

TITLE 11 - ZONING

CHAPTER 1 THE ZONING REGULATIONS

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100 ENACTMENT AND TITLE

- 100.1 The Zoning Commission for the District of Columbia, pursuant to authority conferred by Congress under the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code §§ 6-641.01 to 6-641.15 (formerly codified at D.C. Code §§ 5-413 to 5-432 (1994 Repl. & 1999 Supp.))) (hereafter, the Zoning Act), after public notice and hearing prescribed by law, does hereby establish and adopt these regulations and the Zoning Maps accompanying them to supersede in full the zoning regulations and the "official height, area, and use atlases" previously in effect and that are hereby repealed.
- 100.2 These regulations and the Zoning Maps (as originally adopted) became effective at 12:01 a.m., May 12, 1958.
- 100.3 The Zoning Regulations of the District of Columbia adopted August 30, 1920, as amended, shall continue in full force and effect as follows:
 - (a) With respect to any construction or occupancy authorized under §§ 3202.4, 3202.5, 3202.6, 3203.7, 3203.8, 3203.9, or 3203.11;
 - (b) With respect to any right accrued, any duty imposed, any offense committed, any penalty incurred, or any proceeding commenced under or by virtue of the regulations repealed; and

- (c) With respect to any civil suit, action, or proceeding pending to enforce any right under the authority of the regulations repealed, any suit, action, or proceeding shall proceed with, and conclude under, the regulations in existence when the suit, action, or proceeding was instituted.

100.4 The long title of the Zoning Regulations, as adopted, shall be as follows:

REGULATIONS CONTROLLING AND RESTRICTING THE HEIGHT, BULK, NUMBER OF STORIES, AND SIZE OF BUILDINGS AND OTHER STRUCTURES, THE OPEN SPACES AROUND THEM, THE DENSITY OF POPULATION, AND THE USES OF BUILDINGS, STRUCTURES, AND LAND IN THE DISTRICT OF COLUMBIA, AND FOR SAID PURPOSES DIVIDING THE DISTRICT OF COLUMBIA INTO ZONING DISTRICTS.

100.5 The regulations in this title shall be known and may be cited by the short title of the "Zoning Regulations of the District of Columbia."

AUTHORITY: Unless otherwise noted, the authority for this chapter is the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code §§ 6-641.01 to 6-641.15 (2001) (formerly codified at D.C. Code §§ 5-413 to 5-432 (1994 Repl. & 1999 Supp.))).

SOURCE: §§ 1101.1, 1102.1, and 9301.1 of the Zoning Regulations of the District of Columbia, effective May 12, 1958 ("the Zoning Regulations"); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8336 (October 20, 2000).

101 INTERPRETATION AND APPLICATION

101.1 In their interpretation and application, the provisions of this title shall be held to be the minimum requirements adopted for the promotion of the public health, safety, morals, convenience, order, prosperity, and general welfare to:

- (a) Provide adequate light and air;
- (b) Prevent undue concentration of population and the overcrowding of land; and
- (c) Provide distribution of population, business and industry, and use of land that will tend to create conditions favorable to transportation, protection of property, civic activity, and recreational, educational, and cultural opportunities; and that will tend to further economy and efficiency in the supply of public services.

101.2 The regulations in this title and the Zoning Maps are designed with consideration of the:

- (a) Character of the respective districts;

- (b) Suitability of each district for the uses permitted in each district under this title; and
- (c) Encouragement of the stability of districts and of land values in those districts.

101.3 The provisions of this title shall govern whenever they:

- (a) Require larger yards, courts, or other open spaces;
- (b) Require a lower height or bulk of buildings or a smaller number of stories;
- (c) Require a greater percentage of lot to be unoccupied; or
- (d) Impose other higher standards than are required in or under any statute or by any other municipal regulations.

101.4 The provisions of any statute or other municipal regulations shall govern whenever they:

- (a) Require larger yards, courts, or other open spaces;
- (b) Require a lower height or bulk of buildings or a smaller number of stories;
- (c) Require a greater percentage of lot to be unoccupied; or
- (d) Impose higher standards than are required by this title.

101.5 No building, structure, or premises shall be used, and no building, structure, or part of a building or structure shall be constructed, extended, moved, structurally altered, or enlarged except in conformity with this title.

101.6 Where a lot is divided, the division shall be effected in a manner that will not violate the provisions of this title for yards, courts, other open space, minimum lot width, minimum lot area, floor area ratio, percentage of lot occupancy, parking spaces, or loading berths applicable to that lot or any lot created.

101.7 If any section or provision of this title, or any boundary of any district on the Zoning Maps adopted under this title, is decided by the courts to be unconstitutional or invalid, that decision shall not affect the validity of the regulations and the Zoning Maps as a whole or any part of the regulations or maps, other than the part determined to be unconstitutional or invalid.

SOURCE: §§ 1301, 1302, and 9201 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8336-37 (October 20, 2000).

102 AMENDMENTS

- 102.1 As provided in the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended, D.C. Official Code §§ 6-641.01 to 6-641.15 (2001) (formerly codified at D.C. Code §§ 5-413 to 5-432 (1994 Repl. & 1999 Supp.)), the Zoning Commission for the District of Columbia may from time to time amend any part or all of the regulations in this title and the Zoning Maps adopted in this title.
- 102.2 Amendments to this title or the Zoning Maps may be proposed by any of the following:
- (a) The owner of property for which amendments are proposed;
 - (b) The Zoning Commission;
 - (c) The National Capital Planning Commission;
 - (d) The D.C. Office of Planning;
 - (e) The Department of Housing and Community Development; or
 - (f) Any other department of the District or federal government.
- 102.3 Proposed amendments to this title or the Zoning Maps and applications for planned unit development proposals under chapter 24 of this title shall be submitted to the Office of Zoning.
- 102.4 The Zoning Commission shall adopt a form of application, and establish the number of copies, the required supporting data to accompany each application, and the time and manner of filing all applications.
- 102.5 The Zoning Commission may from time to time amend the form of application, number of copies, the required supporting data, and the time and manner of filing by announcing at a public hearing and posting a notice of the change in the Office of Zoning without any advance notice and without amending the provisions of this title.
- 102.6 Before adopting any proposed amendment to this title or the Zoning Maps, the Zoning Commission shall submit the proposed amendment to the D.C. Office of Planning for opinion or report; provided, that if the Office of Planning fails to transmit its opinion or report to the Zoning Commission within the period specified in § 2509, the Zoning Commission may proceed to take final action on the amendment.

- 102.7 Before adopting any proposed amendment to this title or the Zoning Maps, the Zoning Commission shall hold a public hearing on the proposed amendment in accordance with §§ 102.8 through 102.11.
- 102.8 Notice of the time and place of each public hearing shall be published at least once in a daily newspaper or newspapers of general circulation in the District of Columbia at least thirty (30) days in advance of the hearing.
- 102.9 The hearing notice shall include a general summary of the proposed amendment to this title and the boundaries of any territory included in the proposed amendment to the Zoning Map.
- 102.10 The Zoning Commission shall give additional notice of the hearing as it deems feasible and practicable.
- 102.11 The public hearing may be adjourned from time to time. If the time and place of the adjourned hearing is publicly announced when the hearing is adjourned, no further notice of the adjourned hearing needs to be published.
- 102.12 Any amendment to this title or the Zoning Maps shall require the favorable vote of not less than a majority of the full membership of the Zoning Commission.

SOURCE: § 9101 of the Zoning Regulations, effective May 12, 1958, and Final Rulemaking published at 29 DCR 1013 (May 29, 1973); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8337 (October 20, 2000). See also D.C. Official Code § 6-641.03 (formerly codified at D.C. Code § 5-415 (1994 Repl.)).

103 [RESERVED]

104 [RESERVED]

105 ZONE DISTRICTS

105.1 For the purpose of this title, the District of Columbia shall be divided into the following zone districts:

- (a) RESIDENCE DISTRICTS, as follows:
- (1) R-1 one-family detached dwellings, subdivided as follows:
 - (A) R-1-A low density; and
 - (B) R-1-B high density;
 - (2) R-2 one-family, semi-detached dwellings;

- (3) R-3 row dwellings;
- (4) R-4 row dwellings, conversions, and apartments; and
- (5) R-5 general residence, subdivided as follows:
 - (A) R-5-A low density;
 - (B) R-5-B moderate density;
 - (C) R-5-C medium density;
 - (D) R-5-D medium-high density; and
 - (E) R-5-E high density;
- (b) SPECIAL PURPOSE DISTRICTS, as follows:
 - (1) SP limited offices and apartments, subdivided as follows:
 - (A) SP-1 medium density; and
 - (B) SP-2 medium-high density;
- (c) MIXED USE (COMMERCIAL-RESIDENTIAL) DISTRICTS, as follows:
 - (1) CR mixed uses (retail, residential, office, and light industry);
- (d) COMMERCIAL DISTRICTS, as follows:
 - (1) C-1 neighborhood shopping;
 - (2) C-2 community business center, subdivided as follows:
 - (A) C-2-A medium density;
 - (B) C-2-B medium-high density;
 - (C) C-2-B-1 medium-high density; and
 - (D) C-2-C high density;
 - (3) C-3 major business and employment center, subdivided as follows:
 - (A) C-3-A medium bulk;
 - (B) C-3-B medium bulk; and

- (C) C-3-C high bulk;
 - (4) C-4 central business district; and
 - (5) C-5 (PAD) Pennsylvania Avenue development;
- (e) INDUSTRIAL DISTRICTS, as follows:
 - (1) C-M commercial-light manufacturing, subdivided as follows:
 - (A) C-M-1 low bulk;
 - (B) C-M-2 medium bulk; and
 - (C) C-M-3 high bulk; and
 - (2) M general industry;
- (f) LANGDON OVERLY (LO) DISTRICT;
- (g) WATERFRONT DISTRICTS, as follows:
 - (1) W mixed uses, subdivided as follows:
 - (A) W-0 waterfront open space and recreation, low density;
 - (B) W-1 moderate density;
 - (C) W-2 medium density; and
 - (D) W-3 high density;
- (h) MIXED USE DIPLOMATIC OVERLAY DISTRICT, as follows:
 - (1) D low and medium density;
- (i) HOTEL-RESIDENTIAL INCENTIVE OVERLAY DISTRICT, as follows:
 - (1) HR high density;
- (j) CAPITOL INTEREST OVERLAY DISTRICT, as follows:
 - (1) CAP low to medium density;

- (k) NEIGHBORHOOD COMMERCIAL OVERLAY DISTRICTS, as follows:
 - (1) Cleveland Park Neighborhood Commercial (CP) Overlay District;
 - (2) Woodley Park Neighborhood Commercial (WP) Overlay District;
 - (3) Macomb-Wisconsin Neighborhood Commercial (MW) Overlay District;
 - (4) Eighth Street Southeast Neighborhood Commercial (ES) Overlay District;
 - (5) Takoma Neighborhood Commercial (TK) Overlay District;
 - (6) H Street Northeast Neighborhood Commercial (HS) Overlay District; and
 - (7) Georgia Avenue Commercial ((GA) Overlay District;
- (l) REED - COOKE (RC) OVERLAY DISTRICT;
- (m) MISCELLANEOUS OVERLAY DISTRICTS, as follows:
 - (1) Dupont Circle (DC) Overlay District;
 - (2) Tree and Slope Protection (TSP) Overlay District;
 - (3) Foggy Bottom (FB) Overlay District;
 - (4) Naval Observatory Precinct (NO) Overlay District;
 - (5) Wesley Heights (WH) Overlay District;
 - (6) Sixteenth Street Heights (SSH) Overlay District;
 - (7) Fort Totten (FT) Overlay District;
 - (8) Chain Bridge Road/University Terrace (CB/UT) Overlay District; and
 - (9) Capitol Hill Commercial (CHC) Overlay District;
- (n) DOWNTOWN DEVELOPMENT (DD) OVERLAY DISTRICT;
- (o) UPTOWN ARTS - MIXED USE (ARTS) OVERLAY DISTRICT;

- (p) CAPITOL GATEWAY (CG) OVERLAY DISTRICT;
- (q) SOUTHEAST FEDERAL CENTER (SEFC) OVERLAY DISTRICT;
- (r) HILL EAST (HE) DISTRICT; and
- (s) UNION STATION NORTH (USN) DISTRICT.

105.2 The districts shall be as shown, defined, and bounded on the Zoning Map (see § 106).

105.3 Areas of the District designated as "UR" shall be redevelopment or urban renewal areas as established by plans approved by the Council of the District of Columbia under authority of Congressional legislation. These areas have not been made a part of the zone plan as embodied in the Zoning Regulations and Zoning Map.

SOURCE: § 2101 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 14 DCR 20 (July 17, 1967); Final Rulemaking published at 21 DCR 1030 (November 21, 1970); Final Rulemaking published at 21 DCR 1423 (December 30, 1974); Final Rulemaking published at 27 DCR 2226, 2228 (May 23, 1980); Final Rulemaking published at 28 DCR 1336, 1338 (March 27, 1981); Final Rulemaking published at 32 DCR 3022, 3027 (May 31, 1985); Final Rulemaking published at 39 DCR 8305 (November 13, 1992); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8338-39 (October 20, 2000); and Final Rulemaking published at 49 DCR 10594, 10599-10600 (November 22, 2002); and Final Rulemaking published at 51 DCR 3440 (April 2, 2004); and Final Rulemaking published at 51 DCR 6837 (July 9, 2004); and Final Rulemaking published at 52 DCR 63 (January 7, 2005); Final Rulemaking published at 52 DCR 6358 (July 8, 2005); as amended by Final Rulemaking and Order No. 09-21 published at 58 DCR 4788 (June 3, 2011); as amended by Final Rulemaking and Order No. 14-16 published at 62 DCR 5190 (April 24, 2015).

106 ZONING MAP

106.1 The official Zoning Map of the District of Columbia shall be the zoning map that is drawn and maintained on the Geographic Information System, also known as "GIS," located in the Office of Zoning effective on April 13, 2012.

106.2 The official Zoning Map shall be published for public access on the Office of Zoning's website.

106.3 [REPEALED].

106.4 Properties owned by the Government of the United States and used for or intended to be used for a Federal public building or use and properties owned by the Government of the District of Columbia in the Central Area (as set forth in D.C. Official Code § 2-1004(c) (formerly codified at D.C. Code § 1-2004(c) (1999 Repl.)), are not included in any zone district.

- 106.5 Properties of the District of Columbia Government shall be subject to zoning; provided:
- (a) Any governmental land or building uses that were either in existence or were substantially planned, documented and invested in prior to May 23, 1990, shall not be subject to zoning;
 - (b) With regard to the properties referenced in paragraph (a) of this subsection, any change or expansion in the use of land or buildings or any new construction or additions to buildings shall be subject to zoning; and
 - (c) District of Columbia public buildings in the Central Area shall be exempt from zoning but shall continue to require approval of the National Capital Planning Commission, pursuant to § 5(c) of the National Capital Planning Act of 1952, approved July 10, 1952 (66 Stat. 781, 788; D.C. Official Code §§ 2-1004(c) (formerly codified at D.C. Code § 1-2004(c) (1999 Repl.))).
- 106.6 Properties acquired by the government of the United States and properties in the Central Area acquired by the government of the District of Columbia which are intended to be used for public building or use shall become automatically unzoned.
- 106.7 No building permit or certificate of occupancy shall be issued nor proceeding instituted before the Board of Zoning Adjustment, nor shall any property in private ownership be used for any purpose until after the Zoning Commission has designated zoning for the property, except for the water tower and related water utility facilities authorized by § 2523.
- 106.8 Zoning shall be designated after public hearing in the manner prescribed by the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code §§ 6-641.01 to 6-641.15 (formerly codified at D.C. Code §§ 5-413 to 5-432 (1994 Repl. & 1999 Supp.))).
- 106.9 Nothing in this section shall prevent either of the following:
- (a) Minor repairs and alterations to buildings and structures for which no building permit is required under the Construction Code (Title 12 DCMR); or
 - (b) A caretaker from residing on property formerly owned by the Government of the United States, or property in the Central Area formerly owned by the Government of the District of Columbia, for which zoning has not been designated, for the purpose of maintaining and preventing the deterioration of the premises.

- 106.10 The official Zoning Map and all explanatory material on the map shall be incorporated by reference and made a part of this title.
- 106.11 In addition to the official Zoning Map, a printable electronic summary extract of the official Zoning Map shall be prepared quarterly beginning July 1, 2012, published on the Office of Zoning's website, and made available to the public for printing upon request.
- 106.12 The electronic summary extract of the official Zoning Map shall not supersede the official Zoning Map, but shall be prepared for the purpose of guidance only.

