



## Zoning Resolution

THE CITY OF NEW YORK

Eric Adams, Mayor

CITY PLANNING COMMISSION

Daniel R. Garodnick, Chair

# **74-68 - Development Within or Over a Right-of-Way or Yards**

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## 74-68 - Development Within or Over a Right-of-Way or Yards

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LAST AMENDED  
2/22/1990

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## 74-681 - Development within or over a railroad or transit right-of-way or yard

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LAST AMENDED  
7/26/2001

- (a) In all districts, when a #development# or #enlargement#, including large-scale developments pursuant to Section 74-74, 78-00 et seq. or 79-00 et seq. is located partially or entirely within a railroad or transit right-of-way or yard and/or in #railroad or transit air space#, the City Planning Commission may permit:
- (1) that portion of the railroad or transit right-of-way or yard which will be completely covered over by a permanent platform to be included in the #lot area# for such #development# or #enlargement#;
  - (2) any portion of the right-of-way or yard where railroad or transit #use# has been permanently discontinued or terminated to be included in the #lot area# for such #development# or #enlargement#;
  - (3) notwithstanding the applicable district regulations, certain #uses# may be located beneath a portion of a permanent platform, including a platform street as follows:
    - (i) any #use# #accessory# to a primary #use# located on the #zoning lot#;
    - (ii) a #public parking garage# or #public parking lot# provided the findings set forth in Section 74-52 and hereby made applicable, are met for such garage or lot;
    - (iii) a railroad passenger station (pursuant to Section 74-62) or a railroad including right-of-way, freight terminal, yard or appurtenance, or a facility or service used or required in railroad operations;
    - (iv) a public transit yard, vehicle storage, warehouse, trucking terminal or motor freight station (without limitation on #lot area# per establishment).
- (b) As a condition for granting a special permit, the Commission shall find that:
- (1) the #streets# providing access to all #uses# pursuant to paragraph (a) of this Section are adequate to handle traffic resulting therefrom;
  - (2) the distribution of #floor area# and the number of #dwelling units# or #rooming units# does not adversely affect the character of the surrounding area by being unduly concentrated in any portion of such #development# or #enlargement#, including any portion of the #development# or #enlargement# located beyond the boundaries of such railroad or transit right-of-way or yard;
  - (3) all #uses#, #developments# or #enlargements# located on the #zoning lot# or below a platform do not adversely affect one another;
  - (4) if such railroad or transit right-of-way or yard is deemed appropriate for future transportation #use#, the site plan and structural design of the #development# do not preclude future use of, or improvements to, the right-of-way for such transportation #use#.
- (c) For any #development# or #enlargement# located within or over railroad or transit right-of-way or yard:

- (1) the application to be filed with the Commission for special permit approval pursuant to this Section shall include a site plan showing:
  - (i) the total #lot area# of that portion of a railroad or transit right-of-way or yard to be covered by a platform; and/or
  - (ii) the total #lot area# of such right-of-way or yard that has been permanently discontinued or terminated;
- (2) ownership of rights to #develop# in #railroad or transit air space# or within a railroad or transit right-of-way or yard where such #use# has been permanently discontinued or terminated, shall meet the requirements of the #zoning lot# definition in Section 12-10 (DEFINITIONS);
- (3) where the railroad or transit right-of-way or yard is to be covered over by a permanent platform, such platform shall be unperforated except for such suitably protected openings as may be required for utilities, ventilation, drainage or other necessary purposes;
- (4) the Commission may establish an appropriate level or levels instead of #curb level# as the reference plane for the applicable regulations pertaining to, but not limited to, height and setback, #floor area#, #lot coverage#, #open space#, #yards#, and minimum distance between #buildings#;
- (5) the Commission may permit #buildings# to be connected by a bridge or tunnel, within a portion of a #street#, provided that the street volume occupied by such bridge or tunnel is not mapped and owned by the City, and provided that such structure is used exclusively for pedestrian or vehicular circulation; however, in no event shall such a bridge or tunnel be considered as #lot area# or generate any #floor area#; and in the case of a bridge, the Commission shall find that such bridge will:
  - (i) provide adequate vertical clearance at all points measured from #curb level# to the soffit;
  - (ii) not rest upon columns or other supports that intrude upon the #street#;
  - (iii) provide illumination of at least five foot candles at the #curb level# for the #street# area beneath the bridge;
  - (iv) not unduly obstruct any significant scenic view; and
  - (v) provide adequate light and air to the #street# or surrounding public spaces or #streets#.

