



NEW YORK FIRST CITY TO PUT ZONING DIAGRAMS ONLINE FOR 30-DAY PUBLIC REVIEW PROCESS

On February 2, Mayor Michael Bloomberg signed into law a new public review process for building plans.

With the new law, architects and engineers filing applications for new buildings and major enlargements are required to submit diagrams, which will be available for public review on the NYC Department of Buildings (DOB) web site.

New ZD1 Form. Previously, builders were not required to submit the new Zoning Diagram (ZD1) form for applications where the initial document was filed and attained "Application Processed" status before March 9, 2009.

On March 9, however, the DOB extended the deadline to mid-April. At that time, builders must submit the new ZD1 form:

- Prior to approval for new building and alteration enlargement applications;
- With any subsequent applications or Post-Approval Amendments (PAAs) if the ZD1 is altered from the initial application.

Public Challenge Process. The new process for public challenge has four parts:

- **Initial Public Challenge Period:** On approval of new building or major enlargement applications, the DOB will publish the scanned Zoning Diagrams and associated documents on its web site. New Yorkers will then have *30 calendar days* to review and challenge the development approval. Within three business days of the approval, the builders must post the permit at the location so the public is aware of the proposed development.
- **Initial Zoning Challenge Review:** After the initial public challenge period ends, the DOB Borough Commissioner will address every challenge by conducting a full review of construction plans and rendering decisions that will be posted online. If the commissioner finds the challenge valid, enforcement action may include issuing Stop Work Orders, revoking permits, and requiring redesigns of the proposed construction.
- **Community Appeals Period:** If the Borough Commissioner finds a challenge invalid, the public has an *additional 15 calendar days to appeal* to the First Deputy Commissioner.
- **Final Zoning Challenge Review:** Once the First Deputy Commissioner issues a determination, the decision may be appealed to the Board of Standards and Appeals for a final determination.

A Nationwide First. The new law makes New York City the first city in the nation to put diagrams of proposed new buildings or major enlargements online so the public can view the size and scale of a proposed building before challenging the city's zoning decisions.

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PARTNER PERSPECTIVE: PUBLIC ZONING REVIEW



GUS MAZZA

> How will the new public review process affect Milrose clients?

The new zoning diagrams are being publicly posted to allow for greater transparency of approvals and building projects. This means an additional group of eyes will be reviewing major Alt-1 and new building applications. The public will have the ability to comment on all projects, including as-of-right projects.

Previously, public comment was reserved for the City Planning Commission (CPC) and Board of Standards and Appeals (BSA) hearings. This new process may cause additional delays, as there will be a mandatory 30-day public review time that will directly follow the DOB approval of the major Alt-1 and new building application.

> Are there any provisions of particular concern to Milrose clients?

Previously, DOB policy included identifying individuals accessing drawings submitted to the DOB. However, the new public review platform does not allow for a record of who is viewing new major Alt-1 and new building applications in the city. Anyone can view the zoning diagrams and calculations on the ZD1 form.

> What do Milrose clients need to keep in mind about the new law?

It's important for our clients to understand that this new procedure may add a significant delay to affected projects. This new public review period may open the floodgates of public comment even after the DOB examiner has completed his or her review. The DOB

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LONG ISLAND

NASSAU COUNTY PROJECTS MAY FACE DELAYS IN FIRE MARSHAL SIGNOFFS



THOMAS TABONE

The current state of the economy has affected almost every industry on a global level.

“Closer to home, Nassau County is feeling the effects as well,” said Thomas Tabone,

District Manager of Milrose Consultants’ Long Island office. “As a result of possible Nassau County cutbacks, you may need to wait longer for required approvals, signoffs and ultimately Certificates of Occupancy.”

The Nassau County Fire Marshal’s office has confirmed some potential significant changes that may take place as soon as second quarter 2009:

- Elimination of accelerated reviews
- Elimination of accelerated inspections
- Layoffs of potentially 20 staff members (both marshals and administrative support)
- The delayed opening of the Nassau County Fire Marshal’s office on Wednesdays (1:00 p.m.). This is the equivalent of an additional 26 days during the year.

Such changes can delay the review, inspection and signoff of the following:

- **Work Types:** Sprinkler, Fire Alarm, Ansul, FM 200, Standpipe and HAZMAT
- **Project Types:** New Buildings, Interior Renovations, Generators
- **Occupancy Types:** Industrial, Office, Hospitals, Colleges, Schools, Hotels, Entertainment, Restaurants, Retail

To demonstrate the difference in timeframe, we’ll use a fire alarm application for a typical interior alteration to an existing space.

An application filed today as an accelerated review may take approximately 10 business days. Should layoffs and the elimination of the accelerated review take place, that same review may take four to five months. The timeframe for inspections would greatly increase as well.

“Picture the impact on securing the required signoffs necessary for a certificate of occupancy,” Tabone added.

In addition to the constant monitoring of new construction, the Fire Marshal’s office is responsible for conducting various annual inspections, including, but not limited to, emergency lighting, public assembly and holiday inspections.

