STANDARDS AND APPEALS

72-01

General Provisions

* * *

(e) To hear and decide applications for such authorizations as are set forth in this resolution and enumerated in Section 72-30.

(f) To make such administrative determinations and findings as may be set forth in this resolution at sections 15-021 and 15-50 et seq.

72-221

Conversion Contribution

In Manhattan Community Districts 1, 2, 3, 4, 5, and 6, the granting of a variance to convert an existing *non-residential building* or other structure, or portion thereof, which on (the effective date of this amendment) was used for a *use* listed in Section 15-58, or which was vacant on (the effective date of this amendment) and was used within three years prior to (the effective date of this amendment) for a *use* in such Use Groups, shall be conditioned upon payment of a conversion contribution in accordance with the provisions of Section 15-50.

A copy of the application for a variance which, if granted, would require the payment of conversion contribution, as specified above, shall be provided to the *Industrial Loft Advisory Council, c/o Mayor's Office of Economic Development.*

72-30 AUTHORIZATIONS

72-31

General Provisions

The Board of Standards and Appeals shall have the power to issue authorizations on such matters as are set forth in this section. The Board shall hear and decide applications for authorizations in an administrative proceeding in the same manner in which it hears appeals for interpretation pursuant to Section 72-10.

72-32

Authorizations Relating to the Conversion of Non-Residential Buildings to Dwelling Units or Joint Living-Work Quarters for Artists

72-321

Credit for Direct Help or Additional Discounts or Exclusions from Conversion Contributions.

In accordance with the provisions of Section 15-54 (Direct Help), the Board may issue an authorization for a credit against payment of all or part of any conversion contribution required pursuant to Section 15-53 and 72-221 (Conversion Contributions).

If the Board determines that *floor area* was used as *dwelling units* or *Joint living-work quarters for artists* on September 1, 1980, the Board shall authorize that such *floor area* not be included in computing the conversion contribution as provided in Section 15-551 (Existing Conversion).

If the Board determines that *floor area* was used for a *use* not listed in Section 15-58, the Board shall authorize that such *floor area* not be included in computing the conversion contribution as provided in Section 15-552 (Non-Industrial Related Uses).

If the Board finds that *floor area* was vacated under the conditions set forth in Section 15-553 (Discount for Certain Vacated Space), the Board may authorize a discount from the conversion contribution in an amount equal to 50% of the conversion contribution for such *floor area*.

If the Board determines that *floor area* was vacant for a minimum of 5 years, the Board shall authorize that such *floor area* be excluded from payment of the conversion contribution, as provided in Section 15-554 (Exclusion for Space Vacant 5 Years).

If the Board determines that *floor area* was vacant since September 1, 1979, or for a minimum of 5 years, the Board shall authorize that such *floor area* be excluded from payment of the *conversion contribution*, as provided in Section 15-554 (Exclusion for Certain Vacant Space).

Chapter 4 Special Permits by the City Planning Commission

74-71

Landmark Preservation

74-711

Landmark Preservation In All Districts

In all districts, upon application of the Landmarks Preservation Commission, the City Planning Commission may permit modification of the *use* and *bulk* regulations applicable to *zoning lots* with existing *buildings*, provided that the following findings are made:

- (a) That the said *zoning lot* contains a landmark designated by the Landmarks Preservation Commission, or that said *zoning lot* lies within a Historic District designated by the Landmarks Preservation Commission.
- (b) That a program has been established for continuing maintenance that will result in the preservation of the subject *building* or *buildings*.
- (c) That any *modification of bulk* regulations will not result in an appreciable increase of *building* volume on the *zoning lot*.
- (d) That the modification of *use* regulations will have minimal adverse effects on the conforming *uses* in the surrounding area.

Before applying to the City Planning Commission for such modification of *bulk* and *use* regulations, the Landmarks Preservation Commission shall obtain a report from the Department of Buildings and the Fire Department.

