

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 587
CASE NO. 84-10
(Antennas - Text)
September 15, 1988
and
February 13, 1989

In 1984, the Zoning Commission initiated this case to address the aesthetic deficiencies of roof structures and antennas. The primary initial concern was roof structures. See Office of Planning ("OP") memoranda dated August 11, 1983 and February 3, 1984. Further, with respect to antennas, the Commission's only concern with antennas has been with their visual impact as they are viewed from sites other than the property in which they are located. See the referenced OP memorandums, and another dated May 16, 1984.

This focus is amply confirmed by the proposed text amendments applicable to antennas, and related comments, which accompanied the final OP report, dated October 12, 1984. In addition, see the October 22, 1984 letter from Wilkes, Artis, Hedrick, and Lane on behalf of that firm and three architectural firms. That letter, while citing several points for clarification and revision, stated:

Antennas are generally incompatible with building design in the city, and should be screened from view to the extent possible. The proposed antenna regulations appear to be technologically feasible, and appropriate in terms of height and setback both at the ground level and penthouse level.

Initial hearings were held in October, 1984. Comments of representatives of the telecommunications industry at those hearings persuaded the Commission and OP that the industry had legitimate technical concerns, and that it was necessary to conduct another analysis of a workable regulatory scheme. As OP phrased it in its May 8, 1985 summary abstract, "[The] attempt [is] to bridge the gap between the functional requirement for antennas and the telecommunications industry on one hand and the clear need to preserve and enhance the special physical character of Washington, D.C. on the other."

After extensive further analysis by OP and consideration by the Commission, the Commission determined to conduct further hearings to consider revised regulations. Those hearings were held in May, 1986.

Major concerns expressed at those hearings were as follows:

1. Matter-of-right antenna dimensions would be too restrictive.
2. The special exception review process would be too frequently needed and too burdensome.
3. The Commission should not stand in the way of normal technological progress.
4. Antennas in SP zones should be governed by the rules which apply in commercial zones.

After Commission discussion of these issues at the February, 1987 meeting, OP prepared further revised text amendments to reflect the Commission's discussion. The Commission reviewed these at its meeting on September 21, 1987, and determined to propose amendments in the form published as notice of proposed rulemaking in the D.C. Register on January 8, 1988 (35 DCR 179).

The thrust of the proposed rules is to prevent antennas from having an adverse impact on the appearance of Washington as the Nation's Capital. This goal is in the District and Federal interest. This joint intent is highlighted by the following view expressed by the Director of the Office of Planning in his May 8, 1985 memorandum to the Commission:

Washington, D. C. is a unique city. As the Nation's Capital, it is woven with history and symbolic qualities. It focuses on the monumental core area with its museums and monuments (two of which afford a view out over the roofs of the city).

It is a classical city, not a space age city. It is filled with ornamental buildings, monumental buildings and classical buildings. Its low, horizontal skyline is a strong visual asset that directs attention to itself. The city is filled with trees, both Downtown and in its residential areas. Finally, it has numerous neighborhoods with small rear yards, many only 20-25 feet deep. The recently adopted Comprehensive Plan notes the unique importance of the physical appearance of the National Capital and seeks protection and enhancement of that appearance. It emphasizes the importance to that appearance of maintaining the height limit, and it calls for the use of appropriate arrangements of building materials, height, scale, massing and

buffering to complement the existing environment. It also calls for the protection and enhancement of existing residential neighborhoods.

The Commission concurs with these observations.

The general framework of the regulatory scheme is: (1) to allow as an unqualified matter of right in all zone districts those antennas which have the least potential adverse aesthetic impact; (2) to allow as a qualified matter of right, that is, with conditions for administrative review, antennas which have somewhat greater potential for such impact; and (3) to allow any other antenna as a special exception.

The rules would also require any replacement of an existing antenna to be subject to the amended regulations, and make conforming technical amendments to the Zoning Regulations, consistent with the other amendments.

