§ 26. Height, bulk, open spaces. 1. Dwellings affected. a. This section, except as may specifically be provided otherwise in articles six and seven, shall apply to all dwellings erected, enlarged, converted or altered pursuant to plans filed on or after December fifteenth, nineteen hundred sixty-one for the purpose of regulating their height and bulk and regulating and determining the area of yards, courts and other open spaces of such dwellings.

b. The construction, enlargement, conversion or alteration of any dwelling undertaken pursuant to plans filed prior to December fifteenth, nineteen hundred sixty-one in compliance with the provisions of sections twenty-six, twenty-seven and twenty-eight of this chapter, as they existed prior to the enactment of chapter ten hundred seventy-two of the laws of nineteen hundred sixty, effective July first, nineteen hundred sixty-one may be commenced, continued or completed as if such sections remained in full force and effect. Notwithstanding the provisions of subdivision four of section three hundred, the department shall not require any change or modification in the height or bulk or in the area of yards, courts and other open spaces of dwellings to be erected or enlarged pursuant to plans filed prior to December fifteenth, nineteen hundred sixty-one as a condition for the reissuance of a building permit or the renewal of an approval, except as may otherwise be provided by local law, ordinance or zoning ordinance.

c. Nothing in this section shall be construed to require any change in the height, bulk, or open space of any dwelling erected, enlarged, converted or altered pursuant to plans filed before December fifteenth, nineteen hundred sixty-one.

d. Notwithstanding the provisions of paragraphs a, b or c, the provisions of this section shall apply to buildings erected, enlarged, converted or altered pursuant to plans filed prior to December fifteenth, nineteen hundred sixty-one, where such compliance may be required by local law, ordinance or zoning ordinance.

2. Definitions. For the purpose of this section certain words are defined herein but such definitions shall not be held to modify or

affect legal interpretations of such terms or words as used in any local law, ordinance, rule or regulation and shall apply in addition to and not in substitution for the provisions of section four of this chapter.

a. "Accessory use or accessory structure": a use or structure customarily incident to the principal use or building:

b. "Floor area": the sum of the gross horizontal areas of all of the several floors of a dwelling or dwellings and accessory structures on a lot measured from the exterior faces of exterior walls or from the center line of party walls, except:

(1) cellar space;

(2) attic space providing head room of less than eight feet;

(3) space for mechanical equipment;

(4) elevator and stair bulkheads, tanks and cooling towers;

(5) open or roofed terraces, exterior balconies or porches, uncovered steps and open porte-cocheres or breezeways abutting or adjoining grade entrances;

(6) accessory space used for off-street motor vehicle parking or storage.

c. "Floor area ratio (FAR)": A figure determined by dividing the floor area of the several floors of all buildings on a lot by the area of such lot.

d. "Corner lot": A lot bounded entirely by streets or a lot which adjoins the point of intersections of two of more streets and in which the interior angle formed by the extensions of the street lines in the directions which they take at their intersections with lot lines other than street lines, forms an angle of one hundred thirty-five degrees or less. In the event that any street line is a curve at its point of intersection with a lot line other than a street line, the tangent to the curve at that point shall be considered the direction of the street line. The portion of such lot subject to the regulations for corner lots is that portion bounded by the intersecting street line and lines parallel to and one hundred feet from each intersecting street line. Any remaining portion of a corner lot shall be subject to the regulations

for a through lot or for an interior lot, whichever is applicable.

e. "Tower": A dwelling or dwellings or portion thereof which has an aggregate horizontal area of not more than forty per centum of the area of a lot, or, for lots of less than twenty thousand square feet, the per centum set forth in the following table:

Area of lot (in square feet)	Maximum percent of lot coverage
10,500 or less	50 %
10,501 to 11,500	49
11,501 to 12,500	48
12,501 to 13,500	47
13,501 to 14,500	46
14,501 to 15,500	45
15,501 to 16,500	44
16,501 to 17,500	43
17,501 to 18,500	42
18,501 to 19,999	41

3. Floor area ratio (FAR). The floor area ratio (FAR) of any dwelling or dwellings on a lot shall not exceed 12.0, except:

a. A fireproof class B dwelling in which six or more passenger elevators are maintained and operated in any city having a local zoning law, ordinance or resolution restricting districts in such city to residential use, may be erected in accordance with the provisions of such zoning law, ordinance or resolution, if such class B dwelling is erected in a district no part of which is restricted by such zoning law, ordinance or resolution to residential uses.