For such existing *buildings* or portion thereof being converted to *residential use*, the City Planning Commission shall make the following findings:

- (1) that the gross *residential floor area per room* shall be at least equal to the requirement set forth herein:

Total Existing FAR	Required Gross Floor Area Per Room (S.F.)
below 3.4	215
between 3.4 to 7.5	240
above 7.5	300

- (2) that for *buildings* with a total existing FAR above 7.5, there shall be at least 12 square feet of social or recreational space for each *residential room* except where the Landmarks Preservation Commission certifies that the provision of such space will adversely affect the landmark.

(3) that the gross *floor area* of any mezzanine constructed within a *dwelling unit* shall not exceed 33 $\frac{1}{3}$ percent of the *floor area* contained within the residential unit. The *floor area* of such mezzanine shall not be included in gross residential *floor area* for purposes of determining the minimum required number of *residential rooms* stated in (1) above.

(4) that the design of *building* interiors will result in interior useable space of high quality and amenity in terms of such elements as dwelling size, privacy, ventilation and storage facilities.

When such conversions involve the relocation of non-residential tenants the Commission shall require the payment of a conversion contribution in accordance with the provisions of Section 15-50 through Section 15-58.

The City Planning Commission may prescribe appropriate additional conditions and safeguards which will enhance the character of the development of said *zoning lot*.

74-78

Conversions of Non-Residential Buildings

74-781

Modifications by Special Permit of the City Planning Commission of Uses in M1-5A and M1-5B Districts.

In M1-5A ^{AND M1-5B} Districts the City Planning Commission may, after public notice and hearing and subject to Board of Estimate approval, permit modification of Section 42-14D 1c, 1d, 2a, or 2b provided that: The Commission finds that the owner of the space, or a predecessor in title, has made a good faith effort to rent such space to a mandated use at fair market rentals. Such efforts shall include but not be limited to: advertising in local and City wide press, listing the space with brokers, notifying the New York City Office of Economic Development, and informing local and city wide industry groups. Such efforts shall have been actively pursued for a period of no less than six months for *buildings* under 3,600 square feet and one year for buildings over 3,600 square feet prior to the date of the application for a special permit.

74-782

Residential Conversion in C6-2M, C6-4M, M1-5M, M11-6M, M1-5A, M1-5B and LMM Districts. In C6-2M, C6-4M, M1-5M and M1-6M districts, the City Planning Commission, subject to the approval of the Board of Estimate, may permit modification of the requirements of Section 15-21; in M1-5A and M1-5B districts the City Planning Commission, subject to the approval of the Board of Estimate, may permit the modification of the requirements of Section 42-14D 1(b); and in the LMM Special Purpose District the City Planning Commission, subject to the approval of the Board of Estimate, may permit the modification of the requirements of Section 111-103, provided that the Commission finds that:

- (a) The conversion will not harm the industrial sector of the City's economy;
- (b) The applicant for the Special Permit or a predecessor in title, has made a good faith effort to rent such space to a mandated *use* at fair market rentals. Such effort shall have been actively pursued for a minimum of one year immediately preceding the application. A good faith effort shall include, but not be limited to, advertising in local and city-wide press, listing the space with brokers doing business in the industrial real estate market, notifying the New York City Office of Economic Development, and informing local and City-wide industry groups. The applicant shall provide records showing the specific efforts to rent such space;

(c) There is sufficient alternative space to meet the needs of *commercial* and *manufacturing uses* in the area. The vacancy rate for industrial space in the area shall be one evidentiary element to prove the availability of alternative space;

(d) City, state and federal economic development programs, to the extent applicable, had been explored and found not suitable;

(e) The commercial and industrial tenants were given the opportunity by the applicant or predecessor in title to remain in the spaces at fair market rentals, and the property owner or predecessors in title did not cause the vacating of the space for the additional conversion;

(f) The neighborhood in which the conversion is taking place will not be excessively burdened by increased residential activity; and

(g) All *dwelling units* or *Joint living-work quarters for artists* permitted by this special permit meet the standards of the applicable district for such units or quarters.