The Commission is persuaded that the proposed rules are fair and reasonable, and allow ample room for technical requirements to be accommodated. The proposed rules would not completely bar any category or description of antenna from the District. Every antenna not allowed as of right could have the opportunity for consideration at a public hearing before the Board of Zoning Adjustment.

Comments on the proposed rulemaking identified the following issues:

1. Need for greater flexibility in the replacement of existing antennas serving established and ongoing functions.
2. General hostility to the concept of regulation.
3. Concern that the regulations would be subject to preemption by the Federal Communication Commission ("FCC").
4. Contentions that the different treatment of various types of antennas, including commercial broadcast antennas, which could be approved only through the special exception process, is not reasonable.
5. Various differences of opinion: "should allow more than one whip antenna"; "should accommodate taller whip antennas than the... 12 foot height"; "should delete" the different treatment of roof-mounted antennas on buildings which exceed 90 feet and those which do not; "should

allow [roof-mounted] antennas... up to 20 feet in height."

6. Concern that the rules would provide overly restrictive limits on vehicle-mounted antennas as to duration and the number allowed in a square; related concerns were expressed about the applicability of proposed 11 DCMR 201.2(f) to a vehicle located on public space or private space.
7. A number of reasonable, albeit relatively minor, clarifying and correcting points, to which the Commission has responded by appropriate revisions.
8. Support for imposition of a time limit for the Zoning Administrator to review antenna applications.
9. Support for revisions of the proposed rules to allow Super High Frequency ("SHF") service to be established as of right.

By report dated February 4, 1988, the National Capital Planning Commission ("NCPC") found that the proposed amendments would not adversely affect the Federal Establishment or other Federal interests in the National Capital. NCPC did not report its conclusion whether the amendments would be inconsistent with the Comprehensive Plan for the National Capital. NCPC recommended that the amendments require periodic recertification of all antenna installations to review safety factors and determine whether certain installations could be removed altogether or replaced with more compact antennas.

In March, 1988, the Zoning Commission requested the advice of the Corporation Counsel about the impact of the FCC preemption policy on the authority of the Zoning Commission to adopt the proposed rule. By memorandum dated August 30, 1988, the Deputy Corporation Counsel, Community Development Division, transmitted certain advice and recommendations. The Commission has considered these recommendations, and its response is generally set forth below in its discussion of final action.

The Zoning Commission doubts that the proposed amendments would be rendered invalid by the FCC preemption rule. This Commission believes that FCC reached quite far when it assumed the task of resolving real or hypothetical jurisdictional disputes involving its authority and that of local government entities. On this point, the Commission concurs with the skeptical view of Mayor Barry, expressed in a May 7, 1985 letter to FCC, about FCC's then proposed preemption policy.

Further, both the Zoning Commission and FCC are Congressionally created entities. Congress has explicitly and unambiguously provided a means for the resolution of any conflict between the Zoning Regulations and other regulations, including those promulgated by FCC. D.C. Code Sec. 5-428 (1987) directs that the more restrictive regulations shall govern.

Finally, this Commission has concluded that the proposed rules are in conformity with the FCC policy: the rules have an aesthetic objective; they do not distinguish among antennas on the basis of the functional category of antennas; the different treatment that is established has a reasonable and clearly defined objective, that is the aesthetic one; and the different treatment imposes no unreasonable limits or costs.

In consideration of the comments on the proposed rule and the OP advice in those comments, dated March 4, 1988 and July 5, 1988, the Commission has revised the final rules to respond to reasonable concerns which were expressed in the comments. In particular, the final rules allow super high frequency antennas as a matter of right; increase the number and diameter of whip antennas which are allowed as a matter of right; delete the proposed requirement that any nonconforming antennas be removed when a new conforming antenna is erected on a lot; clarify the status of non-profit broadcasters; allow the Zoning Administrator flexibility to administer the new rules as they would apply to new classes of antennas; provide in Section 212 for preliminary historic preservation review of antennas; allow ground-mounted antennas in the CR and W zones under the same provisions that apply in the C-3 zone, delete the proposed restriction on the repair of nonconforming antennas; and allow the temporary, emergency replacement of a nonconforming antenna which could not be replaced as a matter-of-right.

