

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

NOTICE OF ADOPTION OF FINAL RULES

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN THE BOARD OF STANDARDS AND APPEALS by Sections 666 and 1043 of the New York City Charter that the Board of Standards and Appeals has adopted Board rules pertaining to environmental review requirements.

The proposed Rule was published in the City Record on February 22, 2022. A public hearing was held on March 28, 2022, and the Board completed its review on April 22, 2022. The Board of Standards and Appeals now adopts the following Rule.

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 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.