Land Use and Zoning 101

Land Use, Planning, and Development Division
Office of Manhattan Borough President Gale A. Brewer
1. Land Use & Origins of Zoning
2. Mechanics of Zoning
3. Public Review Process
4. Tools & Resources
What is land use?

- Residential
- Mixed Use
- Commercial
- Parks
- Institutions
- Transport / Parking
- Industrial
- Vacant Lots

Source: CMAP/Oasis
Setting the stage for zoning

In **1915**, the 42-story Equitable Building was the last building built under the “old rules.”

**1870 Building Code** was largely concerned with fire safety:
- cast-iron columns
- internal fire-proofing
- height-to-street width ratio for some buildings

There was no consideration for light and air or shadow impacts.
What is the basis for zoning?

- Light and air
- Separation of uses
- Nuisances
1916 Zoning Resolution

1916: New York City enacted the nation’s first comprehensive zoning resolution.

- To promote and protect the public health, safety and general welfare
- Established height and setback controls
- Separated residential areas from some non-residential uses (industrial and manufacturing)
1961 Zoning Resolution

- Established Use Groups to coordinate different uses
- Introduced bulk regulations (and eliminated height limits) to control density and ensure light and air
- Incorporated new ideas in urban design and urbanism
- Address proliferation of automobiles
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How does zoning work?

Each zoning district regulates:

- Types of uses allowed
- Density (floor area ratio; FAR)
  - Overall density
  - Density of individual uses
- Building Form
- Number of dwelling units
- Amount of open space
- Required parking (if any)
- Lot coverage
- Distance from buildings and lot lines
Zoning Map
Zoning Districts

- **R** = Residential Districts
- **C** = Commercial Districts
- **M** = Manufacturing Districts

**Use Intensity**

- **C** = 4

**Parking Requirements**

- 7

**MECHANICS OF ZONING**
Zoning Text

Article 3, Chapter 3 and Section 122 (33-122)

Commercial buildings in all other Commercial Districts

C1-6 C1-7 C1-8 C1-9 C2-6 C2-7 C2-8 C3 C4 C5 C6 C7 C8

In the districts indicated, the maximum #floor area ratio# for a #zoning lot# containing only #commercial uses# shall not exceed the #floor area ratio# set forth in the following table:

<table>
<thead>
<tr>
<th>Districts</th>
<th>Maximum #Floor Area Ratio#</th>
</tr>
</thead>
<tbody>
<tr>
<td>C3</td>
<td>0.50</td>
</tr>
<tr>
<td>C4-1 C8-1</td>
<td>1.00</td>
</tr>
</tbody>
</table>

Term Defined in § 12-10 ZR

Date created or last revised: (2/2/11)

Where the Text Applies
Use Groups

Uses are grouped based on common functional or nuisance characteristics. Zoning text identifies which use groups are permitted in each zoning district.

<table>
<thead>
<tr>
<th>Group</th>
<th>Type of Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 &amp; 2</td>
<td>Residential</td>
</tr>
<tr>
<td>3 &amp; 4</td>
<td>Community Facilities</td>
</tr>
<tr>
<td>5 - 9</td>
<td>Commercial / Local retail &amp; Services</td>
</tr>
<tr>
<td>10 - 11</td>
<td>Regional Shopping Centers/Amusement</td>
</tr>
<tr>
<td>12 - 15</td>
<td>Waterfront / Recreation</td>
</tr>
<tr>
<td>16</td>
<td>General Services / Heavy Automotive</td>
</tr>
<tr>
<td>17 &amp; 18</td>
<td>Manufacturing</td>
</tr>
</tbody>
</table>
## Use Groups

<table>
<thead>
<tr>
<th>Use</th>
<th>Use Group</th>
<th>Districts In Which Permitted</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shipping, waterfront (See Boats or ships)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Shoddy manufacture</td>
<td>17</td>
<td>M1 M2 M3</td>
</tr>
<tr>
<td>Shoes:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Manufacture</td>
<td>17</td>
<td>M1 M2 M3</td>
</tr>
<tr>
<td>Repair shops [PRC-B]</td>
<td>6</td>
<td>C1 C2 C4 C5 C6 C8 M1 M2 M3</td>
</tr>
<tr>
<td>Stores [PRC-B]</td>
<td>6</td>
<td>C1 C2 C4 C5 C6 C8 M1</td>
</tr>
<tr>
<td>Sign painting shops [PRC-B]: Limited as to #floor area#</td>
<td>7</td>
<td>C2 C6^4 C8 M1 M2 M3</td>
</tr>
<tr>
<td>Unlimited</td>
<td>16</td>
<td>C8 M1 M2 M3</td>
</tr>
<tr>
<td>#Signs, advertising#</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(See Sections 32-63 and 42-52)</td>
<td></td>
<td>C6^31 C7 C8 M1 M2 M3</td>
</tr>
<tr>
<td>Silver plating shops, custom [PRC-B1]</td>
<td>16</td>
<td>C8 M1 M2 M3</td>
</tr>
</tbody>
</table>

# Subject to conditions
Density

- Every zoning district has a **floor area ratio** (FAR).
  - The FAR reflects the ratio of building floor area to lot area.
- Multiplying the FAR by the **lot size** will give you the maximum permitted **floor area** (size) or **square footage** of a building.

