



Answering Frequent Questions about City of Yes for Economic Opportunity

Based on 100+ Community meetings held since October, this document is intended to provide additional guidance and clarity on repeated questions and misconceptions about the City of Yes for Economic Opportunity zoning proposal.

Additional resources are available at nyc.gov/YesEconomicOpportunity, and can be directed to the project team at economicopportunity@planning.nyc.gov

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BROAD QUESTIONS ABOUT POLICY DEVELOPMENT AND IMPLEMENTATION

Who and what groups were consulted in the lead up to/drafting of these proposals?

This proposal followed more than a year and a half of engagement and careful proposal development with a range of stakeholders, including small businesses and organizations that serve them, such as Business Improvement Districts (BIDs) and industrial service providers. Additionally, we've worked with organizations such as the Freelancers Union and the Center for an Urban Future that support the city's inclusive economic growth and economic competitiveness. We've been very engaged with all five boroughs' Chambers of Commerce and with the Small Business Resource Network.

We worked diligently to incorporate resident input and recommendations, starting before the formal public review process began and every step along the way. For City of Yes for Economic Opportunity, we held five citywide public information sessions starting in the fall of 2022, which included hundreds of resident participants across all five boroughs. All 59 Community Boards received invitations to these information sessions and their date, time, and registration information was shared on DCP's website, social media accounts, and via email newsletters.

This proposal is over 1,000 pages. Why not re-submit each of the 18 components in City of Yes for Economic Opportunity as a separate text amendment?

We recognize the legal text itself is long and complex and have been working hard to provide resources that help community boards and the public understand the proposals. Many of the proposals overlap, and cannot be neatly separated, nor would 18 separate environmental reviews or ULURP packages reduce the scope and complexity of the changes.

We've been out to over 100 community board meetings on this initiative in the last two months and expect to be at many more before the end of public review. Any boards still looking to understand aspects of the proposal, please reach out to your board liaisons with questions, and members of the public can send any questions to economicopportunity@planning.nyc.gov or visit the webpage.

To assist New Yorkers in their understanding of these proposals, we have created an optional worksheet allowing Community Boards and members of the public to indicate whether they support and any recommended modifications to each of the 18 proposals within City of Yes for Economic Opportunity. In addition, we have made available numerous resources on our website at nyc.gov/YesEconomicOpportunity, including the zoning text with annotations, a detailed project description, the primary Zoning Resolution sections affected by each proposal, translations of each current use and Use Group to the proposed uses and Use Groups, and topic-specific one-pagers.

Could these changes take power away from Community Boards and the City Council?

Zoning is meant to provide rules for what types of businesses can locate where. If a business's use fits what is allowed, it is considered "as of right," like commercial uses in commercial districts. Sometimes, the location of uses can be contingent on certain conditions, like their overall size. Sometimes uses are only by special permission, like an arena, which is where community boards, the City Planning Commission, and the City Council weighs in. And sometimes, uses are prohibited outright – meaning no one can even grant them permission.

The vast majority of City of Yes for Economic Opportunity changes do not change that framework and are meant to provide clarity, rather than changing who is allowed to grant permission. In a few cases, this proposal is allowing uses that are currently prohibited to be allowed, like clean manufacturing or indoor amusements. In some cases, we are clarifying language for uses already allowed, like laboratories. In some cases, we are saying uses currently allowed will now be subject to community board review, like auto repair. And in some cases, we are saying uses entirely prohibited will now be allowed only by special permission, like adding a corner store in a residence district.

Does City of Yes for Economic Opportunity address housing or sustainability issues?

There are three separate "City of Yes" initiatives to change our city's zoning. The first is Carbon Neutrality, which was recently adopted by the City Council. The second is Economic Opportunity, which currently is with all of the city's Community Boards, Borough Boards, and Borough Presidents for review. The third is Housing Opportunity, which we anticipate entering public review in Spring 2024. Information about all 3 text amendments is available at nyc.gov/cityofyes.

What was the environmental review process for City of Yes for Economic Opportunity?

State and city law lays out a specific process for environmental review on proposals like this one. Through that process, an Environmental Assessment Statement (EAS) was prepared for the project, in accordance with the guidance and analysis methodologies in the CEQR Technical Manual, to determine whether the proposal might have significant adverse environmental impacts. The analysis in the EAS concluded that the proposed zoning changes included the proposal would not result in any significant adverse impacts and a Negative Declaration was issued which concluded the environmental review process.

For the environmental assessment, DCP worked with an external consulting firm that provided robust and high-quality technical analysis of this proposal. For example, for the technical analysis assessing the potential for noise impacts, the consulting firm used world-class acoustical modeling to analyze the noise produced by the noisiest commercial uses. Selecting these commercial uses was a major part of developing the Reasonable Worst-Case Development Scenario (RWCDs) which serves as the framework for CEQR analysis. Technical experts in DCP's Environmental Review Division and the Department of Environmental Protection collaborated on the development of the RWCDs, reviewing and verifying the work of the consulting firm, and developing the "separate or attenuate" requirements in the proposal.