SOURCE: §§ 2201 and 2202 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 5 DCR 174 (January 12, 1959); Final Rulemaking published at 19 DCR 1013 (May 29, 1973); Final Rulemaking published at 30 DCR 299-300 (January 21, 1983); Final Rulemaking published at 45 DCR 1045 (February 27, 1998); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8339-40 (October 20, 2000); Final Rulemaking and Order No. 09-10 published at 57 DCR 3487 (April 23, 2010); Final Rulemaking and Order No. 11-20 published at 59 DCR 2915 (April 13, 2012).

107 ZONE DISTRICT BOUNDARY LINES

- 107.1 The zone district boundaries shall be shown on each section of the Zoning Map.
- 107.2 The scale of the Zoning Map and the dimensions entered on the map shall be shown on each section of the map to serve as guides.
- 107.3 Dimensioned district boundaries showing on the Zoning Map are intended to coincide generally with lot lines. Where a dimensional boundary line coincides within one foot (1 ft.) or less with a lot line of a lot of record on May 12, 1958, that boundary line shall be construed to be the lot line at that location.
- 107.4 Whenever a portion of any district is indicated as a strip paralleling an opened or unopened street, the width of this strip, unless delimited by lot lines or otherwise dimensioned, shall be assumed to be one hundred feet (100 ft.) measured at a right angle from the nearest street to which it is parallel and adjacent.
- 107.5 In all other cases, the zone district boundary lines shall be intended to follow existing lot lines, the center lines of streets, alleys (including any closed streets or alleys not previously zoned), and natural water courses.
- 107.6 In the case of tidal water areas, the zone district boundary shall be either the mean high water level or the established pierhead lines, whichever gives the greatest control.
- 107.7 In cases of disagreement or uncertainty existing as to the exact location of a zone district boundary line, the Board of Zoning Adjustment, upon appeal filed in

accordance with §§ 3100.2 and 3112, shall determine the exact location of the boundary.

- 107.8 When a zone district boundary line divides a lot that was in single ownership on May 12, 1958, the permitted use, height, density, or bulk of a structure located on that lot may be determined by § 2514.

SOURCE: §§ 2301 and 2302 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8340 (October 20, 2000).

199 DEFINITIONS

- 199.1 When used in this title, the following terms and phrases shall have the meanings ascribed:

Accessory apartment - a complete apartment unit contained within a one-family detached dwelling. It has kitchen and bath facilities separate from the principal dwelling and may have a separate entrance. (40 DCR 6364)

Accommodation, transient - a structure or building, other than a private club, one-family or two-family dwelling, apartment house, boarding house, rooming house, and tenement house, within which structure or building units are used for transient guests from time to time. The accommodations may include, but not be limited to, bed and breakfast accommodations, guesthouses, guest quarters, hotels, inns, motels, and tourist homes. (36 DCR 7628)

Adult day treatment facility - a building or part of a building used for non-residential programs operated for the purpose of providing medically-supervised day treatment services for adults with a developmental disability or mental disorder, totaling six (6) or more persons who are present for fewer than twenty-four (24) hours per day. An adult day treatment facility includes the following accessory uses: counseling, education, training, health, and social services for the person or persons with legal charge of individuals attending the center, including but not limited to any parent, spouse, sibling, child, or legal guardian of such individuals. This definition does not encompass facilities that offer drug or alcohol abuse rehabilitation services. For the purposes of this definition, the following sub-definitions apply:

Mental disorder - an abnormal mental condition in an individual, who requires a comprehensive and relatively intensive range of mental health services in a therapeutic and structured environment, if he or she is to remain in the community or if he or she is to move from twenty-four (24) hour institutional care to the community.

Developmental disability - a severe, chronic disability of a person that is attributable to a mental or physical impairment, or both, that is manifested

before the person attains the age of twenty-two (22) years and is likely to continue indefinitely. The person causes substantial functional limitations in three (3) or more areas of major life activity:

- (a) Self-care;
- (b) Receptive and expressive language;
- (c) Learning;
- (d) Mobility;
- (e) Self-direction;
- (f) Capacity for independent living; or
- (g) Economic sufficiency.

A developmental disability reflects the person's need for a combination and sequence of special, interdisciplinary or generic care, treatment, or other service, which are life-long or of extended duration, and are individually planned and coordinated. (53 DCR 10085)

Alley - a public way designated as an alley in the records of the Surveyor of the District of Columbia.

Alterations, structural - any change in the permanent, physical members of a building or other structure, such as bearing walls or partitions, columns, joists, rafters, beams, or girders.

Animal boarding - Any premises, other than a veterinary hospital, pet shop, or pet grooming establishment, used as a commercial establishment for the overnight boarding and/or recurring daily care of animals for a fee. Any pet grooming establishment that permits ten or more animals on the premises at a time, or that permits the overnight stay of animals, is considered an animal boarding use. (53 DCR 6363)

Animal shelter - Any premises that houses and feeds stray or abandoned animals without a fee and is operated by a non-profit organization or governmental agency. (54 DCR 8943)

Antenna - a device used to transmit or receive communications signals. This term encompasses transmitting and receiving elements, and rotating or other directional mechanism. (36 DCR 1509 and 55 DCR 34)

Antenna tower - a lattice-type structure, guyed or self-supporting, used to support antennas for broadcasting, transmission, reception, or other utility

equipment. Such structures shall not be deemed ground mounted antennas as that term is used in this chapter. (55 DCR 34)

Antenna, broadcast - an antenna used for television and radio broadcasting. The transmitting antenna may be affixed to a tower or to the top of a building. (36 DCR 1509 and 55 DCR 34)

Antenna, building-mounted - any antenna and its necessary support structure, not including a tower or monopole, that is attached to the walls of, or integrated into a building, church steeple, cooling tower, elevator bulkhead, parapet, penthouse, fire tower, tank, water tower, or other similar structure. (55 DCR 34)

Antenna, dish - a bowl-shaped device for the reception and/or transmission of communication signals in a specific directional pattern. (55 DCR 34)

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. (36 DCR 1509)

Antenna, roof-mounted - any antenna and its necessary support structure, not including an antenna tower or monopole, that is attached to the roof of a building and which does not fall within the definition of a building mounted antenna. (55 DCR 34)

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. (36 DCR 1509)

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. (36 DCR 1509-1510)

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. (36 DCR 1510)

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. (36 DCR 1510)

Apartment - one (1) or more habitable rooms with kitchen and bathroom facilities exclusively for the use of and under the control of the occupants of those rooms.

Apartment, bachelor - one (1) or more habitable rooms with bathroom facilities exclusively for the use of and under the control of the occupants of those rooms in a building containing three (3) or more apartments; provided, that in the building no kitchen facilities or privileges shall be available to or used by the occupants of the bachelor apartment.

Apartment house - any building or part of a building in which there are three (3) or more apartments, or three (3) or more apartments and one (1) or more bachelor apartments, providing accommodation on a monthly or longer basis. (36 DCR 7627-7628)

Art center - a multifunctional arts use which meets all of the following criteria: (a) comprises three (3) or more distinct arts and arts-related uses as specified in § 1908; (b) where at least one of the uses must be an art gallery, art school, artist housing, artist studio, concert hall, dinner theater, legitimate theater, movie theater, or museum; (c) is operated in a unified way under single management; and (d) occupies part or all of a building or a group of buildings within the same square. (39 DCR 8328)

Art gallery - an establishment that derives more than fifty per cent (50%) of its income from the display and sale of objects of art. (35 DCR 465)

Artist housing - an apartment or studio where an artist works and lives. (39 DCR 8328)

Artist studio - a place of work of one or more persons who are engaged actively, and either gainfully or as a vocation in the following:

- (a) The fine arts including, but not limited to, painting, printmaking, or sculpturing;
- (b) The performing and visual arts including, but not limited to, dance, choreography, photography, or filmmaking;
- (c) Ceramics; or
- (d) The composition of music. (35 DCR 465)

Automobile laundry - a structure or portion of a structure, the principal use of which is the washing of automobiles or other motor vehicles with the use of a chain or other conveyor and blower or steam cleaning device.

Ballpark - the building and use authorized by Zoning Commission Order No. 06-22. (54 DCR 8976)

Basement - that - portion of a story partly below grade, the ceiling of which is four feet (4 ft.) or more above the adjacent finished grade.

Boarding house - a building or part thereof that provides for compensation, meals or lodging and meals to three (3) or more guests on a monthly or longer basis. The term "boarding house" shall not be interpreted to include an establishment known or defined in this title as a hotel, motel, inn, bed and breakfast, private club, tourist home, guest house, or other transient accommodation. (35 DCR 7627)

Boathouse - a building or structure designed and used to store and provide water access for non-motorized watercraft, including racing shells, kayaks, canoes, sailboats, rowboats, and similar boats. (51 DCR 3440 and 52 DCR 6358)

Building - a structure having a roof supported by columns or walls for the shelter, support, or enclosure of persons, animals, or chattel. When separated from the ground up or from the lowest floor up, each portion shall be deemed a separate building, except as provided elsewhere in this title. The existence of communication between separate portions of a structure below the main floor shall not be construed as making the structure one (1) building.

Building, accessory - a subordinate building located on the same lot as the main building, the use of which is incidental to the use of the main building.

Building area - the maximum horizontal projected area of a building and its accessory buildings. The term "building area" shall include all side yards and open courts less than five feet (5 ft.) in width, and all closed courts less than six feet (6 ft.) in width. Except for outside balconies, this term shall not include any projections into open spaces authorized elsewhere in this title, nor shall it include portions of a building that do not extend above the level of the main floor of the main building, if placed so as not to obstruct light and ventilation of the main building or of buildings on adjoining property. (Case No. 62-32, May 29, 1962)

Building, height of – in other than Residence Districts (R), the vertical distance measured from the level of the curb, opposite the middle of the front of the building to the highest point of the roof or parapet or a point designated by a specific zone district; in Residence Districts (R) the vertical distance measured at the existing grade at the mid-point of the building façade of the principal building that is closest to a street lot line to a point designated in the zone district. Berms or other forms of artificial landscaping shall not be included in measuring building height.

The term curb shall refer to a curb at grade. In the case of a property fronting a bridge or a viaduct, the height of the building shall be measured from the lower of the natural grade or the finished grade at the middle of the front of the building to the highest point of the roof or parapet or a point designated by a specific zone district.

Unless otherwise restricted or permitted in this title, in those districts in which the height of the building is limited to forty feet (40 ft.), the height of the building may be measured from the finished grade level at the middle of the front of the building to the ceiling of the top story.

In those districts in which the height of the building is limited to sixty feet (60 ft.), in the case of a building located upon a terrace, the height of building may be measured from the top of the terrace to the highest point of the roof or parapet, but the allowance for terrace height shall not exceed five feet (5 ft.).

Except as provided in § 400.20, where a building is removed from all lot lines by a distance equal to its proposed height above grade, the height of building shall be measured from the natural grade at the middle of the front of the building to the highest point of the roof or parapet.

Except as provided in § 400.21, if a building fronts on more than one (1) street, any front may be used to determine the maximum height of the building; but the basis for the height of the building shall be determined by the width of the street selected as the front of the building.

Except as provided in § 400.19, in those districts in which the height of building is permitted to be ninety feet (90 ft.) or greater, the height of buildings shall be measured to the highest point of the roof excluding parapets not exceeding four feet (4 ft.) in height.

Cabaret - a restaurant or nightclub providing as the main focus of its business, programs of live entertainment such as singing, dancing, comedy, literary readings, or performance art. In a cabaret, the clientele generally sit at tables in order to watch the entertainment and are attended by waiters or waitresses who serve food or drink. Typically, there may be more than one show in an evening and a complete turnover in patrons. (39 DCR 8328)

Caregiver – an individual who is responsible for the supervision and administration of a child development home, expanded child development home, or child/elderly development center.

Car-sharing space – a parking space that is designated for the parking of a car-sharing vehicle.

Car-sharing vehicle – any vehicle available to multiple users who are required to join a membership organization in order to reserve and use such a vehicle for which they are charged based on actual use as determined by time and/or mileage.

Caterer, catering establishment - a person or business that prepares and provides food or beverages or both, along with the necessary accessories for serving these products, for ordinary home consumption. The food and beverages

are provided for events that are located off the business establishment's premises. Any establishment that receives more than seventy-five percent (75%) of its sales from orders placed less than three (3) hours prior to delivery or pick-up will not be considered a catering establishment. (40 DCR 3744)

Cellar - that portion of a story, the ceiling of which is less than four feet (4 ft.) above the adjacent finished grade.

Central Area - the area included within the combined boundaries of the Urban Renewal Plan for the Downtown Urban Renewal Area and the Urban Renewal Plan for the Shaw School Urban Renewal Area, as approved and modified periodically by the National Capital Planning Commission and the Council of the District of Columbia. (45 DCR 1046)

Central Employment Area (CEA) - the core area of the District of Columbia where the greatest concentration of employment in the city and region is encouraged. The geographic boundaries of the CEA are detailed in the Comprehensive Plan, 10 DCMR § 199. (45 DCR 1047)

Chancery - The principal offices of a foreign mission used for diplomatic or related purposes, and annexes to such offices (including ancillary offices and support facilities), including the site and any building on such site that is used for such purposes. (30 DCR 3271)

Child/Elderly development center - a building or part of a building, other than a child development home or elderly day care home, used for the non-residential licensed care, education, counseling, or training of individuals under the age of fifteen (15) years of age and/or for the non-residential care of individuals age 65 or older, totaling seven (7) or more persons, who are not related by blood or marriage to the caregiver and who are present for less than twenty-four (24) hours per day. This definition encompasses facilities generally known as child care centers, pre-schools, nursery schools, before-and-after school programs, senior care centers, elder care programs, and similar programs and facilities. A child/elderly development center includes the following accessory uses: counseling; education, training, and health and social services for the person or persons with legal charge of individuals attending the center, including, but not limited to, any parent, spouse, sibling, child, or legal guardian of such individuals. (46 DCMR 8286 and 53 DCR 10085)

Child development home – a dwelling unit used in part for the licensed care, education, or training of no more than six (6) individuals fifteen (15) years of age or less including all individuals age four (4) and younger who reside in the dwelling unit. Those individuals receiving care, education, or training who are not related by blood, marriage, or adoption to the caregiver shall be present for less than twenty-four (24) hours per day. This definition encompasses facilities

generally known as a child care center, day-care center, pre-school, nursery school, before-and-after school programs, and similar programs and facilities.

Clear Height, Floor to Ceiling - a vertical distance measurement within a building story. The upper point of the measurement is the finished ceiling that is unobstructed by any of the following:

- (a) Elements of the building structure, other than columns and walls;
- (b) Components of mechanical, plumbing, or fire suppression systems; or
- (c) Components of electrical systems, except lighting fixtures.

If the ceiling is not finished, the distance shall be measured to the lowest point of any of the structural elements of systems referenced in (a), (b), or (c) above.

For all stories above the ground level and for a ground story for which there is no clear height requirement, the bottom point of the measurement shall be the level of the finished floor. For a ground story subject to minimum clear height requirements, the bottom measuring point for clear height shall be the level of the curb opposite the middle of the building's frontage on the street from which the building draws its clear height requirement.

Clinic - a building or part of a building in which members of the medical or dental professions are associated for the purpose of conducting a joint practice of the professions. Each clinic shall contain a diagnostic center and, in addition, may contain research, educational, minor surgical, or treatment facilities; provided, that all the facilities are limited to the treatment and care of out-patients.

The term "clinic" shall be limited to those buildings in which the joint practice of medical or dental professions is conducted in such a manner that all fees for services rendered are established by and paid to a common business office without direct payment of the fees to individual practitioners, and shall not include a building in which the separate and individual practice of the above professions is conducted.

Club, private - building and facilities or premises used or operated by an organization or association for some common avocational purpose such as, but not limited to, a fraternal, social, educational, or recreational purpose; provided, that the organization or association shall be a non-profit corporation and registered with the U.S. Internal Revenue Service; goods, services, food, and beverages shall be sold on the premises only to members and their guests; and office space and activities shall be limited to that necessary and customarily incidental to maintaining the membership and financial records of the organization. (21 DCR 1465)

Collocation - the use of a single mount, tower, monopole, or site by more than one antenna or telecommunications service provider. (55 DCR 34)

Community house - a group of three (3) one-family dwellings, each on a separate lot, erected simultaneously as a group, with each of the outer dwellings having a side yard.

