



Civic Arts Commission
Office of Economic Development

**Civic Arts Commission
Policy Subcommittee
Thursday, May 19, 2022 4:30 PM**

**PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY
THROUGH VIDEOCONFERENCE AND TELECONFERENCE**

Pursuant to Government Code Section 54953(e) and the state declared emergency, this meeting of the Civic Arts Commission will be conducted exclusively through teleconference and Zoom videoconference. The COVID-19 state of emergency continues to directly impact the ability of the members to meet safely in person and presents imminent risks to the health of attendees. Therefore, no physical meeting location will be available.

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL: <https://cityofberkeley-info.zoomgov.com/j/1619977082>. If you do not wish for your name to appear on the screen, then use the drop-down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen. To join by phone: Dial **1-669-254-5252** and enter Meeting ID: **161 997 7082**. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.

To submit an e-mail comment during the meeting to be read aloud during public comment, email civicsarts@cityofberkeley.info with the Subject Line in this format: "PUBLIC COMMENT ITEM ##." Please observe a 150-word limit. Time limits on public comments will apply.

Agenda

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. CHAIR'S REPORT**
- 4. DISCUSSION ITEMS WITH POSSIBLE ACTION**
 - a) Development of Artist Certification for Affordable Housing for Artists (Attachments 1 & 2)
- 5. ADJOURNMENT**

Attachments:

1. Draft Artist Certification
2. Example Artist Certification and Policy from New York

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Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at the Civic Arts Office located at 2180 Milvia Street, First Floor, Berkeley, CA 94704.

ADA Disclaimer

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6418 (V) or 981-6347 (TDD) at least three business days before the meeting date. Please refrain from wearing scented products to this meeting.

Whereas:

“Artists (are individuals who) play a critical role in the well-being of our communities and in the economic, social, and cultural fabric of our cities. Artists bring unique talent and skill to fostering cohesion and belonging, building trust, activating civic engagement, addressing mental health, cultivating collective safety, and celebrating community identity.”

Artists Definition and Certification process for the City of Berkeley

The purpose of the following is to identify artists who are eligible for specifically designated artist’s affordable live/work housing in the City of Berkeley. This pool of individuals will mirror the current demographics of those who reside in the city of Berkeley. All artists must also qualify as low income as set by the state of California.

The affordable live/work housing units available to this list of artists will be identified by the City of Berkeley. The Civic Arts Department will solicit applicants from a the greater Bay Area.

A rotating jury of arts professionals and artists will convene to review the following materials submitted by each applicant:

- A. Artist statement
- B. Submitted samples of artwork (online or PDF formats)
- C. Letter of interest and commitment to producing arts
- D. Short interviews with questions about types of spaces
- E. Certification as low income from the State/City

After review, a pool of applicants will be created using the lottery system to determine first eligibility. This pool will be renewed as needed.

Production policy:

All artists occupying artists affordable housing must maintain arts production in these spaces on an annual basis. The intent of the program is to maintain in these spaces producing artists with public presentation. If an artist ceases to produce work for two years then the artist will be notified of non-compliance and asked to move. Low income artists will be qualified to move to general low income housing as the units become available (or expedited process).

Artists shall be determined using one or more of the following:

1. An individual (or team member of an arts group) who is regularly engaged in the arts on a professional basis. These include but are not limited to those who practice:
 - A. Fine Arts such as painting, mixed media works, sculpture, photography, papermaking, printmaking, film making or videography, or interdisciplinary art practices.
 - B. Performing Arts such as dance, dance theatre, acting, directing, set design, or members of theatre troupes
 - C. Musical Arts such instrumentalists, composers, singers, choir members, band members, or ensemble members
 - D. Literary Arts such as writers of prose, poetry, or essayists
 - E. Social Practice Arts including interdisciplinary modes of creative production with methods of public engagement
 - F. Craft Artisans who create such as woodworking, ceramics, glass blowing, textiles, jewelry, stained glass, metal works, fashion, blacksmithing, etc.
 - G. Artists who self-identify as indigenous artists
 - H. Self-taught folk artists.