The proposal was presented to an interagency CEQR Task Force, which includes representatives from DEP, FDNY, and other agencies.

The EAS review was robust, thorough, and pursuant to best practice. Throughout the environmental review process, City Planning worked closely with other expert agencies, particularly the Department of Environmental Protection. This comprehensive analysis, methodology, and findings of the environmental analysis are a matter of public record. Those conclusions can be found within the Determination of Significance [here](#). The entire EAS along with technical documents is available [here](#), or by searching for City of Yes for Economic Opportunity in the [“CEQR Access” portal](#).

Are there any potential conflicts between the City of Yes for Economic Opportunity and the City of Yes for Housing Opportunity?

These proposals are complementary and are not anticipated to generate any conflicts. Each aspect of the proposals—from helping offices convert to residential, removing outdated limitations on businesses, giving homeowners the option to add small rental units, and adding more affordable housing in high-demand neighborhoods—is a proven strategy to help lower housing costs and ensure that local retail streets and commercial centers across the city can remain lively places that help our neighborhoods thrive.

New York is a city of neighborhoods and commercial corridors with shops and vibrant street life anchoring each community. Mixed-use buildings, with stores on the street level and apartments above them, exist across the five boroughs. However, in many places, regulations preclude the creation of new mixed-use corridors. By legalizing new housing above businesses on commercial streets, the City of Yes initiatives will ensure that our zoning is flexible enough for empty storefronts to be activated by businesses, create affordable housing, help neighbors reach small businesses, and build vibrant mixed-use neighborhoods.

How has DCP worked across City agencies in the implementation and regulation of these changes?

We’ve been working closely with a wide range of City agencies to make sure that these proposals make sense, make it easier to implement and enforce the zoning, and don’t take away any important safeguards to protect quality of life for New Yorkers, including the Departments of Buildings (DOB), Transportation (DOT), Environmental Protection (DEP), Small Business Services (SBS), Fire (FDNY), Police (NYPD), the Economic Development Corporation (EDC), New York City Housing Authority (NYCHA), and the Mayor’s Offices of Nightlife, Urban Agriculture, Food Policy, and Media & Entertainment. We’ve been especially engaged with DOB and DEP, as they are the primary interpreters of our zoning resolution and related City codes for buildings, and many of the zoning safeguards around mixed-use buildings and production came as a result of those conversations to refine our proposals. We also know that a lot of concerns relate to noise, traffic, and other nuisances, and so we’ve been in regular contact with DOB, DOT, DEP, and other operational and enforcement agencies to ensure that our new rules make sense to New Yorkers who may be concerned about quality of life following these changes.

QUESTIONS ABOUT SPECIFIC PROPOSALS

Proposal #1: Lift time limits to reactivating vacant storefronts

What's the purpose of eliminating time limits on reactivating non-conforming storefronts in Residence Districts? Doesn't this prevent these spaces from converting to housing?

Today, nothing in the zoning code is preventing vacant nonconforming storefronts in Residence Districts from being converted to residential use. However, sometimes spaces remain vacant because repurposing former commercial space to legal code-compliant residential use can be cost-prohibitive or physically impossible (e.g. spaces designed with storefront windows, without kitchens or full bathrooms, etc.). This change would support continuing neighborhood retail or commercial use in storefronts that can not be converted to residential use.

Proposal #2: Simplify rules for business types allowed on commercial streets

What were the intended differences between seemingly similar commercial zoning districts and are these differences no longer of concern/relevant?

When the Zoning Resolution was created in 1961, policymakers intended C1 and C2, and C4-C6 districts to have similar purposes. Despite their different regulations, even then but especially now, these districts were not seen to have meaningful distinctions.

For example, C1 districts were meant to be for business types with frequent access such as retail, but this did not anticipate the economy's shift to more local service businesses, experiential and amusement businesses, and improvements in technology that enabled clean maker-retail and small production businesses. Similarly, C4 districts today exclude some types of businesses, such as personal repair businesses and some services, that are allowed in C2 and C6 districts. The proposal would allow the same mix of businesses across C4, C5, and C6 districts.

Proposal #3: Expand opportunities for small-scale clean production

Are manufacturing businesses safe to be near residents? How is zoning ensuring they won't create noise or pollution?

Our current zoning was written at a time when most manufacturing was done in large factories and meant for mass production and global distribution. , and our current zoning also pre-dates most modern environmental regulation, so it made sense at the time to separate many manufacturing businesses into Manufacturing zones and locate them in places where new homes were generally not allowed. But technologies have changed a lot and so has our ability to safely regulate a range of business types that

have a production component. Mixed-use districts that include high-performing clean manufacturing are not unique and mixed-use models are a common and accepted form of planning in many cities.

The only types of uses that will be newly eligible for location in commercial zones are clean and quiet, such as pottery studios, bike repair, bakeries, craft-making, carpentry and apparel production.