In the case of a tunnel, the Commission may permit #buildings# to be connected by a tunnel under a #street#, provided the Commission finds that the tunnel is used exclusively for vehicular circulation and is necessary to achieve improved vehicle circulation within the #development# and on adjoining #streets#.

- (d) The Commission shall require the provision of adequate #accessory# off-street parking spaces and loading berths necessary to prevent the creation of traffic congestion caused by the curb parking of vehicles generated by any #use# permitted on the #zoning lot#, and shall determine the required number of parking spaces and loading berths in accordance with the purposes established in this Resolution with respect to other major traffic-generating facilities.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area, and may require where the #development# or #enlargement# includes an active railroad or transit #use#, that the structural design of such #development# or #enlargement# make due allowance for changes within the layout of tracks or other structures within such #railroad or transit air space# or railroad or transit right-of-way or yard which may be deemed necessary in connection with future development or improvement of the transportation system.

Prior to granting a special permit, 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 that portion of the #railroad or transit air space# or railroad or transit right-of-way or yard where the railroad or transit #use# has been permanently discontinued or terminated.

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## **74-682 - Developments over streets**

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LAST AMENDED  
10/7/2008

In R9 or R10 Districts when the air space above a #street# or portion thereof is closed, demapped and conveyed by the City to the owner of an adjoining #zoning lot# owned by a non-profit institution pursuant to State-enabling legislation enacted in 1971, the City Planning Commission may, by special permit, allow in such demapped air space, the #development# or #enlargement# of #buildings# which are an expansion of an existing hospital, college, university or functionally-related facility. In connection therewith, the Commission may also permit modification of off-street loading and #bulk# regulations, except #floor area ratio# regulations, under the applicable district regulation, provided that the requirements set forth in the 1973 Agreement among the City of New York, the Society of the New York Hospital, and the New York Society for the Relief of the Ruptured and Crippled, maintaining the Hospital for Special Surgery and the Rockefeller University are met; and that such demapped air space shall be considered as part of the adjoining #zoning lot#, except that any #building# located in demapped air space shall utilize only unused #floor area# from the portion of the adjoining #zoning lot# not within the demapped air space.

In order to grant such special permit, the Commission shall find:

- (a) for #development# or #enlargements# in such demapped air space and for modification of #bulk# regulations, that the location and distribution of new #bulk# shall result in a good site plan in relation to the existing #buildings# on-site and in the area; and
- (b) for modification of off-street loading requirements, when such non-profit institution includes more than one #building# on two or more #zoning lots#, the Commission may determine the required number of loading berths as if such non-profit institution were located on a single #zoning lot#, and may permit such loading berths to be located anywhere within such institution without regard for #zoning# #lot lines#, provided that such loading berths shall be:
  - (1) adequate to serve the requirements of the institution;
  - (2) accessible to all the #uses# in such institution without the need to cross any #street# at grade; and
  - (3) located so as not to adversely affect the movement of pedestrians or vehicles on the #streets# within or surrounding such institution.

The #curb level# of a #zoning lot# of which the demapped air space is a part shall not be affected by the closing and demapping of air space above such #street#. However, the Commission may establish an appropriate level or levels instead of #curb level# as the reference plane for the applicable regulations relating to #open space#, #yards#, level of #yards#, equivalent #rear yards#, #rear yard# setback, minimum distance between #buildings#, and the front height and setback.

The Commission may impose additional conditions and safeguards, consistent with the requirements set forth in the 1973 Agreement, to improve the quality of the #development# and minimize adverse effects on the character of the surrounding area.