Zoning Resolution

THE CITY OF NEW YORK
Zohran K. Mamdani, Mayor

CITY PLANNING COMMISSION
Sideya Sherman, Chair

37-78 - Compliance

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LAST AMENDED
2/2/2011

(a) Building permits

No foundation permit shall be issued by the Department of Buildings for any #development# or #enlargement# that includes a #public plaza#, nor shall any permit be issued by the Department of Buildings for any change to a #plaza#, #residential plaza# or #urban plaza# without certification by the Chairperson of the City Planning Commission of compliance with the provisions of Sections 37-625 or 37-70, as applicable.

An application for such certification shall be filed with the Chairperson showing the plan of the #zoning lot#; a site plan indicating the area and dimensions of the proposed #public plaza# and the location of the proposed #development# or #enlargement# and all existing #buildings# temporarily or permanently occupying the #zoning lot#; computations of proposed #floor area#, including bonus #floor area#; and a detailed plan or plans prepared by a registered landscape architect, including but not limited to a furnishing plan, a planting plan, a signage plan, a lighting/photometric plan and sections and elevations, as necessary to demonstrate compliance with the provisions of Sections 37-625 or 37-70, as applicable.

All plans for #public plazas# or other #publicly accessible open areas# that are the subject of a certification pursuant to Section 37-625 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, in a form satisfactory to the Chairperson, providing notice of the certification of the #public plaza#, pursuant to this Section. Such filing and recording of such instrument shall be a precondition to certification. 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. No temporary or final certificate of occupancy shall be issued for any bonus #floor area# generated by a #public plaza# unless and until the #public plaza# has been substantially completed in accordance with the approved plans, as verified by the Department of City Planning and certified to the Department of Buildings.

Notwithstanding any of the provisions of Section 11-33 (Building Permits for Minor or Major Development or Other Construction Issued Before Effective Date of Amendment), any #residential plaza# or #urban plaza# for which a certification was granted pursuant to Article II, Chapter 3, or Article III, Chapter 7, between June 4, 2005 and June 4, 2007, and any #public plaza# for which a certification was granted prior to June 10, 2009, may be provided in accordance with the regulations in effect on the date of such certification.

(b) Periodic compliance reporting

No later than June 30 of the year, beginning in the third calendar year following the calendar year in which certification was made and at three-year intervals thereafter, the Director of the Department of City Planning and the affected Community Board shall be provided with a report regarding compliance of the #publicly accessible open area# with the regulations of Sections 37-625 or 37-70, as applicable, as of a date of inspection which shall be no earlier than May 15 of the year in which the report is filed. Such report shall be provided by a registered architect, landscape architect or professional engineer, in a format acceptable to the Director and shall include, without limitation:

(1) a copy of the original #public plaza# or design change certification letter and, if applicable, any approval letter pertaining to any other authorization or certification pursuant to this Chapter;

(2) a statement that the #publicly accessible open area# has been inspected by such registered architect, landscape architect or professional engineer and that such open

area is in full compliance with the regulations under which it was approved as well as the approved plans pertaining to such open area and, if applicable, the requirements of any other authorization or certification pursuant to this Chapter, or non-compliance with such regulations and plans;

(3) an inventory list of amenities required under the regulations under which the #publicly accessible open area# was approved and the approved plans pertaining to such open area and, if applicable, the requirements of any other authorization or certification pursuant to Section 37-70, together with an identification of any amenity on such inventory list for which inspection did not show compliance, including whether such amenities are in working order, and a description of the non-compliance;

(4) photographs documenting the condition of the #publicly accessible open area# at the time of inspection, sufficient to indicate the presence or absence, either full or partial, of the amenities on the inventory list of amenities.

The report submitted to the Director of the Department of City Planning shall be accompanied by documentation demonstrating that such report has also been provided to the affected Community Board.

Compliance reporting pursuant to this paragraph, (b), shall be a condition of all certifications granted pursuant to Section 37-70.

(c) Compliance reports at time of application

Any application for a certification or authorization involving an existing #publicly accessible open area# shall include a compliance report in the format required under paragraph (b) of this Section, based upon an inspection of the #publicly accessible open area# by a registered architect, landscape architect or professional engineer conducted no more than 45 days prior

to the filing of such application.

The following conditions may constitute grounds to disapprove the application for certification or authorization:

(1) such report shows non-compliance with the regulations under which the #publicly accessible open area# was approved, conditions or restrictions of a previously granted certification or authorization, or with the approved plans pertaining to such #publicly accessible open area#; or

(2) the #publicly accessible open area# has been the subject of one or more enforcement proceedings for which there have been final adjudications of a violation with respect to any of the foregoing.

In the case of a certification, the Chairperson, or in the case of an authorization, the Commission, may, in lieu of disapproval, accept a compliance plan for the #publicly accessible open area#, which plan shall set forth the means by which future compliance will be ensured.

(d) Failure to comply

Failure to comply with a condition or restriction in an authorization or certification granted pursuant to Section 37-70 or with approved plans related thereto, or failure to submit a required compliance report, shall constitute a violation of this Resolution and may constitute the basis for denial or revocation of a building permit or certificate of occupancy, or for a revocation or such authorization or certification, and for all other applicable remedies.

(e) Special regulations for an #urban plaza# in the #Special Lower Manhattan District#

In addition, the Chairperson of the City Planning Commission may certify any #urban plaza#

that is the subject of application N070416ZCM, filed in conjunction with application C070415ZSM, and such #urban plaza# may be provided in accordance with the regulations of Section 37–04, inclusive, in effect on April 23, 2007, as modified by the special regulations for such #urban plaza# as set forth in Article IX, Chapter 1 (Special Lower Manhattan District) and in the following provisions:

(1) #Floor area# bonus for an #urban plaza# in the #Special Lower Manhattan District#

A #floor area# bonus for such #urban plaza#, pursuant to Section 91-22, may be permitted for a #development# or #enlargement# located within 50 feet of the #street line# of a #street# subject to the regulations for #street wall# continuity Type 2B.

(2) #Street wall# regulations for an #urban plaza# in the #Special Lower Manhattan District#

The #street wall# regulations for #street wall# continuity "Type 2" in the #Special Lower Manhattan District# shall be superseded by #street wall# continuity Types 2A and 2B as indicated on Map 2 in Appendix A of Article IX, Chapter 1.