Zoning Resolution

THE CITY OF NEW YORK
Zohran K. Mamdani, Mayor

CITY PLANNING COMMISSION
Sideya Sherman, Chair

11-33 - Building Permits for Minor or Major Development or Other Construction Issued Before Effective Date of Amendment

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11-33 - Building Permits for Minor or Major Development or Other Construction Issued Before Effective Date of Amendment

LAST AMENDED
12/5/1991

The provisions of this Section shall apply to minor developments, major developments or other construction authorized by building permits lawfully issued before the effective date of an applicable amendment of this Resolution except as specifically provided elsewhere in this Resolution.

11-331 - Right to construct if foundations completed

LAST AMENDED
2/2/2011

If, before the effective date of an applicable amendment of this Resolution, a building permit has been lawfully issued, as set forth in paragraph (a) of Section 11-31, to a person with a possessory interest in a #zoning lot#, authorizing a minor development or a major development, such construction, if lawful in other respects, may be continued provided that:

(a) in the case of a minor development, all work on foundations had been completed prior to such effective date; or

(b) in the case of a major development, the foundations for at least one #building# had been completed prior to such effective date.

In the event that such required foundations have been commenced but not completed before such effective date, the building permit shall automatically lapse on the effective date and the right to continue construction shall terminate. An application to renew the building permit may be made to

the Board of Standards and Appeals not more than 30 days after the lapse of such building permit. The Board may renew the building permit and authorize an extension of time limited to one term of not more than six months to permit the completion of the required foundations, provided that the Board finds that, on the date the building permit lapsed, excavation had been completed and substantial progress made on foundations.

11-332 - Extension of period to complete construction

LAST AMENDED
6/29/1994

(a) In the event that the construction permitted in Section 11-331 (Right to construct if foundations completed) has not been completed and a certificate of occupancy including a temporary certificate of occupancy, issued therefor within two years after the effective date of any applicable amendment, or for other construction if construction has not been completed on the effective date of any applicable amendment, the building permit shall automatically lapse and the right to continue construction shall terminate. An application to renew the building permit may be made to the Board of Standards and Appeals not more than 30 days after the lapse of such building permit. The Board may renew such building permit for two terms of not more than two years each for a minor development or three terms of not more than two years each for a major development or one term of not more than three months for other construction. In granting such an extension, the Board shall find that substantial construction has been completed and substantial expenditures made, subsequent to the granting of the permit, for work required by any applicable law for the use or development of the property pursuant to the permit.

(b) However, in the event that construction has not been completed at the expiration of the extended terms specified in paragraph (a) of this Section, or in Sections 11-333 (Residential

developments with building permits issued on or before June 30, 1989) or 11-334 (Building permits issued prior to June 29, 1994), such building permit may be renewed by the Board for terms of one year each upon the following findings:

(1) that the applicant has been prevented from completing such construction by hardship or circumstances beyond the applicant's control;

(2) that the applicant has not recovered all or substantially all of the financial expenditures incurred in construction, nor is the applicant able to recover substantially all of the financial expenditures incurred through development that conforms and complies with any applicable amendment to this Resolution; and

(3) that there are no considerations of public safety, health and welfare that have become apparent since the issuance of the permit that indicate an overriding benefit to the public in enforcement of the applicable amendment to this Resolution.

(c) The rights or obligations that accrue or are created by this Section shall commence on December 5, 1991.

(d) If judicial proceedings affecting the validity of the building permit have been instituted, the rights or obligations that accrue or are created by this Section shall commence upon the date of entry of the final order in such proceedings, including all appeals.

11-333 - Special allowances for building permits issued prior to certain dates

LAST AMENDED

10/29/2025

(a) Residential developments with building permits issued on or before June 30, 1989

If on or before June 30, 1989, the foundations of a #residential# major or minor development have been completed and permits issued pursuant to the requirements of Section 11-331 (Right to construct if foundations completed), and a certificate of occupancy has not been issued by June 30, 1991, construction may continue until June 30, 1995, for a minor development, or until June 30, 1997, for a major development, provided the Commissioner of Buildings determines that 30 percent of the #floor area# of the major or minor development was roofed and enclosed by walls by June 30, 1991. Applications to continue construction under this Section must be filed with the Commissioner of Buildings within 90 days of December 5, 1991. If the Commissioner of Buildings has granted the right to continue construction of a major or minor development pursuant to this Section, the Board of Standards and Appeals may not grant the right to continue construction pursuant to paragraph (a) of Section 11-332.

