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City enacts green zoning provisions

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On Monday, the New York City Council passed “Zone Green,” a series of amendments to the New York City Zoning Resolution which are intended to remove zoning impediments to the implementation of measures that will make buildings more environmentally friendly.

These amendments were originally proposed two years ago by the Green Codes Task Force, a group of practitioners brought together by Mayor Bloomberg and Council Speaker Quinn, and are part of a series of “green” initiatives put forth by the Bloomberg administration.

While many elements of the proposal are relatively modest, the collective effect will lead to important environmental improvements, particularly in the consumption of energy for heating and cooling.

Significantly for a city in which most of the land has been built out, the zoning amendment contains measures that will improve the environmental performance of existing buildings.

Following are the key elements of the new law:

- **Energy efficient building walls:** Since a building’s floor area is measured from the exteriors of its outside walls, any thickening of the walls with insulation adds to floor area, which would not be permitted if a building’s floor were already at the maximum permitted by zoning.

This provision permits the addition of insulation to the exterior of existing buildings, within the property line, of up to eight inches, without increas-

ing the floor area, as well as not violating yard and open space regulations.

- **Sun control devices:** These devices, in the form of awnings or other horizontal or vertical projections that provide shade, have been limited by existing zoning in the distance they can project over required open areas.

The new “green” zoning allows them to project up to two feet six inches from the face of a building into open areas required by zoning, such as yards and courts.

- **Solar panels:** Existing buildings at the maximum height permitted by zoning have been precluded from installing solar panels which would raise their height above the maximum.

The new zoning provision would allow solar installations meeting certain standards to rise above a roof that is already at its maximum height. On flat roofs solar panels could be located anywhere below the parapet. Subject to limits, they could also extend above the parapet. Solar panels could also be flat-mounted on existing sloping roofs, not more than 18 inches above the roof.

- **Rooftop equipment:** Rooftops have traditionally been viewed as a building element whose principal function has been to provide protection from the elements.

The green zoning contains provision to take advantage of rooftops as an underutilized asset. It permits green roofs, which both provide insulation from heat and cold and absorb rainwater, as well as other

stormwater detention systems that slow the flow of water to overloaded sewage treatment plants in heavy rainstorms. Recreational decks are also permitted.

- **Rooftop greenhouses:** Under the new zoning non-residential buildings already at the maximum height limit and utilizing the maximum permitted floor area may nevertheless have rooftop greenhouses.

These greenhouses would permit local food production and allow school children to see how crops grow. The greenhouses would be allowed on the roofs of industrial, commercial and school buildings and would be exempted from zoning floor area maximums and height limits up to twenty-five feet above the roof.

Unlike other features of the green zoning proposal, greenhouses would not be permitted as-of-right, but would require a “certification” from the Chair of the City Planning Commission.

An application for a certification would have to be filed with the local community board at the time it is filed with City Planning.

- **Wind generation:** The combination of many tall buildings and uncertain winds makes the production of wind energy in New York somewhat problematic, except at the waterfront. Recognizing this limitation, the zoning has been amended to permit wind turbines as an accessory use to residential commercial and industrial uses on rooftops on waterfront blocks.

Turbines would also be permitted as free-standing uses



on waterfront blocks in commercial and industrial zoned areas.

Other provisions include the following: (1) in order to encourage the use of central air conditioning, which is more efficient than window units, rules for one- and two-family residences are more flexible on where air conditioning condenser units may be located in yards and other open areas;

(2) the rules on electric vehicle charging stations have been clarified, stating that the stations may be allowed in all parking facilities, and that charging or battery swapping facilities are permitted in commercial zoning districts.

Furthermore solar energy generation is permitted as accessory to any use and is permitted as a free-standing use in commercial zoning districts, subject to zoning height and setback restrictions.