



NYC Buildings Department  
280 Broadway, New York, NY 10007

Rick D. Chandler, P.E., Commissioner



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## BUILDINGS BULLETIN 2014-25

### Technical

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**Supersedes:** None

**Issuer:** Thomas Fariello, RA  
First Deputy Commissioner

**Issuance Date:** December 3, 2014

**Purpose:** This bulletin clarifies the conditions that trigger the requirement for approval from the Board of Standards and Appeals to satisfy subdivision 2 of Section 36 of the NYS General City Law (GCL §36(2)) in connection with the Department's issuance of certificates of occupancy for buildings located on unmapped streets.

**Related Code/Zoning Section(s):** NYS GCL 36 (2)                      ZR 12-10 (definition of "street")                      FC 501.4.3  
BC 202  
BC 502.1

**Subject(s):** GCL 36, unmapped street, Board of Standards and Appeals (BSA) permit; NYS General City Law (GCL); Unmapped street, Corporation Counsel Opinion (CCO) street; Zoning resolution, street

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### I. Background

Zoning Resolution (ZR) §12-10 definition states in part,

*"A "street" is:  
(a) a way established on the City Map..."*

**GCL §36(2)**, as relates to required access from a street, states in part,

*"...No certificate of occupancy shall be issued in such city [having a population of one million or more] for any building unless a street or highway giving access to such structure has been duly placed on the official map..., which street or highway...shall be suitably improved...."*

*...Where the enforcement of the provisions of this section would entail practical difficulty or unnecessary hardship, and where the circumstances of the case do not require the structure to be related to existing or proposed streets or highways, the applicant for such a certificate of occupancy may appeal from the decision of the administrative officer having charge of the issuance of certificates of occupancy to the board of standards and appeals or other similar board of such city having power to make variances or exceptions in zoning regulations...."*

CCO Streets

A CCO street is a street that Corporation Counsel has determined constitutes a street because it is a public way that has been open and in use by the public for a minimum of ten years and accepted by the City as such, even if it has not been mapped by the City as a street. Such unmapped CCO Streets are still subject to GCL §36(2), the same as any other unmapped street.

**II. Conditions that require BSA approval prior to issuance of a certificate of occupancy.**

The Department interprets GCL §36(2) to require approval by the BSA for any issuance of a certificate of occupancy (CO), with respect to the reconstruction or alteration of an existing building fronting on any unmapped street, only in the following cases:

1. There is no prior CO and the building does not pre-date 1938, or
2. The alteration or new building results in a change in the “main use or dominant occupancy” of the existing building, as determined by the Department, or
3. The alteration or new building increases the square footage of the “building area” of the existing building excluding “attic,” “basement” and “cellar” space (terms used herein are as defined in the NYC Building Code Sections BC 202 and 502.1), by more than 125 percent, or
4. The alteration or new building changes the height of an existing building that was 35 feet or less above the grade plane to a height of more than 35 feet above the grade plane. The height and grade plane shall be determined in accordance with the definitions of “building height” and “grade plane” set forth in Section BC 502.1.