“Clean” production means that the production business has met stringent environment standards that ensure the business will not have the potential to create negative air quality, noise, traffic, or other environmental concerns for nearby residents and businesses. There are several layers of regulations in the zoning to ensure this. In all instances, to be able to operate in Commercial Districts, clean production uses would:

1. Be subject to the same environmental requirements required in Special Mixed Use (MX) Districts that have been rezoned across the city since 1997 that stipulate the business must certify that a production or manufacturing activity will **not** have emissions that exceed the “ABC” requirement, which is a NYC Department of Environmental Protection (DEP), air quality regulation (in the Admin. Code, it's in 24-153 Emissions of air contaminant; environmental rating). Companies that exceed the air quality standard are not permitted in Commercial Districts.
2. Would **not** generate a “right to know” filing with the City for storing or using potentially hazardous substances. Companies that use or store certain chemicals or substances are required to file a “right to know” certification and any company that does so is not permitted in Commercial Districts.
3. Performance standards at the same level as current Use Group 17 for any use seeking to locate in an MX district—in other words, in a building that today could contain both M1 uses and residences.
4. Additionally, to avoid potential air quality effects for residences, when locating on the same story as or above a dwelling unit, all Production uses must design any required emission stacks to vent at the highest tier of the building or above the height of the immediately adjacent buildings, whichever is higher (proposed zoning ZR 32-423).

Failure to follow environmental standards could result in DOB zoning violations, DEP enforcement, fines, and business closure.

Some of the proposed “clean” Production uses don’t provide neighborhood services, so is it a good idea to allow them in storefronts in neighborhood commercial corridors?

We believe vacancy is a primary contributor to deadening streets, and we share the concern for ensuring streets are active and pedestrian oriented (which Proposal #12 on streetscape is focused on). Many of the kinds of Production uses being allowed in commercial districts are those which benefit from proximity to customers, and add vibrancy and diversity to neighborhood commercial streets, while also providing entrepreneurial space for makers who can create products that meet the needs of their local community. In addition, vacancy is a primary contributor to deadening streets, and businesses of any type (including Production) that reduce vacancy support active and pedestrian-oriented corridors.

Many production uses do provide services to neighborhood residents, from food producers, to coffee roasters and breweries, to furniture or custom manufacturers that provide home goods. In the zoning

today, many of these uses are already permitted in local commercial districts, like dressmaking shops, and venetian blind custom window manufacturers (current Use Group 6). However, other similar custom manufacturers like pottery studios, jewelry-makers, coffee roasters, and micro-breweries are prohibited in the same zoning districts.

Cities across the country allow similar small-scale production in storefront space and we believe these artisan manufacturing businesses are appropriate for any commercial street given the services they provide and the diversity of business offerings they represent.

DCP seeks to ensure any new use meets stringent environmental controls which is especially important in areas with residences. In this case, the allowances for small scale production limit potential hazardous users from locating at all, such as those using hazardous materials onsite. (Others are held to high environmental standards such as venting above any nearby residences, as noted above.)

Proposal #4: Modernize loading dock rules so buildings can adapt over time

How will it be determined if more loading bays are needed when a new tenant moves into an existing building?

Today, loading requirements are based on a 60-year old formula that assumes all manufacturing is mass production meant for global distribution. As a result, the regulations often prohibit an innovation-based production company -- such as a lab, a 3-D printer, or apparel maker selling locally -- from occupying upper floors in an empty office building. The proposal would maintain loading requirements for new construction buildings but not require *additional* loading docks be added when changing the use within an existing building, enabling adaptive reuse of existing buildings over time. We already recognize the need for this flexibility in parking requirements, which do not change even as the mix of uses within an existing building changes. This proposal would do the same for loading requirements.

Proposal #5: Enable commercial activity on upper floors

How does the proposal address the potential for safety or noise concerns in buildings with both commercial and residential uses on the same floor or commercial uses above residences?

Zoning allows for commercial above the ground floor in many circumstances today – on the first or 2nd story in many neighborhood streets, or on any floor in a higher density commercial district. But zoning today is prescriptive on the order of the floors: residential needs to be above commercial, except in a handful of neighborhoods with special rules. These rules are a relic of a time where rooftop bars, observation decks, or an elevator bank that could access floors 9 and 11 but not 10 were not contemplated.

Our proposal would enable big buildings in higher density areas to adapt over time – e.g. allow buildings to convert and have both have commercial and residential together in the same building, and in

whatever order makes sense. It would also allow for pre-existing 2nd story medical space to be occupied by a wider range of businesses.

There are many protections in place for residents of buildings with commercial uses, including the requirement for complete separation – this means different elevator banks, entrances, and lobbies for residential and non-residential parts of a building. Potentially noisy uses must also separate or attenuate (defined in ZR 32-423):

- Separate: need to have 15 feet between any production use / business with rated capacity (bars, restaurants, etc.), and that must include two sets of walls in addition to the 15 feet. Buffer could be a lobby, hallway, office, storage etc. But it can't generate noise.
- Attenuate: Provide soundproofing and have a sound engineer sign off that you've provided enough soundproofing to dampen the sound to surrounding uses.

