



## Zoning Resolution

THE CITY OF NEW  
YORK  
Bill de Blasio, Mayor

CITY PLANNING COMMISSION  
Marisa Lago, Chair

# 32-44 - Air Space Over a Railroad or Transit Right-of-way or Yard

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## 32-44 - Air Space Over a Railroad or Transit Right-of-way or Yard

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LAST AMENDED  
2/22/1990

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### 32-441 - Definitions

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LAST AMENDED  
6/23/2005

Words in italics are defined in Section 12-10 or, if applicable exclusively to this Section, in this Section or in Section 98-01.

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### 32-442 - Use of railroad or transit air space

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LAST AMENDED  
3/22/2016

C1 C2 C3 C4 C5 C6 C7 C8

- (a) In all districts, as indicated, *railroad or transit air space* may be *developed* or used only for a permitted *use accessory* to the railroad or transit right-of-way or yard, a *use* permitted by the City Planning Commission as set forth in Section 74-681 (Development within or over a railroad or transit right-of-way or yard), or a railroad passenger station permitted by the Commission as set forth in Section 74-62 (Railroad Passenger Stations) unless the right-of-way or yard or portion thereof is no longer required for railroad or transit *use* as set forth in paragraph (b) of this Section.

If any *building or other structure* constructed in such *railroad or transit air space* in accordance with the provisions of Section 74-681 is *enlarged* or replaced by a new *building or other structure*, the provisions of this Section shall apply to such *enlargement* or replacement.

However, any *use* legally established in such *railroad or transit air space* in accordance with the provisions of Section 74-681 may be changed to another *use* listed in a permitted Use Group and no additional special permit from the Commission shall be required for such change of *use*.

Any *building or other structure* within or over a railroad or transit right-of-way or yard, which *building or other structure* was completed prior to September 27, 1962, or constructed in accordance with the applicable provisions of Sections 11-31 to 11-34, inclusive, prior to December 5, 1991, may be *enlarged* or replaced in accordance with the applicable district regulations without any requirement for a special permit from the Commission. Ownership of rights permitting the *enlargement* or replacement of such a *building or other structure* shall be deemed to be equivalent to ownership of a *zoning lot* or portion thereof, provided that such *enlargement* or replacement will be on one *block* and the rights are in single ownership and recorded prior to February 22, 1990. Such ownership of rights shall be deemed to include alternative arrangements specified in the *zoning lot* definition in Section 12-10 (DEFINITIONS).

*Enlargement* or replacement utilizing these ownership rights shall be deemed to be constructed upon the equivalent of a *zoning lot*.

- (b) When the *use* of a railroad or transit right-of-way or yard or portion thereof has been permanently discontinued or terminated and a *large-scale residential* or *community facility development* or a *large-scale general development* requiring one or more special permits is proposed, no *use* or *development* of the property shall be allowed until the Commission has authorized the size and configuration of all *zoning lots* on such property. As a condition for such authorization, the Commission shall find that:
- (1) the proposed *zoning lots*, indicated by a map describing the boundaries of the total area of each lot, are not excessively large, elongated or irregular in shape and that no *development* on any *zoning lot* would result in the potential for an excessive concentration of *bulk* that would be incompatible with allowable *developments* on adjoining property; and
  - (2) each resulting *zoning lot* has direct access to one or more *streets*.

No subsequent alteration in size or configuration of any *zoning lot* approved by the Commission shall be permitted unless authorized by the Commission. The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects of such *zoning lot* designation on the character of the surrounding area. Such conditions shall be set forth in a written Declaration of Restrictions covering all tracts of land, or in separate written Declarations of

Restrictions covering parts of such tracts of land and which in the aggregate cover the entire tract of land comprising the #zoning lot#, which is executed and recorded as specified in the definition of #zoning lot# in Section 12-10 (DEFINITIONS).

Prior to granting any #zoning lot# authorization relating to such right-of-way or yard, the Commission shall request the Metropolitan Transportation Authority and the Departments of Transportation of the State of New York and the City of New York to indicate within 30 days whether said agencies have any plan to use such property or portion thereof for a railroad or transit #use#.

- (c) Notwithstanding the above, the #High Line#, as defined in Section 98-01, shall be governed by the provisions of Section 98-16 (Air Space Over a Railroad or Transit Right-of-way or Yard).