NYC TIP OF THE MONTH

FIRE ALARM CHANGES REQUIRE FIRE DEPARTMENT LETTER OF DEFECT



JACLYN DIRENZO

With any filing at the NYC Department of Buildings (DOB), applicants are permitted to file an amendment to reflect design changes as they occur.

However, for fire alarms, the application is filed with DOB but reviewed by both the DOB and the Fire Department prior to approval.

Once the fire alarm application is approved, the FDNY does not permit the DOB to allow amendments to be filed.

“They want to inspect the system based on the original filed plans,” said Jaclyn DiRenzo, Senior Account Executive at Milrose Consultants. “If there are design changes or field changes, the revised plans should be available on site at the time of inspection, along with the DOB-approved plans. The fire inspector will determine if an amendment is required to be filed based on the changes.”

At that time, the letter of defect issued will include instructions to “file revised plans” or “file revised paperwork.”

“We are only permitted to file amendments at DOB if we have a fire department Letter of Defect (from the on-site inspection) that outlines what the amendment is for,” DiRenzo said.

NEW JERSEY

IDENTIFYING INCIDENTAL USE AREAS AND PROTECTION REQUIREMENTS



JASON COLLINS

How do you protect an office storage room, compared to an entire building?

Incidental use areas are a very common building component, often included in an interior design. They are also commonly *overlooked*, in terms of meeting the proper separation and protection requirements.

Incidental use areas are rooms or areas that constitute special hazards or risks to life safety beyond the protection provided by the general code requirements for the occupancy in which they are located.

Incidental uses are generally considered ancillary functions, limited only to those the International Code Council (ICC) specifically lists in ICC Table 508.2. These uses are associated with a given occupancy and generally pose a greater level of risk to that occupancy.

In general, the occupancy classification of an incidental use area is consistent with that of the occupancy group it serves.

Mixed Occupancy

However, a few exceptions make it necessary to be considered a *mixed-occupancy* building. The requirements applicable to the original occupancy classification are not sufficient to protect against the hazards unique to these areas.

“We field questions on a monthly basis from architects, engineers and contractors inquiring about the protection and separation requirements of incidental use areas,” said Jason Collins, Code & Zoning Analyst for Milrose Consultants. “Nine times out of 10, the questions pertain to storage rooms created within a typical office fit-out.”

For example, an office building (Group B) contains storage areas greater than 100 square feet in area. If the building is classified as a single occupancy, the storage areas would be regulated as incidental use areas. They are required to be separated from the remainder of the building by one-hour fire-resistance-rated fire barriers. Otherwise, the building is classified as a mixed-occupancy building of Groups B and S, and the requirements of ICC

Section 503.3 apply.

Special Protections

Where an incidental use is not classified separately as to its occupancy (*i.e.*, mixed occupancy condition), Table 508.2 of the 2006 IBC – NJ Edition and Section 5:23-6.30(h) will apply.

Table 508.2 identifies incidental use areas that require special protection and indicates the required protection. Protection requirements vary, depending on the incidental use area. In some cases, specific protection is required, while other circumstances have options.

For an automatic fire-extinguishing system, the requirements of Section 508.2.3 apply only to the incidental use room or area, not the entire building. Where Table 508.2 permits protection by an automatic fire-extinguishing system without fire barriers, the walls enclosing the incidental use area must simply resist the passage of smoke.

ZONING DIAGRAMS ONLINE FOR 30 DAYS

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“The reforms center on the public’s right to challenge any approved development if they think it violates local zoning regulations,” said Mayor Michael Bloomberg. “The reforms will make sure people have a stronger voice in the development that’s taking place in their neighborhoods, while also giving developers more certainty about their projects.”

The Costs of Uncertainty. Before this law, the public’s right to challenge city zoning decisions had no formal timeframe, which resulted in confusion and unnecessary and unintended costs for development in New York City.

“Until now, knowledge of development approvals has been limited to a small group of insiders with expert knowledge,” said NYC Buildings Commissioner Robert LiMandri. “This puts the public at a disadvantage and creates uncertainty for developers, who could be subject to a challenge long after a building is out of the ground.”

Effect on Projects. The law primarily affects three phases of a developer’s project:

- In the design and permitting phase, every new building and Alt-1 application must use the new standardized ZD1 forms. They must also comply with

new drawing labeling requirements to facilitate scanning and digital publication of plans.

- Upon DOB approval, the builders are required to post permits publicly on the site *within three business days*.
- The new law limits the timeframe of the public’s challenge and appeals. Project timelines may be affected *one or two months* after DOB approval, pending any DOB review, determinations and enforcement activity.

If you have questions about how the rules for ZD1 forms, public permit posting, and public challenge process may affect your current projects, please contact Milrose Consultants at 212-643-4545.



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PUBLIC ZONING REVIEW

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Borough Commissioner’s office will be required to address each of the challenges raised during the public review period. It will be difficult to anticipate delays as it will be contingent upon the comments made and the DOB’s response to the issues raised.

> How will Milrose help clients comply with the new requirements?

Our staff is up to date on the new procedures and will continue to assist our clients in overcoming any hurdles that may arise with their filings.

We are continually discussing new procedures and guidelines with the DOB and will have the most up-to-date information available to help expedite the approval process for our clients.