Community service use - A not-for-profit use established primarily to benefit and serve the population of the community in which it is located.

Community-based residential facility - a residential facility for persons who have a common need for treatment, rehabilitation, assistance, or supervision in their daily living. This definition includes, but is not limited to, facilities covered by the Community Residence Facilities Licensure Act of 1977, effective October 27, 1977 (D.C. Law 2-35; 24 DCR 4056) (repealed by District of Columbia Health Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48, as amended; D.C. Official Code §§ 44-501 to 44-509 (formerly codified at D.C. Code §§ 32-1301 to 32-1309 (1998 Repl. & 1999 Supp.))), and facilities formerly known as convalescent or nursing home, residential halfway house or social service center, philanthropic or eleemosynary institution, and personal care home.

If an establishment is a community-based residential facility as defined in this section, it shall not be deemed to constitute any other use permitted under the authority of these regulations. A community-based residential facility may include separate living quarters for resident supervisors and their families. All community-based residential facilities shall be included in one (1) or more of the following subcategories:

- (a) Adult rehabilitation home - a facility providing residential care for one (1) or more individuals sixteen (16) years of age or older who are charged by the United States Attorney with a felony offense, or any individual twenty-one (21) years of age or older, under pre-trial detention or sentenced court orders;
- (b) Community residence facility - a facility that meets the definition for and is licensed as a community residence facility under the Health Care Facilities and Community Residence Facilities Regulations, 22 DCMR § 3099.1 (1986) (superseded);
- (c) Emergency shelter - a facility providing temporary housing for one (1) or more individuals who are otherwise homeless and who are not in need of a long-term sheltered living arrangement, as that arrangement is defined in the Health Care Facilities and Community Residence Regulations, 22 DCMR § 3099.1 (1986) (superseded);

- (d) Health care facility - a facility that meets the definition for and is licensed as a skilled care facility or intermediate nursing care facility under the Health Care Facilities and Community Residence Regulations, 22 DCMR § 3099.1 (1986) (superseded);
- (e) Substance abusers home - a community residence facility that offers a sheltered living arrangement, as that arrangement is defined in the Health Care Facilities and Community Residence Facilities Regulations of the District of Columbia, 22 DCMR § 3099.1 (1986) (superseded), for one (1) or more individuals diagnosed by a medical doctor as abusers of alcohol, drugs, or other controlled substances;
- (f) Youth rehabilitation home - a facility providing residential care for one (1) or more individuals less than twenty-one (21) years of age who have been detained or committed by a court pursuant to their involvement in the commission of an act designated as an offense under the law of the District of Columbia, or of a state if the act occurred in a state, or under federal law. The facility shall not house persons sixteen (16) years of age or older who are charged by the United States Attorney with a felony offense; or
- (g) Youth residential care home - a facility providing safe, hygienic, sheltered living arrangements for one (1) or more individuals less than eighteen (18) years of age, not related by blood, adoption, or marriage to the operator of the facility, who are ambulatory and able to perform the activities of daily living with minimal assistance. (28 DCR 3483)

Comprehensive Plan - the Comprehensive Plan for the National Capital adopted pursuant to section 4(a) of the National Capitol Planning Act of 1952, approved July 10, 1952 (66 Stat. 774, 781, 785, as amended, §§ 203 and 423 of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 779, 792, D.C. Official Code §§ 1-204.23, 2-1002(a) (formerly codified at D.C. Code §§ 1-244, 1-2002(a) (1999 Repl.))).

Court - an unoccupied space, not a court niche, open to the sky, on the same lot with a building, which is bounded on two (2) or more sides by the exterior walls of the building or by two (2) or more exterior walls, lot lines, or yards. A court may also be bounded by a single curved wall of a building. (28 DCR 4192)

Court, closed - a court surrounded on all sides by the exterior walls of a building, or by exterior walls of a building and side or rear lot lines, or by alley lines where the alley is less than ten feet (10 ft.) in width.

Court, height of - the vertical distance from the lowest level of the court to the highest point of any bounding wall.

Court, length of - the mean horizontal distance between the open and closed end of an open court or the greater horizontal dimension of a closed court.

Court niche - an indentation, recess, or decorative architectural treatment of the exterior wall of a building, not a court, which opens onto a street, yard, alley, or court. (28 DCR 4192)

Court niche, depth of - the greatest distance between the sides of the court niche, measured perpendicular to the line delineating the width of court niche. (28 DCR 4192)

Court niche, width of - the distance between the two (2) points created by the intersection of the sides of the court niche and the sides of the court, yard, street, or alley it abuts. (28 DCR 4192)

Court, open - a court opening onto a street, yard, or an alley not less than ten feet (10 ft.) wide.

Court, width of - the minimum horizontal dimension substantially parallel with the open end of an open court or the lesser horizontal dimension of a closed court; or, in the case of a non-rectangular court, the diameter of the largest circle that may be inscribed in a horizontal plane within the court. (28 DCR 4192)

Dinner Theater - a restaurant with a stage or performing area where the main activity is the serving of dinner and, following dinner, the performance of a play or musical theater. (39 DCR 8328)

District - sections of the District of Columbia delineated on the Zoning Map for which the Zone District governing the use of land and the use, density, bulk, and height of buildings or other structures are the same.

Downtown Urban Renewal Area - the area included within the boundaries of the Urban Renewal Plan for the Downtown Urban Renewal Area, as modified by the National Capital Planning Commission and approved by the Council of the District of Columbia through July 5, 1983. (31 DCR 6585)

Drive-through - a system designed to permit customers of a fast food establishment, bank, dry cleaning or other establishment to obtain goods or services by driving through the property and conducting the transaction while the customer remains within a motor vehicle. The system has two (2) major parts: a vehicular queuing lane or lanes, and one (1) or more service locations where customers place orders or receive services or both. No part of this definition shall be construed to apply to a gasoline service station. (32 DCR 4374 and 54 DCR 9393)

Driver's License Road Test Facility - a building and associated paved area used by the District of Columbia Department of Motor Vehicles in connection with

road tests or other tests of driving ability given to applicants for drivers' licenses or endorsements. (52 DCR 7259)

Dwelling - a building designed or used for human habitation. When used without a qualifying term, it shall mean a one-family dwelling.

Dwelling, multiple - a building containing three (3) or more dwelling units or rooming units, or any combination of these units totaling three (3) or more.

Dwelling, one-family - a dwelling used exclusively as a residence for one (1) family.

Dwelling, one-family detached - a one-family dwelling, completely separated from all other buildings and having two (2) side yards.

Dwelling, one-family semi-detached - a one-family dwelling, the wall on one (1) side of which is either a party wall, or lot line wall, having one (1) side yard.

Dwelling, row - a one-family dwelling having no side yards.

Dwelling, two-family - a dwelling used exclusively as a residence for two (2) families living independently of each other. A two-family dwelling is a flat.

Dwelling unit - one (1) or more habitable rooms forming a single unit that is used for living and sleeping purposes, that may or may not contain cooking facilities. The term dwelling unit shall include a dwelling, apartment, bachelor apartment, or tenement, but shall not include a rooming unit.

Elderly day care home - a dwelling unit used in part for the care, education, recreation, or training of no more than five (5) elderly individuals who are not related by blood or marriage to the caregiver and who are present for less than twenty-four (24) hours per day. This definition encompasses facilities generally known as senior care centers, elder care programs, and similar programs and facilities. (46 DCR 8286)

Electronic Equipment Facility (EEF) - regardless of the name given, a facility or space used primarily for or intended to be used primarily for the housing, operation, and/or co-location of computer equipment that provides: (a) electronic data switching, (b) transmission, and/or (c) telecommunication functions, whether inside or outside the facility. The term Electronic Equipment Facility includes, but is not limited to, Data Center, Server Farm, Co-Location Facility, Telecommunications Switching Center, Tech Hotel, Telco Hotel, and Telecommunications Central Office.

Except, for purposes of this title, the term EEF shall not include facilities occupying less than one thousand, five hundred square feet (1,500 sq. ft.) of

building area that are utilized as remote terminal units or Optical Transmission Nodes as necessary for the operation of cable television systems.

Ancillary uses may include an office for equipment personnel, back-up generators, and fuel storage, but may not include company offices, retail uses, or customer service operations. (48 DCR 9830; 49 DCR 1655)

Embassy - the official residence of an ambassador or other chief of a diplomatic mission, or that portion of a combined chancery/embassy devoted to use as such official residence. (25 DCR 2771)

Enclosed pedestrian space - an area, located within a building, designed for pedestrian use and enclosed on all sides, that may be covered by a roof of a transparent material that exposes the area to natural light. (24 DCR 10786)

Equipment cabinet or shelter - an enclosure housing only equipment related to the operation of an antenna located at the site and connected to the antenna by cable. (55 DCR 34)

Expanded child development home – a dwelling unit used in part for the licensed care, education, or training for more than six (6) individuals, up to a maximum of twelve (12) individuals fifteen (15) years of age or less including all individuals age four (4) and younger who reside in the dwelling unit, provided that no more than six (6) of the individuals may be under two (2) years of age. Those individuals receiving care, education, or training who are not related by blood, marriage, or adoption to the caregiver shall be present for less than twenty-four (24) hours per day. This definition encompasses facilities generally known as a child care center, day-care center, pre-school, nursery school, before-and-after school programs, and similar programs and facilities.

Family - one (1) or more persons related by blood, marriage, or adoption, or not more than six (6) persons who are not so related, including foster children, living together as a single house-keeping unit, using certain rooms and housekeeping facilities in common; provided, that the term family shall include a religious community having not more than fifteen (15) members. (19 DCR 281)

Fast food establishment - a place of business, other than a "prepared food shop," where food is prepared on the premises and sold to customers for consumption and at least one of the following conditions apply:

- (a) The premises include a drive-through;
- (b) Customers pay for the food before it is consumed. One characteristic that would satisfy this element would be building permit plans that depict a service counter without seating unless the applicant certifies that the intended principal use is for a restaurant or grocery and that the counter is

part of a carry out service that is clearly subordinate to that principal use;
or

- (c) Food is served on/in anything other than non-disposable tableware. Characteristics that would satisfy this element include, but are not limited to: the building permit plans do not depict a dishwasher or do depict trash receptacles in public areas.

A proposed or existing establishment meeting this definition shall not be deemed to constitute any other use permitted under the authority of these regulations, except that a restaurant, grocery store, movie theater, or other use providing carryout service that is clearly subordinate to its principal use shall not be deemed a fast-food establishment. (54 DCR 9393)

Firearm - a gun, pistol, or any weapon capable of firing a projectile and using an explosive charge as a propellant.

Firearms retail sales establishment - an establishment engaged in the sale, lease, or purchase of firearms or ammunition. If an establishment is a firearms retail sales establishment as defined here, it shall not be deemed to constitute any other use permitted under the authority of this title.

Fire Department - the Fire and Emergency Medical Services Department of the District of Columbia. (52 DCR 9155)

Fire Department Administrative Facility - a building (including the Fire Department's Headquarters) used to provide administrative support to the Fire Department. (52 DCR 9155)

Fire Department Support Facility - a building and associated land used to provide fleet maintenance, facilities maintenance, communications, or other types on non-administrative support to the Fire Department. (52 DCR 9155)

Fire Department Training Facility - a building and associated land used by the Fire Department to provide classroom and practical training for emergency services and support personnel. (52 DCR 9155)

Fire Station - a building and associated land used by the Fire Department to house personnel and equipment in connection with the provision of fire, rescue, emergency medical, hazardous materials response, and other types of emergency services throughout the District- of Columbia, and includes the harbor facility. (52 DCR 9155)

Flat - a two-family dwelling.

Floating home - a sailboat, motorboat, or other floating structure that is designed and built to be used, or is modified to be used, as a waterborne residential

dwelling, is dependent for utilities upon a utility linkage to a source originating on shore, and in which the tenant or owner sleeps overnight an average of fifteen (15) days per month. (51 DCR 3440 and 52 DCR 6358)

Floor area ratio - a figure that expresses the total gross floor area as a multiple of the area of the lot. This figure is determined by dividing the gross floor area of all buildings on a lot by the area of that lot.

Food delivery service - a restaurant, prepared food shop, or fast food establishment, in which the principal use is production of prepared food for delivery to customers located off the business premises. Seating and tables for customers may or may not be provided for on-premises consumption, but if present are clearly subordinate to the principal use of preparing food for delivery to off-site customers. Any establishment that derives more than seventy-five percent (75%) of its sales from delivery orders will be considered a food delivery service in all cases. This definition does not include catering establishments. (40 DCR 3744 and 54 DCR 9393)

Garage, mechanical parking - a building or other structure without repair or service facilities in which parking is accomplished entirely by means of elevators and in such a manner that there is no human occupancy other than by the elevator operators anywhere except on the main floor.

Garage, parking - a building or other structure, or part of a building or structure, over nine hundred square feet (900 ft.²) in area, used for the parking of motor vehicles without repair or service facilities. The term parking garage may include a parking garage accessory to the principal use, but shall not include a mechanical parking garage.

Garage, private - a building or other structure, or part of a building or structure, not exceeding nine hundred square feet (900 ft.²) in area, used for the parking of one (1) or more motor vehicles and having no repair or service facilities.

Garage, public storage - a building or other structure, or part of a building or structure, in which any repair, greasing, washing, or similar services are incidental to its primary use for the parking of motor vehicles.

Garage, repair - a building or other structure, or part of a building or structure, with facilities for the repair of motor vehicles, including body and fender repair, painting, rebuilding, reconditioning, upholstering, equipping, or other motor vehicle maintenance or repair.

Gasoline service station - an area of land, including any structures on the area, used for the retail sale of motor fuel and lubricants and incidental services such as lubrication and hand-washing of motor vehicles, and the sale, installation, or

minor repair of tires, batteries, or other automobile accessories. The term gasoline service station shall not include an automobile laundry or a repair garage.

Glass, Clear and/or Low-Emissivity - glass with a visible light transmission rating of at least seventy percent (70%) and an outdoor visible light reflectance rating of no greater than seventeen percent (17%). (52 DCR 9713)

Gross floor area - the sum of the gross horizontal areas of the several floors of all buildings on the lot, measured from the exterior faces of exterior walls and from the center line of walls separating two (2) buildings.

The term "gross floor area" shall include basements, elevator shafts, and stairwells at each story; floor space used for mechanical equipment (with structural headroom of six feet, six inches (6 ft., 6 in.), or more); penthouses; attic space (whether or not a floor has actually been laid, providing structural headroom of six feet, six inches (6 ft., 6 in.), or more); interior balconies; and mezzanines.

The term "gross floor area" shall not include cellars and outside balconies that do not exceed a projection of six feet (6 ft.) beyond the exterior walls of the building. (Case 62-32, May 29, 1962)

Ground floor - the floor that is nearest in grade elevation to the adjacent surface of the public right-of-way. (48 DCR 9832)

Group Instruction Center or Studio - An establishment that principally offers group instruction in the performing arts, the martial arts, physical exercise, or yoga.

Habitable room - an undivided enclosed space used for living, sleeping, or kitchen facilities. The term habitable room shall not include attics, cellars, corridors, hallways, laundries, serving or storage pantries, bathrooms, or similar space; neither shall it include mechanically ventilated interior kitchens less than one hundred square feet (100 ft.²) in area, nor kitchens in commercial establishments.

Height Act, The - Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452, as amended; D.C. Official Code §§ 6-601.01 to 6-601.09).

Historic district - an area, place, site, vicinity, or neighborhood designated as such by the Joint Committee on Landmarks of the National Capital for inclusion in the District of Columbia Inventory of Historic Sites. (25 DCR 2772)

Historic landmark - a building, structure, site, place, monument, work of art, or other similar object designated as such by the Joint Committee on Landmarks of

the National Capital for inclusion in the District of Columbia Inventory of Historic Sites. (25 DCR 2772)

Home sales party - a gathering that is held at a dwelling of any kind for the purpose of selling or distributing goods or services. (35 DCR 6916)

Hotel - a building or part of a building in which not less than thirty (30) habitable rooms or suites are reserved primarily for transient guests who rent the rooms or suites on a daily basis and where meals, prepared in a kitchen on the premises by the management or a concessionaire of the management, may be eaten in a dining room accommodating simultaneously not less than thirty (30) persons. The dining room shall be internally accessible from the lobby.