Could this proposal incentivize landlords to convert existing housing units to non-residential use?

It will not incentivize it more than is already allowed. Today, all high-density C1 and C2 mapped or overlay districts (i.e. R6-R10 equivalent) **already allow commercial uses on the second floor** – for instance, every location in Manhattan where commercial use is allowed, it is already allowed on the 2nd story as well as ground floor. In these places, we often see *new* buildings adding second story commercial space if it makes sense to do so, but rarely see *existing* residential buildings convert higher floors to commercial because of the extensive physical barriers – requiring a newly constructed ADA-compliant entrance to the 2nd story that is physically separate from the residential use (E.G., an extra elevator).

Nothing in zoning prevents those spaces from converting to residential use, but conversion can be cost-prohibitive or physically impossible if the space lacks sufficient windows, kitchens, or full bathrooms. By allowing these spaces to re-tenant with a wider range of businesses we can reduce vacancies, and believe that – just like in places where 2nd story is already allowed – the physical requirements create a major obstacle to conversion in existing buildings.

Proposal #7: Clarify rules to permit indoor agriculture

How will the growing of cannabis (i.e. marijuana) be controlled?

The New York State Office of Cannabis Management regulates the legal cultivation of cannabis. There are several steps a prospective business must follow in order to legally locate a cannabis cultivation business, including appear before a Community Board. You can find out more information about the process at www.cannabis.ny.gov.

As far as zoning for cannabis cultivation is concerned, current zoning considers cannabis cultivation to be an agriculture use and therefore currently allowed indoors in Manufacturing Districts or within in a greenhouse or outdoors in a Commercial or Manufacturing District. The zoning proposal in City of Yes for Economic Opportunity would clarify that the cultivation of any agricultural product – flowers, food, cannabis, or anything else – indoors is permitted in a Commercial District. Any indoor agriculture

business seeking to locate within a Commercial District would have to obtain a Certificate of Occupancy from the Department of Buildings prior to commencing operation, including the sign-off that the business space meets Building and Fire Code standards for ventilation, structural integrity, and sufficient electrical capacity. Furthermore, any business found to produce any noise, odors, dust, or other environmental concerns would be subject to violation of zoning from the Department of Buildings, which may include fines and the closure of the business.

Proposal #8: Give life sciences companies more certainty to grow

What environmental standards will be used to determine if laboratory use is safe in office space or mixed-use neighborhoods? What agency will have responsibility for monitoring and enforcing safety standards?

Laboratories are among the most highly regulated industries in the United States, and locally we have regulations from DOB, FDNY, DEP, and DOHMH that all help to ensure that any laboratory that opens is doing so in full compliance with these regulations, which include health and safety guidelines and inspection from the FDNY, City, and State health agencies. Additional layers of regulatory review and guidance come from NYS Department of Environmental Conservation (DEC), as well as the National Institutes of Health (NIH) and the Centers for Disease Control and Prevention (CDC).

Our proposal is to codify the definition of laboratories. Laboratories are already permitted use in nearly all Commercial Districts and in Residence Districts when within a hospital or educational setting. However, the zoning describes “dental laboratories” and not modern research facilities. An interpretation letter from the Department of Buildings in 2016 clarified this definition, but is insufficient in providing clear industry guidance. The changes in City of Yes are an important step to allow safe, certified research to take place near important partners like hospitals and universities with more permanent clarity.

Proposal #9: Support nightlife with common-sense rules for dancing and live entertainment

How will conflicts between nightlife businesses and residential quality of life be addressed?

Zoning today uses a 200-person threshold for defining ‘small’ versus ‘large’ nightlife venues, with musical entertainment within bars or restaurants allowed at 200 people or fewer in any Commercial District. A 200-person capacity venue is roughly the size of a standard 25’ x 100’ storefront. However, nightlife venues above this capacity are allowed only in C4, C6, and M districts today and in C districts are subject to lobby requirements and distancing requirements from the nearest Residence District.

The proposal would keep all existing capacity limitations, and lobby and distancing regulations in place, while allowing nonmusical entertainment (i.e. comedy and open mic nights) as well as dancing to occur in the same spaces where musical entertainment is already allowed. The zoning text reliance on “cover charges or specified showtimes,” clear capacity limitations, and lobby and distancing requirements are

designed to give the Department of Buildings easier ways to regulate these businesses and ensure they remain compliant with the zoning. DOB has confirmed these proposed regulations would do so.