(b) Building permits issued prior to June 29, 1994

If, before June 29, 1994, a building permit has been lawfully issued, as set forth in paragraph (a) of Section 11-31, to a person with a possessory interest in a #zoning lot# authorizing construction, such construction may be started or continued for a period of one year pursuant to the regulations governing R6A, R6B, R7A, R7B, R7X, R8A, R8B, R8X, R9A, R9X or R10A Districts or #Commercial Districts# with such #Residence District# #bulk# regulations, or in any other district in which such construction complies with the Quality Housing Program, prior to the adoption of N940257 ZRY - Quality Housing Follow-Up Text Amendments.

(c) Building permits for other construction in R1-2A and R2A Districts

In R1-2A Districts established on or after April 22, 2009, and R2A Districts established on or after December 20, 2006, if a building permit for other construction has been lawfully issued prior to the dates establishing such districts, such construction may be continued, notwithstanding the provisions of paragraph (a) of Section 11-332 (Extension of period to complete construction), provided that the Department of Buildings determines that all of the requisite structural framing to perform the work authorized under the permit was completed on or before the date establishing the district. If the Commissioner of Buildings determines that such framing was not complete on such date, the provisions of paragraph (a) of Section 11-332 shall apply.

(d) Building permits issued before April 30, 2008

In all districts other than R1, R2, R3, R4 or R5 Districts, if, before April 30, 2008, a building permit has been lawfully issued authorizing construction on a #zoning lot#, the provisions of N080078 ZRY, pertaining to #yards# and N080081 ZRY, pertaining to #street# trees, shall not apply, provided that foundations have been completed in accordance with paragraphs (a) and (b) of Section 11-331 (Right to construct if foundations completed), as applicable, before April 30, 2009. The provisions of Section 11-332 (Extension of period to complete construction) shall not apply.

(e) Building permits issued and applications filed before April 22, 2009

If, before April 22, 2009, a building permit has been lawfully issued authorizing construction on a #zoning lot#, the provisions of N090191 ZRY, pertaining to bicycle parking, shall not apply. If, on or before November 17, 2008, an application for a special permit or variance is pending before the Board of Standards and Appeals or an authorization or special permit from the City Planning Commission has been certified or referred to authorize construction on a #zoning lot#, the provisions of N090191 ZRY, pertaining to bicycle parking, shall not apply. For hospitals, if, before April 22, 2009, an application for a special permit or variance is

pending before the Board of Standards and Appeals or an authorization or special permit from the City Planning Commission has been filed to authorize construction on a #zoning lot#, the provisions of N090191 ZRY, pertaining to bicycle parking, shall not apply.

(f) Building permits issued before February 2, 2011

If a building permit has been lawfully issued on or before February 2, 2011, authorizing "other construction" as set forth in paragraph (c)(3) of Section 11-31 (General Provisions), construction pursuant to such permit may continue pursuant to the regulations governing such construction prior to the adoption of N110090(A) ZRY (Key Terms Clarification zoning text amendment) until February 2, 2012. However, this Section shall not apply to "other construction" subject to Sections 23-738 (Height limitations for narrow buildings or enlargements) or 109-122 (Height and setback regulations).

(g) Building permits issued before December 6, 2024

The provisions of this Section shall apply to #developments# or #enlargements# seeking building permits for #buildings# in which floor space is exempted pursuant to paragraph (12)(ii) of the definition of #floor area# as was set forth in Section 12-10 (DEFINITIONS) before December 6, 2023.