The term "hotel" shall not be interpreted to include an apartment house, rooming house, boarding house, tenement house, or private club. All areas within a hotel shall be included in one (1) of the following categories:

- (a) **Commercial adjuncts** - retail and service establishments customarily incidental and subordinate to hotel use, such as restaurant, dining room, cocktail lounge, coffee shop, dry cleaning, laundry, pressing or tailoring establishment, florist shop, barber shop, beauty parlor, cigar or news stand, and other similar uses;
- (b) **Exhibit space** - floor area within a hotel primarily designed for the display and storage of exhibits for conferences, trade fairs, and similar group events;
- (c) **Function room** - a room within a hotel used primarily to accommodate gatherings of hotel guests and visitors, such as meetings, banquets, and other group events;
- (d) **Guestroom areas** - floor area within a hotel devoted to guestrooms or suites, including individual bathrooms, entrance foyers, corridors, elevators, stairs, floor pantries, and other space directly supportive of guestrooms. The main lobby, front desk, and hotel administrative offices are also included in guestroom areas for purposes of pro-rating floor area between residential and nonresidential uses in applicable zones; and
- (e) **Service areas** - floor area within a hotel devoted to mechanical services and storage supportive of the hotel as a total entity, including boiler room, mechanical platforms, electrical switchboard, workshops and maintenance areas, storage areas, employee facilities (locker rooms, canteen, and engineer's office), and similar uses. (36 DCR 7625)

Impervious surface - an area that impedes the percolation of water into the subsoil and impedes plant growth. Impervious surfaces include the footprints of

principal and accessory buildings, footprints of patios, driveways, other paved areas, tennis courts, and swimming pools, and any path or walkway that is covered by impervious material. (39 DCR 1904)

Impervious surface coverage - the percentage of the land area of a lot that is covered by impervious surfaces, which percentage shall be determined by dividing the gross impervious surface area of a lot by the total area of the lot. (39 DCR 1904)

Inn - a building or part of a building in which habitable rooms or suites are reserved primarily for transient guests who rent the rooms or suites on a daily basis. Guestrooms or suites may include kitchens, but central dining, other than breakfast for guests, is not allowed. The term "inn" may be interpreted to include an establishment known as a bed and breakfast, hostel, or tourist home, but shall not be interpreted to include a hotel, motel, private club, rooming house, boarding house, tenement house, or apartment house. For the purposes of this definition, the limitation on central dining does not prohibit an inn from allowing guests to prepare their meals at centrally located cooking facilities and to eat such meals in a central dining area. (36 DCR 7627 and 53 DCR 2671)

Intermediate materials recycling facility - a fully enclosed structure used for the receipt, separation, storage, conversion, baling, and/or processing of paper, metal, glass, plastics, tires, bulk waste, and other non-biodegradable recyclable materials for the purpose of reutilization of the materials. Such facility shall not include storage or processing of biodegradable materials, construction and demolition debris, white goods, and hazardous substances, as defined by the District of Columbia Environmental Policy Act of 1989, effective October 18, 1989 (D.C. Law 8-36; D.C. Official Code § 8-109.2 (formerly codified at D.C. Code § 6-983 (1995 Repl.))), and the rules and regulations pursuant thereto. The facility shall be limited in operation to baling, briquetting, crushing, compacting, grinding, shredding, and sorting of acceptable materials. (40 DCR 1951)

International organization - A public international organization designated as such pursuant to § 288 of the International Organizations Immunities Act, approved December 29, 1995 (59 Stat. 669; 22 U.S.C. §§ 288 - 288f-3), or a public international organization created pursuant to a treaty or other international agreement as an instrument through or by which two or more foreign governments engage in some aspect of their conduct of international affairs, and an official mission (other than a United States mission) to such a public international organization, including any real property of such an organization or mission and including the personnel of such an organization or mission. (30 DCR 3271)

Legitimate Theater - a building, or a part of a building, that is designed and used for the presentation of live plays and other forms of dramatic performance. The facility typically has a stage or other performing area plus tiers of seats for the

audience, or other arrangements for the audience to sit or stand to view the performance. (39 DCR 8328)

Line, building - a line beyond which property owners have no legal or vested right to extend a building or any part of the building without special permission and approval of the proper authorities; ordinarily a line of demarcation between public and private property, but also applied to building restriction lines, when recorded on the records of the Surveyor of the District of Columbia.

Lines, lot - the lines bounding a lot as defined in this section.

Loading berth - an off-street space provided for cargo vehicles, when loading and unloading.

Lot - the land bounded by definite lines that, when occupied or to be occupied by a building or structure and accessory buildings, includes the open spaces required under this title. A lot may or may not be the land so recorded on the records of the Surveyor of the District of Columbia.

Lot, alley - a lot facing or abutting an alley and at no point facing or abutting a street.

Lot, corner - a lot fronting on two (2) or more streets at their junction, with the streets forming with each other an angle of forty-five degrees (45°) up to and including one hundred thirty-five degrees (135°).

Lot, interior - a lot other than a corner lot or a triangular lot.

Lot of record - a lot recorded on the records of the Surveyor of the District of Columbia.

Lot, parking - a tract of land used for the temporary parking of motor vehicles when the use is not accessory to any other use.

Lot, through - an interior lot having frontage on two (2) or more streets where the streets differ in direction by forty-five degrees (45°) or less.

Lot, triangular - a lot fronting on two (2) streets at their junction, the streets forming with each other an angle of less than forty-five degrees (45°).

Lot, width of - the distance between the side lot lines, measured along the building line; except that, in the case of an irregularly shaped lot, the width of the lot shall be the average distance between the side lot lines. Where the building line is on a skew, the width of the lot shall be the distance between side lot lines perpendicular to the axis of the lot taken where either side lot line intersects the building line.

Main floor - the floor of the story in which the principal entrance of a building is located.

Marina - the use of land, buildings, structures, and the surface of water for the provision of docking and storage facilities for boats. (51 DCR 3440 and 52 DCR 6358)

Mass transit facilities - facilities, such as but not limited to stations, trackage, ventilating and electrical equipment, parking lots or structures and bus or automobile transfer areas, that have been determined by the Council of the District of Columbia to be necessary to the operation of a fixed right-of-way mass transit system and subject to the restrictions and conditions as may be imposed by the Council. Mass transit facilities shall not include commercial, residential, industrial, or other development located in, on, or over facilities approved as part of the basic operating system. (19 DCR 489)

Mechanical amusement machine - a machine or device offered for use by persons of all ages as a game or for entertainment or amusement, and that is activated or operated by the user, an operator, or other person, or by the insertion of a coin, slug, token, plate, disk, or magnetically encoded card, and requiring a degree of dexterity or skill by the persons in the use of the machine or device. The term "mechanical amusement machine" shall include, but not be limited to, a pinball machine, flipper game, electronic video game, mechanical or electronic target game, or other similar machine or device; but shall not include small kiddie rides or juke boxes. (25 DCR 7160)

Mezzanine - a floor space within a story between its floor and the floor or roof next above it and having an area of not more than one-third (1/3) of the area of the floor immediately below. Except in an R-4 Zone District, a mezzanine shall not be considered a story in determining the maximum number of permitted stories. In an R-4 Zone District, a mezzanine shall be considered a story in determining the maximum number of permitted stories within a principal structure but shall not be considered a story in determining the maximum number of permitted stories within an accessory building.

Monopole - a single, self-supporting pole-type structure, supporting a fixture designed to hold one or more antennas. Such structures shall not be deemed ground mounted antennas as that term is used in this chapter. (55 DCR 34)

Motel - a building containing non-connecting habitable rooms, suites, or combinations of both, reserved exclusively for transient guests; with each room or suite having a private bath and at least one (1) private parking space. (21 DCR 1030 and 21 DCR 1423)

Mount - the necessary support structure to which an antenna is attached, not including antenna towers or monopoles. (55 DCR 34)

Natural grade - the undisturbed level formed without human intervention or, where the undisturbed ground level cannot be determined because of an existing building or structure, the undisturbed existing grade. (50 DCR 9387)

Neighborhood Policing Center - a Police Department Local Facility used as a liaison and resource center for a specified area in the District. (51 DCR 4778)

Nonconforming structure - a structure, lawfully existing at the time this title or any amendment to this title became effective, that does not conform to all provisions of this title or such amendment, other than use, parking, loading, and roof structure requirements. Regulatory standards that create nonconformity of structures include, but are not limited to, height of building, lot area, width of lot, floor area ratio, lot occupancy, yard, court, and residential recreation space requirements. (30 DCR 3922)

Nonconforming use - any use of land or of a structure, or of a structure and land in combination, lawfully in existence at the time this title or any amendment to this title became effective, that does not conform to the use provisions for the district in which the use is located. A use lawfully in existence at the time of adoption or amendment of this title that would thereafter require special exception approval from the Board of Zoning Adjustment shall not be deemed a nonconforming use. That nonconforming use shall be considered a conforming use, subject to the further provisions of §§ 3104.2 and 3104.3. (30 DCR 3922)

Open arcade - a continuous area, located along the perimeter of a building, designed for pedestrian uses, and which adjoins a street for its entire length; and, except for structural piers, columns, or arches, is open to the street. (24 DCR 10787)

Optical Transmission Node - an interior or exterior facility that is utilized as remote terminal units for the operation of such things as cable television systems, high-speed internet access and interactive video, not including any broadcast antenna or related towers for the transmission of radio waves. (50 DCR 8818)

Organization, nonprofit - an organization organized and operated exclusively for religious, charitable, literary, scientific, community, or educational purposes, or for the prevention of cruelty to children or animals; provided, that no part of its net income inures to the benefit of any private shareholder or individual.

Parking space - an off-street area accessible and of appropriate dimensions to be used exclusively for the temporary parking of a motor vehicle. (31 DCR 6585)

Parking space, bicycle - a space for the temporary storage of a bicycle in the form of a rack, locker, or storage area of appropriate design and dimension, used exclusively for the storage of a bicycle. (31 DCR 6585)

Penthouse habitable space - enclosed space within a penthouse devoted to any use permitted in the zone, unless otherwise restricted, other than penthouse mechanical space. The term penthouse habitable space shall include communal recreation space and associated facilities such as storage, kitchen space, change rooms, or lavatories.

Penthouse mechanical space - enclosed space within a penthouse devoted to mechanical equipment for the building, elevator over-rides, or stair towers.

Percentage of lot occupancy - a figure that expresses that portion of a lot lying within lot lines and building lines that is occupied or that may be occupied under the provisions of this title as building area; except as provided in the Waterfront Districts wherein lot occupancy shall be calculated in accordance with § 932, and Mixed Use Districts wherein the percentage of lot occupancy may be calculated on a horizontal plane located at the lowest level where residential uses begin. (21 DCR 1030aa, 21 DCR 1423, 51 DCR 3440 and 52 DCR 6358)

Pet grooming establishment - An establishment that, for a fee, trims or cleans domestic pets, such as dogs and cats. A pet grooming establishment is considered an animal boarding use if more than ten animals are on the premises at a time or the overnight stay of animals is permitted. (54 DCR 8943)

Pet shop - A store for the sale of dogs, cats, birds, tropical fish, and/or other domesticated pets, to the extent permitted by D.C. Official Code § 8-1808(h)(1), and related supplies and equipment. (54 DCR 8943)

Planned unit development - a plan for the development of residential, institutional, and commercial developments, industrial parks, urban renewal projects, or a combination of these, on land of a minimum area in one (1) or more districts irrespective of restrictions imposed by the general provisions of the Zoning Regulations, as more specifically set forth in chapter 24 of this title. (15 DCR 170)

Police Department General Facility - a building and associated land used for facilities of the Metropolitan Police Department which operate across the District as a whole, including, but not limited to, the Department's headquarters, vehicle maintenance facilities, laboratories, training units, special operations, tactical units, equestrian units, canine squads, bomb squads, and harbor units. This definition does not include Metropolitan Police Department helicopter and radio transmission facilities. (51 DCR 4778)

Police Department Local Facility - a building and associated land used as 1) a headquarters or substation for one of the local districts of the Metropolitan Police Department or 2) a Metropolitan Police Department facility that operates within a specific area of the District, such as a Regional Command Center or a Neighborhood Policing Center. (51 DCR 4778)

Prepared food - food that is assembled, but not heated by means other than microwave or toaster, on the premises of a prepared food shop. (54 DCR 9393)

Prepared food shop - a place of business that offers seating or carry out service, or both, and which is principally devoted to the sale of prepared food, non-alcoholic beverages, or cold refreshments. This term includes an establishment known as a sandwich shop, coffee shop, or an ice cream parlor. (54 DCR 9393)

Public Library - a facility that falls into one of the following categories:

- (a) Full-Service Neighborhood - A District of Columbia Public Library housed in a permanent structure that may include meeting rooms, staff work rooms, kitchen facilities and book overflow space. It contains space for a variety of activities, such as children's story hour, film showings and book talks, to take place simultaneously;
- (b) Community - A District of Columbia Public Library housed in a portable structure that may include a small staff and minimal space for activities; or
- (c) Kiosk - A District of Columbia Public Library housed in a portable structure with no space for activities. (50 DCR 10822)

Public Recreation and Community Center - An area, place, structure, or other facility under the jurisdiction of a public agency that is used for community recreation activities. A public recreation or community center may provide a range of health and wellness, cultural, and arts and crafts activities, and educational classes and services. The center may include, but not be limited to, auditorium, multi-purpose room, gymnasium, meeting space, open space, playground, playing court, playing field, and swimming pool. The center shall not include examination rooms, treatment rooms, or other facilities for regular use by members of the medical or dental professions, but may include a first aid room. Such centers may have pantry-type kitchens with limited food storage and preparation areas, but shall not have kitchen facilities that are of the size customarily used to serve meals for large numbers of persons on a regular basis. (50 DCR 10137)

Radio frequency radiation (RF radiation) - the propagation of energy through space in the form of waves or particles. (55 DCR 34)

Recreational building or use - any establishment providing facilities for recreation; including but not limited to picnicking, boating, fishing, bicycling, tennis, and activities incidental to the foregoing, but not including golf driving ranges or any mechanical amusement device. (21 DCR 1030)

Regional Command Center - a Police Department Local Facility used for community outreach or administrative control and managerial services for operations, for a specific geographic area that encompasses two or more districts or commands of the Metropolitan Police Department. (51 DCR 4778)

Retaining Wall - a vertical, self-supporting structure constructed of concrete, durable wood, masonry or other material, designed to resist the lateral displacement of soil or other materials. The term shall include concrete walls, crib and bin walls, reinforced or mechanically stabilized earth systems, anchored walls, soil nail walls, multi-tiered systems, boulder walls, or other retaining structures.

Restaurant - a place of business that does not meet the definition of a “fast food establishment” or “prepared food shop,” where food, drinks, or refreshments are prepared and sold to customers primarily for consumption on the premises. Any facilities for carryout shall be clearly subordinate to the principal use providing prepared foods for consumption on the premises. (32 DCR 4374 and 54 DCR 9393)

Rooming house - a building or part thereof that provides sleeping accommodations for three (3) or more persons who are not members of the immediate family of the resident operator or manager, and in which accommodations are not under the exclusive control of the occupants. A rooming house provides accommodations on a monthly or longer basis. The term "rooming house" shall not be interpreted to include an establishment known as, or defined in this title as, a hotel, motel, inn, bed and breakfast, private club, tourist home, guest house, or other transient accommodation. (36 DCR 7627)

Rooming unit - one (1) or more habitable rooms forming a single, habitable unit used or intended to be used for living or sleeping purposes; but not for the preparation or eating of meals. The term rooming unit shall not include a tenement or a bachelor apartment.

School, public - A building or use within a building operated or chartered by the District of Columbia Board of Education or the District of Columbia Public Charter School Board for educational purposes and such other community uses as deemed necessary and desirable. (53 DCR 9580)

The term shall include all educational functions, the building or structure required to house them, and all accessory uses normally incidental to a public school,

including but not restricted to athletic fields, field houses, gymnasiums, parking lots, greenhouses, playgrounds, stadiums, and open space.

The term also shall include a community-centered school campus; provided, that no part of the building or structure shall be used to house the administrative offices or maintenance and repair shop intended or used for the entire school system, or as a technical or vocational school. (15 DCR 29)

Service/delivery loading space - an off-street space provided for motor vehicles that are twenty feet (20 ft.) in length or less, and that are making deliveries and/or providing a maintenance service. This space shall not be considered a parking space or a loading berth. (31 DCR 6585)

Sexually-oriented business establishment - an establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other periodicals, films, materials, and articles, or an establishment that presents as a substantial or significant portion of its activity, live performances, films, or other materials, that are distinguished or characterized by their emphasis on matters depicting, describing, or related to specified sexual activities and specified anatomical areas.

