



## Zoning Resolution

THE CITY OF NEW YORK

Eric Adams, Mayor

CITY PLANNING COMMISSION

Daniel R. Garodnick, Chair

# 74-40 - USE PERMITS

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## 74-40 - USE PERMITS

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LAST AMENDED  
12/21/2005

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## 74-41 - Arenas, Auditoriums, Stadiums or Trade Expositions

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LAST AMENDED  
12/10/2013

C4 C6 C7 C8 M1 M2 M3

- (a) The City Planning Commission may permit arenas, auditoriums or stadiums with a capacity in excess of 2,500 seats, or trade expositions with a rated capacity in excess of 2,500 persons, provided that the following findings are made:
- (1) that the principal vehicular access for such #use# is not located on a local #street# but is located on an arterial highway, a major #street# or a secondary #street# within one-quarter mile of an arterial highway or major #street#;
  - (2) that such #use# is so located as to draw a minimum of vehicular traffic to and through local #streets# in nearby residential areas;
  - (3) that such #use# is not located within 200 feet of a #Residence District#;
  - (4) that adequate reservoir space at the vehicular entrance, and sufficient vehicular entrances and exits, are provided to prevent traffic congestion;
  - (5) that vehicular entrances and exits for such #use# are provided separately and are located not less than 100 feet apart; and
  - (6) that due consideration has been given to the proximity of bus and rapid transit facilities to serve such #use#.
- (b) In Community District 7 in the Borough of the Bronx, the Commission may permit an indoor arena with a maximum seating capacity of 6,000 within 200 feet of a #Residence District# and, in conjunction with such arena, permit modifications of the provisions of Sections [32-64](#) (Surface Area and Illumination Provisions), [32-655](#) (Height of signs in all other Commercial Districts), and [36-62](#) (Required Accessory Off-street Loading Berths), provided that:
- (1) the provisions of paragraphs (a)(1), (a)(2), (a)(4), (a)(5) and (a)(6) of this Section are met;
  - (2) open space surrounding such arena will be located and arranged to provide adequate pedestrian gathering areas to minimize disruption to the surrounding areas;
  - (3) the arena includes noise attenuation features and measures which serve to reduce arena-related noise in the surrounding area, including at nearby #residences#;
  - (4) where Sections [32-64](#) and [32-655](#) are modified, a #signage# plan has been submitted showing the location, size, height and illumination of all #signs# on the #zoning lot#, and the Commission finds that all such #signs#, and any illumination from or directed upon such #signs#, are located and arranged so as to minimize any negative effects from the arena #use# on nearby #residences#; and
  - (5) where Section [36-62](#) is modified, a loading plan has been submitted that addresses the operational needs of all servicers of the arena and shows the number, location and arrangement of all loading berths on the #zoning lot#;

and the Commission finds that such loading plan is adequate to address the loading demand generated by the arena #use# and has received assurances that the arena operator will implement such plan in accordance with its terms.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area, including limitations on #signs#, requirements for soundproofing of arenas or auditoriums, shielding of floodlights, screening of open #uses# or surfacing all access roads or driveways. The Commission may also prescribe requirements for pedestrian-accessible open areas surrounding the arena, auditorium or stadium, including #accessory# directional or building identification #signs# located therein. In addition, within Pennsylvania Station Subarea B4 of the #Special Hudson Yards District#, design changes to existing #plazas# located within such pedestrian-accessible open areas may be made without a certification by the Chairperson of the Commission pursuant to Section [37-625](#), and the design standards of Section [37-70](#), inclusive, shall not apply to such #plazas#.

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## 74-42 - Drive-in Theaters

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LAST AMENDED  
2/2/2011

In C7 or C8 Districts or any #Manufacturing District#, the City Planning Commission may permit drive-in theaters, limited to a maximum capacity of 500 automobiles, provided that the following findings are made:

- (a) that the principal vehicular access for such #use# is not located on a local #street# or an arterial highway but is located on a major or secondary #street# within one-quarter mile of an arterial highway;
- (b) that such #use# is so located as to draw a minimum of vehicular traffic to and through local #streets# in nearby residential areas;
- (c) that such #use# is not located within 200 feet of a #Residence District#;
- (d) that adequate reservoir space at the vehicular entrance, and sufficient vehicular entrances and exits, are provided to prevent congestion; and
- (e) that vehicular entrances and exits for such #use# are provided separately and are located not less than 100 feet apart.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area, including limitations on #signs# or requirements for shielding of floodlights, screening or surfacing all access roads or driveways.