The Commission is not persuaded that it is confusing or incorrect to characterize the installation of antennas as being a matter of right when it is subject to administrative review, on the basis of objective criteria, by the Zoning Administrator, with the advice of the Director of the Office of Planning on the basis of objective criteria. Each applicable provision refers explicitly to the procedure for administrative review.

As to the recommendation that the rules include a time limit for the Zoning Administrator to review an antenna application, the Commission does not believe that the record provides a sound basis for it to establish such a time limit.

As to the concern about the Commission's authority to regulate an antenna mounted on a vehicle, the Commission does not understand the basis for the concern. The operators of such antennas plainly are using the land on which the antennas are located. The physical presence of a vehicle does not alter this fact. The restrictive rule by its terms applies only when the antenna is mounted on a vehicle which is located in a square, that is to say, not located in public space. The Commission has authority to regulate such use of land.

In consideration of NCPC's recommendation, the Zoning Commission has determined that the NCPC recommendation is beyond the scope of the proposed rulemaking. In addition, the Commission is not persuaded to open the case record for consideration of the issue.

The Commission has determined to adopt rules for matter-of-right, ground-mounted antennas in the CR and W zones which reference the rules which apply in residential zones. Notwithstanding the commercial uses and height of buildings which are allowed in CR and W zones, the Zoning Regulations explicitly encourage residential uses in the CR and W zones. The residential uses require the protection which the special exception process would provide to ensure the compatibility of taller antennas with the use of neighboring property.

The Zoning Commission believes that the proposed amendments to the Zoning Regulations are in the best interest of the District of Columbia, are consistent with the intent and purpose of the Zoning Regulations and Zoning Act, and are not inconsistent with the Comprehensive Plan for the National Capital.

In consideration of the reasons set further herein, the Zoning Commission hereby orders APPROVAL of amendments to the Zoning Regulations regarding antennas. The specific amendments to DCMR Title 11 (the Zoning Regulations) are as follows:

1. Add a new definition for antennas in Section 199 and new definitions for specific types of antennas, to read as follows:

Antenna - a device used to transmit or receive communications signals. This term encompasses transmitting and receiving elements, and any tower and immediately related support and stabilizing elements, and rotating or other directional mechanism.

Antenna, commercial broadcast - antenna used for television and commercial radio broadcasting by a profit or non-profit entity. The transmitting antenna

may be affixed to a tower or to the top of a building. In amplitude modulation (AM) radio service, the tower also acts as the antenna.

Antenna, microwave terrestrial - dish, horn, or other type antenna used for point-to-point microwave communication of sound, visual images or data from one terrestrial point to another.

Antenna, satellite earth station - antenna used to transmit or receive sound, visual images or data from one or more space stations or from one or more stations of the same kind by means of satellites or other objects in space.

Antenna, super high frequency - an antenna which serves a super high frequency channel and requires a line of sight to the transmitting antenna, and which generally consists of a metal grid or a sheet of bent metal, and is mounted on the pole of a UHF or VHF antenna or on a roof structure.

Antenna, whip - antenna generally consisting of a single pole or mast, also called a broomstick antenna, sometimes including irregularly shaped prongs or attachments at its extremity, including an antenna used for citizens band or two-way radio communications.

Antenna, yagi - a very high frequency (VHF) or ultrahigh frequency (UHF) directional antenna array in which a basic whip or dipole antenna is supplemented by one or more parallel reflector and director elements.

2. Add new Section 2519 to provide a clear purpose for the regulation of antennas. That purpose is supportive of the FCC declaratory rulings that do not disallow reasonable differences in regulations dealing with essentially different antennas.

