Zoning Resolution

THE CITY OF NEW YORK
Zohran K. Mamdani, Mayor

CITY PLANNING COMMISSION
Sideya Sherman, Chair

107-22 - Designated Open Space

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107-22 - Designated Open Space

LAST AMENDED
11/2/2023

Any #development# or #site alteration# on a #zoning lot# which contains #designated open space# as shown on the District Plan (Map 3 in Appendix A), shall require certification by the City Planning Commission that:

(a) such #designated open space# shall be preserved in its natural state by the owner of the #zoning lot#; and

(b) where required by the Commission, the applicant has complied with the provisions of Section 107-222 (Public pedestrian ways); and

(c) where required by the Commission, as indicated on the District Plan, that the applicant has complied with Section 107-23 (Waterfront Esplanade).

Within any #designated open space#, removal of trees, alteration of topography, #development# or #enlargement# of active recreational facilities, or the establishment of utility easements may be undertaken only in accordance with the provisions of this Section and Section 107-30 (NATURAL FEATURE REGULATIONS).

Planting, landscaping or provision of footpaths or sitting areas are permitted in any part of #designated open space#, provided that such improvements do not involve removal of trees or alteration of existing topography, and do not obstruct pedestrian movement within the public pedestrian ways.

107-221 - Active recreational facilities

LAST AMENDED
11/2/2023

#Designated open space# may be used for active recreational facilities provided that the City Planning Commission certifies that such #uses# are compatible with the purposes of the #open space network # and have minimal impact on tree removal, topographic alterations or drainage conditions.

Active recreational facilities may include swimming pools, tennis courts or facilities and equipment normally found in playgrounds, and shall comply with the #use# regulations of the underlying district.

In the development of active recreational facilities, no individual trees of six-inch #caliper# or more shall be removed except by special authorization of the Commission in accordance with the provisions of Section 107-65 (Modification of Natural Feature Regulations). Active recreational facilities shall not be allowed within 60 feet of any watercourse in #designated open space# unless the Commission certifies that a location closer to such watercourse will not adversely affect the natural character of the watercourse or its drainage function. The Commission, where appropriate, shall be guided by the reports from other City agencies involved in land contour work, storm water drainage systems or similar operations.

If the City of New York acquires an easement for public access to any #designated open space# on which a #building# has been, is being or could be in the future, constructed in accordance with the provisions of this Chapter, the City's acquisition of an easement shall not affect the qualifications of the #designated open space# for satisfying #lot area# requirements, #yard# requirements, #floor area# or #lot coverage# restrictions or #open space# requirements as provided in Section 107-224 (Qualification of designated open space as lot area for bulk computations) and shall not be deemed to create a #non-compliance#.

107-222 - Public pedestrian ways

LAST AMENDED
11/2/2023

For any #site alteration#, #development#, or #enlargement# on a #zoning lot# which contains #designated open space#, the City Planning Commission shall certify whether or not the applicant shall be required to provide a public pedestrian way through a portion of the #designated open space#.

When a public pedestrian way is required, it shall be built and maintained by the owner of the #zoning lot# and shall be accessible to the public at all times. The public pedestrian way shall be improved at the time the #site alteration#, #enlargement#, or #development# takes place.

The location and dimension of such pedestrian way shall be determined by the Commission. The owner of the #zoning lot# may request the City to take an easement on the property. If the City of New York acquires an easement for public access to any #designated open space# on which a #building# has been, is being or could be in the future, constructed in accordance with the provisions of this Chapter, the City's acquisition of an easement shall not affect the qualifications of the #designated open space# requirements as provided in Section 107-224 (Qualification of designated open space as lot area for bulk computations) and shall not be deemed to create a #non-compliance#.