2. Creative production may be documented in one or more of the following ways:
 - A. History of creating a body of public or publicly-displayed artwork, including public performances
 - B. Record of exhibitions and/or artwork sales or performances
 - C. History of temporary or permanent public art works.
 - D. Education, apprenticeships or study

This definition does not include architectural and landscape services, industrial or graphic design services, computer systems design services and other commercial activities normally conducted in an office environment.

Art studios shall be defined as:

Art/Craft Studio:

1. A live and work establishment in which the creation of art or crafts as defined above takes place. Such an establishment may be used to host periodic open studios, but otherwise is subject to the applicable district's requirements for incidental sales of goods made on site.
2. Art/Craft Studios may also include rehearsal spaces, small gathering places designed to include possible classes, readings, micro performances, exhibitions, or presentations. These are not required but available.
3. Art/Craft studios typically have larger spaces where the artist is in production. The living portion of the spaces must include kitchen, bathroom, and sleeping area. All construction is subject to building code that requires two entrances to the units. All spaces must include at least one operable window.

Street Activation

Street presence is of value to the life and sustainability of the city of Berkeley, towards this end, recipients of artists affordable housing also make a commitment to participating in a visual display in street facing windows. The display is a visual phenomena occupying the windows in relationship to artists' creative practice.

1. Artists have the routine responsibility to maintain a current lively rotating street presence in the windows of their spaces that face the street where they reside.

The form for this is determined by the artist and the medium they are working in. The window displays can be two or three dimensional, in a tandem relationship to their art(s) practice. The scale of the visual presence will be conceived to respect the scale of the windows. Media can be presented with compliance with sound and light regulations in the city.

2. Windows facing the interior yards, or back yards do not need to be activated.

Artists Affordable Housing List

1. The city of Berkeley will maintain a list of qualified artists who are interested in obtaining Artists Affordable housing in a lottery, biannually? Individuals move up the list as units become available. This list is kept in two locations on the City of Berkeley Data collection site. Two locations will be identified as being independent of any city wide technical catastrophe.
2. Unit opportunities will be annually added to the Civic arts webpage to provide public access.
3. Annually Civic Arts will post an invitation to encourage building owners and developers to list unit opportunities with the process.
4. Recommend: City of Berkeley adopt a fees waiver policy to encourage qualified building owners to list unit opportunities.

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Artist Certification

Under applicable state legislation and the City's Zoning Resolution, certification as a working artist is necessary in order for an individual to qualify for joint living-working space in the M1-MA and M1-MB zoning districts (SoHo NoHo). This permits fine artists working on a professional level who demonstrate a need for a live/work loft to reside in specific lofts zoned for manufacturing. Pursuant to the City's Zoning Resolution, the Department of Cultural Affairs has been designated as the certifying agency. Please [click here](#) for an application and additional information.

Get the application and additional information about the program.

**NOTICE TO APPLICANTS
RE: ARTIST CERTIFICATION**

The following information may be of help to you in understanding the procedures to be followed in obtaining artist certification and in preparing your application.

Under applicable state legislation and the City's Zoning Resolution, certification as a working artist is necessary in order for an individual to qualify for joint living-working space in the M1-MA and M1-MB zoning districts (SoHo NoHo). Under Sections 276 of Article 7-B of the Multiple Dwelling Law, an "artist" is defined--for the purpose of qualifying for joint living-working quarters in cities with populations of over one million--as "a person who is regularly engaged in the fine arts, such as painting and sculpture, or in the performing or creative arts, including choreography and filmmaking, or in the composition of music, on a professional basis and is so certified by the city department of cultural affairs and/or state council on the arts."

Pursuant to the City's Zoning Resolution, this Department has been designated as the certifying agency for purposes of the foregoing statute. The procedure followed by the Department in determining applications for artist certification is as follows: Applications for certification by this Department are reviewed by an advisory committee of professional artists, art educators, and administrators representing a variety of fine arts disciplines, who then make a recommendation to the Commissioner of Cultural Affairs. Based on Section 276 of Article 7-B of the Multiple Dwelling Law and the Rules of the City of New York, each applicant must demonstrate that he or she meets the following criteria to be granted certification:

1. *Regularly engaged.* The individual is currently engaged in and demonstrates a serious, consistent commitment to his or her art form or art occupation;
2. *Fine arts.* The individual is engaged in an art form or art occupation that can be considered and is pursued by the individual as a "fine art", evidenced by a substantial element of independent aesthetic judgment and self-directed work. The production of work solely on a commercial, industrial or work-for-hire basis without evidence of the foregoing elements is not sufficient to demonstrate pursuit as a "fine art";
3. *Professional basis.* The individual is committed to the art form or art occupation as his/her primary vocation and others in the field recognize the individual as a professional with regard to the art form or occupation; and
4. *Intent to use joint living-work quarters.* The individual demonstrates the intent to use joint living-work quarters for the purpose of carrying out his/her art form or art form or occupation.

It should be noted that the word "professional" refers to the nature of the commitment of the artist to his or her art form as his or her primary vocation rather than the amount of financial remuneration earned from his or her creative endeavor.

ANSWERS TO COMMONLY ASKED QUESTIONS ABOUT ARTIST CERTIFICATION

What is Artist Certification?

The SoHo Zoning Resolution permits fine artists working on a professional level who demonstrate a need for a live/work loft to reside in specific lofts zoned for manufacturing. Artist certification provides the document that equates the person named therein with a light manufacturer.

Who is eligible for Artist Certification?

Any person who is regularly engaged in the fine arts, such as painting and sculpture, or in the performing or creative arts, including choreography and filmmaking, or in the composition of music, evidenced by a substantial element of independent aesthetic judgment and self-directed work, on a professional basis is eligible for certification. Students and others who do not yet have a professional body of work covering five years prior to their application are generally ineligible. Commercial artists, hobbyists, and others for whom fine arts are not a primary vocation are generally ineligible.

Do I have to make my living as an artist?

The Department recognizes that the majority of artists do not earn their living through sales of their artwork. "Professional" refers to the nature of the artist's commitment to his or her vocation.

Isn't artist Certification a pro-forma process?

Artist Certification exists to protect the artist community. The Artist Certification Committee, who is arts professionals representing a variety of fine arts disciplines, carefully considers applications.

Can I move in and then apply for Artist Certification?

Any person who rents, subleases, or purchases a loft in SoHo, NoHo, and/or AIR space elsewhere should be certified by the Department of Cultural Affairs PRIOR TO OCCUPANCY. The Department of Cultural Affairs cannot be responsible for any costs incurred if an applicant moves in before certification is granted.

How often does the Artist Certification Committee meet?

The Committee meets once each month from September through June. Over the summer months, emergency requests may occasionally be considered.

Is there a fee for Artist Certification?

There is no fee for Artist Certification.

Can an outside agent present my application?

The Department prefers to be in contact solely with the applicant.

Will the Department return my support material?

The Department returns support material provided the application includes a self-addressed return mailer with correct postage.

APPLICATION FOR ARTIST CERTIFICATION

NAME _____ HOME PHONE (____) _____

ADDRESS _____ APT./FL. _____ ZIP _____

ADDRESS ON CERTIFICATE _____

BUS. PHONE (____) _____

PROFESSIONAL NAME (if different) _____

FINE ARTSDISCIPLINE _____

1. Do you now reside in a (check one) Loft? * _____ Apartment with Workspace? _____ Apartment with separate Workspace? _____ Other (please specify) _____
*attach copy of lease.

2. What is your present amount of LIVING space in sq. ft.? _____. What is your present amount of WORK space in sq. ft.? _____.

3. Are you planning to move into a loft? * _____ If located, what is the address? _____
What is the total sq. ft. of the loft? _____
How much WORK space will you need in sq. ft. of the loft? _____
*attach copy of lease. Full address to appear on certificate.

4. Have you been certified before? _____ If YES, at what date and for what address?
DATE: _____ ADDRESS: _____

ON A SEPARATE SHEET, PLEASE PROVIDE THE FOLLOWING INFORMATION:

5. Describe your particular art form and explain why a large space is imperative for its creation.

6. Include a professional fine arts resume pertinent to your work. Include educational background, professional training, public exhibitions and/or performances, critical reviews, grants, awards or fellowships. Be sure to include dates.

