



## Zoning Resolution

THE CITY OF NEW  
YORK  
Bill de Blasio, Mayor

CITY PLANNING COMMISSION  
Marisa Lago, Chair

# 11-30 - BUILDING PERMITS ISSUED BEFORE EFFECTIVE DATE OF AMENDMENT

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## 11-30 - BUILDING PERMITS ISSUED BEFORE EFFECTIVE DATE OF AMENDMENT

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LAST AMENDED  
12/5/1991

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## 11-31 - General Provisions

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LAST AMENDED  
2/2/2011

For the purposes of Section 11-33, relating to Building Permits Issued before Effective Date of Amendment to this Resolution, the following terms and general provisions shall apply:

- (a) A lawfully issued building permit shall be a building permit which is based on an approved application showing complete plans and specifications, authorizes the entire construction and not merely a part thereof, and is issued prior to any applicable amendment to this Resolution. In case of dispute as to whether an application includes "complete plans and specifications" as required in this Section, the Commissioner of Buildings shall determine whether such requirement has been met.
- (b) The rights set forth in these Sections shall be retained only if all modifications, made in such plans after the effective date of any applicable amendment to this Resolution, do not create a new #non-compliance# or #non-conformity# or increase the degree of #non-compliance# or #non-conformity# with the provisions of this Resolution, as amended.
- (c) For the purposes of this paragraph (c), #abutting buildings# on a single #zoning lot# shall be considered to be a single #building#. As used in Section 11-33 (Building Permits for Minor or Major Development or Other Construction Issued before Effective Date of Amendment):
  - (1) "minor development" shall include:
    - (i) construction of any single #building# which will be #non-conforming# or #non-complying# under the provisions of any applicable amendment to this Resolution; or
    - (ii) construction of two or more #buildings# on a single #zoning lot# which under the provisions of any applicable amendment to this Resolution will be #non-conforming#; or
    - (iii) construction of two or more #buildings# on contiguous #zoning lots# or #zoning lots# which would be contiguous except for their separation by a #street# or #street# intersection; and
      - (a) have been planned as a unit evidenced by a site plan for all such #zoning lots# filed with, and approved by, the Department of Buildings prior to the effective date of the applicable amendment; and
      - (b) will be #non-conforming# under the provisions of any applicable amendment to this Resolution; or
    - (iv) a major #enlargement#, which is an #enlargement# requiring the installation of foundations and involving at least 50 percent of the total #floor area# of such #enlarged building#, and which #enlargement# will be #non-conforming# or #non-complying# under the provisions of any applicable amendment to this Resolution. For the purposes of Section 11-33 (Building Permits for Minor or Major Development or Other Construction Issued before Effective Date of Amendment) only, a major #enlargement# shall also include any other #enlargement# adding at least 50,000 square feet to the #floor area# of an existing #building#, which #enlargement# will be #non-conforming# or #non-complying# under the provisions of any applicable amendment to this Resolution.
  - (2) "major development" shall include:
    - (i) construction of two or more #buildings# on a single #zoning lot# which will be #non-complying# under the provisions of any applicable amendment to this Resolution; or
    - (ii) construction of two or more #buildings# on contiguous #zoning lots# or #zoning lots# which would be contiguous except for their separation by a #street# or #street# intersection; and
      - (a) have been planned as a unit evidenced by a site plan for all such #zoning lots# filed with, and approved by, the Department of Buildings prior to the effective date of the applicable

amendment; and

(b) will be #non-complying# under the provisions of any applicable amendment to this Resolution.

(3) "Other construction" shall include:

- (i) any #enlargement# other than a major #enlargement#; or
- (ii) any #extension#, #conversion# or structural alteration; or
- (iii) construction of any structure other than a #building#;

which will be #non-conforming# or #non-complying# under the provisions of any applicable amendment to this Resolution.

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

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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.

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### **11-331 - Right to construct if foundations completed**

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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.

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### **11-332 - Extension of period to complete construction**

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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.

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### **11-333 - Residential developments with building permits issued on or before June 30, 1989**

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LAST AMENDED  
12/5/1991

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.

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### **11-334 - Building permits issued prior to June 29, 1994**

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LAST AMENDED  
6/29/1994

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.

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### **11-335 - Building permits for other construction in R1-2A and R2A Districts**

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LAST AMENDED  
4/22/2009

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.

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## **11-336 - Building permits issued before April 30, 2008**

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LAST AMENDED

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.

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## **11-337 - Building permits issued and applications filed before April 22, 2009**

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LAST AMENDED

4/22/2009

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.

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## **11-338 - Building permits issued before February 2, 2011**

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LAST AMENDED

2/2/2011

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 23-692 (Height limitations for narrow buildings or enlargements) or 109-124 (Height and setback regulations).

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## **11-339 - Post-Hurricane Sandy construction**

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LAST AMENDED

10/10/2013

The provisions of this Section shall apply within the #flood zone#. 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 Building Code of the City of New York, 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 pursuant to the provisions of Section 11-30 (BUILDING PERMITS ISSUED BEFORE EFFECTIVE DATE OF AMENDMENT).

- (a) Applications for approval of construction documents approved pursuant to Executive Order 230

If an application for approval of construction documents has been approved on or before October 9, 2013, pursuant to Executive Order No. 230 (Emergency Order to Suspend Zoning Provisions to Facilitate Reconstruction in Accordance with Enhanced Flood Resistant Construction Standards), dated January 31, 2013, and its successors, including Executive Order No. 427 in effect on October 9, 2013, relating to #Hurricane Sandy# as defined in Section 64-11 of this Resolution, a building permit authorizing such construction may be issued pursuant to the regulations of this Resolution in effect at the time of such approval of construction documents, and such construction may continue until October 9, 2019. After such date, the vesting provisions of Section 11-30 shall apply.

- (b) 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 an approval of construction documents or 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 October 9, 2019. After this date, the vesting provisions of Section 11-30 shall apply.

(c) Provisions applying in the event that Flood Resilience Zoning Text Amendment expires

This provision shall become effective only upon the expiration of Article VI, Chapter 4, adopted on October 9, 2013. If an application for approval of construction documents has been approved on or before the expiration of Article VI, Chapter 4, a building permit authorizing such construction may be issued pursuant to Article VI, Chapter 4, and such construction may continue until a date six years after the expiration of Article VI, Chapter 4. After such date, the vesting provisions of Section 11-30 shall apply.

(d) 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.

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## 11-34 - Additional Provisions for Extension of Period to Complete Construction

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LAST AMENDED  
5/29/2019

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## 11-341 - Building applications filed before July 8, 2017

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LAST AMENDED  
5/29/2019

If, before July 8, 2017, an application has been filed with the Department of Buildings for a #development# on a #corner lot# with a #lot area# of less than 5,000 square feet, located in a C5-2 District in Community District 5 of the Borough of Manhattan, the provisions established in N 190230 ZRY pertaining to calculating #floor area# in a tower containing #residences# shall not apply in the portion of such #building# below a height of 130 feet above the #base plane#, provided that the aggregate height of any floor space on #stories# occupied predominantly by mechanical equipment provided pursuant to paragraph (8) of the definition of #floor area# in Section 12-10 (DEFINITIONS), and any floor space that is or becomes unused or inaccessible within a #building#, pursuant to paragraph (k) of the definition of #floor area# in Section 12-10, does not exceed 80 feet.