While zoning regulates the business activity within a building, we recognize that does not mean business activity cannot sometimes spill out into the public right-of-way or exhibit other quality of life concerns – it can and we suggest reporting issues to 311 or working to resolve any repeated issues with a particular venue through the Office of Administrative Trials and Hearings (OATH) or NYC Office of Nightlife’s MEND NYC program. MEND NYC is a free, alternative measure for complaint resolution which requires the voluntary participation of both parties to work toward a solution, guided by a licensed, third-party mediator. In two years since the program started, hundreds of cases have initiated the mediation process and 83% of cases that proceed to mediation have resulted in a successful resolution. Good neighborly relations and constructive conversation can humanize a conversation and lead to resolution by helping both parties better understand the details of how the issue can be resolved. Venues, residents, elected officials, or other community advocates can reach out at MENDNYC@oath.nyc.gov.

Will these zoning changes lead to strip clubs being allowed in my neighborhood?

No. What we’re calling “nightlife” pertains to bars and restaurants that have dancing. Strip clubs are considered “adult uses” under zoning and are only permitted in very limited locations in the city. We are not changing that. Enforcement of the city’s rules on adult uses is coordinated closely between the NYPD and the Mayor’s Office of Special Enforcement.

Proposal #10: Create more opportunities for amusements to locate

Does the definition of amusements include casinos?

No. Amusements does not mean casinos. A separate citywide text amendment has been introduced regarding gaming facilities and nothing in City of Yes would allow them.

We are proposing the following definition for “amusements” as found in ZR 12-10 of the proposed zoning text: “An “amusement or recreation facility” is any establishment providing recreational or amusement activities not listed in the definitions of health and fitness establishments or outdoor amusement park or listed as other recreational or amusement uses in Use Group 8. Such uses include, but are not limited to, the following:

- A. establishments providing recreational activities, such as pool halls, bowling alleys, table tennis, trampoline parks and skateboard parks; or
- B. establishments providing a range of amusement activities, such as interactive or virtual reality attractions, arcades, escape rooms, laser tag, go-karts, and miniature golf.”

Amusement uses are typically entirely indoor uses and could absorb multiple storefronts resulting in a decrease of pedestrian street traffic. How will DCP address this matter?

The way the zoning regulates experiential businesses has not kept up with consumer demand for activities like laser tag, escape rooms, miniature golf, virtual reality, or other types of interactive businesses. These are businesses that are appropriate to locate along commercial corridors and in fact, are a common business type in commercial areas in the suburbs in Westchester, Long Island, and New Jersey, as well as other urban areas across the United States. In C1 and C2 districts, we are limiting the size of these businesses to 10,000 square feet to ensure that only smaller-scale experiential and amusement businesses are permitted on neighborhood commercial streets. In C4 and C6 districts, we are not limiting the size of these business types and believe many of them are especially appropriate for empty upper floors of large floor-plate office buildings.

Proposal #11: Enable entrepreneurship with modern rules for home-based businesses

Why is it a good idea to allow businesses in peoples' homes?

Many New Yorkers today are neighbors to a home-based business (known as a “home occupation” in the Zoning Resolution). In fact, state Department of Labor data estimates more than 76,000 businesses already exist in NYC registered to locations in Residence Districts.

The zoning today permits a wide range of home-based businesses—including but not limited to lawyers, music teachers, and jewelry-makers – and has a number of safeguards in place to limit any nuisances that may arise from the home occupation. These safeguards will remain in place and the vast majority of home-based businesses already operate without incident. ZR 12-10 describes these in detail, but in general, the rules are:

1. The owner of the business must reside in the home and current zoning allows you to have up to one employee who does not live in the home.
2. The business cannot have exterior signage, storage, or displays of goods visible from the outside.
3. No items produced outside of the dwelling unit can be sold from the home—you can run an Etsy business selling your own jewelry, but you cannot open a retail or wholesale shop selling other peoples' jewelry.
4. Any home-based business cannot generate any noise, odor, dust, particulate matter, or any other objectionable effects (i.e. nuisances).

The current zoning rules for home-based businesses are arbitrarily punitive to a few occupations, and the things people perceive to be nuisances—like noisy neighbors and stores in apartments—are addressed in safeguards above that we are not changing.

What is the basis of the decision that 49% and 3 employees is the acceptable amount of commercial use in a dwelling unit?

Several Special Districts, including the SoHo-NoHo Mixed Use Districts (2021), the Tribeca Mixed Use District (1981), the Queens Plaza Subdistrict (2001), and the Special Mixed Use District (MX) (1997), as well as the regulations in Article I Chapter V for Residential Conversions (1981), all have home occupations regulations in the ZR to allow for a wider range of home-based businesses that match this proposal (expand the size of accessory business activity allowed up to 49% of the dwelling unit or more than 500 square feet, and allow for up to 3 employees registered to the home business). The proposals in City of Yes for Economic Opportunity are based on these existing rules, which have been in place for decades in large sections of the city.

The underlying rules for home-based businesses outside of these geographic exceptions have not been changed to reflect the realities of remote work in a post-Covid-19 world, and are holding back many entrepreneurs, freelancers, and other self-employed New Yorkers from being able to make a living or grow their business from home.