2519 REGULATION OF ANTENNAS

2519.1 The purposes for the regulation of antennas as a particular type of structure are as follows:

- (a) The Zoning Commission has determined that certain antennas, because of their size, shape, design, construction or location, may affect the health, welfare or safety of the population and may detract from the streetscape, landscape, skyline, scenic beauty or aesthetic interests of Washington, D.C., and its role as the Nation's Capital;

- (b) The Zoning Regulations therefore regulate the size, height, construction, design, and location of antennas and antenna structures which have the greatest potential for adverse impact on the health, safety and welfare of the population, and on neighborhood quality, and those which have the greatest potential for adverse impact on the scenic beauty of the Nation's Capital; and
- (c) The principal types of antennas regulated are those that, because of their shape and relatively large mass, potentially have the greatest visual impact and include, by example, large satellite earth station antennas and certain microwave terrestrial antennas.

2519.2 If the Zoning Administrator determines that an antenna does not meet the definition of any specific class of an antenna as set forth in section 199 of this title, the Zoning Administrator shall determine the class of antenna to which it is closest, and treat the antenna accordingly.

3. Permit antennas having the least potential adverse impact on the aesthetic qualities of Washington, D.C., the Nation's Capital, as a matter-of-right in the R-1 and less restrictive districts by adding new sub-sections 201.2 and 201.3, to read as follows:

201.2 The following classes of antennas shall be permitted as a matter of right in an R-1 district, subject to the requirements for each class of antenna:

- (a) No more than two (2) residential type UHF/VHF television and frequency modulation (FM) radio receiving Yagi antenna not to exceed 8 feet horizontally;
- (b) No more than two (2) whip antennas not exceeding two and one-half (2½) inches in diameter, with a mounted dimension no longer than twelve (12) feet in any direction, and located on a principal building;
- (c) No more than one (1) residential type super high frequency antenna, not to

exceed three (3) feet in any dimension, excluding the support element;

- (d) One (1) or more antennas entirely enclosed on all sides within a building or by the penthouse walls or extensions of the penthouse walls. Those walls may include an opaque membrane covering a port in front of an antenna;
- (e) One (1) or more antennas located entirely behind and no taller than the parapet walls; provided, that the parapet wall may include an opaque membrane covering a port in front of an antenna;
- (f) One (1) satellite earth station or one microwave terrestrial antenna with a diameter of no more than four (4) feet, not taller than eight (8) feet, located on the roof of a principal building, and set back from the edge of the roof a distance at least equal to its height above the roof. The principal building must have a height of no less than fifty (50) feet;
- (g) A whip antenna mounted on a vehicle; and
- (h) Antenna, other than a whip antenna, mounted on a vehicle located in a given square for not longer than one hundred and twenty (120) hours.

201.3 An antenna which is listed in sub-section 201.2, but which does not comply with the requirements that apply to its class of antennas, shall be permitted as a matter of right in an R-1 district, by administrative review, subject to the requirements of sub-section 201.7.

4. Other than antennas permitted as of right under sub-sections 201.2 and 201.3, permit ground-mounted antennas with a mounted height no greater than 12 feet to be erected as of right, but with conditions, in the R-1 and less restrictive districts. Review by the Office of Planning and approval by the Zoning Administrator is provided. Add new sub-section 201.4, to read as follows:

201.4 Subject to the procedure of sub-section

201.7, one ground-mounted antenna, not to exceed a mounted height of 12 feet at its highest point above the ground, shall be permitted as a matter of right in an R-1 district, provided that:

- (a) The antenna is located in either the rear yard or the side yard of the principal building on the lot;
- (b) The antenna is not visible from any public park which is within the Central Employment Area or from any street which the lot abuts;
- (c) Each part of the antenna is removed from all lot lines by a minimum distance of ten (10) feet;
- (d) To the maximum practical extent, the antenna shall be black mesh construction or of materials and colors that blend with the surroundings;
- (e) The installation shall include screening treatments necessary to ensure compliance with paragraph (b) of this sub-section, and, to the maximum practical extent, to reduce the adverse impact of the antenna as viewed from adjacent property; and
- (f) The antenna installation shall be as small as is practical for its intended use.