107-223 - Permitted obstruction in designated open space

LAST AMENDED
12/5/2024

The following shall not be considered as obstructions when located in #designated open space#:

(a) Awnings and other sun control devices, pursuant to Section 23-311 (Permitted obstructions in all yards, courts and open areas);

(b) Balconies, unenclosed, subject to the provisions of Section 23-62;

(c) Eaves, gutters or downspouts projecting into such #designated open space# not more than 16 inches;

(d) Fences or walls, conditioned upon certification by the City Planning Commission that:

(1) such fences or walls will not obstruct or preclude public access or circulation of pedestrians, cyclists or horseback riders through the public easement within #designated open space#; and

(2) the location, size, design and materials of such fences or walls are appropriate to the character of the #designated open space#;

(e) #Qualifying exterior wall thickness#, pursuant to Section 23-311;

(f) Solar energy systems on walls pursuant to Section 23-311.

No #accessory# off-street parking facilities shall be permitted in #designated open space#. No #building or other structure# shall be erected in #designated open space# except as permitted by the provisions of Section 107-221 (Active recreational facilities). Any existing #building or other structure# located within the #designated open space# on November 2, 2023, and not complying with the provisions of this Section or the other Sections specified in the preceding paragraph, shall not be #enlarged# but may be continued as a #non-conforming# #use# or #non-complying# #building# subject to the applicable provisions of Article V (Non-conforming Uses and Non-complying Buildings) in accordance with the underlying district regulations.

107-224 - Qualification of designated open space as lot area for bulk computations

LAST AMENDED
2/2/2011

#Designated open space# on a #zoning lot# may count as #lot area# for the purposes of the applicable regulations on #yards#, #floor area ratio#, #open space ratio#, #open space#, #lot coverage#, #lot area# or density, provided that the area of the #designated open space# claimed as #lot area# does not exceed the area of the #zoning lot# located outside the designated space. For a #single-family residence#, any portion of a #zoning lot# occupied by #designated open space# shall count as #lot area# for the purposes of satisfying minimum density requirements only pursuant to this Section.

Where the area of the #designated open space# claimed as #lot area# exceeds the above permitted amount, the provisions of Section 107-72 (Qualification of Designated Open Space as Lot Area) shall apply.

Any #designated open space#, or portion thereof, claimed as required #open space# or used to satisfy the #lot coverage# restrictions for a #development# containing #residences# shall be accessible to and usable by all residents of the #zoning lot#.

In the case of a #large-scale residential development#, any #designated open space#, or portion thereof, that qualifies as #lot area# may be used as common space.

107-225 - Special bulk regulations for developments containing designated open space

LAST AMENDED
2/2/2011

This section shall apply to any tract of land containing #designated open space# that is #developed# as a unit in single ownership and where the area of the #designated open space# claimed as #lot area# for zoning computation does not exceed the area of that portion of the tract of land not located within #designated open space#. Such a tract of land may contain a single #zoning lot# or two or more #zoning lots# which are contiguous or would be contiguous except for their separation by a #street#.

In all #Residence Districts#, except R1-1 Districts, for all permitted #residential uses# on such tract of land, the total #floor area# or #dwelling units# generated by that portion of the #designated open space# claimed as #lot area# by the applicable district regulations may be distributed without regard for #zoning# #lot lines#, for all #zoning lots# wholly within such tract of land. The total #open space# required or #lot coverage# permitted for such tract of land may be located anywhere within the tract of land without regard for #zoning lot# #lines#.

No transfer of #floor area# or #dwelling units# shall be permitted from a #zoning lot# not containing any #designated open space#.

The site plan and #bulk# distribution for the entire tract of land shall be recorded in the land records and indexed against all #zoning lots# in such tract of land.

Furthermore, the minimum #lot area# and #lot width# regulations, #yards# and spacing between #buildings# regulations shall not apply along portions of #streets# or #lot lines# wholly within such tract of land, provided that:

(a) the maximum #lot coverage# on any #zoning lot# shall not exceed 50 percent of the #lot area#;

(b) the minimum distance between #buildings# on the same or adjacent #zoning lots# across a common #side lot line# is not less than 10 feet; and

(c) the minimum distance between #buildings# on adjacent #zoning lots# across a common #rear lot line# shall not be less than 40 feet.