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## 74-43 - Racetracks

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LAST AMENDED  
2/2/2011

In C8 Districts or any #Manufacturing District#, the City Planning Commission may permit racetracks, provided that the following findings are made:

- (a) that the principal vehicular access for such #use# is not located on a local #street# but is located either on an arterial highway, a major #street#, or a secondary #street# within one-quarter mile of an arterial highway or major #street#;
- (b) that such #use# is so located as to draw a minimum of vehicular traffic to and through local #streets# in nearby residential areas;

- (c) that adequate reservoir space at the vehicular entrance, and sufficient vehicular entrances and exits, are provided to prevent congestion;
- (d) that vehicular entrances and exits for such #use# are provided separately and are located not less than 100 feet apart; and
- (e) that, in selecting the site, due consideration has been given to the proximity and adequacy of bus and rapid transit facilities.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area, including limitations on #signs# or requirements for shielding of floodlights, screening or surfacing all access roads or driveways.

In addition, the Commission shall require the provision of adequate #accessory# off-street parking spaces necessary to prevent the creation of traffic congestion caused by the curb parking of vehicles generated by such #use#, and shall determine the required spaces in accordance with the requirements established in this Resolution with respect to other major traffic generating #uses#.

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## **74-44 - Children's Amusement Parks**

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LAST AMENDED  
2/2/2011

In C8 or M1 Districts, the City Planning Commission may permit children's amusement parks with an area of at least 75,000 square feet, but not more than 10 acres, provided that the following findings are made:

- (a) that such #use# is so located as not to impair the essential character or the future use or development of the surrounding area;
- (b) that the principal vehicular access for such #use# is not located on a local #street# or on an arterial highway, but is located on a major or secondary #street# within one-quarter mile of an arterial highway or a major #street#;
- (c) that such #use# will not produce traffic congestion or other adverse effects which interfere with the appropriate use of land in the district or in any adjacent district, and that such #use# is so located as to draw a minimum of vehicular traffic to and through local #streets# in nearby residential areas;
- (d) that such #use# is not located within 400 feet of a #Residence District#; and
- (e) that vehicular entrances and exits for such #use# are provided separately and are located not less than 50 feet apart.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area, including limitations on #signs# or requirements for shielding of floodlights, screening or surfacing all access roads or driveways.

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## **74-45 - Swimming Pool Clubs or Certain Non-commercial Clubs**

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LAST AMENDED  
2/2/2011

In all #Residence Districts#, the City Planning Commission may permit a non-commercial outdoor swimming pool club, or any non-commercial club with an outdoor swimming pool located less than 500 feet from any #lot line#, provided that the following findings are made:

- (a) that such #use# is so located as not to impair the essential character or future use or development of the nearby residential neighborhood;
- (b) that such #use# is so located as to draw a minimum of vehicular traffic to and through local #streets#;
- (c) that such #use# has adequate reservoir space at the vehicular entrance to prevent the congestion of automobiles on the #streets#;
- (d) that in R1, R2, R3 or R4 Districts, the pool or any #accessory# facilities affixed to the land are not located closer than 100 feet or, in the case of an #accessory# outdoor tennis court, such tennis court shall not be closer than 20 feet, to any #side# or #rear lot line# coincident with a #side# or #rear lot line# of an adjoining #zoning lot# in a #Residence District#, and not located closer than 50 feet to any #street line#, and that any planned temporary enclosure such as an air-supported structure be indicated on the plans submitted with this application, and in no event shall such a structure be located closer than 50 feet from any #street# or #lot line#, if such a structure is planned subsequent to the approval of the special permit, then an amended application subject to the same approvals of this Section shall be submitted; and
- (e) that for every 200 square feet of #lot area# used for the pool and its #accessory# facilities, one #accessory# off-street parking space is provided.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area, including limitations on #signs# or the hours of operation, or requirements for shielding of floodlights, screening or surfacing of all access roads or driveways.

