

**CITY OF NEW YORK
BOARD OF STANDARDS AND APPEALS**

**NOTICE OF PUBLIC HEARING AND OPPORTUNITY TO COMMENT ON
PROPOSED RULES**

What are we proposing? The Board of Standards and Appeals (the Board) is proposing a rule to clarify the Board's environmental review requirements under the State Environmental Quality Review Act and City Environmental Quality Review

When and where is the hearing? The Board of Standards and Appeals will hold a public hearing on the proposed rule. The public hearing will take place at 10:00 a.m. on Monday, March 28, 2022. The hearing will be a hybrid hearing: a remote Zoom webinar (by dialing (646) 558-8656 or (888) 475-4499, ID 960 1176 8373; passcode 533514; or register in advance: https://bsa-nyc.zoom.us/webinar/register/WN_Pblja6D8Q42lshnrXX4odg), or in person at 22 Reade Street, New York, NY 10007.

How do I comment on the proposed rules? Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to the Board of Standards and Appeals through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to submit@bsa.nyc.gov.
- **Mail.** You can mail comments to the Board of Standards and Appeals, 22 Reade Street, New York, NY 10007.
- **Fax.** You can fax comments to the Board of Standards and Appeals, (646) 500-6271.
- **By speaking at the hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up beforehand (https://bsa-nyc.zoom.us/webinar/register/WN_Pblja6D8Q42lshnrXX4odg) or simultaneously as you join the Zoom webinar (ID 960 1176 8373; passcode 533514) when the hearing begins on Monday, March 28, 2022. If you wish to speak in person at 22 Reade Street, New York, NY 10007, please sign up beforehand by emailing tmatias@bsa.nyc.gov or calling (212) 386-0085 by Friday, March 25, 2022. You can speak for up to three minutes.

Is there a deadline to submit comments? Yes, Friday, March 25, 2022.

What if I need assistance to participate in the hearing? You must tell the Board's Deputy Director (tmatias@bsa.nyc.gov) if you need a reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone at (212) 386-0085. Advance notice is

requested to allow sufficient time to arrange the accommodation. Please tell us by Friday, March 18, 2022.

This location has the following accessibility option(s) available: reasonable accommodations are available upon request.

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. A few days after the hearing, copies of all comments submitted online and copies of all written comments concerning the proposed rule will be available to the public at 22 Reade Street, New York, New York. A video of the hearing will also be available through the Board's website, <http://www.nyc.gov/bsa>.

What authorizes the Board of Standards and Appeals to make this rule? Sections 1043 and 666 of the City Charter authorize the Board of Standards and Appeals to make this proposed rule. This proposed rule was not included in the Board of Standards and Appeals' regulatory agenda for this Fiscal Year because it was not contemplated when the Board of Standards and Appeals published the agenda.

Where can I find the Board of Standards and Appeals' rules? The Board of Standards and Appeals' rules are in Title 2 of the Rules of the City of New York.

What laws govern the rulemaking process? The Board of Standards and Appeals must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043 of the City Charter.

STATEMENT OF BASIS AND PURPOSE

Background About the Board of Standards and Appeals

Since 1916 the Board of Standards and Appeals (the "Board") has worked to administer zoning, building, and housing regulations in a fair and just manner to protect the City's interest in safeguarding the general welfare while balancing private property interests.

Under the New York City Charter, the Board is an independent agency that consists of five full-time commissioners. Three commissioners must have experience in architecture, urban planning, and engineering, and at the present time the Board's two other commissioners have knowledge of real-property feasibility analysis and applicable law. Using their technical expertise and independent judgment, each commissioner scrutinizes every land use application with the utmost of care.

For each application, the Board holds hearings that are open to the general public where applicants and their team of design professionals present proposals to the Board. Other stakeholders, including tenants, members of the community, other government agencies, and elected officials, are also welcome to present additional information that the Board should consider before voting on an application. Commissioners' reviews frequently require analyzing intricate construction documents, financial statements, testimony from other government agencies, and site conditions observed through visits to the properties and neighborhoods at issue. After considering the record in its entirety and deliberating, the Board votes on an application. A majority of the Board must affirmatively approve an application; otherwise, the application is denied.

Purpose of Proposed Rule

A state or local agency that approves a permit or project must comply with the State Environmental Quality Review Act, known as SEQRA. SEQRA requires that state and local governmental agencies assess environmental effects of discretionary actions before approving such actions, unless they fall within certain statutory or regulatory exemptions from the requirements for review. City Environmental Quality Review, or CEQR, is the process by which agencies of the City of New York review proposed discretionary actions to identify the effects those actions may have on the environment. CEQR is New York City's process for implementing SEQRA and can be no less stringent than its state counterpart. The Board restates the obligations under SEQRA and CEQR to ensure that the Board's Rules accurately reflect applicable SEQRA and CEQR requirements.

The Board of Standards and Appeals' authority for these rules is found in sections 666 and 1043 of the New York City Charter.

New material is underlined

[Deleted matter is in brackets]

Section 1. Section 1-08.1 of Chapter 1 of Title 2 of the Rules of the City of New York is amended to read as follows:

§ 1-08.1. Subject Matter.

Applications [for variances and special permits] filed at the Board, in accordance with Mayoral Executive Order No. 91 of 1977, as amended, the Rules for City Environmental Quality Review, Title 62, Chapter 5, § 5-01 et seq. of the Rules of the City of New York (“CEQR”), and the State Environmental Quality Review Act (“SEQRA”) regulations, 6 NYCRR Part 617, and any subsequent amendments thereto, [will be] are subject to SEQRA and CEQR [unless the Board determines that the application is for a Type II action and thus not subject to environmental review, or is otherwise exempt from CEQR in accordance with such regulations] as appropriate.

§ 2. Section 1-08.2 of Chapter 1 of Title 2 of the Rules of the City of New York is amended to read as follows:

§ 1-08.2. Environmental Assessment Statement (EAS).

Applicants must complete the CEQR checklist provided by the Board. Pursuant to the checklist, if the application is for an action identified as a Type I or Unlisted Action, the application must be accompanied by an EAS. Applications accompanied by an EAS will receive a CEQR number that is different from the calendar number, and all CEQR submissions will refer to both numbers, where applicable. Applicants may request a pre-application conference with the Board to seek their assistance in determining what information is required and the potential scope of the environmental review of the proposed action, including whether a Type II submission may be appropriate.

NEW YORK CITY LAW DEPARTMENT

**DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Environmental Review of Certain Applications

REFERENCE NUMBER: 2021 RG 092

RULEMAKING AGENCY: Board of Standards and Appeals

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Acting Corporation Counsel

Date: February 4, 2022

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Environmental Review of Certain Applications

REFERENCE NUMBER: BSA-6

RULEMAKING AGENCY: Bureau of Standards and Appeals

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Francisco X. Navarro
Mayor's Office of Operations

February 7, 2022
Date