5. Other than antennas permitted as of right under sub-section 201.2, permit roof-mounted antennas with a mounted height no greater than 12 feet above the roof to be erected as of right, but with conditions, in the R-1 and less restrictive districts. Review by the Office of Planning and approval by the Zoning Administrator is provided. Add new sub-section 201.5, to read as follows:

201.5 Subject to the procedure of sub-section 201.7, one roof-mounted antenna, not to exceed a mounted height of 12 feet at its highest point above the roof, shall be permitted as a matter of right in an R-1 district, provided that:

- (a) Each part of the antenna is removed from each edge of the roof a minimum distance

equal at least to its height above the roof;

- (b) To the maximum practical extent, the antenna shall be of black mesh construction, or of materials and colors that blend with the surroundings;
 - (c) Each installation must be so located and screened as to minimize the view of the antenna from the ground; and
 - (d) If the antenna is located on the roof of a building which has a height of fifty (50) feet or less, the antenna shall not be visible from the ground.
6. Permit antenna additions to an existing broadcast tower with certain conditions. Review by the Office of Planning and approval by the Zoning Administrator is provided.

201.6 Subject to the procedure of sub-section 201.7, an addition of an antenna to an existing broadcast tower shall be permitted as a matter of right in an R-1 district, provided that:

- (a) The size of the tower is not increased; and
 - (b) The appearance of the tower is not changed in a manner which causes an adverse impact on the surrounding area.
7. Provide for antennas in sub-sections 201.3 through 201.6 to be reviewed and approved by the Zoning Administrator, with the report and recommendation by the Office of Planning, by adding new sub-section 201.7, to read as follows:

201.7 The following procedure shall apply to an application which is filed for the approval of an antenna under sub-section 201.3 through 201.6 of this section:

- (a) Before taking final action on the application, the Zoning Administrator shall submit the application to the Director of the Office of Planning for review and report; and
- (b) The Director shall report to the Zoning

Administrator either within thirty (30) days of the date of submission of the application to the Director, or within such longer or shorter period as the applicant, the Zoning Administrator, and the Director may agree to establish for the report of the Director.

8. Provide for special exceptions to the regulations for commercial broadcast antennas, by deleting the existing Section 211 and substituting the following:

211 ANTENNA, COMMERCIAL BROADCAST (R-1)

- 211.1 Use as an antenna for commercial television and frequency modulation broadcasting to any height and in conjunction with the erection, alteration, or use of buildings for transmission or reception equipment on the same lot or elsewhere, shall be permitted in an R-1 District if approved by the Board of Zoning Adjustment in accordance with the conditions specified in §3108 of of this title, and subject to the provisions of this section.
- 211.2 The proposed location, height, and other characteristics of the antenna shall not adversely affect the use of neighboring property.
- 211.3 The antenna shall be mounted in a location which minimizes to the greatest practical degree its visibility from neighboring property and from adjacent public space, or is appropriately screened by landscaping or other techniques so as to soften or minimize the visibility of the antenna.
- 211.4 Each part of a ground-mounted commercial broadcast antenna, including support system and guy wires, shall be removed a minimum of ten (10) feet from each lot line, or a distance of at least one-sixth of the mounted height of the antenna, whichever is greater.
- 211.5 The proposed height of the tower shall not exceed that which is reasonably necessary to render satisfactory service to all parts of its service area.
- 211.6 No transmission equipment shall be located in a residential district, unless location in the district is necessary for technically

satisfactory and reasonably economical transmission.

211.7 If review by the Historic Preservation Review Board or Commission of Fine Arts is required, concept review and approval should occur before review by the Board of Zoning Adjustment.

211.8 No height of an antenna tower in excess of that permitted by the Act of June 1, 1910 (36 Stat. 452), as amended, shall be permitted, unless the height is approved by the Mayor.

211.9 Before taking final action on an application for use as an antenna tower, the Board shall have submitted the application to the D.C. Office of Planning for review and report.