7. Submit documentation appropriate to your particular art form. Your documentation should reflect a body of work over the last 5 years, up to and including recent work. Student work, in and of itself, will not meet the criteria for certification. Below is a general guideline for some fine arts fields, and the kinds of support materials that should accompany your application:

- **Visual artists:** 15-20 labeled slides and/or photographs of work, exhibition announcements, catalogues, reviews, etc.
- **Music composition:** scores, tapes (including works-in-progress), reviews, performance announcements, etc.
- **Choreography:** videos, written notations, reviews, performance announcements, etc.
- **Fiction/Poetry:** published and unpublished works and drafts, reviews, announcements of readings/staging, etc.
- **Film/Video/Performance Art:** examples of work, reviews, and announcements

All documentation should include, where appropriate, the date of creation, medium, size, and title of the work. All support materials must be submitted in an envelope or folder not larger than 9" X 12". Do not submit original work. PLEASE INCLUDE A STAMPED, SELF-ADDRESSED ENVELOPE, IF YOU WISH MATERIALS TO BE RETURNED FOLLOWING THE CERTIFICATION COMMITTEE MEETING. *

8. If you are already residing in a loft, include a scale drawing or photographs showing your living and working space. If you are planning to move into a loft, provide a scale drawing showing your intended living and working space.

9. Submit letters of recommendation on letterhead from two people, known in your field, regarding your professional involvement as an artist and your need for live/workspace.

The undersigned hereby certifies that the statements and information set forth above and/or annexed to this application are true to the best of his or her knowledge and that the materials submitted in support of this application represent the applicant's own work. It is understood and agreed to by the undersigned that the Department of Cultural Affairs may rely thereon in determining this application for certification, and that the making of any knowingly false statement or fraudulent submission in connection with this application will result, in either the denial thereof or in the revocation of any artist's certification based on such application.

Notarized Signature

Date

STATE

ss.: COUNTY OF NEW YORK)

On this day of , 20 , before me personally came , to me known and known to me to be the person described in and which executed the foregoing instrument; and (s)he acknowledged to me that (s)he executed the foregoing instrument; and (s)he acknowledged to me that (s)he executed the same for the purposes therein mentioned

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**ARTICLE 7-B
JOINT LIVING-WORK QUARTERS FOR ARTISTS, OR
GENERAL RESIDENTIAL OCCUPANCY OF LOFT, COMMERCIAL OR
MANUFACTURING BUILDINGS**

- Section 275. Legislative findings.
276. Definition of an artist.
277. Occupancy permitted.
278. Application of other provisions.

§ 275. **Legislative findings.** It is hereby declared and found that in cities with a population in excess of one million, large numbers of loft, manufacturing, commercial, institutional, public and community facility buildings have lost, and continue to lose, their tenants to more modern premises; and that the untenanted portions of such buildings constitute a potential housing stock within such cities which is capable, when appropriately altered, of accommodating general residential use, thereby contributing to an alleviation of the housing shortage most severely affecting moderate and middle income families, and of accommodating joint living-work quarters for artists by making readily available space which is physically and economically suitable for use by persons regularly engaged in the arts.

There is a public purpose to be served by making accommodations readily available for joint living-work quarters for artists for the following reasons: persons regularly engaged in the arts require larger amounts of space for the pursuit of their artistic endeavors and for the storage of the materials therefor and of the products thereof than are regularly to be found in dwellings subject to this article; that the financial remunerations to be obtained from pursuit of a career in the arts are generally small; that as a result of such limited financial remuneration persons regularly engaged in the arts generally find it financially impossible to maintain quarters for the pursuit of their artistic endeavors separate and apart from their places of residence; that the cultural life of cities of more than one million persons within this state and of the state as a whole is enhanced by the residence in such cities of large numbers of persons regularly engaged in the arts; that the high cost of land within such cities makes it particularly difficult for persons regularly engaged in the arts to obtain the use of the amounts of space required for their work as aforesaid; and that the residential use of the space is secondary or accessory to the primary use as a place of work.

It is further declared that the legislation governing the alteration of such buildings to accommodate general residential use must of necessity be more restrictive than statutes heretofore in effect, which affected only joint living-work quarters for artists.