100% coverage
One story

50% coverage
Two stories

25% coverage
Four Stories
Density Illustrated

100% coverage
Two stories

50% coverage
Four stories

25% coverage
Eight Stories
“Height Factor” vs. “Contextual”

Height Factor Zoning  
(e.g. R7)  
Tower form  
(no height limit)  
Required open space

Contextual Zoning  
(e.g. R7A; also “Quality Housing”)  
Height limit  
Street wall  
Lot line

Images from NYC Department of City Planning
As of Right Zoning

- Zoning Resolution is very specific
- Same rules apply to everyone
- As of right framework ensures consistent and rational application
- Discourages deal-making
Zoning Concepts and Tools

- Special Districts
- Overlay districts
- Transfer of development rights
- Incentive zoning
Special Districts

West Chelsea/High Line Special District (WCh)

Hudson Yards Special District (HY)

Images from NYC Department of City Planning
Commercial Overlays

A commercial overlay is a C1 or C2 district usually mapped within residential neighborhoods to serve local retail needs. FAR is limited to 1.0 or 2.0, usually permitting only ground floor or second floor commercial uses.
Transfer of Development Rights

When not all allowable FAR is used, the unused development rights, or air rights, may be transferred to a neighboring property.

Shifting density to adjacent lots (zoning lot merger)

Transfer for special purposes (e.g. historic preservation)

Images from NYC Department of City Planning
Incentive Zoning

Bonuses allow bigger buildings in exchange for a public benefit.

- 20% of floor area dedicated to affordable housing
- 33% floor area bonus
Land Use & Zoning 101

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2. Mechanics of Zoning
3. Public Review Process
   - Environmental Review
   - Land Use Review/ULURP
4. Tools & Resources
As-of-Right Development

Most development in New York City occurs *as-of-right*.

That means that a proposed development meets all the relevant provisions of the Zoning Resolution and the Building Code. No action is required by the City Planning Commission (CPC) or the Board of Standards and Appeals (BSA).
Discretionary Actions

A discretionary action requires review and approval the City Planning Commission or the Board of Standards and Appeals.

Examples: zoning amendments, special permits, authorizations and variances.
The 1975 State Environmental Quality Review Act (SEQRA) requires state and local governmental agencies to assess environmental effects of discretionary actions before undertaking, funding or approving such actions.

City Environmental Quality Review (CEQR) are the City rules through which New York City implements SEQRA. The CEQR Technical Manual guides the City's analysis.
City Environmental Quality Review (CEQR)

• Is about legally required **disclosure**
• Defines the “**scope**” of what can be approved
• Provides for **community input**
• Proposes **mitigation**
Reasonable Worst-Case Scenario

Environmental studies estimate “Reasonable Worst-Case Scenario” impacts on:

- Land Use, Zoning & Public Policy
- Socioeconomic Conditions
- Community Facilities & Services
- Open Space
- Shadows
- Historic & Cultural Resources
- Urban Design & Visual Resources
- Natural Resources
- Hazardous Materials
- Water and Sewer Infrastructure
- Solid Waste & Sanitation Services
- Energy
- Transportation
- Air Quality
- Greenhouse Gas Emissions
- Noise
- Public Health
- Neighborhood Character
- Construction Impacts
Uniform Land Use Review Procedure (ULURP)

- Participatory government
- Required for certain land use proposals
- Recognizes role of Community Boards
- Sets specific time line and clear expectations
- Standardizes review procedures
Common Actions

- Zoning Map Changes
- City Map Changes (e.g. mapping new streets)
- Site Selection for City Facilities (e.g. new schools)
- Disposition or Acquisition of Real Property
- Special Permits (e.g. garages)
- Changes to Urban Renewal Plans
Who is involved in ULURP?