These establishments may include, but are not limited to, bookstores, newsstands, theaters, and amusement enterprises. If an establishment is a sexually-oriented business establishment as defined here, it shall not be deemed to constitute any other use permitted under the authority of this title. (24 DCR 5144)

Specified anatomical areas - parts of the human body as follows:

- (a) Less than completely and opaquely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and
- (b) Human genitals in a discernibly turgid state, even if completely and opaquely covered. (24 DCR 5144)

Specified sexual activities - the following activities:

- (a) Acts of human masturbation, sexual intercourse, sexual stimulation or arousal, sodomy, or bestiality; and
- (b) Fondling or other erotic touching of human genitals, pubic region, buttock, or breast. (24 DCR 5144)

Square - land designated as a square on the records of the Surveyor of the District of Columbia.

Stable, private - an accessory building housing not more than four (4) horses or other equine animals for private use and not for remuneration, hire, or sale. The building may also house not more than four (4) horse-drawn vehicles.

Stable, public - a stable, other than a private stable.

Stealth structure - a free standing structure, or an extension of a building the primary purpose of which is to enclose and screen antennas from view. Such structures may include, but are not limited to flag poles, tree poles, bell towers. Stealth antenna structures may include, but are not limited to, flag poles, light poles, fence supports, steeples, cupolas, artificial trees, and other appropriate architectural elements. (55 DCR 34)

Story - the space between the surface of two (2) successive floors in a building or between the top floor and the ceiling or underside of the roof framing. The number of stories shall be counted at the point from which the height of the building is measured.

For the purpose of determining the maximum number of permitted stories, the term "story" shall not include cellars or penthouses.

Story, top - the uppermost portion of any building or structure that is used for purposes other than penthouses. The term "top story" shall exclude architectural embellishments.

Street - a public highway designated as a street, avenue, or road on the records of the Surveyor of the District of Columbia.

Street frontage - the property line where a lot abuts upon a street. When a lot abuts upon more than one (1) street, the owner shall have the option of selecting which is to be the front for purposes of determining street frontage.

Structure - anything constructed, including a building, the use of which requires permanent location on the ground, or anything attached to something having a permanent location on the ground and including, among other things, radio or television towers, reviewing stands, platforms, flag poles, tanks, bins, gas holders, chimneys, bridges, and retaining walls. The term structure shall not include mechanical equipment, but shall include the supports for mechanical equipment. Any combination of commercial occupancies separated in their entirety, erected, or maintained in a single ownership shall be considered as one (1) structure.

Telecommunications service provider - any entity providing telecommunications services. (55 DCR 34)

Tenement - One (1) or more habitable rooms in an apartment house, under the exclusive control of the occupant of the apartment house.

Tenement house - a building or part of a building containing three (3) or more tenements, or any building or part of a building containing any combination of three (3) or more tenements and apartments.

Through square connection - a continuous improved area through a square for pedestrians providing a connection between two (2) parallel or opposite streets or on a corner lot; provided, that the entrances to the area shall not be less than thirty feet (30 ft.) from the corner. (24 DCR 10787)

Uptown center - a multi-purpose major activity center with strong transit orientations and significant concentration of employment and high density residential as the principal elements, developed in a manner that serves the surrounding lower density community while protecting it from avoidable intrusions. (21 DCR 1465-66)

Use, accessory - a use customarily incidental and subordinate to the principal use, and located on the same lot with the principal use.

Veterinary boarding hospital - A veterinary hospital that boards animals as an independent line of business. (54 DCR 8943)

Veterinary hospital - An establishment used by a licensed veterinarian for the practice of veterinary medicine and not as an animal boarding establishment. (54 DCR 8943)

Wall, lot line - an enclosing wall constructed immediately adjacent to a side lot line, but not a party wall.

Warehouse - any building or premises where goods or chattel are stored.

The term "warehouse" shall not include storage clearly incidental to the conduct of a retail business or other permitted use on the premises.

Wholesale use - the sale of goods to retail or service establishments that in turn will sell them to consumers who will directly use the commodity. (21 DCR 1030)

Yacht Club - land, buildings, structures, and the surface of water for use by an incorporated club, for the purpose of boating, sailing, or yachting and in which the affairs of the organization are actually conducted and carried on by the members thereof. (51 DCR 3440 and 52 DCR 6358)

Yard - an exterior space, other than a court, on the same lot with a building or other structure. A yard required by the provisions of this title shall be open to the sky from the ground up, and shall not be occupied by any building or structure,

except as specifically provided in this title. No building or structure shall occupy in excess of fifty percent (50%) of a yard required by this title.

Yard, rear - a yard between the rear line of a building or other structure and the rear lot line, except as provided elsewhere in this title. The rear yard shall be for the full width of the lot and shall be unoccupied, except as specifically authorized in this title.

Yard, rear, depth of - the mean horizontal distance between the rear line of a building and the rear lot line, except as provided elsewhere in this title.

Yard, side - a yard between any portion of a building or other structure and the adjacent side lot line, extending for the full depth of the building or structure.

Zoning Administrator - the Zoning Administrator of the Department of Consumer and Regulatory Affairs.

199.2 For the purpose of this title, the following definitions shall not be held to modify or affect in any way the legal interpretations of these terms or words where used in other regulations:

- (a) Words in the present tense shall include the future tense;
- (b) Words in the singular number shall include the plural number, and words in the plural number shall include the singular number;
- (c) The word "lot" shall include the words "plot" and "parcel";
- (d) The word "shall" is mandatory and not discretionary;
- (e) The word "person" shall include a corporation as well as an individual;
- (f) The words "occupied" and "used" shall be considered as though followed by the words "or intended, arranged, or designed to be used or occupied, offered for occupancy"; and
- (g) Words not defined in this section shall have the meanings given in Webster's Unabridged Dictionary.

SOURCE Unless otherwise noted, the source of these definitions is §§ 1201 and 1202 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 39 DCR 1900, 1904 (March 20, 1992); Final Rulemaking published at 40 DCR 1951 (March 19, 1993); Final Rulemaking published at 40 DCR 3744 (June 11, 1993); Final Rulemaking published at 40 DCR 6364 (September 3, 1993); Final Rulemaking published at 45 DCR 1045, 1046 (February 27, 1998); Final Rulemaking published at 46 DCR 8284, 8286 (October 15, 1999); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8336 (October 20, 2000); Final Rulemaking published at 48 DCR 9830, 9831-32 (October 26, 2001); and Final Rulemaking

published at 49 DCR 1655 (February 22, 2002); as amended by Final Rulemaking published at 50 DCR 8818 (October 17, 2003); as amended by Final Rulemaking published at 50 DCR 9387 (November 7, 2003); as amended by Final Rulemaking published at 50 DCR 10137 (November 28, 2003); as amended by Final Rulemaking published at 50 DCR 10822 (December 19, 2003); as amended by Final Rulemaking published at 51 DCR 3440 (April 2, 2004); as amended by Final Rulemaking published at 51 DCR 4778 (May 7, 2004); as amended by Final Rulemaking published at 52 DCR 6358 (July 8, 2005); as amended by Final Rulemaking published at 52 DCR 7259 (August 5, 2005); as amended by Final Rulemaking published at 52 DCR 9155 (October 14, 2005); as amended by Final Rulemaking published at 52 DCR 9713 (October 28, 2005); as amended by Final Rulemaking published at 53 DCR 2671 (April 7, 2006); as amended by Final Rulemaking published at 53 DCR 6363 (August 4, 2006); as amended by Final Rulemaking published at 53 DCR 9580 (December 1, 2006); as amended by Final Rulemaking published at 53 DCR 10085 (December 22, 2006); as amended by Final Rulemaking published at 54 DCR 3064 (April 6, 2007); as amended by Final Rulemaking published at 54 DCR 8943 (September 14, 2007); as amended by Final Rulemaking published at 54 DCR 8976 (September 14, 2007); as amended by Final Rulemaking published at 54 DCR 9393 (September 28, 2007); as amended by Final Rulemaking published at 55 DCR 34 (January 4, 2008); Final Rulemaking and Order No. 08-16/08-16A at 56 DCR 3125 (April 24, 2009); Final Rulemaking and Order No. 09-09 published at 56 DCR 8849 (November 13, 2009); as amended by Final Rulemaking and Order No. 09-16 published at 57 DCR 2961 (April 2, 2010); as amended by Final Rulemaking and Order No. 11-22 published at 59 DCR 4236 (May 4, 2012); as amended by Final Rulemaking and Order No. 12-13 published at 59 DCR 15096 (December 28, 2012); as amended by Final Rulemaking and Order No. 12-11 published at 60 DCR 8967 (June 14, 2013); as amended by Final Rulemaking and Order No. 13-06 published at 61 DCR 5981 (June 13, 2014); as amended by Final Rulemaking and Order No. 14-11 published at 62 DCR 8883 (June 26, 2015); as amended by Final Rulemaking and Order No. 14-11 published at 62 DCR 8883 (June 26, 2015); as amended by Final Rulemaking and Order No. 15-17 published at 63 DCR 1632 (February 12, 2016).

TITLE 11 - ZONING

**CHAPTER 2 R-1 RESIDENCE DISTRICT USE
REGULATIONS**

Secs.

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200 R-1 DISTRICTS: GENERAL PROVISIONS

- 200.1 The R-1 District is designed to protect quiet residential areas now developed with one-family detached dwellings and adjoining vacant areas likely to be developed for those purposes.
- 200.2 The provisions of this chapter are intended to stabilize the residential areas and to promote a suitable environment for family life. For that reason, only a few additional and compatible uses shall be permitted.
- 200.3 The R-1 District is subdivided by different area requirements into R-1-A and R-1-B Districts, providing for districts of low and high density, respectively.
- 200.4 Except as provided in chapters 20 through 25 of this title, in any R-1 District, no building or premises shall be used and no building shall be erected or altered that is arranged, intended, or designed to be used except for one (1) or more of the uses listed in this chapter

AUTHORITY: The Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code §§ 6-641.01 to 6-641.15 (formerly codified at D.C. Code §§ 5-413 to 5-432 (1994 Repl. & 1999 Supp.))).

SOURCE: §§ 3101.1 and 3101.2 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8345 (October 20, 2000).

201 USES AS A MATTER OF RIGHT (R-1)

- 201.1 The following uses shall be permitted as a matter of right in R-1 Districts:
 - (a) Car-sharing spaces on an unimproved lot, with no more than two (2) spaces permitted;
 - (b) Chancery existing on September 22, 1978; provided that the following requirements shall be met:

- (1) After February 23, 1990, the continued use of the chancery shall be limited to the government that lawfully occupied the chancery on that date;
 - (2) No additional or accessory structure may be constructed on the lot that is occupied by the chancery;
 - (3) There shall be no expansion of the exterior walls, height, bulk, gross floor area, or any portion of any existing building or structure that is used as a chancery;
 - (4) If an existing building or structure that is used as a chancery is destroyed by fire, collapse, explosion, or act of God, the building or structure may be reconstructed;
 - (5) The reconstruction that is authorized by subparagraph (4) of this paragraph shall not be subject to the requirements of chapter 20 of this title; and
 - (6) The reconstruction that is authorized by subparagraph (4) of this paragraph shall be limited to the chancery site as it existed on February 23, 1990;
- (c) Child development center located in a District of Columbia public school or a public recreation center operated by the D.C. Department of Parks and Recreation; provided, that written permission to use the school or the recreation center shall have been granted by the Chancellor of the District of Columbia Public Schools or the Director of the Department of Parks and Recreation, respectively.
- (d) Church or other place of worship, but not including rescue mission or temporary revival tents;
- (e) Community-Based Residential Facility, as limited by the following
- (1) Youth residential care home, community residence facility, or health care facility for not more than six (6) persons, not including resident supervisors or staff and their families; or for not more than eight (8) persons, including resident supervisors or staff and their families; provided, that the number of persons being cared for shall not exceed six (6); and
 - (2) Emergency shelter for not more than four (4) persons, not including resident supervisors or staff and their families;

- (f) Community-based residential facility for occupancy by persons with disabilities; provided, that the determination of disability facility shall be made according to the reasonable accommodation criteria in 14 DCMR §111, "Procedures for Reasonable Accommodation under the Fair Housing Act." For purposes of this subsection, a "disability" means, with respect to a person, a physical or mental impairment which substantially limits one or more of such person's major life activities, or a record of having, or being regarded as having, such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance.
- (g) Embassy;
- (h) Farm or truck garden;
- (i) Fire Station;
- (j) Mass transit facility;
- (k) One-family detached dwelling;
- (l) Parsonage, vicarage, rectory, or Sunday school building;
- (m) Police Department Local Facility;
- (n) Private garage, as a principal use, designed to house no more than two (2) motor vehicles and not exceeding four hundred fifty square feet (450 ft.²) in area, subject to the special provisions of chapter 23 of this title;
- (o) Private garage on an alley lot so recorded on the records of the Surveyor, District of Columbia, or recorded on the records of the D.C. Office of Tax and Revenue, on or before November 1, 1957, subject to the special provisions of chapter 23 of this title;
- (p) Public Library;
- (q) Public recreation and community center;
- (r) Public school, subject to the provisions of chapter 21 of this title; public schools may collocate with other permitted schools or uses provided all applicable requirements of this title are met. Public schools may share common on-site recreation space including gymnasiums, playgrounds, and fields, and these shared recreational spaces may count toward the minimum lot area provided that the school is adjacent to the shared recreation space; on-site office use must be ancillary and necessary to the operation of the particular school;

- (s) Temporary building for the construction industry that is incidental to erection of buildings or other structures permitted by this section;
- (t) Temporary use of premises by fairs, circuses, or carnivals, upon compliance with the provisions of chapter 13 of Title 19 of the DCMR (Amusements, Parks and Recreation);
- (u) Transportation right-of-way or underground conduit or pipeline;
- (v) Youth residential care home, community residence facility, or health care facility for seven (7) to eight (8) persons, not including resident supervisors or staff and their families; provided, that there shall be no property containing an existing community-based residential facility for seven (7) or more persons either in the same square, or within a radius of one thousand feet (1,000 ft.) from, any portion of the subject property; and
- (w) The following uses are permitted as a matter of right if located in a building owned by the District of Columbia that formerly served as the location of a public school:
 - (1) Administrative offices of District government agencies not part of the criminal justice system, provided:
 - (A) The use shall not extend outside the building unless accessory and incidental to the principal administrative use; and
 - (B) Any storage shall be fully enclosed.
 - (2) Clinic for humans, provided that the use shall not be a substance abuse treatment facility or a community-based residential facility;
 - (3) Community service use or uses, provided:
 - (A) The application for a certificate of occupancy include evidence demonstrating that the established mission of the use will serve the community, neighborhood, or District of Columbia population;
 - (B) There is no outdoor storage of materials; and
 - (C) The use shall not be a community- based residential facility, a part of the criminal justice system, or a substance abuse treatment facility;
 - (4) Child/Elderly development center; and

- (5) Community college, up fifty thousand square feet (50,000 ft.²) of building area, provided:
 - (A) There shall be no external activities after 9:00 PM; and
 - (B) There shall be no use of the college space after midnight.

201.2 Antenna, subject to the standards and procedures which apply to the particular class of antenna or its location pursuant to chapter 27 of this title.

SOURCE: § 3101.3 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 28 DCR 3482, 3485 (August 7, 1981); Final Rulemaking published at 29 DCR 4913 (November 5, 1982); Final Rulemaking published at 30 DCR 3270, 3271 (July 1, 1983); Final Rulemaking published at 36 DCR 1509, 1511 (February 24, 1989); Final Rulemaking published at 37 DCR 1405 (February 23, 1990); Final Rulemaking published at 40 DCR 726 (January 22, 1993); Final Rulemaking published at 46 DCR 3997 (April 30, 1999); Final Rulemaking published at 47 DCR 9741 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8345-46 (October 20, 2000); and Final Rulemaking published at 49 DCR 2742, 2746 (March 22, 2002); Final Rulemaking published at 50 DCR 10137 (November 28, 2003); Final Rulemaking published at 50 DCR 10822 (December 19, 2003); Final Rulemaking published at 51 DCR 4778 (May 7, 2004); Final Rulemaking published at 52 DCR 9155 (October 14, 2005); Final Rulemaking published at 53 DCR 9580 (December 1, 2006); Final Rulemaking published at 55 DCR 34 (January 4, 2008); Final Rulemaking and Order No. 08-18 at 56 DCR 2391 (March 27, 2009); as amended by Final Rulemaking and Order No. 09-16 published at 57 DCR 2961 (April 2, 2010).