211.10 The applicant shall have the burden of demonstrating the need for the proposed height, and that full compliance with the matter of right standards would be unduly restrictive, prohibitively costly, or unreasonable.

9. Permit an antenna other than a commercial broadcast antenna to be located in an R-1 district by special exception, by adding the following new section 212:

212 ANTENNA, OTHER THAN COMMERCIAL BROADCAST ANTENNA
(R-1)

212.1 An antenna, other than a commercial broadcast antenna, which is not permitted or approved pursuant to section 201 of this title may be permitted as a special exception by the Board of Zoning Adjustment, provided that the following requirements are met:

- (a) The proposed use, location, and conditions related thereto shall be consistent with the purposes set forth in section 2519 of this title;
- (b) If review by the Historic Preservation Review Board or Commission of Fine Arts is required, concept review and approval should occur before review by the Board of Zoning Adjustment;
- (c) The Board may impose conditions relating to operation, location, screening, or other requirements as it shall deem

necessary to protect adjacent and nearby property, consistent with the general purpose and intent of this section;

- (d) The Board may require the removal of any nonconforming antenna as a condition to the approval of an antenna;
 - (e) The location and other characteristics of the antenna shall be reasonably necessary for the intended use of the antenna;
 - (f) The present character and future development of the neighborhood shall not be adversely affected; and
 - (g) Before taking final action on an application for use and location of an antenna, the Board shall have referred the application to the Office of Planning for review and report.
10. Renumber existing sections 212 through 220, and all references thereto in Title 11, as sections 213 through 221, respectively.
11. Delete existing Section 511 that permits antenna towers as of right in SP and less restrictive zone districts.
12. Permit ground-mounted antennas with a mounted height no greater than 20 feet to be erected as of right, but with conditions, in the C-1 and less restrictive districts. Review by the Office of Planning and approval by the Zoning Administrator is provided. Add new sub-section 701.7, to read as follows:
- 701.7 Subject to the procedure of sub-section 701.9, one ground-mounted antenna, not to exceed a mounted height of 20 feet at its highest point above the ground, shall be permitted as a matter of right in a C-1 district, provided that:
- (a) The antenna is located in either the rear yard or the side yard of the principal building or the lot;
 - (b) The antenna is not visible from any street which the lot abuts, or from any public park which is within the Central Employment Area;

- (c) Each part of the antenna is removed from all lot lines by a minimum distance of ten (10) feet;
 - (d) To the maximum practical extent, the antenna shall be of black mesh construction, or of materials and colors that blend with the surroundings; and
 - (e) The installation shall include screening treatments as necessary to ensure compliance with paragraph (b) of this sub-section, and, to the maximum practical extent, to reduce the adverse impact of the visibility of the antenna from adjacent property.
13. Permit roof-mounted antennas with a mounted height no greater than 12 feet above a roof up to 90 feet above the ground to be erected as of right but with conditions in the C-1 and less restrictive districts. Also permit roof-mounted antennas with a mounted height no greater than 18 feet, 6 inches above a roof exceeding 90 feet above the ground. Review by the Office of Planning and approval by the Zoning Administrator is provided. Add new sub-section 701.8, to read as follows:

701.8 Subject to the procedure of sub-section 701.9, one roof-mounted antenna shall be permitted as a matter of right in a C-1 district, provided that:

- (a) Each part of the antenna is removed from all edges of the roof a minimum distance equal at least to its height above the roof;
- (b) To the maximum practical extent, the antenna shall be of black mesh construction, or of materials and colors that blend with the surroundings;
- (c) The installation shall be so located and screened as to minimize the view of the antenna from the ground;
- (d) If the antenna is located on the roof of a building which has a height of 65 feet or less, the antenna shall not be visible from the ground;
- (e) If the height of the roof is 90 feet or less, the mounted height of the antenna

at its highest point shall not exceed 12 feet above the roof; and

- (f) If the height of the roof exceeds 90 feet, the mounted height of the antenna at its highest point shall not exceed 18 feet, 6 inches above the roof.