- Department of City Planning
- Community Board
- Borough President
- City Planning Commission
- City Council
## Steps of ULURP

<table>
<thead>
<tr>
<th>Step</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1. Certification</strong></td>
<td>Determined by rule</td>
</tr>
<tr>
<td><strong>2. Community Board</strong></td>
<td>60 days</td>
</tr>
<tr>
<td><strong>3. Borough President</strong></td>
<td>30 days</td>
</tr>
<tr>
<td><strong>4. Planning Commission</strong></td>
<td>60 days</td>
</tr>
<tr>
<td><strong>5. City Council</strong></td>
<td>50 days</td>
</tr>
</tbody>
</table>

### Meetings, Hearings, Recommendations
- MEETINGS
- HEARING
- RECOMMEND
- CONSULTATIONS
- HEARING (Opt)
- RECOMMEND
- REVIEW SESSION
- HEARING
- VOTE: DIS/APRV
- SOME APPL’S Opt
- MEETINGS (Opt)
- HEARING (Opt)
- VOTE: DIS/APRV

### Decision Points
- The **Mayor** may veto Commission or City Council decision (+ 5 days)
- The **City Council** may override Mayor’s veto with a 2/3 majority (+ 10 days)

### Total Time
- **TOTAL TIME:** Approx. 200-215 days or approximately 7½ months
Department of City Planning

- Responsible for the City’s physical and socio-economic planning
- Provide planning information to Community Boards and other City agencies
- Staffed by urban planners, demographers, urban designers, geographers, transportation specialists, etc.
- Responsible for certifying that land use applications are complete, incl. environmental analyses.
- Office in each borough

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Community Board

Hear from the public

- Hold public meeting (s)
- Hold public hearing (s)
- Post flyers/public notice/monthly mailings/e-mail
- Notify neighbors, the applicant and stakeholders

Issue a recommendation

- Consider the “proposed action,” not just the project
  - Action: map change
  - Project: glass building
- Consider planning rationale and policy implications
- Consider impacts (+/-)
- Address findings
- Follow through
Borough President

• Reviews proposed actions in ULURP applications considering:
  • relevant conditions/findings pursuant to zoning resolution;
  • planning rationale and policy implications;
  • environmental impacts; and
  • community concerns/issues

• May hold public hearing

• Issues recommendation to the City Planning Commission
City Planning Commission

• 13 member panel: Mayor appoints 7, one by each Borough President, one by Public Advocate
• Holds regular public meetings and hearings
• Votes on land use issues, subject to city regulation
• Chair of the Commission is also the Director of the Department of City Planning
City Council

- **Land Use Committee**
  - Oversight of the City Planning Commission, Dept. of City Planning, Dept. of Information Technology & Telecommunications, Landmarks Preservation Commission, land use and landmarks review.

- **Land Use Subcommittees**
  - Landmarks, Public Siting & Maritime Uses
  - Planning, Dispositions & Concessions
  - Zoning & Franchises

- **Stated Council**
  - Votes on Land Use items
Other Non-ULURP Public Review Processes

• Non-ULURPs
• Board of Standards and Appeals
• Landmarks Preservation Commission
“Non-ULURP” Actions

Common “non-ULURP” actions

• Some Use/Bulk Authorizations
• Zoning Text Changes
• Office Space Acquisition by the City

“Non-ULURP” public review

• Informal referral to Community Boards
• Typically 30-, 45- or 60-day review period
• Public hearings are not required
Zoning Variances

Board of Standards & Appeals (BSA) may grant a variance from Zoning provisions provided that each of these findings are met:

(a) **Uniqueness**
   (e.g. unusual subsurface condition, oddly-shaped lot, programmatic needs)

(b) **Reasonable Return**
   (non-profit institutions are exempt)

(c) **Neighborhood Character**
   (consistency of use and size)

(d) **Hardship not Created by Owner**
   (e.g. leaching contaminants from neighboring properties, conditions of nature, government actions)

(e) **Minimal Variance**
   (no more than needed for reasonable economic return)
Landmarks & Historic Districts

The Landmarks Preservation Commission (LPC) was established in 1965 by the Landmarks Law, following the loss of the original Penn Station in 1963.

- A landmark is a “building, property, or object that has been designated by the LPC because it has a special character or special historical or aesthetic interest or value as part of the development, heritage, or cultural characteristics of the city, state, or nation.”

- LPC has power to designate landmarks and historic districts.

- Designated landmarks can only be altered if the LPC finds the alterations “appropriate.”

- LPC has 11 commissioners, all appointed by the Mayor (at least 3 architects, 1 historian, 1 city planner or landscape architect and 1 realtor).
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Reference Tools and Resources

Websites

- NYC Planning
- BSA NYC Board of Standards and Appeals
- NYC Buildings
- NYC Landmarks Preservation Commission

Zoning Handbook

DCP Bookstore
22 Reade Street
City Store
1 Centre Street

CityLand Journal and CityAdmin (online)

New York Law School

www.citylaw.org
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