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## **74-46 - Indoor Interactive Entertainment Facilities**

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LAST AMENDED  
1/8/1997

In C4, C6, C7, C8 Districts and M1 Districts, except in M1-1, M1-5B Districts and M1 Districts with a suffix "D," the City Planning Commission may permit, for a term not to exceed five years, indoor interactive entertainment facilities with eating and drinking, consisting of mechanical, electronic or computer-supported games subject to the following conditions:

- (a) there shall be a minimum of 1,000 square feet of #floor area# per game. This requirement shall not apply within the Theater Subdistrict of the #Special Midtown District#;
- (b) the entrance to such #use# shall be a minimum of 200 feet from the nearest #Residence District# boundary;
- (c) in C4 and C6 Districts, a minimum of four square feet of waiting area within the #zoning lot# shall be provided for each person permitted under the occupant capacity as determined by the New York City Building Code. The required waiting area shall be in an enclosed lobby and shall not include space occupied by stairs, corridors or restrooms;
- (d) parking shall be provided in accordance with the parking regulations for Use Group 12A (Parking Category D); and
- (e) the application is made jointly by the owner of the #building# and the operators of such indoor interactive entertainment facility.

In addition to the above conditions, the Commission shall find that:

- (1) such #use# will not impair the character or the future use or development of the surrounding area;
- (2) there is a reasonable plan to prevent the gathering of crowds and the formation of lines on the #street#;
- (3) such #use# will not cause undue vehicular or pedestrian congestion in local #streets#; and

- (4) such #use# will not cause the sound level in any affected conforming #residential use# or #joint living-work quarters for artists# to exceed the limits set forth in any applicable provision of the New York City Noise Control Code.

The Commission shall prescribe additional appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area, including, but not limited to: location of entrances and operable windows, provision of sound-lock vestibules, specification of acoustical insulation, maximum size of establishment, kinds of mechanical amplification, shielding of flood lights, adequate screening, curb cuts or parking.

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## **74-47 - Amusement Arcades**

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LAST AMENDED

7/26/2001

In C6 Districts only, the City Planning Commission may permit amusement arcades to be located within department stores of a minimum 150,000 square feet of #floor area#, railroad terminal #buildings# other than Grand Central Station, bus terminal #buildings# or office #buildings# of a minimum 500,000 square feet of #floor area#. Such amusement arcades shall not occupy more than one location in one #building# and shall not occupy more than 4,000 square feet of area and the arcade shall be located at least 500 feet from any #Residence District# or any C1 or C2 District, or for #zoning lots# located wholly or partially within the Fulton Mall Subdistrict of the #Special Downtown Brooklyn District#, such amusement arcade may be separated from any #Residence District# or any C1 or C2 District by a #street# that has a width greater than 110 feet and such amusement arcade shall be located below #street# level. An application for an amusement arcade pursuant to this Section shall contain plans of the location and arrangement of the proposed #use# and duplicate copies of the application filed with the Department of Consumer Affairs for an arcade license. Such amusement arcades may be permitted for renewable terms, subject to annual certification as to compliance with the conditions of this permit, provided the Commission finds that:

- (a) the application for such special permit is a joint application made by the owner of the #building# and the operator of the proposed amusement arcade;
- (b) such amusement arcade will not have a deleterious effect on the other #uses# located within the #building# and the surrounding area; and
- (c) the #use# is so located within the #building# that no entrance nor any #sign# of the amusement arcade fronts upon or faces a #street#.

No special permit shall be issued pursuant to this Section unless the Commission has received a report from the Department of Consumer Affairs concerning the applicant, including any prior experience with the said Department and recommendations as to the operation of the arcade so as to protect the consumer.

This permit shall become effective upon the issuance of an appropriate license from the Department of Consumer Affairs, whose requirements concerning the location, number and arrangement of machines, hours of operation and requirements for supervision or security shall be incorporated within the special permit and govern those aspects of the special permit.

The Commission may renew the special permit for subsequent terms provided the Commission finds that the facts upon which the permit was granted have not substantially changed. With respect to any special permit or subsequent renewals under this Section, the provisions of paragraph (d) of Section [74-31](#) (General Provisions) shall not apply.

The Commission shall retain the right to revoke the special permit, at any time, if it determines that the nature or manner of operation of the permitted #use# has been altered from that authorized. The Commission and the Department of Consumer Affairs shall notify each other of any permit or license revocation hereunder.

