

1 RCNY §101-15

CHAPTER 100

Subchapter A Administration

§101-15 Public challenge of department zoning approvals.

The following procedure shall be followed only when members of the public wish to challenge a zoning approval issued by the department for a new building ("NB") or an enlargement affecting the exterior envelope of an existing building ("enlargement"). For the purposes of this section, "zoning approval" shall mean the approval of zoning documents filed as part of either a full approval of construction documents pursuant to section 28-104.2.2 or a partial approval of construction documents pursuant to section 28-104.2.5 of the administrative code, whichever comes first.

(a) Initial zoning challenge. The public shall have forty-five (45) days from the date of posting on the department's website of a zoning diagram filed in connection with an NB or enlargement to challenge the zoning approval, whether or not a permit or full approval for the NB or enlargement application has been issued. Posting of the zoning diagram shall serve as notice of zoning approval. All permits shall state that the zoning diagram can be accessed on the department's website. In addition, such zoning approval and information related to such approval shall be made available upon request at the appropriate borough office. The challenge shall be postmarked by the 45th day from the date of posting and shall be sent to the appropriate borough commissioner on forms specified by the department.

(b) Department review and decisions. After the forty-five (45) days for public challenge have elapsed, the department shall provide the challenge(s) to the applicant and the borough commissioner shall begin a review of the challenge(s) received and issue decision(s). The borough commissioner may deny the challenge(s) and/or issue to the applicant a notice of intent to revoke the zoning approval and any other approval and/or permit that relies on the zoning approval, along with a list of objections to the application. The challenge(s) and decision(s) shall be posted on the department's website and made available upon request at the appropriate borough office.

(1) Denial of challenge. The public shall have fifteen (15) days from the date of the posting of the borough commissioner's decision to deny the challenge to appeal to the department's technical affairs unit on forms specified by the department. The appeal shall be postmarked no later than the 15th day after the date of the posting.

(2) Notice of intent to revoke. The borough commissioner may issue a notice of intent to revoke the zoning approval and any other approval and/or permit that relies on the zoning approval along with a list of objections. Such notice shall be rescinded when all objections are satisfied. The public shall have fifteen (15) days from the date of the posting of the rescission of such notice on the department's website to appeal the rescission to the department's technical affairs unit on forms specified by the department. The appeal shall be postmarked no later than the 15th day after the date of the posting.

(3) Final determinations. In addition to the internal appeals procedure provided for in paragraph 2 of this subdivision, rescission of a notice of intent to revoke a permit, issuance of a permit and revocation of a permit are final determinations that may be appealed to the Board of Standards and Appeals (BSA) in accordance with its rules. Where a permit has already been issued, the denial of a challenge by the borough commissioner or by the head of the technical affairs unit pursuant to this rule shall also be considered a final determination that may be appealed to the BSA.

(c) Amendments to zoning approvals.

(1) Resolving objections. An applicant may file to amend a zoning approval solely to resolve the objections stated in the notice of intent to revoke. Rescission of a notice of intent to revoke as a result of the resolution of objections shall constitute a decision that may be appealed pursuant to the provisions of paragraph 2 of subdivision b of this section or to the BSA, pursuant to paragraph 3 of subdivision b of this section.

(2) Amendments to the approved zoning documents. An applicant may also file to amend approved zoning documents for reasons in addition to or other than addressing the zoning objections raised in the notice of intent to revoke approval or permit. Challenges to the department's approval of such amendments shall be subject to the process set forth in subdivisions a and b of this section.

(d) Currently filed jobs. The public challenge process described in this section shall not apply to jobs where the application submission for an NB or enlargement is deemed by the department as ready for initial plan examination and the appropriate fees have been paid prior to the effective date of this rule.