

NEW YORK CITY PLANNING COMMISSION

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The City Planning Commission proposes to amend its rules by adjusting the contribution amount that is required in conjunction with transfers of development rights from listed theaters in the Theater Subdistrict.

When and where is the Hearing? In support of the City's efforts to contain the spread of COVID-19, the City Planning Commission will hold a remote public hearing on the proposed rule, via the teleconferencing application Zoom, at 10:00 AM, on Wednesday, May 25, 2022.

To attend the hearing online, visit **NYC Engage** at <https://www1.nyc.gov/site/nycengage/events/city-planning-commission-public-meeting/360399/1>.

Instructions on how to participate in the hearing online, as well as materials relating to the meeting, will be posted on **NYC Engage** before the meeting. To help the meeting host effectively manage the meeting, those who do not intend to actively participate are invited to watch through the livestream/LINK provided on **NYC Engage**, or the recording that will be posted after the meeting on the Department of City Planning's website.

You can also attend the hearing by telephone by dialing **877-853-5247** (US Toll-free), **888-788-0099** (US Toll-free), **(253) 215-8782** (Toll number) or **(213) 338-8477** (Toll number). When prompted for the meeting ID, enter "**618 237 7396**." When prompted for a participation code, enter "#." When prompted for the password, enter "**1**."

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

- **Website.** You can submit comments to the City Planning Commission through the NYC rules Web site at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to danswin@planning.nyc.gov.
- **Mail.** You can mail comments to Dominick Answini, Counsel's Office, Department of City Planning, 120 Broadway, 31st Floor, New York, New York 10271.
- **Fax.** You can fax comments to the Department of City Planning at 212-720-3303.
- **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 before the hearing by calling us at 212-720-3676. You can also sign up in the hearing room before the hearing begins on May 25, 2022. You can speak for up to three minutes.

Is there a deadline to submit written comments? Written comments will be accepted until May 25, 2022.

What if I need assistance to participate in the hearing? You must tell us 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 email or mail at the addresses given above. You may also tell us by telephone at 212-720-3676. Please give us advance notice to allow sufficient time to arrange the accommodation. Please tell us by May 11, 2022.

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, copies of all written comments, and a summary of oral comments concerning the proposed rule will be available to the public between the hours of 9:00 a.m. and 5:00 p.m. at the Freedom of Information Law Desk, 120 Broadway, 31st Floor, telephone number 212-720-3208.

What authorizes the City Planning Commission to make this rule? Sections 1043 and 191(b)(2) of the City Charter authorize the City Planning Commission to make this proposed rule. This proposed rule was not included in the City Planning Commission's regulatory agenda for this Fiscal Year because it was not contemplated when the City Planning Commission published the agenda.

Where can I find the City Planning Commission's rules? The City Planning Commission's rules are in Title 62 of the Rules of the City of New York.

What laws govern the rulemaking process? The City Planning Commission must meet the requirements of Section 1043 of the New York City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043 of the New York City Charter.

Statement of Basis and Purpose of Proposed Rule

Pursuant to Section 81-744 of the Zoning Resolution, the City Planning Commission (“Commission”) allows the transfer of development rights from listed theaters in the Theater Subdistrict by certification or authorization if, among other requirements, the applicant executes the appropriate legal documents ensuring that a contribution is deposited in the Theater Subdistrict Fund. Currently, that contribution must be \$17.60 per square foot of transferred floor area. The Commission periodically reviews this contribution amount and adjusts it to reflect any change in the assessed value of all properties on zoning lots situated entirely within the Theater Subdistrict.

The Commission last adjusted this contribution amount in 2011. Available data from the New York City Department of Finance (“DOF”) show that from 2011 to 2021, the assessed value of all properties situated entirely within the Theater Subdistrict increased 40.07% per square foot. Specifically, the DOF data show that in 2011, the total built floor area of the Theater Subdistrict was 95,701,919 square feet, the total assessed value of such properties was \$11,926,866,079, and the total assessed value per square foot was \$124.63. The DOF data also show that in 2021, the total built floor area in the Theater Subdistrict was 83,964,351 square feet, the total assessed value of such properties was \$14,657,765,590, and the total assessed value per square foot was \$174.57. Because the properties’ assessed value increased by \$49.94 per square foot, or 40.07%, from 2011 to 2021, the Commission proposes to increase the required Theater Subdistrict Fund contribution by 40.07%, from \$17.60 to \$24.65 per square foot.

Material to be deleted is enclosed in [brackets] and material to be added is underlined.

Section 1. Section 3-10 of Subchapter C of Chapter 3 of Title 62 of the Rules of the City of New York is amended to read as follows:

§3-10. Contributions to Theater Subdistrict Fund Pursuant to Section 81-744 of the New York City Zoning Resolution. Contributions to the Theater Subdistrict Fund pursuant to Section 81-744 of the New York City Zoning Resolution shall be made in an amount equal to [~~\$17.60~~] \$24.65 per square foot of floor area transferred.

**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: Amendment of Required Contribution to Development Fund for Transfer of Development Rights in Theater Subdistrict

REFERENCE NUMBER: 2022 RG 027

RULEMAKING AGENCY: Department of City Planning

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: March 29, 2021

**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: Amendment of Required Contribution to Development Fund for Transfer of
Development Rights in Theater Subdistrict**

REFERENCE NUMBER: DCP-12

RULEMAKING AGENCY: Department of City Planning

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

March 29, 2022
Date