The proposed zoning would continue to prohibit: “Offensive noise, vibration, smoke, dust or other particulate matter, odorous matter, heat, humidity, glare, or other objectionable effects.” How does this get enforced? Who determines what is “objectionable?” If neighbors are subject to noise from the barber next door, who do they call?

Today and in the future, if home-based business generates any noise, vibration, smoke, dust or other particulate matter, odorous matter, heat, humidity, glare, or other objectionable effects (i.e. nuisances), the home-business can be reported to DOB via 311, DOB borough offices, or referrals from other City agencies including HPD, DOHMH, FDNY, and NYPD. DOB can issue zoning violations to a building owner where a home occupation is violating the zoning, including fines and potentially shut down the business.

Furthermore, any building with a lease, co-op agreement, or other similar document can limit certain home businesses and violations of these legal agreements can result in eviction or further penalties for the tenant or co-op holder violating the terms of that agreement.

Why are you expanding zoning for home businesses when we have so many vacant storefronts and offices?

Home businesses and storefront businesses are not in conflict, and in fact, ample research on the life cycle of businesses shows that starting in the home can help businesses that then “graduate” into storefront or office space. Anyone who has ever sold crafts made in their kitchen or visited a tutor’s home knows the value of home-based businesses. We know that many people receive a haircut in someone’s (or their) home as well, despite this activity being not allowed while crafts and tutors are. Being able to start small without the expense of renting commercial space allows entrepreneurs to experiment with new ideas before spending their savings on an idea that might not work out. Many home-based business owners cherish the freedom and flexibility of working from home, while others have relied on these micro start-ups as a lifeline during the COVID-19 pandemic. Home-based businesses are often hindered by zoning restrictions—such as square-footage or employee limits—that make it difficult for entrepreneurs to operate out of the home by limiting their ability to grow or serve customers.

For more information: Institute for Justice, “Barriers to Business: How Cities Can Pave a Cheaper, Faster, and Simpler Path to Entrepreneurship” (<https://ij.org/wp-content/uploads/2021/12/Barriers-to-Business-WEB-FINAL.pdf>)

Could the removal of the 500 SF size limit and increase in outside employees for home occupations could encourage combining apartments so that they can be used for business?

Existing residential protections like rent regulation, and market forces for residential demand, make circumstances for combining rental units in existing buildings extremely limited. State law prevents rent-stabilized apartment from being used TTKK...

Home occupation rules have been on the books in NYC since the 1960s, allowing for a wide range of occupations to operate legally within reasonable nuisance safeguards, allowing for thousands to work from home mostly without incident. However, the pandemic changed how New Yorkers work from home and showed the limitations of our existing rules and where it is both out-of-date and is holding back entrepreneurship and small business growth. The necessity of the pandemic resulted in many business types operating in homes despite explicitly not being allowed -- such as barbers, beauty salons, advertising and public relations professionals, interior decorators, real estate and insurance agents -- or effectively not allowed, if the work required multiple people to meet in-person in the home. It also revealed how today’s size restrictions on the one hand unfairly penalize individuals in small units, who may be legally required to work from bathrooms to meet the 25% limitation, or on the other hand, by creating a maximum square footage, penalize home-owners who cannot fully take advantage of a garage or home office.

Increasingly, Many New Yorkers are looking for units that include legal space for working from home. Being able to work legally in a unit might actually help keep New Yorkers in their current homes by allowing them to not choose between work and home priorities. Housing decisions by individuals are highly complex and personal, but we believe these changes provide working families maximum flexibility to choose housing that meets their needs, including for home work.

Proposal #12: Introduce corridor design rules that promote active ground floors

What is the difference between the new streetscape regulations and existing regulations? What about in Special Districts?

For the most part, existing streetscape regulations are either nonexistent or are inconsistently applied. For example, within many Special Purpose Districts, existing streetscape regulations tend to only apply to designated streets—generally placing no rules whatsoever on commercial streets within a Special District that are not designated. These proposals would enhance the streetscape regulations for all commercial streets, including within Special Districts, providing clear and consistent baseline rules where they do not currently exist.

The existing Special District streetscape rules would continue to supersede the standard streetscape provisions, giving Special Districts the continued regulation of treatments not covered in the underlying zoning.

Do these regulations mitigate the impacts of “dark stores,” like micro-distribution facilities and production facilities not open to the public?

Yes – in most of the city, there are no streetscape rules preventing a business from placing opaque materials over windows or doors. The streetscape regulations would require 50% transparency on the façade of storefronts across most commercial streets, giving DOB a clear enforcement mechanism to prevent this papering over of windows and doors and allow passersby to be able to look into a business to see the activity going on within.

Proposal #13: Reduce conflicts between auto repair shops and pedestrians

What’s the definition of heavy and light motor vehicle repair?

