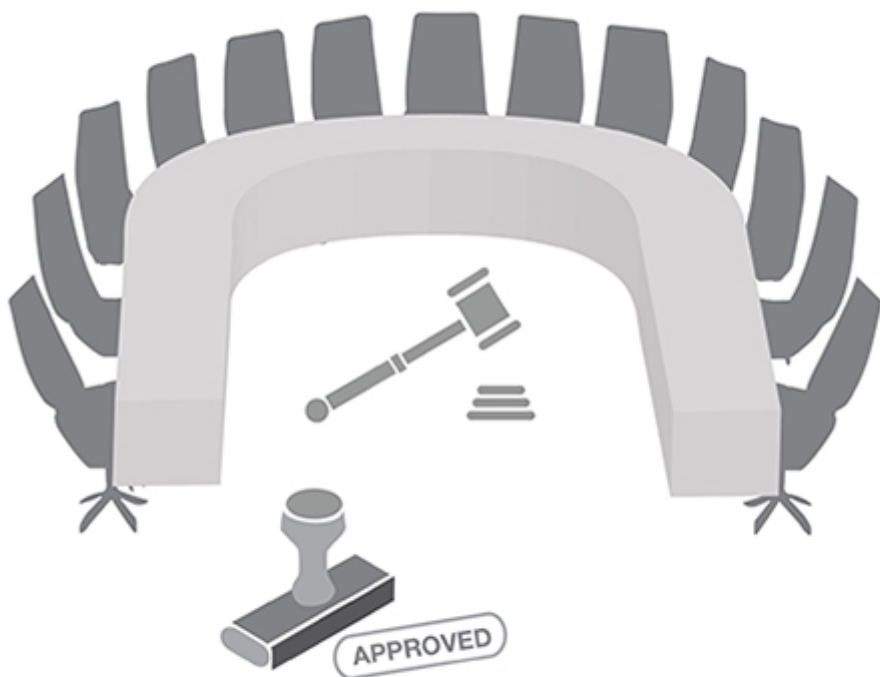




Zoning Process

How is zoning enforced?



The NYC Department of Buildings (DOB) holds primary responsibility for interpreting and enforcing the City's Zoning Resolution to ensure the safe and lawful use of over one million buildings and construction sites across the five boroughs. Among other responsibilities, the DOB:

- Issues building permits after reviewing building plans to determine compliance with the Zoning Resolution and the Building Code
- Reviews applications and grants certificates of occupancy, allowing legal occupancy of new or altered structures
- Interprets provisions of the Zoning Resolution, subject to appeal to the Board of Standards and Appeals (BSA), and issues procedural guidelines for administering it
- Orders the correction of any zoning violations and, as appropriate, prosecutes violations
- Maintains public records of all building permits, certificates of occupancy, inspections, violations and other property profile information

Much development in New York City occurs **as-of-right**. Once DOB is satisfied that the proposed structure complies with all relevant provisions of the Zoning Resolution and the Building Code, a building permit is issued and construction can begin. No further action is required.

In some cases, administrative and enforcement responsibilities are delegated to other agencies with special expertise. For example, the NYC Department of Environmental Protection enforces industrial performance standards related to air quality and the NYC Department of Housing Preservation and Development administers Inclusionary Housing provisions.

How is zoning amended?

The Zoning Resolution is comprehensive, but it must also be flexible in order to accommodate and guide development. The Zoning Resolution is amended as needed to keep zoning up-to-date in a rapidly changing city and to fulfill the City Planning Commission's (CPC) charter-mandated responsibility "for the conduct of planning relating to the orderly growth, improvement and future development of the city."

Zoning Text and Zoning Map Amendments

A zoning text or zoning map amendment is a legislative action that is either citywide or specific to one area or zoning district. It may be needed to allow a development at a location or in a configuration that is not currently permitted but advances sound policy considerations, or may involve a citywide initiative to implement changes in public land use policy.

An amendment to the zoning text involves introducing new text or amending existing text in the Zoning Resolution. A zoning map amendment entails changing the zoning designation on the zoning map(s), which could affect one lot, many blocks or sometimes an entire neighborhood. In either case, it is generally unconditional and affects all property equally within the area subject to change.

Anyone, including an individual or the City, may propose a zoning amendment. Zoning map amendments may be adopted only after a formal public review process, where they must ultimately be approved by the CPC and adopted by the City Council, as set forth in the City Charter. This public review process is called the Uniform Land Use Review Procedure (ULURP), which sets time frames for public participation in local and citywide review of land use actions. Zoning text amendments follow a similar process, where they must be approved by the CPC and adopted by the City Council, as set forth in the City Charter, but there is no time limit for CPC review. Both must also be assessed for environmental impacts in accordance with the State Environmental Quality Act (SEQRA) and City Environmental Quality Review (CEQR).

The City Planning Commission (CPC)

CPC Special Permits: The Zoning Resolution defines circumstances in which a developer may apply for a special permit based on the use, location, size or design of a project. The CPC, after a comprehensive review process to ensure the project meets objective conditions and other findings about the potential impact of the project, may grant a special permit to modify use, bulk, or parking controls for a specific project. This type of determination, which requires the City Planning Commission to weigh in and make a decision, is referred to as a "discretionary" action. CPC special permits generally involve significant planning issues, they are subject to a public hearing and review, pursuant to ULURP, and may also be reviewed by the City Council.

CPC Authorizations: The Zoning Resolution also includes provisions that allow the CPC, upon request from an applicant, to modify certain zoning requirements for a particular project after determining specific requirements have been satisfied. In general, authorizations require some discretion by the CPC, but, since the requirements for the authorization are plainly stated in the Zoning Resolution, the decision involves less discretion than that of a CPC special permit. For example, lot coverage controls in the Special Hillside District may be modified if the CPC finds

that the development on that particular lot would not be possible without the requested modification, that the primary land use purposes in that special district are supported, and the modification would not impair the natural topography or essential character of the area. Authorizations do not require public hearings and are not subject to ULURP, but are informally referred to affected community boards for comment.

CPC Certifications: Some as-of-right developments require the CPC or CPC Chairperson to certify, and inform the DOB, that certain technical zoning regulations have been met. Certifications are non-discretionary actions because a certification only requires that the factual requirements of the proposed action are met.

The Board of Standards and Appeals (BSA)

BSA Special Permits: The Zoning Resolution delegates to the BSA the review and granting of special permits for modifications that are generally more limited in scope or impact than those reviewed by the CPC. The modifications must satisfy findings spelled out in the Zoning Resolution and may include, for example, limited expansion of a building into a district where it would not otherwise be permitted, a modest enlargement or conversion of a building to a size not otherwise permitted or adjustment of off-street parking requirements. Special permits granted by the BSA are not subject to ULURP or City Council review.

BSA Variances: When developing a particular plot of land under the existing zoning regulations would be impractical and cause the owner undue hardship, the BSA may grant a variance from the applicable use and bulk provisions to the minimum extent necessary. To determine this, the BSA holds a public hearing and only grants the variance if the practical difficulty or unnecessary hardship is caused by unique physical circumstances, and not by the property owner or his/her predecessors, and the variance is necessary to realize a reasonable return on the property. The essential character of the neighborhood must not be altered or substantially impaired, and public welfare must not be detrimentally affected.

Brief explanations of terms in blue italics can be viewed by clicking on the term.