It is the intention of this legislation to promulgate statewide minimum standards for all alterations of non-residential buildings to residential use, but the legislature is cognizant that the use of such buildings for residential purposes must be consistent with local zoning ordinances. The legislature further recognizes that it is the role of localities to adopt regulations which will define in further detail the manner in which alterations should be carried out where building types and conditions are peculiar to their local environment.

§ 276. **Definition of an artist.** As used in this article, the word

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"artist" means a person who is regularly engaged in the fine arts, such as painting and sculpture or in the performing or creative arts, including choreography and filmmaking, or in the composition of music on a professional basis, and is so certified by the city department of cultural affairs and/or state council on the arts.

§ 277. **Occupancy permitted.** Any building in any city of more than one million persons which at any time prior to January first, nineteen hundred seventy-seven was occupied for loft, commercial, institutional, public, community facility or manufacturing purposes, may, notwithstanding any other article of this chapter, or any provision of law covering the same subject matter (except as otherwise required by the local zoning law or resolution), be occupied in whole or in part for joint living-work quarters for artists or general residential purposes if such occupancy is in compliance with this article. Such occupancy shall be permitted only if the following conditions are met and complied with.

1. (a) The exterior walls of the building shall be non-combustible and have a fire-resistive rating of at least three hours unless the exterior wall or walls, measured on a horizontal plane perpendicular to said exterior wall or walls, is a minimum of thirty feet distant in a direct unobstructed line from another structure, except that a wet pipe sprinkler system, with maximum sprinkler spacing of four feet, must be provided along such wall or walls to protect exposed, unrated columns or beams at the interior of the wall in non-fireproof buildings.

(b) Window openings in exterior walls shall conform with the limitations of table 3-4 chapter twenty-six of the administrative code of the city of New York, unless such windows are fire protected and provided with either a minimum of one sprinkler head per window or window automatic closing devices, acceptable to the department of buildings.

2. The building (a) is of fireproof construction, as provided in section one hundred one of this chapter, or is of class two construction, as provided by the requirements of the building code and regulations of the city of New York in effect prior to December sixth, nineteen hundred sixty-eight; or

(b) if non-fireproof, does not exceed a height of six stories, and eighty-five feet measured to the ceiling of the highest floor in a depth of one hundred feet; or does not exceed a height of seven stories, and eighty-five feet and a depth of one hundred feet and is wet sprinklered throughout; and has a maximum floor area between the two hour rated partitions constructed in accordance with section C26-504.2 of the administrative code of the city of New York of:

(i) three thousand square feet; or

(ii) five thousand square feet if the building is six stories or less in height and is fully wet sprinklered; or

(iii) five thousand square feet if the building is seven stories in height and is fully wet sprinklered and has a stand pipe system; or

(iv) ten thousand square feet if the building is fully wet sprinklered and has one hour rated ceilings.

(c) complies with the requirements of table 3-4 chapter twenty-six of the administrative code of the city of New York for J-2 occupancy.

3. Any part of the building may be occupied for manufacturing and commercial purposes (as permitted by local zoning law or resolution), provided, however, that only the second story and below may be occupied for uses listed as medium fire hazard in rules of the board of standards

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and appeals implementing the labor law unless the entire building is wet sprinklered; in addition, high fire hazard occupancies shall not be permitted in any portion of the building.

4. All areas occupied for manufacturing or commercial purposes shall be protected by an approved wet-pipe automatic sprinkler system. Such wet-pipe automatic sprinkler system shall extend to and include public hallways and stairways coincidentally serving residential occupancies.

5. All occupancies or tenancies shall be separated by a vertical fire separation, extending to the underside of the floor above and having a minimum fire-resistance rating of at least one hour and conform in all respects with applicable zoning regulations. No separation shall be required between the working and living portions of a joint living-work quarters for artists.

6. The building (a) complies with all requirements imposed on old-law tenements by sections two hundred twelve and two hundred sixteen of this chapter and on converted dwellings by sections one hundred eighty-five, one hundred eighty-six, one hundred eighty-eight, one hundred eighty-nine, one hundred ninety, one hundred ninety-one and one hundred ninety-four of this chapter, in addition to those provided in section two hundred seventy-eight of this article and (b) complies with the standards of lighting, ventilation, size of rooms, alcoves and balconies contained in section C26-1205.0 through and including sections C26-1205.5 and C26-1205.7 of the administrative code of the city of New York, except as otherwise provided in paragraph (d) of subdivision seven of this section.