As defined in ZR 12-10, “heavy motor vehicle repair and maintenance shop” would be an establishment that provides repair and maintenance services for automotive vehicles that is required to register with the Department of Motor Vehicles as a “motor vehicle repair shop” pursuant to the New York State Motor Vehicle Repair Shop Registration Act. The state defines this as businesses of “repairing or diagnosing motor vehicle malfunctions or repairing motor vehicles bodies, fenders or other components damaged by accident or otherwise,” some exceptions include vehicle shops that “solely consist of fueling, changing oil, water, batteries or tires,” etc.

The zoning today allows “Automobile glass and mirror shops,” “Automobile seat cover or convertible top establishments, selling or installation,” and “Tire sales establishments, including installation services” in any C2, C4, or C6 district as-of-right, while restricting more intense forms of automotive repair and maintenance to C8 and M districts. The DMV does not directly license forms of light auto servicing, which it considers to include tire rotations and oil changes, but instead requires licensing and registration for “heavy” automotive repair. The proposed zoning borrows from the state’s distinction, requiring heavy repair to be registered with the state DMV and allowing these businesses only in C8 and M districts, while removing the as-of-right allowance for light repair and maintenance in the Commercial Districts where it currently exists.

Does this proposal regulate existing auto repair businesses? Could it lead to an expansion of where auto repair is allowed to locate?

The requirement would not affect existing businesses.

For new businesses, we want to make sure that the kinds of activity in neighborhood streets are appropriate – and that auto repairs can be contained within the zoning lot and not spillover onto

sidewalks. To implement this, any new auto use would be permitted on commercial streets only by special permit process of the BSA. This is a considerable new level of review – unlike most other parts of City of Yes, this would admittedly make it harder to open an auto repair business in C2, C4, and C6 districts, while also giving businesses a pathway in C1 and C5 districts that does not exist today. It would not restrict locating in an industrial area (C8 or M district).

Proposal #14: Encourage safe and sustainable deliveries with micro-distribution

How will micro-distribution facilities improve logistics, transportation, and current truck congestion?

Today, a post office is allowed anywhere and these locations serve as neighborhood-based hubs for package drop-off and delivery to local homes and businesses. But if you're not the federal government, delivery activities are restricted to just industrial areas, and not allowed in commercial areas. This restriction makes delivery van and truck congestion worse by requiring all vehicles to drive from industrial areas to a package's final destination, increases double-parking and parking on sidewalks, and concentrates distribution activities in industrial areas where the zoning allows it. By allowing for local *micro*-distribution facilities to locate in storefront space, it will encourage shifts from vans to alternative modes of transportation like pedestrian and bicycle carriers (just like the Post Office) and will give New Yorkers more local hubs for package pick-up and drop-off. We've worked closely with DOT on this proposal and they would like to use storefront space in their micro-distribution pilot, but zoning prevents it. This proposal would enable deliveries to continue to shift toward improving logistics and transportation operations.

Will micro-distribution make the problem of deliveries even worse by crowding sidewalk and curb space?

No. These proposals were developed in close collaboration with DOT, and DOT has several on-going initiatives to pilot off-hours deliveries, as well as neighborhood-based hubs for deliveries on the street. We do not believe this proposal creates more demand for deliveries, but it does provide the opportunity to rationalize package collection and distribution inside a store instead of on the street or in the back of a truck.

Why aren't you restricting last-mile distribution centers in City of Yes for Economic Opportunity?

We know this is a complicated issue and we're continuing to look at it with our city agency partners. Any citywide attempt to regulate last mile facilities via zoning would likely trigger an EIS – requiring a lengthier public review process than City of Yes for Economic Opportunity is going through.

However, we do view our micro-distribution proposal as part of the solution to last-mile distribution issues because our zoning right now does not provide any sort of ability for package delivery to occur in neighborhoods close to where people live, so delivery vehicles end up having to drive back and forth

between large distribution facilities and peoples' homes and businesses. This proposal would reduce truck trips by making our freight delivery and logistics more efficient.

Proposal #15: Facilitate local commercial space on residential campuses

What kinds of commercial uses would be allowed under this proposal? How big could it be?

Section 75-12 of the proposed zoning text (page 715 of the PDF) has the specific language, but we are creating a new zoning tool—that would require public review to be used—that could allow up to 15,000 SF of uses allowed in a C2 district to locate on a large-scale site in a Residence District provided that the conditions and findings of the CPC Authorization are met.

How can zoning reserve some of this space on NYCHA campuses to be used by business owners living in those communities?

Everyone deserves to have access to basic necessities near their home. NYCHA residents have been left out of this equation for too long. City of Yes will rectify that oversight. Zoning can't make any requirements on ownership, but NYCHA itself has several programs for entrepreneurs who live in its campuses, and the process to potentially site some commercial or maker-space at NYCHA would go through public review including Community Board meetings.

Proposal #16: Create a process for allowing corner stores in residential areas

Why it is a good idea to allow new commercial businesses in residential areas? Would this end the difference between commercial and residential zoning?

