

New York City's "Zone Green" Can Benefit Hotel Operators

By Robert S. Cook, Jr., Anderson Kill & Olick

The New York City Council on April 30, 2012 enacted a package of changes to the City's Zoning Resolution that have the potential to benefit hotel and motel operators in the city. The changes, under the title "Zone Green", affect not only new construction, but retrofits of existing buildings, of which 85% are expected to be in existence in 2030. These zoning changes offer the opportunity to introduce energy saving measures to existing buildings and to incorporate them in new buildings. "Zone Green" contains other environmentally friendly measures that may be of interest to hotel and motel operators to improve building operations and as potential marketing tools.

The Zone Green measures were originally recommended by the Green Codes Task Force, a group of practitioners convened by Mayor Bloomberg and Council Speaker Quinn as part of a push to make the City more environmentally friendly. A primary purpose of the measures is to remove zoning provisions that have been impediments to the construction or retrofit of buildings that would make them more energy efficient.

License to Push the Edge of the Envelope (literally) on Building Size

The New York City Zoning Resolution controls the size of a building in several ways, including outer "envelope" limits established by height and setback, yard and open space requirements, but the most basic limit is on "floor area." A building's floor area is set by zoning in each zoning district as a multiple of its lot area, known as "floor area ratio". For example, a zoning lot of 10,000 square with a floor area ratio of five would be permitted a building of 50,000 square feet. Floor area is measured from the outside of exterior walls. Existing buildings, including hotels and motels, that exceed current floor area limits in their zoning districts may not be enlarged. For those buildings, any measure that extends the exterior dimensions, such as additional insulation, would increase the floor area beyond what is permitted, as well as reducing the size of open spaces to less than what is required. The Zone Green provisions encourage extra insulation by allowing up to eight inches of exterior insulation (entirely



within the property line, which can be an issue in densely developed areas) to be added to existing buildings without increasing the floor area and without violating open space requirements.

Additional insulation in new buildings that meets certain performance standards, up to eight inches in thickness, will not be counted as floor area. Nevertheless, the dimensions of required open spaces in new buildings will have to comply with current requirements.

Previously, devices providing shade to a building's windows, such as awnings and other horizontal or vertical projections from the side of a building, have not been allowed to extend into required open spaces such as yards or courts. The Zone Green amendments now allow such devices to project up to two feet six inches into those spaces, subject to limitations on coverage of a building's façade. These provisions do not apply to projections over the street, which will necessitate an amendment to the city's building code.

Greening the Roof

Hotel and motel operators may be particularly interested

in the zoning changes that affect rooftops. The Zone Green provisions acknowledge the potential for rooftops to be used as a positive asset, not just as weather protection. "Green" roofs, with planting, an attractive amenity for guests that also provides additional insulation from heat and cold, are allowed, subject to height limits (for the planters, not the plants!). Rooftop recreational decks also are permitted, again subject to height limits. To protect rooftop users, protective rails may rise higher above parapets than previously permitted.

Under the new zoning, roofs may also contain storm water detention measures. The detained water can either be stored for later use on rooftop plantings or slowly released into the sewer system. For new developments, the delayed release feature may be particularly attractive, as the city has been requiring the on-site detention of storm water in new buildings in order not to overload sewage treatment plants in times of heavy rainfall.

Although they are not a guest amenity, but are desirable because they can lower energy costs, solar panels are encouraged by the zoning amendments, even though they previously were discouraged because they counted against zoning height limits. On existing buildings, solar panels may rise above a building's roof that is already at its maximum height, provided that the panels are located below the parapet. Solar panels may also be flat mounted on existing sloping roofs, a maximum of 18 inches above the roof.

Zone Green also encourages the generation of electricity by wind turbines on rooftops in certain zoning districts. As a practical matter, most locations in New York City are unlikely to be suitable for wind generation, the exception being waterfront locations, where steadier winds may be found. As is true of the entire Zoning Resolution, Zone Green is complicated and applies in varied ways to different types of buildings in different zoning districts. Before considering the implementation of any Zone Green measures, an owner



should consult with a land-use attorney or an architect.



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