7. Minimum light and air standards for joint living-work quarters for artists or general residential portions of lofts or manufacturing and commercial buildings altered to residential use shall comply with the following:

(a) Portions of such buildings which are occupied exclusively as joint living-work quarters for artists as permitted by local law shall comply with the following:

(i) The minimum size of a joint living-work quarters for artists shall be twelve hundred square feet of interior space, except as otherwise authorized by the zoning resolution of the city of New York, for units occupied for residential purposes on or before January first, nineteen hundred eighty-five.

(ii) Joint living-work quarters for artists shall conform to the standards for light and ventilation of sections C26-1205.0 through and including section C26-1205.7 of the administrative code of the city of New York.

(b) Portions of such buildings which are occupied exclusively as residential units as permitted by local law shall comply with the following:

(i) Every dwelling unit shall have one or more windows:

A. which open onto a street, a court with a dimension of fifteen feet perpendicular to the windows and one hundred square feet minimum area above a setback or a thirty foot rear yard; or

B. for corner lots or lots within one hundred feet of a corner, where the minimum horizontal distance between such windows opening onto a rear yard and the rear lot line is at least twenty feet; or

C. for interior lots, where the minimum horizontal distance between such windows opening onto a rear yard and any wall opposite such windows on the same or another zoning lot is at least twenty feet and not less than a distance equal to one-third of the total height of such wall above the sill height of such windows; but need not exceed forty feet; or

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D. for interior lots where the minimum horizontal distance between such windows opening onto a rear yard and any wall opposite such windows on the same or another zoning lot is at least fifteen feet and the minimum size of such dwelling unit is twelve hundred square feet; or

E. in no event shall the distance between such windows and the rear lot line be less than five feet; and

F. yards and courts may be existing or may be new in buildings seven stories or less in height.

(ii) The minimum required ratio of window area opening onto a street, rear yard, or court to the floor area of every living room shall:

A. be ten percent where the floor area of such living room is less than five hundred square feet; or

B. decrease, by one percent for every one hundred square feet greater than five hundred square feet of floor area of such living room, to a minimum of five percent; and

C. in no event shall the distance between such window area and the rear lot line be less than five feet; and

D. at least fifty percent of the required window area shall be openable.

(c) Ventilation of spaces other than living rooms, including enclosed work spaces for joint living-work quarters for artists shall be either in accordance with this section or in accordance with the administrative code of the city of New York.

(d) No building converted pursuant to this article shall be enlarged, except where the underlying zoning district permits residential use. Such an enlargement shall be in conformance with the bulk regulations for conforming residential use for new construction and shall be in conformance with the provisions of section twenty-six of this chapter. No interior floor area enlargement shall be permitted except that a mezzanine with a minimum headroom of seven feet shall be allowed within individual dwelling units, provided that the gross floor area of such mezzanine does not exceed one-third of the floor area contained within such dwelling unit. No mezzanine shall be included as floor area for the purpose of calculating the minimum required size of a living room or a dwelling unit or for calculating floor area devoted to dwellings. For the purpose of this article a mezzanine may be constructed above the level of the roof of a building as long as the aggregate area of roof structures does not exceed one-third of the total roof area and the roof structures conform with applicable building code requirements.

(e) The kitchen located within dwelling units and having a floor area of eighty square feet or more shall have natural ventilation as prescribed in sections 27-749 and 27-750 of chapter twenty-seven of the administrative code of the city of New York. Open kitchens shall be considered as part of the adjacent space where forty percent of the area of the separation between the spaces is open and without doors. If the floor area of the combined space exceeds seven hundred fifty square feet, a separate bedroom shall not be required. When the floor area is less than eighty square feet the kitchenette shall be ventilated by either of the following:

(i) Natural means complying with sections 27-749 and 27-750 of chapter twenty-seven of the administrative code of the city of New York and further that the windows shall have a minimum width of twelve inches, a minimum area of three square feet, or ten percent of the floor area of the space, whichever is greater and be so constructed that at least one-half of their required area may be opened. When the space is located at the top story, the window or windows may be replaced with a skylight whose minimum width shall be twelve inches, whose minimum area

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shall be four square feet or one-eighth of the floor area of the space, whichever is greater and which shall have ventilation openings of at least one-half of the required area of the skylight.