If, on or before December 6, 2023, an application for a #development#, #enlargement# or #conversion# has been filed with the Department of Buildings, and if, on or before December 6, 2024, the Department of Buildings has approved an application for a foundation, a new building or an alteration based on a complete zoning analysis showing zoning compliance for such #development#, #enlargement#, or #conversion#, such application may be continued, and construction may be started or continued.

#Buildings# receiving building permits pursuant to this Section shall not be considered #ultra

low energy buildings#.

(h) Building permits issued before June 6, 2025

If, on or before June 6, 2024, an application for a #development#, #enlargement# or change of #use# has been filed with the Department of Buildings that would not conform with the applicable provisions of N 240010 ZRY pertaining to #ground floor level# streetscape regulations, and if, on or before June 6, 2025, the Department of Buildings has approved an application for a foundation, a new #building# or an alteration based on a complete zoning analysis showing zoning compliance for such #development#, #enlargement# or change of #use#, with the applicable rules existing prior to June 6, 2024, such application may be continued, and construction may be started or continued.

(i) Building permit applications approved before December 5, 2025

If, on or before December 5, 2024, an application for a #development#, #enlargement# or change of #use# has been filed with the Department of Buildings to authorize construction with the applicable rules of this Resolution existing prior to the adoption of the provisions of N 240290 ZRY on December 5, 2024, and if, on or before December 5, 2025, the Department of Buildings has approved an application for a foundation, a new #building# or an alteration based on a complete zoning analysis showing zoning compliance for such #development#, enlargement# or change of #use#, such application may be continued, and construction may be started or continued.

Any such application may be amended one or more times prior to December 5, 2025 to modify the #development#, #enlargement# or change of #use# or to modify the configuration of the #zoning lot# on which such #development#, #enlargement# or change of #use# is located, and retain vested status, provided the complete zoning analysis associated with such amended application is approved prior to December 5, 2025.

(j) Building permit applications approved before October 29, 2025

If, on or before October 29, 2025, an application for a # development#, #enlargement# or change of #use# has been filed with the Department of Buildings to authorize construction with applicable rules of this Resolution existing prior to the adoption of the provisions of N 250173 ZRQ on October 29, 2025, and if, on or before October 29, 2026, the Department of Buildings has approved an application for a foundation, a new #building# or an alteration based on a complete zoning analysis showing zoning compliance for such #development#, #enlargement# or change of #use#, such application may be continued, and construction may be started or continued.

Any such application may be amended one or more times prior to October 29, 2026, to modify the #development#, #enlargement# or change of #use#, and retain vested status, provided the complete zoning analysis associated with such amended application is approved prior to October 29, 2026.

11-334 - Building permits issued in the flood zone

LAST AMENDED
12/6/2023

The provisions of this Section shall apply within #flood zones#. The provisions of this Section are subject to all provisions of Title 28 of the Administrative Code of the City of New York and Appendix G of the New York City Building Code, or its successors, including those pertaining to expiration, reinstatement, revocation and suspension. Changes in #flood maps# shall be considered an amendment of the Zoning Resolution for the purposes of applying the provisions of Section 11-30 (BUILDING PERMITS ISSUED BEFORE EFFECTIVE DATE OF AMENDMENT).

(a) Construction approved pursuant to previous versions of #flood maps#

If, within one year prior to a change in the #flood maps# affecting a property, the Department of Buildings issued a building permit for construction on that property pursuant to the previous #flood maps#, the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas) shall be deemed modified so as to substitute the previous #flood maps# for the current #flood maps# and such construction may continue pursuant to such prior #flood maps# until two years after the date of adoption of the new #flood maps#. After this date, the vesting provisions of Section 11-30 shall apply.

(b) Provisions applying when Appendix A (Special Regulations for Neighborhood Recovery) of Article VI, Chapter 4 expires

This provision shall become effective only upon the expiration of Appendix A of Article VI, Chapter 4, adopted on July 23, 2015. If a building permit authorizing construction pursuant to Appendix A has been approved on or before the expiration of such Appendix, construction may continue up to two years after the expiration. After such date, the provisions of Section 11-30 shall apply.