Our actual built environment is not that binary – mixed-use neighborhoods have been a part of New York as long as we have been a city. Literally thousands of businesses exist today in Residence Districts, and make life more pleasant and convenient for New Yorkers who need to run down the block for a gallon of milk or pick up a bacon egg and cheese in the morning.

But in some areas where a small corner store would make sense, New Yorkers don't have access to them – more than a quarter million people are not within walking distance, in fact. In those areas, traffic, air pollution, and access to basic necessities is worse because there is no mechanism for local retail.

Many businesses today face zoning regulations without any potential pathway to seek small changes to those regulations on a case-by-case basis. For instance, existing commercial businesses in residential areas often have no pathway to adapting the business or expanding or altering their building because zoning considers these businesses nonconforming. Similarly, zoning has no pathway to create new small-scale businesses that serve their neighbors. The existing zoning limits options for businesses to

expand or adapt over time and can result in businesses have to leave the neighborhood or the city overall just to continue operating.

What we are proposing is not a blanket green light for new businesses. We are proposing to create what's called an "authorization," which would still require a site specific environmental review and community board review. The proposed zoning limits applications by size and use type. So that in the limited circumstances where additional businesses that serv that the creation of this permit allows us to recognize those circumstances where the community wants to approve a single store (not an overall commercial rezoning which by design is a larger neighborhood change) there is a legal avenue to consider that exception.

What is the process to regulate the approval of newly permitted corner stores? Will Community Boards get to review and approve? Are certain business types excluded?

This proposal would create a process to consider small commercial uses in Residence Districts, but these are not as-of-right processes and require both environmental assessment and discretionary approval by the City Planning Commission, which includes referral to the Community Board. To grant an authorization, the City Planning Commission would have to determine that the applicant has met findings for the authorization, including that the business would:

- A. serve the surrounding residential area;
- B. not create traffic congestion;
- C. not produce any objectionable effects (i.e. nuisances); and
- D. not alter the essential character of the neighborhood in which the building would be located.

Precise language can be found in the [proposed zoning text](#) ZR 75-11. Furthermore, the CPC has the discretion to place limitations that align with Community Board recommendations consist with the findings for the particular CPC Authorization under consideration.

Will cannabis dispensaries or nightclubs be allowed with corner store provisions?

Licensed, legal shops selling cannabis products for off-site consumption are treated in zoning as just like any other retail store. If someone wanted to use the CPC authorization to set up one of these shops, they would have to do an environmental review that looks at potential impacts to the surrounding area, go before the community board like any other CPC discretionary permit, and the CPC would have the authority to place stipulations on any use pursuant to the findings for authorizing the use. This is an incredibly high bar for any business, but especially one that might not have community backing to go through such a process, so it is extremely unlikely we would see such a business successfully utilize the authorization.

It is also worth noting that zoning is unable to regulate illegal activity and any shop selling cannabis that is not licensed by the state is doing so illegally. While the City and State continue to ramp up their enforcement of this illegal activity, residents should report the businesses to 311 so they can be cataloged for future enforcement actions.

Why is giving more businesses pathways to grow a good idea?

Today, some businesses in C1 and C2 districts have discretionary pathways through the BSA to appeal to make adjustments to their size or location without expanding the physical size of the building, but not all businesses – and this creates an uneven playing field for small businesses that might want to adapt over time. For example, a clothing retail shop is limited to 10,000 SF and even if they're successful and want to expand into a next door vacant storefront or an empty doctor's office on the 2nd floor, they have no pathway in zoning whatsoever to do so. This proposal in City of Yes gives businesses like this a discretionary pathway – subject to Community Board review – to make limited changes to their size or location provided that they stay within the building size allowed under zoning.

Will BSA permits override Landmarks or historic districts?

No. Any BSA permit sought in a Landmarked building or Historic District would have to go through LPC review in addition to any review necessary from the BSA.

OTHER ISSUES

Can zoning be used to limit cannabis dispensaries (i.e. “smoke shops”) in certain areas using the rationale that this use type can create noxious odors?

The state has jurisdiction over the licensing of the sale of cannabis and zoning is unable to regulate individual products sold in a retail store. If a licensed cannabis shop is generating odors, this would be regulated and enforced by DEP if it was noxious. If an unlicensed shop is selling cannabis, this is illegal activity and is subject to enforcement actions by the City and State. The NYPD and the Sheriff's Office are ramping up enforcement of this legal activity, which [to-date](#) has led to more than \$63 million in penalties — including an estimated \$23 million in illegal product seized and over \$40.5 million in civil penalties issued — and more than 1,300 compliance and intelligence inspections. While the City and State continue to ramp up their enforcement of this illegal activity, residents should report the businesses to 311 so they can be cataloged for future enforcement actions.

Does this proposal allow dispensaries in my neighborhood?

No. Zoning does not differentiate between types of shops, either before or after these City of Yes changes. The state is in the process of granting licenses for legal dispensaries, and the city and state have announced a variety of measures to crack down on unlicensed stores.