(ii) Mechanical means exhausting at least two cubic feet per minute of air per square foot of floor area. Where doors are to be used to separate the space, the lower portion of each door shall have a metal grill containing at least forty-eight square inches of clean openings or in lieu of such grill, two clear opening spaces may be provided, each of at least twenty-four square inches, one between the bottom of each door and the floor and the other between the top of each door and the head jamb.

(f) When bathrooms and toilet rooms are ventilated by natural means, the natural ventilation sources shall comply with sub-article 1205.0 of chapter twenty-six of the administrative code of the city of New York and shall have an unobstructed free area of at least five percent of the floor area. In no case shall the net free area of the ventilation sources be less than one and one-half square feet. When bathrooms and toilet rooms are vented by mechanical means, individual vent shafts or ducts constructed of non-combustible materials with a minimum cross section area of one square foot shall be utilized, the exhaust system shall be capable of exhausting at least fifty cubic feet per minute of air. Means shall be provided for egress of air by louvers in doors, by undercutting the door, or by transfer ducts, grills or other openings. Toilet exhaust systems shall be arranged to expel air directly to the outdoors.

(g) A single station smoke detector shall be installed immediately outside each sleeping or bedroom area of each dwelling unit. Such device shall be designed and installed so as to detect smoke and activate an alarm, be reasonably free from false alarms and provide visible indication that the alarm is energized. Such device shall be directly connected to the lighting circuit of the dwelling or rooming unit with no intervening wall switch and shall provide a warning signal clearly audible in all sleeping quarters with intervening doors closed. Cord connected installations or smoke detectors which rely exclusively on batteries are not permissible. Such devices shall either be approved or listed by an acceptable testing service or laboratory.

8. All openings from apartments leading into a public hall or corridor shall be provided with fireproof doors and assemblies with the doors self-closing. Partitions between apartments on each floor shall be one hour fire rated partitions. All windows opening on fire escapes shall be provided with wire glass, unless such windows are protected by a wet pipe sprinkler head with a minimum of one head per window.

9. Such buildings, in regard to egress, shall comply with the following:

(a) In a non-fireproof building there shall be:

(i) one independently enclosed stairway and a fire escape from each dwelling unit; or

(ii) where the building is fully wet sprinklered and not in excess of seventy-five feet in height and not exceeding five thousand square feet in building area one independently enclosed stairway from each dwelling, and an independently enclosed hallway, of one hour fire rating where there are two or more tenants on a floor; or

(iii) a sprinklered enclosed hallway with access to two independently enclosed stairs.

(b) In a fireproof building, there shall be:

(i) an enclosed hallway and two independently enclosed stairs; or

(ii) an enclosed hallway and one independently enclosed stair and a

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screened exterior stair in conformance with section two hundred sixty-eight of the labor law with all glazed openings thereon equipped with wire glass; or

(iii) for buildings not exceeding seven stories or seventy-five feet in height, egress conforming with the provisions of paragraph (a) of this subdivision; or

(iv) egress conforming with the provisions of section one hundred two of this chapter.

(c) No more than two dwelling units shall open directly to a stair without an intervening enclosed hallway.

(d) Enclosed hallways shall have a one hour fire rating.

(e) Enclosed stairways shall be:

(i) one hour fire rated in non-fireproof buildings four stories or less in height; or

(ii) one hour fire rated and sprinklered in non-fireproof buildings six stories or less in height; or

(iii) one hour fire rated in non-fireproof, fully sprinklered buildings seven stories in height; or

(iv) two hour fire rated in all other cases.

(f) The travel distance to the means of egress shall comply with the administrative code of the city of New York.

(g) Wooden stairs permitted by section one hundred eighty-nine of this chapter may be retained only if, in addition to meeting all of the requirements set forth therein, they are within a fully wet-sprinklered enclosure, and the stair and landing soffit are fire retarded, notwithstanding any other provisions.