Revocation of a special permit or a Department of Consumer Affairs license shall cause a revocation of the related license or

special permit respectively. The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

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## 74-48 - Scientific Research and Development Facility

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LAST AMENDED

5/5/2004

In C2-7 Districts within Community District 8 in the Borough of Manhattan, and in C6 Districts, the City Planning Commission may permit a scientific research and development facility as a #commercial use#, where such facility contains laboratories for medical, biotechnological, chemical or genetic research, including space for production, storage and distribution of scientific products generated through research and, in conjunction with such facility, may allow the modifications set forth in paragraph (a) of this Section. For a special permit to be granted, applications shall comply with conditions in paragraph (b) and the findings of paragraph (c) of this Section. Additional requirements are set forth in paragraph (d).

(a) Additional modifications

For such scientific research and development facility, the Commission may modify the following:

- (1) height and setback regulations; and
- (2) where such facility is located within C2-7 Districts:
  - (i) #sign# regulations;
  - (ii) #floor area ratio# regulations, up to the maximum #floor area ratio# permitted for #community facility uses# for the District; and
  - (iii) #yard# regulations.

(b) Conditions

As a condition for granting a special permit, such facility shall:

- (1) conform to the performance standards applicable to M1 Districts;
- (2) occupy a #zoning lot# that either contains a minimum #lot area# of 40,000 square feet or comprises an entire #block#; and
- (3) occupy a #zoning lot# containing no #residential use#.

(c) Findings

As a condition for granting a special permit, the Commission shall find that the scientific research and development facility:

- (1) will not unduly affect the essential character or impair the future use and development of the surrounding area;
- (2) will be located so as to draw a minimum of vehicular traffic to and through local #streets#;
- (3) provides fully enclosed storage space for all raw materials, finished products, by-products and waste materials including debris, refuse and garbage; and
- (4) that the modification of such height and setback to any applicable #bulk# regulations will not unduly obstruct

the access of light and air to adjoining properties or public #streets#.

(5) with regard to #sign# modifications:

- (i) a signage plan has been submitted showing the location, size, height, and illumination of all #signs# on the #zoning lot#;
- (ii) the modifications are consistent with the amount and location of commercial life sciences laboratories that the Commission finds appropriate on the #zoning lot#; and
- (iii) #illuminated signs#, if provided:
  - (a) utilize an illumination type, and are located and oriented in a manner so as to minimize any negative effects on nearby residences; and
  - (b) do not alter the essential character of the adjacent area.

(d) Additional requirements

- (1) To minimize traffic congestion in the area, the Commission shall require the provision of off-street loading berths conforming to the requirements set forth in Section [36-62](#) (Required Accessory Off-street Loading Berths) for #commercial uses#.
- (2) The Commission may also require the provision of #accessory# off-street parking facilities to prevent the creation of traffic congestion caused by the curb parking of vehicles generated by such #use#. The size and location of such parking, bicycle parking, and loading facilities shall comply with the applicable provisions of Section [36-00](#), inclusive.
- (3) All applications for the grant of a special permit pursuant to this Section shall be referred to the Commissioner of Health of the City of New York or its successor for a report and recommendations on matters relating to health, safety and general welfare of the public with regard to the proposed facility. If the report is received within 45 days from the date of referral, the Commission shall, in its determination, give due consideration to the report and its recommendations. If such agency does not report within 45 days, the Commission may make a final determination without reference thereto.

In order to promote and protect the public health, safety and general welfare, the City Planning Commission may impose additional conditions and safeguards and more restrictive performance standards where necessary.)

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## **74-49 - Residential Use in C4-1 Districts in Staten Island**

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LAST AMENDED  
2/2/2011

In the Borough of Staten Island, in C4-1 Districts that occupy at least four acres within a #block# and in other C4-1 Districts for #zoning lots# that had a #lot area# greater than 20,000 square feet on December 21, 2005, or on any subsequent date, the City Planning Commission may permit #residences#, provided such #residences# comply with the #bulk# regulations for R5 Districts as set forth in Article II, Chapter 3, or Article III, Chapter 5, as applicable.

In order to grant such permit, the Commission shall find that such #residences# are part of a superior site plan, such #residences# are compatible with the character of the surrounding area and that the #streets# providing access to such #residences# are adequate to handle the traffic generated thereby or provision has been made to handle such traffic.



The Commission may prescribe appropriate safeguards and conditions to minimize the adverse effect of any #residences# permitted under this Section on the character of the surrounding area.