§ 34. Rooms in basements and cellars. 1. In any multiple dwelling erected after April eighteenth, nineteen hundred twenty-nine, every room in a cellar or basement shall have a permit as provided in subdivision five of section three hundred and, except as provided in subdivision six of this section, shall comply with the following conditions:

a. Such rooms shall be everywhere at least eight feet high from the floor to the ceiling, except that in a basement room as many as four beams twelve inches or less in width and extending six inches or less below the ceiling may be disregarded.

b. Except as otherwise provided in paragraph f, the ceiling of every such room in the front part of the dwelling, or in an apartment or suite extending to the front part, shall be at every point of such room at least four feet six inches above the curb level directly in front of such point on the street in front of the dwelling; and the ceiling of every other such room, unless the yard of the dwelling is sixty feet or more in depth or extends to a street along its entire width, shall be at every point of such room at least two feet above the curb level directly in front of such point on the street in front of the dwelling. Every yard or court upon which any such cellar or basement room or apartment opens shall, conform to the requirements of subdivision eight of section twenty-six. Every such room, except as otherwise provided in paragraphs e and f, shall be an integral part of an apartment or suite containing at least one room with a window opening directly upon a street or yard. Except as provided in paragrahs e and f, and if the yard of such a dwelling is less than sixty feet in depth there shall be not more than one apartment or suite in any cellar therein and any such apartment or suite shall contain not more than five rooms, shall be supplied with water closet and bath accommodations, and shall not open upon any court less than five feet in width. Every part of such an apartment or suite shall either be within twenty-five feet of the inner surface of the front or rear wall of the dwelling or have a window opening upon a court of at least the dimensions prescribed in section tweny-six, but never less than ten feet wide.

c. Every such cellar or basement room shall have access to a

water-closet constructed and arranged as prescribed in section seventy-six.

d. Every such room shall have a window or windows complying with the requirements of section thirty. The aggregate area of windows in each such room, except as provided in paragraph f, shall be at least one-eighth of the horizontal area of the room. Each such window shall be constructed so that the upper half of its area can be opened, and shall open upon a street, court or yard. The underside of the top stop-bead of each such window shall be within twelve inches of the ceiling. One window in each such room shall have an area of at least twelve square feet.

e. In addition to a janitor's apartment three rooms or less may also be provided in the cellar of such a dwelling exclusively for the use of persons regularly and continuously employed in the maintenance of such dwelling. Every such room shall be completely separated from any other room or private hall and shall comply with all the provisions respecting a janitor's apartment except those relating to water-closet and bath, but there shall be at least one water-closet and bath accessible from each such room without passing through a janitor's apartment. No other rooms in such a cellar shall be occupied for living or sleeping purposes, except as permitted in paragraphs b and f. Whenever a janitor's apartment in the cellar of such a dwelling, or a room therein, is expressly excepted from a requirement in any provision of this chapter, such exception shall apply also to any cellar room lawfully occupied as in this paragraph provided.

f. (1) When the lot of such a dwelling abuts upon two or more streets and the difference in level between the highest and the lowest points of the curbs adjoining the lot is more than ten feet, a room below the highest curb point may be used for living purposes provided it opens upon a street or upon a lawful court or yard which connects directly with a street or, if the floor of such room is not more than twelve feet below the highest curb point, upon an interior court with a least dimension of not less than thirty feet if such court is situated on a lot line, and otherwise with a least dimension not less than fifty feet.

Every such room shall be at least nine feet high from finished floor to finished ceiling. When any such room or an apartment containing it faces a street, the ceiling of the room at every point shall be at least four feet six inches above the curb level of such street directly in front of such point. For the purpose of determining the required dimensions of a court or yard of any dwelling subject to the provisions of this sub-paragraph, the height of such dwelling shall be measured from the lowest point of such court or yard.