(h) Every required stair shall extend through the roof by a bulkhead, except that a scuttle may be used if the dwelling does not exceed four stories and except that no bulkhead or scuttle is required where the roof is a peak roof with a pitch of more than fifteen degrees.

(i) Mezzanines shall be provided with a stair at least two feet six inches wide terminating not more than twenty feet from an exit door or fire escape, and all portions of such mezzanines shall be not more than fifty feet from such exit door or fire escape.

10. In buildings in excess of two stories in height, stairways shall be provided with skylights at least twenty square feet in area, glazed with plain glass with a wire screen over and under and provided with fixed or movable ventilators having a minimum open area of one hundred forty-four square inches. In lieu of the skylight and ventilators, a window of equal area may be provided with fixed louvers having a minimum open area of one hundred forty-four square inches installed in or immediately adjacent to the window.

11. Except as otherwise provided in this article, all shafts shall be enclosed with incombustible material of two hour fire rating and comply with the administrative code of the city of New York, provided, however, existing shaft enclosures constructed in part of combustible material may be retained if upgraded to obtain a two hour fire rating.

12. Every kitchen or kitchenette or cooking space in such building shall comply with the requirements imposed on multiple dwellings erected after April eighteenth, nineteen hundred twenty-nine by section thirty-three of this chapter.

13. Such building shall comply with all requirements imposed on multiple dwellings erected after April eighteenth, nineteen hundred twenty-nine by title three of article three of this chapter.

14. All interior iron columns in unsprinklered buildings shall be protected by materials or assemblies having a fire-resistive rating of at least three hours. Where sprinklers are provided for an exterior wall

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as provided in subdivision one of this section or in a fully wet sprinklered building such columns shall be protected by two sprinkler heads located eighteen inches or more away and each on opposite sides of such column but no further than four feet. Such sprinklers shall be provided at any interior column where fire protection is omitted in non-fireproof buildings.

15. The elevator shafts in such buildings shall be enclosed with incombustible material of two hour fire rating, except that existing elevator shaft enclosures constructed in part of combustible material may be retained if upgraded to obtain a two hour fire rating; and have fireproof doors and assemblies with (a) the doors self-closing; or (b) a vestibule the walls of which shall be of non-combustible material and have a minimum two hour fire resistive rating, with self-closing fireproof doors and be fire-stopped; or (c) where the elevator is manually operated in fully sprinklered buildings have fireproof doors, with approved interlock devices.

16. The requirements and standards prescribed in this section shall be subject to variation in specific cases by the commissioner of buildings, or the board of standards and appeals, of such city under and pursuant to the provisions of paragraph two of subdivision b of section six hundred forty-five and section six hundred sixty-six of the New York city charter.

§ 278. **Application of other provisions.** 1. The provisions of this article apply to buildings with residential, mixed or joint living-work quarters or artists' occupancy as herein provided and to such buildings only. In addition to the provisions of this article, the following enumerated articles and sections of this chapter shall, to the extent required therein, apply to such buildings:

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|---------|-----|-----------------------------------------------------------------------------|
| Article | 1. | Introductory provisions: definitions |
| | 2. | Miscellaneous application provisions except subdivision two of section nine |
| | 8. | Requirements and remedies |
| | 9. | Registry of names and service of papers |
| | 10. | Prostitution |
| | 11. | Laws repealed; saving clause; effect |
| Section | 28. | Two or more buildings on same lot |
| | 29. | Painting of courts and shafts |
| | 31. | Size of rooms, subdivision six only |
| | 37. | Artificial hall lighting |
| | 53. | Fire-escapes |
| | 55. | Wainscoting, subdivision two only |
| | 56. | Frame buildings and extensions |
| | 57. | Bells; mail receptacles |
| | 58. | Incombustible materials |
| | 59. | Bakeries and fat boiling |
| | 60. | Motor vehicle storage |
| | 61. | Business uses (except paragraph c of subdivision one and subdivision three) |
| | 62. | Parapets, guard railings and wires |

2. Failure to comply with any provision of this chapter other than this article and the above enumerated articles and sections shall not be grounds for refusal of a certificate of occupancy or compliance.