b. In a city with a population of one million or more, the permitted floor area ratio (FAR) of any dwelling or dwellings on a lot may exceed 12.0 provided that:

(1) such city approves any increase in such permitted floor area ratio (FAR) in accordance with local requirements for public review of land use actions including, where applicable, such city's uniform land use

review procedure;

(2) such city designates the lot where such dwelling or dwellings are located as subject to a program established in the zoning law, ordinance or resolution of such city that mandates that any new housing on designated lots include minimum percentages of permanently affordable housing equivalent to or exceeding the requirements under any mandatory inclusionary housing program;

(3) such dwelling or dwellings are not located on the same zoning lot as a building occupied in whole or in part for joint living-work quarters for artists pursuant to article seven-B of this chapter, or on the same zoning lot as a building subject to article seven-C of this chapter;

(4) such dwelling or dwellings are not located within an area designated by such city as a historic district;

(5) no multiple dwelling with a floor area ratio (FAR) exceeding 12.0 shall be newly constructed on or after the effective date of the chapter of the laws of two thousand twenty-four that amended this subdivision on any zoning or tax lot that contains a dwelling or multiple dwelling with a floor area ratio (FAR) below 12.0 unless such dwelling or multiple dwelling with a floor area ratio (FAR) below 12.0 complies with the requirements of section 27-2093.1 of the administrative code of the city of New York, or any successor law or program relating to the issuance of certificates of no harassment as defined in such section, in accordance with terms of such section or successor law or program, provided that nothing in this paragraph shall affect the application of such section to any other building; and

(6) the owner of a dwelling or dwellings that are demolished or removed to construct a multiple dwelling with a floor area ratio (FAR) exceeding 12.0 shall offer, to each household who occupied such a dwelling unit within the six months preceding such demolition or removal, financial compensation equal to one month's rent for every year of lawful tenancy in such dwelling unit, not to exceed six months, or a lease in a comparable unit at a comparable rent in a decent, safe, and sanitary dwelling in an area not generally less desirable in regard to public utilities and public and commercial facilities.

c. In a city with a population of one million or more, a general

project plan adopted by the New York state urban development corporation for a project may permit a floor area ratio (FAR) of any dwelling or dwellings on a lot to exceed 12.0 provided that:

(1) not less than twenty-five percent of any rental dwelling units in such project, upon initial rental and upon each subsequent rental following a vacancy, are affordable to and restricted to occupancy by individuals or families whose household income does not exceed a weighted average of eighty percent of the area median income, adjusted for family size, at the time such households initially occupy such dwelling units;

(2) such dwelling or dwellings are not located on the same zoning lot as a building occupied in whole or in part for joint living-work quarters for artists pursuant to article seven-B of this chapter, or on the same zoning lot as a building subject to article seven-C of this chapter;

(3) such dwelling or dwellings are not located within an area designated by such city as a historic district;

(4) no multiple dwelling with a floor area ratio (FAR) exceeding 12.0 shall be newly constructed on or after the effective date of the chapter of the laws of two thousand twenty-four that amended this subdivision on any zoning or tax lot that contains a dwelling or multiple dwelling with a floor area ratio (FAR) below 12.0 unless such dwelling or multiple dwelling with a floor area ratio (FAR) below 12.0 complies with the requirements of section 27-2093.1 of the administrative code of the city of New York, or any successor law or program relating to the issuance of certificates of no harassment as defined in such section, in accordance with terms of such section or successor law or program, provided that nothing in this paragraph shall affect the application of such section to any other building; and

(5) the New York state urban development corporation shall not be empowered to undertake the acquisition, construction, reconstruction, rehabilitation or improvement of a project pursuant to this paragraph unless the New York state urban development corporation finds that there is a feasible method for the relocation of families and individuals displaced from the project area into decent, safe and sanitary dwellings, which are or will be provided in the project area or in other areas not generally less desirable in regard to public utilities and

public and commercial facilities, at rents or prices within the financial means of such families or individuals, and reasonably accessible to their places of employment. Insofar as is feasible, the New York state urban development corporation shall offer housing accommodations to such families and individuals in residential projects of the New York state urban development corporation. The New York state urban development corporation may render to business and commercial tenants and to families or other persons displaced from the project area, such assistance as it may deem necessary to enable them to relocate.

4. Height. A dwelling may be erected to any height and any number of stories so long as it does not exceed the bulk limitations hereinafter prescribed.