If the Commission determines that floor area in the building, or portion thereof, was occupied as *dwelling units* or *joint living-work quarters for artists* on September 1, 1980, findings (b), (c), (d), and (e) shall not be required for the grant of a special permit for such floor area, provided that a complete application to prove occupancy as a *dwelling unit* or *joint living work quarters for artists* is submitted to the City Planning Commission by the owner of the building or the occupant of a *dwelling unit* or *joint living-work quarters for artists* in such building not later than June 21, 1983. In addition, the Commission must find that there is no substantial evidence that the landlord forced commercial or manufacturing tenants to vacate such floor area through harassment, non-renewal of leases, or the charging of rents in excess of the then fair market value. Notwithstanding anything to the contrary above, the Commission shall not grant or deny a special Permit pursuant to the provisions of this section unless an application for such Special Permit has been submitted by the owner of the building.

The Commission shall request a report from the Office of Economic Development regarding information useful in making findings (a), (b), (c), (d) and (e). Said report is to be provided within 30 days of the Commission's request.

The applicant shall provide a copy of any application for a Special Permit under this section to the *Industrial Loft Advisory Council* c/o Mayor's Office of Economic Development.

In granting the special permit under this Section, the Commission shall require the preservation of the maximum amount of *floor area* for *commercial* or *manufacturing uses* that the Commission deems feasible.

Article XI

Special Purpose Districts

Chapter 1 Special Lower Manhattan Mixed Use District

111-00 GENERAL PURPOSES

The Special District established in this Resolution is designed to promote and protect public health, safety, and general welfare. These general goals include, among others, the following specific purposes:

- (a) To retain adequate wage, job producing stable industries within Lower Manhattan;
- (b) To protect light manufacturing and to encourage stability and growth in Lower Manhattan by permitting light manufacturing and controlled residential uses to co-exist where such uses are deemed compatible;
- (c) To provide a limited new housing opportunity of a type and at a density appropriate to this industrial zone;
- (d) To insure the provision of safe and sanitary housing units in converted buildings;
- (e) To promote the most desirable use of land and building development in accordance with the Plan for Lower Manhattan as adopted by the City Planning Commission

111-01 DEFINITIONS

For purposes of this Chapter, matter in italics is defined in Section 12-10 (definitions) and in Section 111-01 (Definitions).

Special Lower Manhattan Mixed Use District (repeated from section 12-10)

The Special Lower Manhattan Mixed Use District is a Special Purpose District designated by the LETTERS "LMM," in which special regulations set forth in Article XI Chapter 1 apply. The LMM District and its regulations supplement or supersede those of the districts on which it is superimposed.

Loft Dwelling (Repeated from Section 12-10).

A "loft dwelling" is a *dwelling unit* in the Special Lower Manhattan Mixed Use District, in a *building* designed for *non-residential use* erected prior to December 15, 1961. Regulations governing *loft dwellings* are set forth in Article XI Chapter 1 (Special Lower Manhattan Mixed Use District).

Joint Living-Work Quarters for Artists (Repeated from Section 12-10)

A "joint living-work quarters for artists" consists of one or more *rooms* in a *non-residential building*, on one or more floors, which are arranged and designed for use by, and are used by not more than four non-related *artists*, or an *artist* and his family maintaining a common household, with lawful *cooking* space and sanitary facilities including the requirements of the Housing Maintenance Code, and including adequate working space reserved for the *artist* or *artists* residing therein. An *artist* is a person so certified by the New York City Department of Cultural Affairs. Regulations governing *joint living-work quarters for artists* are set forth in Section 42-14D (Use Group 17—Special Uses), 43-17 (Special Provisions for Joint Living-Work Quarters for Artists), 74-78 (Conversion of Non-Residential Buildings) and 42-141 (Modification by certification of the City Planning Commission of *uses* in M1-5A and M1-5B Districts), and Article XI Chapter 1 (Special Lower Manhattan Mixed Use District).

111-02 GENERAL PROVISIONS

The provisions of this Chapter shall apply to all *developments, enlargements, extensions, alterations, accessory uses, open and enclosed*, and changes in *uses* within the special district.

Loft Dwellings and *joint living-work quarters for artists* are permitted *uses* within the Special District, and are subject to the *bulk* requirements of Section 111-11 (Bulk Regulations for Buildings Containing Loft Dwellings or Joint Living-Work Quarters for Artists).