14. Provide for antennas in sub-sections 701.7 and 701.8 to be reviewed and approved by the Zoning Administrator, with the report and recommendation by the Office of Planning, by adding new sub-section 701.9, to read as follows:

701.9 The following procedure shall apply to an application for approval of an antenna under sub-section 701.7 or 701.8 of this section:

- (a) Before taking final action on an application, the Zoning Administrator shall submit the application to the Director of the Office of Planning for review and report; and
- (b) The Director shall report to the Zoning Administrator either within thirty (30) days of the date of submission of the application to the Director, or within such longer or shorter period as the applicant, the Zoning Administrator, and the Director may agree to establish for the report of the Director.

15. Permit ground-mounted antennas with a mounted height no greater than 20 feet to be erected as of right, but with conditions, in the C-3 and less restrictive Districts. Review by the Office of Planning and approval by the Zoning Administrator is provided. Add new sub-section 741.6, to read as follows:

741.6 Subject to the procedure of sub-section 741.7, one ground-mounted antenna, not to exceed a mounted height of 20 feet at its highest point above the ground, shall be permitted as a matter of right in a C-3 district, provided that:

- (a) The antenna is located in either the rear yard or the side yard of the principal building on the lot;
- (b) The antenna is not visible from any street which the lot abuts, or from any

public park which is within the Central Employment Area;

- (c) Each part of the antenna is removed from all lot lines by a minimum distance of 10 feet;
 - (d) To the maximum practical extent, the antenna shall be of black mesh construction, or of materials and colors that blend with the surroundings; and
 - (e) The installation shall include screening treatments necessary to insure compliance with paragraph (b) of this sub-section.
16. Provide for antennas in sub-section 741.6 to be reviewed and approved by the Zoning Administrator, with report and recommendation by the Office of Planning, by adding new sub-section 741.7, to read as follows:

741.7 The following procedure shall apply for an application for the approval of an antenna under sub-section 741.6 of this section:

- (a) Before taking final action on the application, the Zoning Administrator shall submit the application to the Director of the Office of Planning for review and report; and
 - (b) The Director shall report to the Zoning Administrator either within thirty (30) days of the date of submission of the application to the Director, or within such longer or shorter period as the applicant, the Zoning Administrator, and the Director may agree to establish for the report of the Director.
17. Provide for antennas as a matter-of-right in the CR district under the same standards and procedure as apply in residential and commercial districts, by adding paragraph 601.1(s), to read as follows:

601.1(s) Antenna, subject to the standards and procedure which apply to particular class of antenna pursuant to sub-sections 201.2 through 201.7.

18. Provide for antennas as special exceptions in the CR districts under the same standards and procedure as

apply in the residential and commercial districts, by adding a new section 617, to read as follows:

617 ANTENNAS

617.1 An antenna shall be permitted as a special exception in the CR district, if approved by the Board of Zoning Adjustment subject to the standards and procedures which apply to the particular class of antenna under section 211 or section 212.

19. Renumber existing section 617 and all references thereto in Title 11 as 618.

20. Provide for antennas as a matter-of-right in the W district under the same standards and procedure as apply in residential and commercial districts, by adding paragraph 901.1(u), to read as follows:

901.1(u) Antenna, subject to the standards and procedure which apply to the particular class of antenna pursuant to sub-sections 201.2 through 201.7.

21. Provide for antennas as special exceptions in the W district under the same standards and procedure as apply in the residential and commercial districts, by adding a new section 914 to read as follows:

914 ANTENNAS

914.1 If the Board considers that it is appropriate in furthering the objections of the Waterfront Districts, an antenna shall be permitted as a special exception in the CR district, if approved by the Board of Zoning Adjustment subject to the standards and procedures which apply to the particular class of antenna under section 211 or section 212.