202 ACCESSORY USES (R-1)

202.1 The uses set forth in §§ 202.2 through 202.9 shall be permitted as accessory uses in an R-1 District incidental to the uses permitted in this chapter; provided, that the particular requirements for each use are met.

202.2 The use of an office by a physician or dentist shall be permitted, if the following requirements are met:

- (a) The physician or dentist shall reside on the premises;
- (b) No goods, chattel, wares, or merchandise shall be created commercially, exchanged, or sold in the office;
- (c) Exclusive of domestics, not more than two (2) persons who do not reside on the premises may be employed. No person so employed shall be a physician or dentist; and
- (d) Only one (1) sign not over one square foot (1 ft.²) in area and affixed to the dwelling or free-standing shall be used. The sign, if illuminated, shall be white and nonflashing.

- 202.3 For purposes of § 202.2, the term "physician" shall include only a person who practices medicine.
- 202.4 [REPEALED]
- 202.5 The elderly day care home shall be permitted as an accessory use in an R-1 District incidental to the uses permitted in this chapter provided:
- (a) The dwelling unit in which the use is located shall be the principal residence of the caregiver;
 - (b) There is no more than one (1) sign or display, which shall not exceed one hundred forty-four square inches (144 sq. in.) in area;
 - (c) No stock in trade is kept nor any commodity sold upon the premises;
 - (d) No person is employed other than a member of the caregiver's immediate family residing on the premises; and
 - (e) No mechanical equipment is used except such as is permissible for purely domestic or household purposes.
- 202.6 A maximum of two (2) roomers or boarders, who shall room or board in the main building, shall be permitted.
- 202.7 For a one family detached dwelling, in addition to any accessory parking space required by § 2101.1, either of the following is permitted:
- (a) One (1) parking space for the exclusive use of the occupants or their guests; or
 - (b) Up to two (2) car-sharing spaces, neither of which may be a space devoted to required parking.
- 202.8 Except as is provided in this subsection and § 203.6, no sale of products shall be permitted at a dwelling unit. During a twelve-month (12-month) period, one sale in the nature of a yard sale, garage sale, or home sales party may be held at a dwelling unit.
- 202.9 A home occupation shall be permitted, as provided in and subject to § 203.
- 202.10 An accessory apartment may be added within an existing one-family detached dwelling if approved by the Board of Zoning Adjustment as a special exception under § 3104, subject to the following provisions:
- (a) The lot shall have a minimum lot area for the following zone Districts:

- (1) Seven thousand, five hundred square feet (7,500 ft.²) for R-1-A;
 - (2) Five thousand square feet (5,000 ft.²) for R-1-B; and
 - (3) Four thousand square feet (4,000 ft.²) for R-2 and R-3;
- (b) The house shall have at least two thousand square feet (2,000 ft.²) of gross floor area, exclusive of garage space;
 - (c) The accessory apartment unit may not occupy more than twenty-five percent (25%) of the gross floor area of the house;
 - (d) The new apartment may be created only through internal conversion of the house, without any additional lot occupancy or gross floor area; garage space may not be converted;
 - (e) If an additional entrance to the house is created, it shall not be located on a wall of the house that faces a street;
 - (f) Either the principal dwelling or accessory apartment unit must be owner-occupied;
 - (g) The aggregate number of persons that may occupy the house, including the principal dwelling and the accessory apartment combined, shall not exceed six (6);
 - (h) An accessory apartment may not be added where a home occupation is already located on the premises; and
 - (i) The Board may modify or waive not more than two (2) of the requirements specified in paragraphs (a) through (h) of this subsection; provided, that the following occurs:
 - (1) The owner-occupancy requirement of paragraph (f) shall not be waived;
 - (2) Any modification(s) approved shall not conflict with the intent of this section to maintain a single-family residential appearance and character in the R-1, R-2, and R-3 Districts; and
 - (3) Any request to modify more than two (2) of the requirements of this subsection shall be deemed a request for a use variance.

202.11

Other accessory uses customarily incidental to the uses permitted in R-1 Districts under the provisions of this section, including mechanical amusement machines

that are accessory to uses specified in § 210, shall be permitted, subject to the provisions of § 2501.

SOURCE: Final Rulemaking published at 35 DCR 6916 (September 16, 1988); renumbered by Final Rulemaking published at 40 DCR 6364 (September 3, 1993); and as amended by: Final Rulemaking published at 46 DCR 8284, 8286 (October 15, 1999); and Final Rulemaking published at 47 DCR 9741 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8345, 8347 (October 20, 2000); as amended by Final Rulemaking and Order No. 09-16 published at 57 DCR 2961 (April 2, 2010); as amended by Final Rulemaking and Order No. 15-17 published at 63 DCR 1632 (February 12, 2016).

203 HOME OCCUPATION (R-1)

203.1 The purpose of the home occupation provisions shall be to allow home occupations as accessory uses to residential uses; provided, that they are compatible with the residential neighborhood in which they are located. The intent is to protect residential areas from adverse effects of activities associated with home occupations, while permitting residents of the community the opportunity to use the home as a workplace and source of livelihood under specific regulatory conditions.

203.2 For purposes of this section, a home occupation is a business, profession, or other economic activity conducted full-time or part-time in a dwelling unit that serves as the principal residence of the practitioner of the home occupation.

203.3 Home occupations shall meet the following requirements:

- (a) No person shall practice a home occupation without a Home Occupation Permit;
- (b) A Home Occupation Permit may be issued without a public hearing if the requirements of this subsection are met, or may be granted by the Board of Zoning Adjustment pursuant to § 203.10;
- (c) A Home Occupation Permit may be granted only to a designated person or group of persons who reside at a residential address; and
- (d) No Home Occupation Permit may be transferred from one person to another, or from one address to another.

203.4 A practitioner of a home occupation, and any owner of a dwelling unit in which a home occupation is practiced, shall comply with the requirements of §§ 203.5 and 203.6, and with the following conditions and requirements:

- (a) A home occupation shall be clearly secondary to the use of a dwelling unit for residential purposes;

- (b) Except as provided in §§ 203.7(e)(2), (f), and (l) and § 203.8(d), no more than the larger of two hundred fifty square feet (250 sq. ft.) or twenty-five percent (25%) of the floor area of the dwelling, including the basement but excluding any accessory structure, shall be utilized in the home occupation;
- (c) The practitioner shall store all materials or finished products within the floor area that is designated in paragraph (b) of this subsection, or in a basement or accessory structure;
- (d) Except as provided in §§ 203.7(a) and (e)(1), no more than one (1) person who is not a resident of the dwelling unit shall be engaged or employed in the home occupation;
- (e) The dwelling unit owner and the practitioner shall maintain the residential character and appearance of the dwelling unit and lot;
- (f) No interior structural alteration shall be permitted if it would make it difficult to return the premises to use that is exclusively residential;
- (g) Neither the practitioner nor any other person shall conduct or allow any operations outside a structure, nor maintain or allow any storage or other unsightly condition outside a structure;
- (h) Neither the practitioner nor any other person shall use any equipment or process that creates visual or audible electrical interference in television or radio receivers outside the subject home, or that causes fluctuations in line voltage outside the subject home;
- (i) The use shall produce no noxious odors, vibrations, glare, or fumes that are detectable to normal sensory perception outside the subject home;
- (j) The use shall not produce a level of noise that exceeds the level normally associated with the category of dwelling or the immediate neighborhood;
- (k) No more than two (2) vehicles may be used in the practice of the home occupation;
- (l) Except for child development homes and expanded child development homes, vehicular trips to the premises by visitors, customers, and delivery persons shall not exceed eight (8) trips daily on a regular and continuing basis;
- (m) Except for expanded child development homes, the practitioner shall have no more than eight (8) clients or customers on the premises in any one (1) hour period; and

- (n) If more than one (1) home occupation is practiced in a dwelling unit, the cumulative impact of all such home occupations, considered as a whole, shall not exceed any of the standards set forth in paragraphs (a) through (m) of this subsection.

203.5 A sign on a dwelling or building in which a home occupation is practiced shall be permitted, subject to the following conditions:

- (a) A person may display one (1) exterior sign on a dwelling or other building in which a home occupation is practiced;
- (b) The sign shall not exceed one hundred forty-four square inches (144 in.2) in area;
- (c) The sign shall be flush-mounted;
- (d) The sign shall not be illuminated;
- (e) The sign may state only the name of the practitioner and the type of home occupation;
- (f) The practitioner shall not display more than one (1) sign outside a dwelling or building; and
- (g) The practitioner shall not display any sign that does not meet the requirements of paragraphs (b) through (e) of this subsection.

203.6 Sales shall be permitted, subject to the following conditions:

- (a) A practitioner may make sales by telephone;
- (b) A practitioner may perform and be paid for a service, even if the service results in the creation of a product;
- (c) During a twelve-month (12-month) period, as many as five (5) sales in the nature of yard sales, garage sales, or home sales parties may be held at a dwelling; and
- (d) During a twelve-month (12-month) period, a person with a home occupation permit may hold six (6) or more sales in the nature of yard sales, garage sales, or home sale parties at a dwelling, if approved by the Board of Zoning Adjustment pursuant to § 203.10.

203.7 The following uses shall be allowed as home occupations; provided, that the conditions specified in §§ 203.4 through 203.6 are met at the time of the establishment of the home occupation, and maintained on a continuing basis. The uses listed under this subsection shall include similar uses in each category:

- (a) Child development home provided no more than two (2) persons who are not a resident of the dwelling unit shall be engaged or employed in the child development home;
- (b) Computer programming;
- (c) Cosmetologist, hair stylist, or barber;
- (d) Dressmaking, sewing, and tailoring;
- (e) Expanded child development home for between seven (7) and nine (9) individuals fifteen (15) years of age or less; provided:
 - (1) No more than three (3) persons who are not a resident of the dwelling unit shall be engaged or employed;
 - (2) A minimum of thirty-five square feet (35 sq. ft.) of floor area per individual is provided including the basement but excluding any accessory structure shall be utilized for the expanded child development home; and
 - (2) No more than three hundred and twenty square feet (320 sq. ft.) of the floor area of the dwelling including the basement but excluding any accessory structure shall be utilized for the expanded child development home;
- (f) Expanded child development home for ten (10) to twelve (12) individuals fifteen (15) years of age less may be permitted as a special exception by the Board of Zoning Adjustment under § 3104 and subject to the provisions of § 203.10; provided a minimum of thirty-five square feet (35 sq. ft.) of floor area per individual is provided including the basement but excluding any accessory structure;
- (g) Home crafts, such as model-making, rug weaving, and lapidary work;
- (h) Home office of a businessperson, sales person, or manufacturer's representative; provided, that the dwelling is not used as a gathering point for workers who are on the way to another work site;
- (i) Home office of a physician or dentist; provided, that the physician or dentist may not also establish an accessory use pursuant to § 202;
- (j) Home office of a scientist, clergyman, inventor, academician, licensed health care professional other than one provided for in paragraph (k) of this subsection, or other professional person;

- (k) Mail order business;
- (l) Painting, sculpturing, writing, composing, photography, or other fine arts occupations practiced by an individual in a home studio; provided, that no more than sixty percent (60%) of the floor area of the dwelling unit may be devoted to the studio;
- (m) Telephone answering service and sales by telephone;
- (n) Tutoring of not more than five (5) students at any one (1) time; and
- (o) Typing or word processing service.

203.8 An owner of a dwelling may operate a Bed and Breakfast facility, offering rooms and breakfast to guests on a daily basis; provided:

- (a) The use shall not be permitted in a multiple dwelling;
- (b) Breakfast is the only meal served, and is served only to overnight guests;
- (c) The maximum number of sleeping rooms shall be two (2), except:
 - (1) Pursuant to § 203.10(b), the maximum number of sleeping rooms may be increased to four (4); or, in a dwelling that is an historic landmark, or that is located in a historic district and certified by the State Historic Preservation Officer as contributing to the character of that historic district, the number of sleeping rooms may be increased to six (6); and
 - (2) The number of sleeping rooms permitted as a matter of right or by special exception as set forth in this paragraph shall be reduced by one (1) for each person who rooms or boards in the dwelling pursuant to § 202.5;
- (d) The floor area limitations set forth in § 203.4(b) shall not apply to this use;
- (e) In addition to the required parking for the dwelling unit, one (1) parking space shall be provided for each two (2) sleeping rooms devoted to guest use;
- (f) No cooking facilities shall be permitted in any of the rented rooms;
- (g) The dwelling shall be owned and occupied as the principal residence of the operator(s); and

- (h) Except as provided in paragraph (d), the Bed and Breakfast facility shall comply with §§ 203.4 through 203.6.

203.9 Except as explicitly permitted by §§ 203.6 through 203.8, the following uses are prohibited as home occupations:

- (a) Any retail service or other use specified in §§ 701.1, 701.4, 721.2, 721.3, 741.2, 741.3, 751.2(b), and 801.7; and
- (b) Any use prohibited in § 902.1.

203.10 A home occupation that is not permitted or prohibited in this section may be permitted as a special exception by the Board of Zoning Adjustment under § 3104; provided:

- (a) The proposed use and related conditions shall be consistent with the purposes set forth in § 203.1 and shall generally comply with the requirements of §§ 203.4 through 203.8, subject to specific findings and conditions of the Board in each case;
- (b) An applicant for a home occupation that is permitted by §§ 203.6 through 203.8 may request the Board to modify no more than two (2) of the conditions enumerated in §§ 203.4 through 203.8; provided that the general purposes and intent of this section are complied with;
- (c) Except as provided in § 203.7(e)(1), in no case shall more than two (2) persons who are not residents of the subject home be permitted as employees of the home occupation, and those persons shall not be co-practitioners of the profession;
- (d) Any request to modify more than two (2) of the requirements found in §§ 203.4 through 203.8 shall be deemed a request for a variance. However, a person with a demonstrated physical handicap may be permitted special consideration by the Board, and a request for more than two (2) modifications of the Home Occupation requirements shall be considered in this instance as a special exception governed by this subsection; and
- (e) In considering any request for approval under this subsection, the Board may impose conditions relating to operating conditions of the home occupation, parking, screening, or other requirements as it deems necessary to protect adjacent and nearby properties consistent with the general purpose and intent of this section.

203.11 If the Zoning Administrator determines that an application for a Home Occupation Permit appears to meet the conditions of §§ 203.4 through 203.8, but to be inconsistent with the general purpose and intent of this section, the Zoning

Administrator may certify the application to be decided as an appeal by the applicant to the Board of Zoning Adjustment.

203.12 In making the determination pursuant to § 203.11, the Zoning Administrator may consider, but not be limited to, the cumulative impact of one (1) or more home occupations.

SOURCE: Final Rulemaking published at 35 DCR 6916, 6918 (September 16, 1988); as amended by Final Rulemaking published at 47 DCR 9741 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8347-48 (October 20, 2000); 57 DCR 000126 (2010); as amended by Final Rulemaking and Order No. 15-17 published at 63 DCR 1632 (February 12, 2016).

204 ACCESSORY BUILDINGS (R-1)

204.1 The following buildings shall be permitted as accessory buildings in R-1 Districts incidental to the uses permitted in this chapter:

- (a) Private garage, subject to the special provisions of chapter 23 of this title;
- (b) Private stable as accessory use to a dwelling and under conditions specified in § 208; and
- (c) Other buildings or structures customarily incidental to the uses permitted in R-1 Districts under the provisions of this chapter.

SOURCE: § 3101.6 of the Zoning Regulations, effective May 12, 1958; renumbered by Final Rulemaking published at 35 DCR 6916, 6918 (September 16, 1988); and as amended by Final Rulemaking published at 47 DCR 9741 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8348 (October 20, 2000).

205 CHILD/ELDERLY DEVELOPMENT CENTERS AND ADULT DAY TREATMENT FACILITIES (R-1)

205.1 Use as a child/elderly development center or adult day treatment facility shall be permitted as a special exception in an R-1 District if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.

205.2 The center or facility shall be capable of meeting all applicable code and licensing requirements.

205.3 The center or facility shall be located and designed to create no objectionable traffic condition and no unsafe condition for picking up and dropping off persons in attendance.

205.4 The center or facility shall provide sufficient off-street parking spaces to meet the reasonable needs of teachers, other employees, and visitors.