Except as modified by the express provisions of the District, the regulations of the underlying districts remain in effect.

111-03 DISTRICT MAP

The District Map for the Special Lower Manhattan Mixed Use District (Appendix A) identifies specific areas comprising the Special District in which special Zoning regulations carry out the general purposes of the Special Lower Manhattan Mixed Use District. These areas are as follows:

- Area A—General Mixed Use Area
- Area B₁—Limited Mixed Use Area
- Area B₂—Limited Mixed Use Area

111-10 SPECIAL USE REGULATIONS

111-101

Location of Permitted Uses in Buildings Containing Loft Dwellings or Joint Living-Work Quarters for Artists.

Loft dwellings and Joint living-work quarters for artists are not permitted below the floor level of the third story.

111-102

Use Restrictions

Use of the ground floor in *buildings* constructed prior to March 10, 1976 shall be restricted to uses listed in Use Groups 7, 9, 11, 16, 17a, 17b, 17c, or 17e, except that

(a) In *buildings* having frontage on Chambers Street, Greenwich Street, West Street, Hudson Street, West Broadway or Canal Street, ground floor *uses* shall be permitted in conformance with the underlying districts, or

(b) Where such *use* occupied the ground floor of a *building* prior to March 10, 1976, ground floor *uses* shall be permitted in conformance with the underlying districts.

111-103

Additional Use Resitrictions in Area B₁ and B₂

Within Area B₁ and Area B₂ *loft dwellings* and *joint living-work quarters for artists* shall [not be permitted in *buildings* where the *lot coverage* exceeds 5,000 square feet] be permitted in *buildings* where the *lot coverage* is less than 5,000 square feet. *Loft dwellings* and *Joint living-work quarters for artists* shall be permitted in other *buildings* or other *structures* only by special permit of the City Planning Commission pursuant to Section 74-782 (Special Permit).

111-104

Special Provisions for Area B₂

In area B₂ except as modified by the express provisions of this chapter, the underlying district regulations are superseded and replaced by the regulations applicable in M2-4 districts.

111-11 BULK REGULATIONS FOR BUILDINGS CONTAINING LOFT DWELLINGS OR JOINT LIVING-WORK QUARTERS FOR ARTISTS

Joint living-work quarters for artists located within the district shall comply with all the *bulk* regulations of this section applicable to *loft dwellings*.

111-111

Loft Dwelling Requirements

(a) All *loft dwellings* shall have one or more windows which open into a *street* or a *yard* of 30 feet minimum depth.

(b) The minimum *floor area* contained within a *loft building* shall be not less than 2,000 s.f., except that:

(i) where a *loft dwelling* occupies the entire usable area of a floor there shall be no minimum *floor area*; or

(ii) where a *loft dwelling* has a minimum clear width of 14 feet throughout and has windows opening onto both a *street* and a *yard* which has a depth of 10 percent of the depth of the *loft dwelling* there shall be no minimum *floor area*; or

(iii) where the ratio in a *loft dwelling* of the window area opening onto a *street* or a *yard* of 30 feet minimum depth to the floor area contained within the *loft dwelling* exceeds 5 percent, the minimum *floor area* contained within the *loft dwelling* may be reduced by 200 s.f. for each additional percent, to a ratio of 10%; or

(iv) where the ratio in a *loft dwelling* of the window area opening onto a *street* or a *yard* of 30 feet minimum depth to the *floor area* contained within the *loft dwelling* equals or exceeds 10 percent, there shall be no minimum *floor area*

(c) In no event shall the number of *loft dwellings* exceed one per 1,000 s.f. of *floor area* devoted to *loft dwellings*.

(d) No *building* containing *loft dwelling* shall be *enlarged*, except that mezzanines constructed pursuant to Chapter 26 of the Administrative Code shall be allowed within individual *loft dwellings*, provided that the *gross floor area* of each mezzanine does not exceed 33 $\frac{1}{3}$ percent of the *floor area* contained within such *loft dwelling*. Such mezzanines are permitted only in *buildings* with an existing *floor area ratio* of 12 or less, and only between existing floors that are to remain.