NYC CODE QUESTION OF THE MONTH >>

QUESTION: Can we file new interior alteration projects for existing buildings under the provisions of the new 2008 building codes before the effective date of July 1, 2009?



MANUEL SANTIAGO

ANSWER: The question above is actually two questions in one.

First, can we use New York City’s 2008 Building Code before July 1, 2009?

Yes, you do have that choice. As of July 1, 2008, use of the 2008 edition of the New York City Construction Code is permitted for any new buildings and major alterations to existing buildings. This is established in Section 28 – 101.4.

Alternatively, of course, the 1968 Code may be used up until the 2008 Code’s effective date of July 1.

Second, can we use the 2008 Code for new interior alteration projects?

That depends on the scope of your alteration. For interior alterations to existing (pre-2008) buildings, the use of 2008 Code is limited to the installation of equipment, appliances and systems, plumbing, mechanical ventilation, elevators, and safety of public and property during construction, including demolition.

The remainder of the application addressing construction-related items must comply under the 1968 Code, as per Sec. 28 – 101.4.3 of the 2008 Code.

Finally, Sec. 101.4.4 attaches additional limitations for use in alterations to existing buildings. The 2008 Code may only be used:

1. Where the alterations would not result in a reduction of the fire or structural safety of the building under the 1968 Code.
2. Where it can be demonstrated that the entire building complies with all relevant fire and structural safety requirement of the 2008 Code.

However, based on our experience, about 99% of the pre-2008 existing buildings in NYC would be unable to comply with all of the fire or structural safety provisions of the 2008 Code.

Thank you to Ted Moudis Associates for submitting this Code Question of the Month. To have your question featured, please send your ideas to codequestion@milrose.com.

NYC FINALIZES PLAN LABELING GUIDELINES FOR B-SCAN SYSTEM



JOHN PUPONS

The NYC Department of Buildings has finalized its enhanced B-SCAN system and will use it to electronically capture plans.

“The new plan requirement will be implemented on March 23, 2009, so all plans filed going forward should follow this format,” said John Pupons, Account Executive at Milrose Consultants. “Plans will no longer be perforated or microfilmed, and the plan examiner/professional certification stamp and signature will indicate that the plan is approved.”

Type of plan must be designated by a Discipline Designator (chart listed)

Drawing Reference Number is a three-digit number (000-999).

Drawing Reference Number has a two-digit numeric decimal to indicate drawing revision.

Drawing Title must contain floor

BPC - SITE 3
New York, New York

11th to 22nd FLOOR EAST
REFLECTED CLNG. PLAN

Seal & Signature

Date: JAN 2009
Project No:
Drawing By:
CHK By:
DWG By:

A-411.00

CAD FILE NO:
J: BPC SITE 3

1 of 20

All drawing plans must include a page number (1 of X, 2 of X)

As we reported in February, the new plan identification requirements must have a drawing title that includes the floor if one is referenced and a drawing reference number that identifies the sheet number, revision and discipline designator to identify the plan type. Standardized discipline designators are shown in the table below.

ACCEPTED DISCIPLINE DESIGNATORS

A*	Architectural	F*	Fire Suppression Systems	SD	Standpipe
ANT	Antenna	FA	Fire Alarms	SG	Signs
B*	Borings/Geotechnical	FO	Foundation	SOE	Excavation
BPP	Builders Pavement Plans	FPP	Fire Protection Plan	SP	Sprinkler
C*	Civil	G*	General	SSP	Site Safety Plan
CC	Curb Cut	H*	Hazardous Materials	T*	Title/Coversheet
DM	Demolition	M*	Mechanical	X*	Other Disciplines
E*	Electrical	P*	Plumbing	Z	Zoning
EN*	Energy Analysis	PA	Place of Assembly	* Designations are national CAD standards.	
EQ	Construction Related Equipment	S*	Structural		

To ensure approval and avoid objections that can delay approval, Milrose Consultants has confirmed that plans must follow these additional guidelines:

- One side of plans must be 36" or shorter.
- All pages must have a B-SCAN job sticker.
- All pages must contain a page number.
- Plans must be submitted in black and white.

- The final copy submitted must not have staples or bindings of any kind.
- Any Post-Approval Amendment with plan changes must be reflected on the PW-1 or on an AI-1 for minor changes.

If you have any questions, contact Milrose Consultants at 212-643-4545.

ABOUT THIS NEWSLETTER:

The *Milrose Consultant* is distributed free of charge to construction professionals in New York City, New Jersey and Long Island. Milrose Consultants, Inc., is a leader in the field of municipal building code and zoning compliance. More than 100 employees have extensive experience and knowledge in navigating the sometimes-complex bureaucratic approval process for all types of construction projects, including high-end residential, commercial and retail. Services include code and zoning analysis, new buildings, alterations, permits, violation reports, violation dismissals, letters of completion, certificates of occupancy and certificates of approval. Our ability to interact with regulatory agencies results in compressed construction schedules and accelerated occupancy.

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Suggestions: To have your question featured as the **Code Question of the Month**, please send your ideas to codequestion@milrose.com.



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