- 205.5 The center or facility, including any outdoor play space provided, shall be located and designed so that there will be no objectionable impacts on adjacent or nearby properties due to noise, activity, visual, or other objectionable conditions.
- 205.6 The Board may require special treatment in the way of design, screening of buildings, planting and parking areas, signs, or other requirements as it deems necessary to protect adjacent and nearby properties.
- 205.7 Any off-site play area shall be located so as not to result in endangerment to the individuals in attendance at center or facility in traveling between the play area and the center or facility itself.
- 205.8 The Board may approve more than one (1) child/elderly development center or adult day treatment facility in a square or within one thousand feet (1,000 ft.) of another child/elderly development center or adult day treatment facility only when the Board finds that the cumulative effect of these facilities will not have an adverse impact on the neighborhood due to traffic, noise, operations, or other similar factors.
- 205.9 Before taking final action on an application for use as a child/elderly development center or adult day treatment facility, the Board shall submit the application to the D.C. Departments of Transportation and Human Services, the D.C. Office on Aging, and the D.C. Office of Planning for review and written reports.
- 205.10 The referral to the D.C. Department of Human Services shall request advice as to whether the proposed center or facility can meet all licensing requirements set forth in the applicable laws of the District of Columbia.

SOURCE: Final Rulemaking published at 29 DCR 4913, 4917 (November 5, 1982); renumbered by Final Rulemaking published at 35 DCR 6916, 6918 (September 16, 1988); as amended by: Final Rulemaking published at 46 DCR 8284, 8286 (October 15, 1999); Final Rulemaking published at 47 DCR 9741 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8349 (October 20, 2000); and Final Rulemaking published at 49 DCR 2750 (March 22, 2002); and Final Rulemaking published at 53 DCR 10085 (December 22, 2006); 57 DCR 000126 (2010).

206 PUBLIC AND PRIVATE SCHOOLS AND STAFF RESIDENCES (R-1)

- 206.1 Use as a public school that does not meet the requirements of chapter 4 of this title or as a private school, but not including a trade school, and residences for teachers and staff of a private school, shall be permitted as a special exception in an R-1 District if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.

206.2 The private school shall be located so that it is not likely to become objectionable to adjoining and nearby property because of noise, traffic, number of students, or otherwise objectionable conditions.

206.3 Ample parking space, but not less than that required in chapter 21 of this title, shall be provided to accommodate the students, teachers, and visitors likely to come to the site by automobile.

SOURCE: § 3101.42 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 29 DCR 4913, 4919 (November 5, 1982); renumbered by Final Rulemaking published at 35 DCR 6916, 6918 (September 16, 1988); as amended by Final Rulemaking published at 47 DCR 9741 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8349 (October 20, 2000); as amended by Final Rulemaking published at 53 DCR 669 (February 3, 2006); and as amended by Final Rulemaking published at 53 DCR 9580 (December 1, 2006); 57 DCR 000126 (2010).

207 UTILITIES (R-1)

207.1 Use as an electric substation with nonrotating equipment, natural gas regulator station, or public utility pumping station shall be permitted as a special exception in an R-1 District if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.

207.2 The uses listed in § 207.1 shall be subject to any requirements for setbacks, screening, or other safeguards that the Board deems necessary for the protection of the neighborhood.

SOURCE: § 3101.43 of the Zoning Regulations, effective May 12, 1958; renumbered by Final Rulemaking published at 35 DCR 6916, 6918 (September 16, 1988); and as amended by Final Rulemaking published at 47 DCR 9741 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8349 (October 20, 2000).

208 PRIVATE STABLES (R-1)

208.1 Use as a private stable shall be permitted as an accessory use in an R-1 District if approved by the Board of Zoning Adjustment as a special exception under § 3104, subject to the provisions of this section.

208.2 A private stable shall be set back fifty feet (50 ft.) from all lot lines.

208.3 A private stable shall be located so as not to affect adversely the light and air of the building to which it is accessory or of adjacent land and buildings.

SOURCE: § 3101.44 of the Zoning Regulations, effective May 12, 1958; renumbered by Final Rulemaking published at 35 DCR 6916, 6918 (September 16, 1988); and as amended by Final Rulemaking published at 47 DCR 9741 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8349 (October 20, 2000).

209 COMMUNITY CENTERS (R-1)

- 209.1 Use as a community center building, park, playground, swimming pool, or athletic field operated by a local community organization or association shall be permitted as a special exception in an R-1 District if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.
- 209.2 A community center shall not be organized for profit, but shall be organized exclusively for the promotion of the social welfare of the neighborhood in which it is proposed to be located.
- 209.3 A community center shall offer no articles of commerce for sale in the center.
- 209.4 A community center shall not likely become objectionable in a Residence District because of noise or traffic.
- 209.5 The use of a community center shall be reasonably necessary or convenient to the neighborhood in which it is proposed to be located.

SOURCE: § 3101.45 of the Zoning Regulations, effective May 12, 1958; renumbered by Final Rulemaking published at 35 DCR 6916, 6918 (September 16, 1988); and as amended by Final Rulemaking published at 47 DCR 9741 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8350 (October 20, 2000).

210 COLLEGES AND UNIVERSITIES (R-1)

- 210.1 Use as a college or university that is an academic institution of higher learning, including a college or university hospital, dormitory, fraternity, or sorority house proposed to be located on the campus of a college or university, shall be permitted as a special exception in an R-1 District if approved by the Zoning Commission under § 3104, subject to the provisions of this section.
- 210.2 Use as a college or university shall be located so that it is not likely to become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable conditions.
- 210.3 In R-1, R-2, R-3, R-4, R-5-A, and R-5-B Districts, the maximum bulk requirements normally applicable in the districts may be increased for specific buildings or structures; provided, that the total bulk of all buildings and structures on the campus shall not exceed the gross floor area prescribed for the R-5-B District. In all other Residence Districts, similar bulk increases may also be permitted; provided, that the total bulk of all buildings and structures on the campus shall not exceed the gross floor area prescribed for the R-5-D District. Because of permissive increases as applicable to normal bulk requirements in the low-density districts regulated by this title, it is the intent of this subsection to prevent unreasonable campus expansion into improved low-density districts.

- 210.4 As a prerequisite to requesting a special exception for each college or university use, the applicant shall have submitted to the Commission for its approval a plan for developing the campus as a whole, showing the location, height, and bulk, where appropriate, of all present and proposed improvements, including but not limited to the following:
- (a) Buildings and parking and loading facilities;
 - (b) Screening, signs, streets, and public utility facilities;
 - (c) Athletic and other recreational facilities; and
 - (d) A description of all activities conducted or to be conducted on the campus, and of the capacity of all present and proposed campus development.
- 210.5 Within a reasonable distance of the college or university campus, and subject to compliance with § 210.2, the Commission may also permit the interim use of land or improved property with any use that the Commission may determine is a proper college or university function.
- 210.6 When a major new building that has been proposed in a campus plan is instead moved off-campus, the previously designated site shall not be designated for, or devoted to, a different major new building unless the Commission has approved an amendment to the campus plan applicable to the site; provided, that for this purpose a major new building is defined as one specifically identified in the campus plan.
- 210.7 In reviewing and deciding a campus plan application or new building construction pursuant to a campus plan, the Commission shall consider, to the extent they are relevant, the policies of the District Elements of the Comprehensive Plan.
- 210.8 As an integral part of the application requesting approval of new building construction pursuant to a campus plan, the college or university shall certify and document that the proposed building or amendment is within the floor area ratio (FAR) limit for the campus as a whole, based upon the computation included in the most recently approved campus plan and the FARs of any other buildings constructed or demolished since the campus plan was approved.
- 210.9 Before taking final action on an application for use as a college or university, the Commission shall submit the application to the D.C. Office of Planning and the D.C. Department of Transportation for review and written reports.

SOURCE: §3101.46 of Zoning Regulations, effective May 12, 1958; renumbered by Final Rulemaking published at 35 DCR 6916, 6918 (September 16, 1988); as amended by Final Rulemaking published at 41 DCR 6623 (September 30, 1994); amended and renumbered by Final Rulemaking published at 45 DCR 1045, 1046 (February 27, 1998); and amended by Final Rulemaking, 47 DCR 9725, 9728-29 (December 8, 2000).

211 [DELETED]

SOURCE: Final Rulemaking published at 36 DCR 1509, 1514 (February 24, 1989); as amended by Final Rulemaking published at 47 DCR 9741 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8350 (October 20, 2000); as delete by Final Rulemaking published at 55 DCR 34 (January 4, 2008).

212 [DELETED]

SOURCE: Final Rulemaking published at 36 DCR 1509, 1514 (February 24, 1989); as amended by Final Rulemaking published at 47 DCR 9741 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8350 (October 20, 2000); as delete by Final Rulemaking published at 55 DCR 34 (January 4, 2008).

213 PARKING LOTS (R-1)

213.1 Use as a parking lot shall be permitted as a special exception in an R-1 District if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.

213.2 A parking lot shall be located in its entirety within two hundred feet (200 ft.) of an existing Commercial or Industrial District.

213.3 A parking lot shall be contiguous to or separated only by an alley from a Commercial or Industrial District.

213.4 All provisions of chapter 23 of this title shall be complied with.

213.5 No dangerous or otherwise objectionable traffic conditions shall result from the establishment of the use, and the present character and future development of the neighborhood will not be affected adversely.

213.6 The parking lot shall be reasonably necessary and convenient to other uses in the vicinity, so that the likely result will be a reduction in overspill parking on neighborhood streets.

213.7 A majority of the parking spaces shall serve residential uses or short-term parking needs of retail, service, and public facility uses in the vicinity.

213.8 Before taking final action on an application for use as a parking lot, the Board shall submit the application to the D.C. Department of Transportation for review and report.

SOURCE: § 3101.48 of the Zoning Regulations, effective May 12, 1958; as renumbered by Final Rulemaking published at 35 DCR 6916, 6918 (September 16, 1988); Final Rulemaking published at 36 DCR 1509, 1517 (February 24, 1989); and as amended by Final Rulemaking published at 47

DCR 9741 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8351 (October 20, 2000).

214 ACCESSORY PARKING SPACES (R-1)

- 214.1 Accessory passenger automobile parking spaces elsewhere than on the same lot or part of a lot on which any principal R-1 use is permitted, except for a one-family dwelling, shall be permitted as a special exception in an R-1 District if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.
- 214.2 Accessory parking spaces shall be in an open area or in an underground garage no portion of which, except for access, shall extend above the level of the adjacent finished grade.
- 214.3 Accessory parking spaces shall be located in their entirety within two hundred feet (200 ft.) of the area to which they are accessory.
- 214.4 Accessory parking spaces shall be contiguous to or separated only by an alley from the use to which they are accessory.
- 214.5 All provisions of chapter 23 of this title regulating parking lots shall be complied with, except that the Board may in an appropriate case under § 2303.3 modify or waive the conditions specified in § 2303.2 where compliance would serve no useful purpose.
- 214.6 It shall be deemed economically impracticable or unsafe to locate accessory parking spaces within the principal building or on the same lot on which the building or use is permitted because of the following:
- (a) Strip zoning or shallow zoning depth;
 - (b) Restricted size of lot caused by adverse adjoining ownership or substantial improvements adjoining or on the lot;
 - (c) Unusual topography grades, shape, size, or dimensions of the lot;
 - (d) The lack of an alley or the lack of appropriate ingress or egress through existing or proposed alleys or streets; or
 - (e) Traffic hazards caused by unusual street grades or other conditions.
- 214.7 Accessory parking spaces shall be so located, and facilities in relation to the parking lot shall be so designed, that they are not likely to become objectionable to adjoining or nearby property because of noise, traffic, or other objectionable conditions.

- 214.8 Before taking final action on an application for use as an accessory parking space, the Board shall submit the application to the D.C. Department of Transportation for review and report.

SOURCE: Final Rulemaking published at 5 DCR 290 (May 18, 1959); renumbered by Final Rulemaking published at 35 DCR 6916, 6918 (September 16, 1988); Final Rulemaking published at 36 DCR 1509, 1517 (February 24, 1989); as amended by: Final Rulemaking published at 47 DCR 9741 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8351 (October 20, 2000); and Final Rulemaking published at 49 DCR 2742, 2746 (March 22, 2002).

215 CLERICAL AND RELIGIOUS GROUP RESIDENCES (R-1)

- 215.1 Use as residences for clerical groups and religious denominations in excess of fifteen (15) persons shall be permitted as a special exception in an R-1 District if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.

- 215.2 Use as residences for clerical groups and religious denominations shall not adversely affect the use of neighboring property.

- 215.3 The amount and arrangement of parking spaces shall be adequate.

SOURCE: § 3101.410 of the Zoning Regulations, effective May 12, 1958; renumbered by Final Rulemaking published at 35 DCR 6916, 6918 (September 16, 1988); Final Rulemaking published at 36 DCR 1509, 1517 (February 24, 1989); and as amended by Final Rulemaking published at 47 DCR 9741 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8351 (October 20, 2000).

216 CHURCH PROGRAMS (R-1)

- 216.1 Use for a program conducted by a church congregation or group of churches shall be permitted as a special exception in an R-1 District if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.

- 216.2 The church program shall not be organized for profit, but shall be organized exclusively for the promotion of the social welfare of the community.

- 216.3 The part of the church program conducted on the property shall be carried on within the existing church building(s) or structure(s).

- 216.4 The staff conducting the program shall be composed of persons, at least seventy-five percent (75%) of whom volunteer their time and services.

- 216.5 The operation of the program shall be such that it is not likely to become objectionable in the Residence District because of noise and traffic.

216.6 No signs or display indicating the location of the church program shall be located on the outside of the building or the grounds.

216.7 Any authorization by the Board shall be limited to a period of three (3) years, but may be renewed at the discretion of the Board.

SOURCE: § 3101.411 of the Zoning Regulations, effective May 12, 1958; renumbered by Final Rulemaking published at 35 DCR 6916, 6918 (September 16, 1988); Final Rulemaking published at 36 DCR 1509, 1517 (February 24, 1989); and as amended by Final Rulemaking published at 47 DCR 9741 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8351 (October 20, 2000).

217 NON-PROFIT ORGANIZATIONS (R-1)

217.1 The use of existing residential buildings and the land on which they are located by a nonprofit organization for the purposes of the nonprofit organization shall be permitted as a special exception in an R-1 District in the following instances if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section:

(a) If the building is listed in the District of Columbia's Inventory of Historic Sites contained in the comprehensive statewide historic preservation survey and plan prepared pursuant to § 101(a) of the National Historic Preservation Act, approved October 15, 1966 (80 Stat. 915, as amended; 16 U.S.C. § 470a), or, if the building is located within a district, site, area, or place listed on the District of Columbia's Inventory of Historic Sites; and

(b) If the gross floor area of the building in question, not including other buildings on the lot, is ten thousand square feet (10,000 ft.²) or greater;

217.2 Use of existing residential buildings and land by a nonprofit organization shall not adversely affect the use of the neighboring properties.

217.3 The amount and arrangement of parking spaces shall be adequate and located to minimize traffic impact on the adjacent neighborhood.

217.4 No goods, chattel, wares, or merchandise shall be commercially created, exchanged, or sold in the residential buildings or on the land by a nonprofit organization, except for the sale of publications, materials, or other items related to the purposes of the nonprofit organization.

217.5 Any additions to the building or any major modifications to the exterior of the building or to the site shall require the prior approval of the Board. The Board shall refer any proposed additions or modifications to the State Historic Preservation Officer, who, acting with the advice of the D.C. Professional Review Committee for nominations to the National Register of Historic Places, shall

provide the Board with a report to determine possible detrimental consequences that the proposed addition or modification may have on the architectural or historical significance of the building or site or district in which the building is located.

SOURCE: § 3101.414 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 20 DCR 583 (January 28, 1974); as renumbered by Final Rulemaking published at 35 DCR 6916, 6918 (September 16, 1988); Final Rulemaking published at 36 DCR 1509, 1517 (February 24, 1989); and as amended by Final Rulemaking published at 47 DCR 9741 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8352 (October 20, 2000).