No mezzanine shall be included as *floor area* for the purpose of calculating the minimum required size of a *loft dwelling* or for calculating *floor area* devoted to *loft dwellings*.

111-112

Open Space Equivalent

At least 30 percent of the *gross roof area* of a *building* containing 15 or more *loft dwellings* shall be *developed* for recreational *use*.

For each additional *loft dwelling*, 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 *loft dwellings* and their guests for whom no fees are charged.

111-20 MINOR MODIFICATIONS

111-201

a) The requirements of Section 111-101 relating to location of *loft dwellings* or *joint living-work quarters for artists* below the floor level of the third story of a building may be modified provided that the Chairman of the City Planning Commission determines that such floor area

- (i) has been vacant since March 10, 1976, or
- (ii) was occupied as a *loft dwelling* or *joint living-work quarters for artists* on September 1, 1980.

A complete application for minor modification under this provision shall be filed not later than June 21, 1983. Such application may be filed by the owner of the building or the occupant of the floor area for which such modification is requested. For the purposes of Article 7C of the New York Multiple Dwelling Law, such determination of occupancy shall be deemed to permit residential use as-of-right for such *loft dwelling* or *joint living-work quarters for artists*.

b) The requirements of Section 111-102 relating to use restrictions for floor area on the ground floor may be modified provided that the Chairman of the City Planning Commission determines that such floor area

- (i) has been vacant since March 10, 1976, or
- (ii) was occupied on September 1, 1980 by a use permitted in the underlying district but not otherwise permitted pursuant to the provisions of Section 111-102.

A complete application for minor modification under this provision shall be filed not later than June 21, 1983.

111-202

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

(a) The requirements of Section 111-101 relating to location of *loft dwellings* or *joint living-work quarters for artists* below the floor level of the third story of a building and Section 111-102 relating to use restrictions in floor area on the ground floor may be modified provided that the Chairman of the Commission finds that the owner of the space has made a good faith effort to rent such space to a mandated use at fair market rentals. Such efforts shall include but not be limited to: advertising in local and city wide press, listing the space with brokers, notifying the New York City Office of Economic Development and informing local and city wide industry groups. Such efforts shall have been actively pursued for a period of no less than six months for buildings under 3600 sq. ft. and one year for buildings over 3600 sq. ft. prior to the date of the application.

(b) The requirements of Section 111-111 relating to *loft dwellings* may be modified provided that the Chairman of the Commission has administratively certified to the Department of Buildings that the design of the *loft dwellings* or *joint living-work quarters for artists* provides sufficient light and air to allow minor modifications of these provisions.

(c) The requirements of Section 111-112 relating to roof top *open space* may be modified provided that the Chairman 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.

A developer must send a copy of any request for modification pursuant to this section to the applicable Community Board at least ten days prior to the next regularly scheduled Community Board meeting. If the Community Board elects to comment on such requests it must do so within 30 days of such notification.

111-21 NOTICE OF FILING TO CREATE LOFT DWELLINGS OR JOINT LIVING-WORK QUARTERS FOR ARTISTS

A duplicate copy of the application for an alteration permit shall be sent to the City Planning Commission by the applicant for information purposes only. No building permit shall be issued by the Buildings Department for such *loft dwellings* or *joint living-work quarters for artists* without the acknowledged receipt of such notice by the City Planning Commission.

111-22 Conversion Contribution

Prior to the issuance of an Alteration Permit for *loft dwellings* or *Joint living-work quarters for artists use*, the owner shall pay a conversion contribution in accordance with the provisions of Article I, Chapter 5.

APPENDIX A



DISTRICT MAP

- AREA A** : General Mixed Use Area
- AREA B1** : Limited Mixed Use Area
- AREA B2** : Limited Mixed Use Area

LOFT GLOSSARY

BRAC (New York City Business Relocation Assistance Corporation)

A not-for-profit corporation whose directors comprise the Chairman of the City Planning Commission, the Commissioner or Executive Director of the Office of Economic Development, the Chairman of the Board of Standards and Appeals, and two representatives of the apparel and printing industries. This corporation will receive the contributions not paid directly to relocating tenants, and will be authorized to distribute this money in the form of additional relocation assistance to firms displaced by loft conversion which relocate within the City of New York.