22. Renumber existing section 914 and all references thereto in Title 11 as 915.

23. Provide that the replacement of an existing antenna shall be subject to the regulations which apply to the location of a new antenna, by amending sub-section 2001.2, and adding new sub-section 2001.11, to read as follows:

2001.2 Except as is provided in sub-sections 2001.11 and 2001.12 of this title, ordinary repairs, alterations, and modernizations to

the structure, including structural alterations, shall be permitted.

2001.11 A nonconforming antenna shall not be altered, modernized, or otherwise replaced, except in conformity with all provisions of this title.

24. Provide for an immediate, temporary replacement of a nonconforming antenna which stops functioning and can not be replaced as a matter-of-right, by adopting a new sub-section 2001.12, to read as follows:

2001.12 If a nonconforming antenna stops functioning, a temporary replacement antenna may be installed, subject to the following conditions:

- (a) A permanent replacement antenna cannot be installed as a matter-of-right;
- (b) The temporary installation shall be removed no later than one year after the nonconforming antenna stops functioning;
- (c) Within three months after the nonconforming antenna stops functioning, the owner or occupant of the land or structure on which the antenna is installed shall apply for a special exception to install a longer term replacement; and
- (d) If the owner or occupant elects to install an immediate replacement antenna, the cost of the temporary replacement shall not be considered by the Board of Zoning Adjustment as a basis for approval of a special exception to install a longer term replacement.

25. Enable antennas to exceed the normal four-foot height limit for accessory structures located in any required yard by adding new sub-section 2503.5, to read as follows:

2503.5 An antenna which complies with all other requirements of this title may occupy any side or rear yard which is required by any provision of this title.

26. Revise the table of special exceptions under Sub-section 3108.1, by adding the following thereto:

Type of Special Exception:

Exceptions to location, density, and height regulations for antennas.

District:

Any district

Section in Which Conditions are Specified:
sub-sections 211, 212

27. Modify existing sub-section 400.3 to include "antenna", as follows:

400.3 A spire, tower, dome, pinnacle, or minaret serving as an architectural embellishment, or an antenna may be erected to a height in excess of that which this section otherwise authorizes in the district in which it is located.

28. Delete existing sub-section 400.5 and renumber existing sub-sections 400.6 through 400.13 and all references thereto in Title 11, as 400.5 through 400.12, respectively.

29. Revise existing sub-sections 530.3, 630.5, 770.3, 840.2, and 930.3 to read as follows:

Spires, towers, domes, pinnacles or minarets serving as architectural embellishments, penthouse over elevator shaft, ventilator shaft, antennas, chimneys, smokestacks or fire sprinkler tanks may be erected to a height in excess of that which this section otherwise authorizes.

30. Delete existing sub-sections 530.4 and 770.4, and renumber subsequent sub-sections consistently.

Vote of the Zoning Commission at the public meeting on September 21, 1987: 4-0 (Patricia N. Mathews, John G. Parsons, Lindsley Williams, and Maybelle Taylor Bennett, to approve; George M. White, not present, not voting).

This Order was modified and substantially approved by the Zoning Commission at the public meeting on September 15, 1988, by a vote of 5-0: Maybelle Taylor Bennett, Lindsley Williams, Patricia N. Mathews, George M. White, and John G. Parsons to approve this order and adopt the foregoing amendments to the Zoning Regulations.

This Order was further revised, and finally approved by the Zoning Commission at the public meeting on February 13, 1989, by a vote of 4-0: (Maybelle Taylor Bennett, Lindsley

Williams, and John G. Parsons to approve the order as revised, and to adopt the foregoing amendments to the Zoning Regulations; George M. White to approve the order and adopt the amendments, by proxy vote; and Lloyd Smith not voting, not having heard the case.

In accordance with 11 DCMR 3028, this order is final and effective upon publication in the D.C. Register, that is, on

FEB 24 1989.


MAYBELLE TAYLOR BENNETT
Chairperson
Zoning Commission


EDWARD L. CURRY
Executive Director
Zoning Secretariat

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