5. Rear yard. a. Except as otherwise provided in the zoning resolution of the city of New York and except as hereinafter provided for a corner lot, an interior lot within one hundred feet of the point of intersection of the two street lines intersecting at an angle of one hundred thirty-five degrees or less, an interior lot fronting on a block measuring less than two hundred thirty feet in length between two intersecting streets or a through lot, a rear yard shall be required for each dwelling and shall extend the entire width of the lot at every point. For dwellings occupying an entire block or a through lot, no rear yard shall be required. When dwellings do not exceed in area thirty-five per centum of the plot, the department shall permit such location of yards and courts as will promote the best possible plot ventilation. For purposes of this paragraph a, a block shall not be deemed less than an entire block because a portion thereof is conveyed after construction of such multiple dwelling or dwellings to a city for public park purposes.

b. Except as otherwise provided in the zoning resolution of the city of New York, the minimum depth of a required rear yard shall be thirty feet for the first one hundred twenty-five feet above curb level, and fifty feet above that point. The depth of a rear yard shall be measured at right angles from the rear lot line to the extreme exterior rear wall of the dwelling. The provisions of this paragraph requiring a rear yard

fifty feet in depth for portions of a building in excess of one hundred twenty-five feet above the curb level shall not be applied to a tower.

c. Except as otherwise provided in the zoning resolution of the city of New York, on a corner lot no rear yard shall be required, provided, however, every required window shall open into either:

(1) a lawful inner or outer court; or

(2) a side or rear yard with a minimum width or depth of thirty feet in one direction; or

(3) if such lot is less than ten thousand square feet in area, a side yard with a minimum width of twenty feet, or an inner space equivalent to the area of a lawful inner court.

d. Except as otherwise provided in the zoning resolution of the city of New York, on any through lot one hundred ten feet or more in maximum depth from street to street, one of the following rear yard equivalents shall be provided:

(1) An open area with a minimum depth of sixty feet, extending across the entire lot and linking abutting rear yards, or if no such rear yards exist, then an open area, with a minimum depth of sixty feet, midway (or within five feet thereof) between the two street lines upon which such through lot fronts and provided further that the provisions of paragraph b of this subdivision shall apply above a height of one hundred and twenty-five feet above the curb level as if such rear yard equivalent were two adjoining rear yards; or

(2) Two open areas, each abutting and extending along the full length of a street line, and each with a minimum depth of thirty feet measured from such street line; or

(3) An open area adjoining and extending along the full length of each side lot line, with a minimum width of thirty feet measured from each side lot line.

e. When the maximum depth of any interior lot owned separately and individually from all other adjoining tracts of land on December fifteenth, nineteen hundred sixty-one is less than seventy feet, the required depth of the rear yard of a dwelling on such lot for the first one hundred twenty-five feet above curb level may be decreased one foot

for each foot by which the maximum depth is less than seventy feet. However, any such yard shall never be less than ten feet in depth at any point above its lowest level.

f. Except for fireproof buildings and except as otherwise provided in this paragraph there shall be access from a street to the yard through a fireproof passage either in a direct line or through a court. Such passage shall be not less than three feet in clear width and seven feet in height. Such passage shall not be required for a multiple dwelling which does not exceed three stories in height and is not occupied by more than one family on any story or three families in all or for a dwelling which does not exceed two stories in height and is not occupied by more than two families on any story or four families in all provided every required means of egress from such dwelling leads directly to a street or to an outer court opening upon a street. When a dwelling does not exceed three stories in height and is not occupied by more than two families on any story, such passage may be of fire-retarded construction.

6. Side yard. Except as otherwise provided in the zoning resolution of the city of New York, no side yard shall be required. If a side yard is provided it shall in no event be less than eight feet in width at any point. Such side yard need not exceed thirty feet in width.

7. Courts. Except as otherwise provided in the zoning resolution of the city of New York:

a. An inner court shall have minimum width of four inches per foot for each one foot of height of such court, but in no event less than fifteen feet in width at any point. The area of such inner court shall be twice the square of the width of the court dimension based on the height of such court, but in no event less than three hundred fifty square feet in area. The area of such court need not exceed one thousand two hundred square feet provided that the minimum horizontal distance between any required window of a living room opening on an inner court shall not be less than thirty feet from any wall opposite such window. For a dwelling three stories or less in height, an inner court may have a minimum width

of three inches for each one foot of height of such court, but in no event less than ten feet in width at any point. The area of such court shall be twice the square of the required width of court dimension based on the height of such court but in no event less than two hundred fifty square feet in area. An air in-take of fireproof construction shall be provided at or near the lowest level of every inner court of dwellings exceeding two stories in height, and shall communicate directly with a street or yard. Such in-take shall have a vertical cross-sectional area of not less than twenty-one square feet and a minimum width of not less than three feet in its least dimension, and shall be open and unobstructed throughout, except that where the intake is not used as a passage or exit, gates or grilles which do not interfere with ventilation may be installed.