(2) When the lot of such a multiple dwelling does not run through from street to street and there is a difference in level exceeding twenty feet between the highest point of the curb in front of the dwelling and the lowest point of the curb on a street directly in the rear of the dwelling which street is within one hundred twenty-five feet of the rear line of the lot, a room below the level of the highest point of the curb in front of the dwelling may be used for living purposes provided such room opens upon a yard or a court adjoining a yard. The floor of any such room shall be at least six inches above the level of every part of every yard and court upon which such room opens and of the curb on the street in the rear of such dwelling and also of all intervening ground between the rear street and the rear lot line. Every such room shall be at least nine feet high from finished floor to finished ceiling. The required dimensions of a yard, or of a court adjoining a yard, on which such a room opens in any dwelling subject to the provisions of this sub-paragraph, shall be determined by the height of such dwelling measured from the lowest point of such yard or court.

(3) In any portion of a multiple dwelling arranged for living purposes below the curb level under authority of either of the sub-paragraphs above there shall be no wood beams, wood lintels or other wood structural members, nor shall any wood or other inflammable material be used in any partitions, furrings or ceilings.

2. Every multiple dwelling erected after April eighteenth, nineteen hundred twenty-nine, whenever the department shall deem it necessary, shall have all walls below the ground level and all cellar or lower floors damp-proofed and water-proofed. Such damp-proofing and water-proofiing shall run throughout the cellar or other lowest floor and through and up the walls as high as the ground level.

3. Every cellar and basement in every multiple dwelling shall be properly lighted and ventilated to the satisfaction of the department.

4. In every multiple dwelling the cellar walls and ceilings, except in rooms occupied as provided in paragraph f of subdivision one or in subdivision six, shall either be constructed of light-colored material or be thoroughly whitewashed or painted a light color by the owner, and shall be so maintained. Such whitewash or paint shall be renewed whenever necessary, as may be determined and required by the department.

5. Notwithstanding any provisions of this section or of subdivision five of section three hundred, an apartment or room in a cellar which was occupied for living purposes at any time on or after October first, nineteen hundred fifty-two may thereafter continue to be occupied for such purposes until July first, nineteen hundred sixty-seven, in accordance with the conditions imposed by subdivision five of section two hundred sixteen.

6. An apartment in a cellar or basement of any multiple dwelling may be used for living purposes provided all of the following conditions are complied with:

a. Such apartment has at least one half of its height and all of its window surfaces above every part of an "adequate adjacent space." Such "adequate adjacent space" shall be open to the sky, shall be properly drained to the satisfaction of the department, and shall be a continuous surface area outside the dwelling not less than thirty feet in its least dimension and abutting at same level, or directly below, every part of the exterior walls of such apartment and of every other apartment on the same floor. Such "adequate adjacent space" shall include only space which is located on the same lot or plot as the dwelling or on a street or public place or space.

b. Every living room of such apartment is everywhere at least eight feet high from the floor to the ceiling in dwellings erected after July first, nineteen hundred fifty-seven, and seven feet in dwellings erected

prior thereto.

c. All parts of the exterior walls of the dwelling which are below ground level and on the same floor as such apartment or above such floor are dampproof to the satisfaction of the department and the floor of such apartment is dampproof and waterproof.

d. The yard and every court of the dwelling containing such apartment are adequately drained to the satisfaction of the department.

e. If any part of the apartment is below the "adequate adjacent space" referred to in paragraph a of this subdivision, all ceilings, walls and partitions of such apartment are fire-retarded or the rooms and spaces within such apartment are protected by a sprinkler system to the satisfaction of the department.

f. Such apartment and every part of the floor on which it is situated meet all of the requirements which would be in effect for such floor if none of the rooms thereon were used for living purposes.

g. Such apartment complies with all of the requirements for apartments in the same dwelling which are not in a cellar or basement.

h. The floor on which such apartment is situated, if a cellar, shall nevertheless be counted as a story for the purpose of all requirements except those relating to the height of the dwelling.