Certification

A ministerial action by the Chairman of the City Planning Commission, governed by objective standards, permitting the transfer of business preservation obligations and conversion rights within certain mixed use districts.

Commercial Districts

A mapped classification under the Zoning Resolution which generally permits commercial and residential usage and allows existing manufacturing uses to continue, but does not permit new manufacturing uses to locate therein.

Conversion

Generally, a change of use within a loft building from its industrial tenancy to residential tenancy.

Grandfathering

A zoning technique which permits certain existing illegal residential loft tenants to become legal non-conforming uses in a particular district. The legalization is dependent on the dwelling units conforming to the requirements of the New York Multiple Dwelling Law and Building Code, and the obtaining of a new Certificate of Occupancy.

Industrial Loft Advisory Council

A group consisting of representatives of Manhattan industries, to be created by Mayoral Executive Order as an adjunct to the Mayor's Office of Economic Development. This Council will receive legal notice of all loft conversion applications filed with the Department of City Planning, the City Planning Commission, and the Board of Standards and Appeals, and may advise those bodies concerning the affected business tenancies therein.

Loft

A type of building generally constructed prior to 1930 for commercial or manufacturing use, and which is now or has been occupied by manufacturing tenants. A loft building is constructed such that it covers most of its lot, leaving relatively little open space. The interior usually has few columns and, therefore, has large unencumbered spaces.

Manufacturing Districts

A mapped classification under the Zoning Resolution which generally permits manufacturing and commercial usage but not residential usage.

Mixed Building

One building which contains, on different floors, both business and residential uses.

Mixed Use Area

An area which contains industrial buildings and residentially converted buildings as well as mixed buildings.

Mixed Use Districts

A special mapped classification under the Zoning Resolution which, depending upon the district, will permit coexistence between manufacturing, commercial and residential usage in a relationship based on the character of the particular district. Examples include: SoHo, NoHo, Tribeca, South-east Chelsea and Garment Center East.

Office of Loft Enforcement

An agency within the Office of the Mayor consisting of inspectors, attorneys and other staff. Its responsibilities are to undertake efficient, active surveillance of illegal conversion activity and early prosecution thereof.

Relocation Assistance

The money available to manufacturing type tenants, displaced by conversion, who relocate within New York City. The funds for this assistance will come from developer payments in the form of either a "conversion contribution" or "direct help payment". The conversion contribution is paid to the New York City Business Relocation Assistance Corporation (BRAC). The direct help payment is equal to 50% of the conversion contribution and is paid directly to the industrial tenants who relocate within New York City.

Residential Districts

A mapped classification under the Zoning Resolution which, insofar as new uses are concerned, permits only residential and community facility usage. However, existing manufacturing and commercial uses are allowed to continue.

Sandwiching

Allowing a business use to be located above a residential use within the same building.

Special Permit

A discretionary action by the City Planning Commission and the Board of Estimate to permit loft conversion in mixed use districts beyond the allowable limits upon the making of specified findings relating to economic conditions. The procedure for the grant of a Special Permit is governed by Section 197-c of the New York City Charter (ULURP).

Transfer of Preservation Obligations and Conversion Rights

A zoning technique available in the mixed use districts of Southeast Chelsea and Garment Center East which permits the exchange of preservation obligations and conversion rights between properties. This technique will permit the development of entirely residential or entirely industrial buildings while maximizing the protection of industrial loft space.

Variance

A discretionary action by the Board of Standards and Appeals (BSA) pursuant to Section 72-21 of the Zoning Resolution. The BSA may allow an applicant relief from the land use constraints of the Zoning Resolution, based on findings of uniqueness, inability to realize a reasonable return, compatibility with the character of the neighborhood, absence of self-created hardship, and the minimum necessary relief. Before seeking a variance, a property owner must exhaust all administrative avenues open to him under the Zoning Resolution, i.e. the CPC Special Permit.