b. An outer court at any given height shall have a minimum width at least equal to twice the depth of such outer court if such outer court is less than thirty feet wide. Such outer court shall have a width at least equal to its depth if such court is thirty feet or more in width. An outer court need not exceed sixty feet in width. Except as provided in section sixty, an outer court on a side lot line may begin at the level of the floor of the lowest story in which there is a living room opening therefrom. Any outer court not on a side lot line may begin at any level, the height of such court to be measured from the level at which such court begins.

7-a. Lights in rear yards, side yards, front yards and courts. The owner of every dwelling shall install and maintain in every rear yard, side yard, front yard and court a light or lights of at least forty watts of incandescent illumination or equivalent illumination, in such locations as the department may prescribe, which shall be kept burning from sunset on each day to sunrise on the day following.

8. Level of areas adjoining living rooms. The bottom of any yard, rear yard equivalent, court or other open area which abuts or adjoins and gives light or ventilation to a living room shall be at the floor level or lower of such living room, except that:

a. If the depth of a yard exceeds the minimum required depth by as much as one-half, the bottom of such yard may be at any level not higher than six inches below the window sills of any such adjoining living room and not more than three feet above the floor of such room.

b. If the width of an outer court exceeds the minimum required by as much as forty per centum, the bottom of such court may be at any level permitted by paragraph a for a yard or rear yard equivalent.

9. Permitted obstructions. Every yard and court shall comply with all the requirements of this section and be open and unobstructed at every point from the lowest level to the sky except that the following shall not be deemed to obstruct or reduce the area of otherwise lawful yards, rear yard equivalents or courts, provided that required light and ventilation for living rooms and required egress from the dwelling are maintained to the satisfaction of the department:

a. Accessory off-street parking spaces, open or enclosed, conforming to the applicable provisions of section sixty.

b. Fire escapes erected as provided in paragraph b of subdivision two of section fifty-three.

c. In a yard or rear yard equivalent, boiler flues or chimneys projecting not more than three feet into such yard and provided every such flue or chimney does not exceed two per cent of the required area of the yard.

d. Outside stairways, fire towers, platforms or balconies or other similar projections which extend beyond the wall of the dwelling.

e. Enclosures of balconies or spaces erected as provided in subdivision four of section thirty.

f. Arbors, trellises, awnings or canopies, fences, flag poles, open steps, or breezeways.

g. Recreational or drying yard equipment except as otherwise provided in section fifty-six.

h. Walls not exceeding eight feet in height and not roofed or part of a structure.

i. Retaining walls to protect adjoining premises provided such walls are not more than fifteen feet in height measured from the curb level of the lot on which such walls are erected, do not extend above the sill of any required living room window on the first story facing such a wall and do not extend more than thirty-six inches into the required area of a yard, rear yard equivalent or court.

j. A party wall not more than twelve inches into the required area of a yard, or rear yard equivalent or court.

k. Nothing in this section shall be deemed to prevent cutting off the corners of any yard, rear yard equivalent or court, provided the running length of the wall at the angle of such yard or court does not exceed seven feet.

l. In a rear yard equivalent, an enclosed passageway connecting portions of separate buildings where such passageway does not exceed fourteen feet in height and fifteen feet in width measured between the outer faces of the walls thereof.

m. In a city with a population of one million or more, the area of yards, rear yard equivalents, courts or open spaces required by this section, section one hundred seventy-two or section two hundred twelve of this chapter shall not be deemed to be reduced or obstructed by exterior wall thickness of up to eight inches added to the exterior of a building to accommodate the addition of insulation to the extent that such exterior wall thickness is a permitted obstruction for such building under the zoning resolution of such city.

10. Nothing contained in this section shall be deemed to prevent the turfing over of any yard or court space or the planting of shrubs or

trees therein when approved by the department.

11. Pending actions or proceedings. Nothing contained in this section shall affect or impair any act done, offense committed or right accruing or accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to December fifteenth, nineteen hundred sixty-one, but the same way may be enjoyed, asserted, enforced, prosecuted or inflicted as fully and to the same extend as if this section had not been enacted.