Zoning Resolution

THE CITY OF NEW YORK
Zohran K. Mamdani, Mayor

CITY PLANNING COMMISSION
Sideya Sherman, Chair

37-727 - Hours of access

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LAST AMENDED
10/17/2007

All #public plazas# shall be accessible to the public at all times, except where the City Planning Commission has authorized a nighttime closing, pursuant to the provisions of this Section.

In all districts, the City Planning Commission may authorize the closing during certain nighttime hours of an existing or new #publicly accessible open area#, if the Commission finds that:

(a) such existing #publicly accessible open area# has been open to the public a minimum of one year or there are significant operational or safety issues documented, or for new #public plazas# significant safety issues have been documented and provided as part of the application for authorization of nighttime closing;

(b) such closing is necessary for public safety within the #publicly accessible open area# and maintenance of the public open areas as documented by the applicant;

(c) the layout and design of the #publicly accessible open area# will promote public use and free and easy pedestrian circulation throughout the space;

(d) any approved design element that limits public access, as specified in paragraph (e) of this Section, shall not impede public circulation, visual or physical access within the #publicly accessible open area# or between the #publicly accessible open area# and other public areas during hours of public operation;

(e) a design element that limits public access shall:

(1) be of a design that is integrated with the design of the #publicly accessible open area# in a manner that would promote the attractiveness of the space for public use and

enjoyment;

(2) not exceed five feet in height;

(3) be fully removed from the #publicly accessible open area# during the hours of public access; however, barriers not to exceed 3 feet, 6 inches in height may have posts or supports that remain during the hours of public access provided that such posts or supports do not exceed six inches in width;

(4) not involve stanchions or cabinets for barrier storage located with the #publicly accessible open area#, except for stanchions or cabinets located at the edges of the #publicly accessible open area#;

(5) not inhibit or diminish access to the #publicly accessible open area# nor impede pedestrian circulation into, through, or along the frontage of the #publicly accessible open area#, and not obstruct access during the hours of public access; and

(6) be substantially transparent;

(f) public access to the #publicly accessible open area# between the hours of 7:00 a.m. and 10:00 p.m. from April 15 to October 31 and from 7:00 a.m. to 8:00 p.m. from November 1 to April 14, or a schedule specified by the Commission, is assured by appropriate legal documents and that an hours of access plaque shall be affixed to the enclosure or barrier which shall indicate the hours of public access to the #publicly accessible open area#, as specified in Section 37-751 , paragraph (c). However, if an open air cafe or kiosk is located within the #publicly accessible open area#, such #publicly accessible open area# shall remain open to the public during the hours of operation of the open air cafe or kiosk;

(g) plans have been submitted that demonstrate that, where appropriate, the #publicly accessible open area# will be improved, to the maximum extent feasible, in accordance with the standards set forth for #public plazas#;

(h) a program for continuing maintenance of the #publicly accessible open area# has been established in accordance with Section 37-77.

In order to promote increased public use of the public open areas, the Commission may require, or the applicant may request, additional improvements to the existing #publicly accessible open area#, including, where appropriate, amenities such as kiosks or open air cafes as described in Section 37-73. In no event shall any #publicly accessible open area# be reduced in size.

All applications for nighttime closings of #publicly accessible open areas# filed with the Commission shall include a detailed site plan or plans indicating compliance with the provisions of this Section, including but not limited to materials, dimensions, and configuration or any design element that limits public access, the storage location for the design element that limits public access during the hours of public operation of the #public plaza#, and the hours of the #publicly accessible open area's# accessibility to the public. All such plans for #publicly accessible open areas#, once authorized, shall be filed and duly recorded in the Borough Office of the City Register of the City of New York, indexed against the property in the form of a legal instrument providing notice of the authorization pursuant to this Section. The form and contents of the legal instrument shall be satisfactory to the Commission, and the filing and recording of such instrument shall be a precondition for the nighttime closing of any #publicly accessible open area#. The recording information shall be included on the certificate of occupancy for any #building#, or portion thereof, on the #zoning lot#, issued after the recording date.

The land use application for an authorization under this Section shall be sent to the applicable Community Board, local Council Member and Borough President. If the Community Board, local Council Member or Borough President elects to comment on such application, it must be done within 45 days of receipt of such application.

The Commission shall file any such authorization with the City Council. The Council, within 20 days of such filing, may resolve by majority vote to review such authorization. If the Council so resolves,

within 50 days of the filing of the Commission's authorization, the Council shall hold a public hearing and may approve or disapprove such authorization. If, within the time periods provided for in this Section, the Council fails to act on the Commission's authorization, the Council shall be deemed to have approved such authorization.