218 YOUTH RESIDENTIAL CARE HOMES AND COMMUNITY RESIDENCE FACILITIES (R-1)

- 218.1 Use as a youth residential care home or community residence facility for nine (9) to fifteen (15) persons, not including resident supervisors or staff and their families, shall be permitted as a special exception in an R-1 District if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.
- 218.2 There shall be no other property containing a community-based residential facility for seven (7) or more persons either in the same square as, or within a radius of one thousand feet (1,000 ft.) from, any portion of the subject property.
- 218.3 There shall be adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility.
- 218.4 The proposed facility shall meet all applicable code and licensing requirements.
- 218.5 The facility shall not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area.
- 218.6 The Board may approve more than one (1) community-based residential facility in a square or within one thousand feet (1,000 ft.) only when the Board finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations.
- 218.7 In the case of a community residence facility, the Board may approve a facility for more than fifteen (15) persons, not including resident supervisors or staff and their families, only if the Board finds that the program goals and objectives of the District of Columbia cannot be achieved by a facility of a smaller size at the subject location, and if there is no other reasonable alternative to meet the program needs of that area of the District.
- 218.8 The Board shall submit the application to the D.C. Office of Planning for coordination, review, report, and impact assessment, along with reports in writing

of all relevant District departments and agencies, including but not limited to the Departments of Transportation, Human Services, and Corrections and, if a historic district or historic landmark is involved, the State Historic Preservation Officer.

SOURCE: § 3101.413 of the Zoning Regulations, effective May 12, 1958; as added by Final Rulemaking published at 28 DCR 3482, 3486 (August 7, 1981); renumbered by Final Rulemaking published at 35 DCR 6916, 6918 (September 16, 1988); Final Rulemaking published at 36 DCR 1509, 1517 (February 24, 1989); as amended by: Final Rulemaking published at 40 DCR 726 (January 22, 1993); and as amended by Final Rulemaking published at 47 DCR 9741 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8352 (October 20, 2000).

219 HEALTH CARE FACILITIES (R-1)

- 219.1 Use as a health care facility for nine (9) to three hundred (300) persons, not including resident supervisors or staff and their families, shall be permitted as a special exception in an R-1 District if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.
- 219.2 There shall be no other property containing a community-based residential facility for seven (7) or more persons either in the same square or within a radius of one thousand feet (1,000 ft.) from any portion of the property.
- 219.3 There shall be adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility.
- 219.4 The proposed facility shall meet all applicable code and licensing requirements.
- 219.5 The facility shall not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area.
- 219.6 The Board may approve more than one (1) community-based residential facility in a square or within one thousand feet (1,000 ft.) only when the Board finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations.
- 219.7 The Board may approve a facility for more than three hundred (300) persons, not including resident supervisors or staff and their families, only if the Board finds that the program goals and objectives of the District of Columbia cannot be achieved by a facility of a smaller size at the subject location, and if there is no other reasonable alternative to meet the program needs of that area or the District.
- 219.8 The Board shall submit the application to the D.C. Office of Planning for coordination, review, report, and impact assessment, along with reports in writing of all relevant District departments and agencies, including but not limited to the Departments of Transportation, Human Services, and Corrections and, if a

historic district or historic landmark is involved, the State Historic Preservation Officer.

SOURCE: § 3101.414 of the Zoning Regulations, effective May 12, 1958; as added by Final Rulemaking published at 28 DCR 3482, 3487 (August 7, 1981); renumbered by: Final Rulemaking published at 35 DCR 6916, 6918 (September 16, 1988); Final Rulemaking published at 36 DCR 1509, 1517 (February 24, 1989); as amended by: Final Rulemaking published at 40 DCR 726 (January 22, 1993); Final Rulemaking published at 47 DCR 9741 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8352 (October 20, 2000).

220 EMERGENCY SHELTERS (R-1)

- 220.1 Use as an emergency shelter for five (5) to fifteen (15) persons, not including resident supervisors or staff and their families, shall be permitted as a special exception in an R-1 District if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.
- 220.2 There shall be no other property containing a community-based residential facility for seven (7) or more persons either in the same square or within a radius of one thousand feet (1,000 ft.) from any portion of the property.
- 220.3 There shall be adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility
- 220.4 The proposed facility shall meet all applicable code and licensing requirements.
- 220.5 The facility shall not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area.
- 220.6 The Board may approve more than one (1) community-based residential facility in a square or within one thousand feet (1,000 ft.) only when the Board finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations.
- 220.7 The Board may approve a facility for more than fifteen (15) persons, not including resident supervisors or staff and their families, only if the Board finds that the program goals and objectives of the District of Columbia cannot be achieved by a facility of a smaller size at the subject location and if there is no other reasonable alternative to meet the program needs of that area of the District.
- 220.8 The Board shall submit the application to the D.C. Office of Planning for coordination, review, report, and impact assessment, along with reports in writing of all relevant District departments and agencies, including but not limited to the Departments of Transportation, Human Services, and Corrections and, if a historic district or historic landmark is involved, the State Historic Preservation Officer.

SOURCE: § 3101.415 of the Zoning Regulations effective May 12, 1958; as added by Final Rulemaking published at 28 DCR 3482, 3488 (August 7, 1981); renumbered by: Final Rulemaking published at 35 DCR 6916, 6918 (September 16, 1988); Final Rulemaking published at 36 DCR 1509, 1517 (February 24, 1989); as amended by: Final Rulemaking published at 40 DCR 726 (January 22, 1993); Final Rulemaking published at 47 DCR 9741 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8353 (October 20, 2000).

221 REHABILITATION AND SUBSTANCE ABUSERS' HOMES (R-1)

- 221.1 Use as a youth rehabilitation home, adult rehabilitation home, or substance abusers' home for one (1) to eight (8) persons, not including resident supervisors or staff and their families, shall be permitted as a special exception in an R-1 District if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.
- 221.2 There shall be no other property containing a community-based residential facility for seven (7) or more persons either in the same square or within a radius of one thousand feet (1,000 ft.) from any portion of the subject property.
- 221.3 There shall be adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility.
- 221.4 The proposed facility shall meet all applicable code and licensing requirements.
- 221.5 The facility shall not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area.
- 221.6 The Board may approve more than one (1) community-based residential facility in a square or within one thousand feet (1,000 ft.) only when the Board finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations.
- 221.7 The Board shall not approve more than one (1) youth rehabilitation home, adult rehabilitation home, or substance abusers' home in a square or within one thousand feet (1,000 ft.) of each other.
- 221.8 The Board shall submit the application to the D.C. Office of Planning for coordination, review, report, and impact assessment, along with reports in writing of all relevant District departments and agencies, including but not limited to the Departments of Transportation, Human Services, and Corrections and, if a historic district or historic landmark is involved, to the State Historic Preservation Officer.

SOURCE: § 3101.416 of the Zoning Regulations, effective May 12, 1958; as added by Final Rulemaking published at 28 DCR 3482, 3489 (August 7, 1981); renumbered by: Final

Rulemaking published at 35 DCR 6916, 6918 (September 16, 1988); Final Rulemaking published at 36 DCR 1509, 1517 (February 24, 1989); as amended by Final Rulemaking published at 40 DCR 726 (January 22, 1993); Final Rulemaking published at 47 DCR 9741 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8353 (October 20, 2000).

222 USE AND EXPANSION OF FORMER PUBLIC SCHOOL BUILDINGS (R-1)

222.1 The following uses, if located in a building owned by the District of Columbia that formerly served as the location of a public school (“former school building”), shall be permitted as a special exception in the R-1 District if approved by the Board of Zoning Adjustment under §3104:

- (a) A District government use disallowed or not listed in § 201.1(w);
- (b) A use permitted by § 201.1(w) that does not meet one or more conditions or provisions that apply to it; and
- (c) A not-for-profit use that is not permitted as a matter-of-right pursuant to §201.1(w)(3).

222.2 No former school building housing a use permitted by § 201.1(w) or by this section may be expanded without the approval of the Board of Zoning Adjustment under § 3104.1.

222.3 In addition to any other conditions of approval, the Board of Zoning Adjustment may impose setbacks, screening, lighting requirements, or other safeguards that the Board deems necessary for the protection of the neighborhood.

SOURCE: Final Rulemaking and Order No. 08-18 published at 56 DCR 2391 (March 27, 2009); as amended by Final Rulemaking and Order No. 09-16 published at 57 DCR 2961 (April 2, 2010); 57 DCR 000126 (2010).

223 ZONING RELIEF FOR ADDITIONS TO ONE-FAMILY DWELLINGS OR FLATS (R-1) AND FOR NEW OR ENLARGED ACCESSORY STRUCTURES

223.1 An addition to a one-family dwelling or flat, in those Residence Districts where a flat is permitted, or a new or enlarged accessory structure on the same lot as a one-family dwelling or flat, shall be permitted even though the addition or accessory structure does not comply with all of the applicable area requirements of §§ 401, 403, 404, 405, 406, and 2001.3 shall be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.

- 223.2 The addition or accessory structure shall not have a substantially adverse affect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:
- (a) The light and air available to neighboring properties shall not be unduly affected;
 - (b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;
 - (c) The addition or accessory structure, together with the original building, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale and pattern of houses along the subject street frontage; and
 - (d) In demonstrating compliance with paragraphs (a), (b) and (c) of this subsection, the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed addition or accessory structure to adjacent buildings and views from public ways.
- 223.3 The lot occupancy of all new and existing structures on the lot shall not exceed fifty percent (50%) in the R-1 and R-2 Districts or seventy percent (70%) in the R-3, R-4, and R-5 Districts.
- 223.4 The Board may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent and nearby properties.
- 223.5 This section may not be used to permit the introduction or expansion of a nonconforming use as a special exception.

SOURCE: Final Rulemaking published at 45 DCR 1146, 1447 (March 13, 1998); as amended by Final Rulemaking published at 48 DCR 8979, 8983 (September 28, 2001); and as amended by Final Rulemaking published at 54 DCR 9564 (October 5, 2007); 57 DCR 000126 (2010).

224 EXPANSION OF POLICE DEPARTMENT GENERAL FACILITIES (R-1)

- 224.1 The expansion of a Police Department General Facility in existence as of May 23,1990, shall be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.
- 224.2 The expansion shall be within the height, area, and bulk requirements of the underlying zone.

224.3

The expansion shall not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area, and the expansion of a vehicle maintenance facility shall also not have an adverse impact on the neighborhood because of fumes.

SOURCE: Final Rulemaking published at 51 DCR 4778 (May 7, 2004); 57 DCR 000126 (2010).

TITLE 11 - ZONING

**CHAPTER 3 R - 2, R - 3, R - 4, AND R - 5 RESIDENCE
DISTRICT USE REGULATIONS**

Secs.

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300 R-2 DISTRICTS: GENERAL PROVISIONS

- 300.1 The R-2 District consists of those areas that have been developed with one-family, semi-detached dwellings, and is designed to protect them from invasion by denser types of residential development. It shall be expected that these areas will continue to contain some small one-family detached dwellings.
- 300.2 Except as provided in chapters 21 through 25 of this title, in an R-2 District, no building or premises shall be used and no building shall be erected or altered that is arranged, intended, or designed to be used except for one (1) or more of the uses listed in §§ 301 through 319.
- 300.3 The following uses shall be permitted as a matter of right in R-2 Districts:
 - (a) Any use permitted in R-1 Districts under § 201;
 - (b) Community house existing on May 12, 1958;
 - (c) One-family, semi-detached dwelling; and

- (d) Youth residential care home, community residence facility, or health care facility for seven (7) to eight (8) persons, not including resident supervisors or staff and their families; provided, that there is no property containing an existing community-based residential facility for seven (7) or more persons either in the same square or within a radius of five hundred feet (500 ft.) from any portion of the property.

AUTHORITY: Unless otherwise noted, the authority for this chapter is the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code §§ 6-641.01 to 6-641.15 (formerly codified at D.C. Code §§ 5-413 to 5-432 (1994 Repl. and 1999 Supp.))).

SOURCE: § 3101 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 28 DCR 3482, 3490 (August 7, 1931); Final Rulemaking published at 40 DCR 726 (January 22, 1993); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8355-56 (October 20, 2000).

301 ACCESSORY USES AND BUILDINGS (R-2)

301.1 The following accessory uses or accessory buildings incidental to the uses permitted for R-2 Districts in §§ 300 through 319 shall be permitted in R-2 Districts:

- (a) Any accessory use permitted in R-1 Districts under § 202 not regulated in this subsection;
- (b) Car-sharing spaces; provided that any car-sharing space beyond the first two (2) spaces shall be located within or under a principal structure and may not be a required parking space for any use on site; and
- (c) Other accessory uses, buildings, or structures customarily incidental to the uses permitted in R-2 Districts under this chapter.

SOURCE: § 3102.5 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8336 (October 20, 2000); as amended by Final Rulemaking and Order No. 09-16 published at 57 DCR 2961 (April 2, 2010).

302 SPECIAL EXCEPTIONS: GENERAL (R-2)

302.1 Any use or structure permitted in R-1 Districts under §§ 205 through 209, 211 through 221, and 223 shall be permitted as a special exception in an R-2 District if approved by the Board of Zoning Adjustment under § 3104.

302.2 A college or university use permitted in R-1 Districts under § 210 shall be permitted as a special exception in an R-2 District if approved by the Zoning Commission under § 3104.

SOURCE: § 3102.4 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9725, 9729-9730 (December 8, 2000).

303 YOUTH RESIDENTIAL CARE HOMES AND COMMUNITY RESIDENCE FACILITIES (R-2)

- 303.1 Youth residential care homes or community residence facilities for nine (9) to fifteen (15) persons, not including resident supervisors or staff and their families, shall be permitted as special exceptions in an R-2 District if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.
- 303.2 There shall be no other property containing a community-based residential facility for seven (7) or more persons in the same square.
- 303.3 There shall be no other property containing a community-based residential facility for seven (7) or more persons within a radius of five hundred feet (500 ft.) from any portion of the subject property.
- 303.4 There shall be adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility.
- 303.5 The proposed facility shall meet all applicable code and licensing requirements.
- 303.6 The facility shall not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area.
- 303.7 The Board may approve more than one (1) community-based residential facility in a square or within five hundred feet (500 ft.) only when the Board finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations.
- 303.8 In the case of a community residence facility, the Board may approve a facility for more than fifteen (15) persons, not including resident supervisors or staff and their families, only if the Board finds that the program goals and objectives of the District of Columbia cannot be achieved by a facility of a smaller size at the subject location and there is no other reasonable alternative to meet the program needs of that area of the District.
- 303.9 The Board shall submit the application to the D.C. Office of Planning for coordination, review, report, and impact assessment, along with reports in writing of all relevant District departments and agencies, including but not limited to the Departments of Transportation, Human Services, and Corrections and, if a historic district or historic landmark is involved, the State Historic Preservation Officer.

SOURCE: § 3102.42 of the Zoning Regulations, effective May 12, 1958; as added by: Final Rulemaking published at 28 DCR 3482, 3490 (August 7, 1981); Final Rulemaking published at 40 DCR 726 (January 22, 1993) ; and as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8356-57 (October 20, 2000).

304 HEALTH CARE FACILITIES (R-2)

- 304.1 Health care facilities for nine (9) to three hundred (300) persons, not including resident supervisors or staff and their families, shall be permitted as special exceptions in an R-2 District if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.
- 304.2 There shall be no other property containing a community-based residential facility for seven (7) or more persons in the same square.
- 304.3 There shall be no other property containing a community-based residential facility for seven (7) or more persons within a radius of five hundred feet (500 ft.) from any portion of the property.
- 304.4 There shall be adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility.
- 304.5 The proposed facility shall meet all applicable code and licensing requirements.
- 304.6 The facility shall not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area.
- 304.7 The Board may approve more than one (1) community-based residential facility in a square or within five hundred feet (500 ft.) only when the Board finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations.
- 304.8 The Board may approve a facility for more than three hundred (300) persons, not including resident supervisors or staff and their families, only if the Board finds that the program goals and objectives of the District of Columbia cannot be achieved by a facility of a smaller size at the subject location and there is no other reasonable alternative to meet the program needs of that area of the District.
- 304.9 The Board shall submit the application to the D.C. Office of Planning for coordination, review, report, and impact assessment along with reports in writing of all relevant District of Columbia departments and agencies, including but not limited to the Departments of Transportation, Human Services, and Corrections and, if a historic district or historic landmark is involved, the State Historic Preservation Officer.

SOURCE: § 3102.43 of the Zoning Regulations, effective May 12, 1958; as added by Final Rulemaking published at 28 DCR 3482, 3491 (August 7, 1981); Final Rulemaking published at 40 DCR 726 (January 22, 1993); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8357 (October 20, 2000).

305 EMERGENCY SHELTERS (R-2)

- 305.1 Emergency shelters for five (5) to fifteen (15) persons, not including resident supervisors or staff and their families, shall be permitted as special exceptions in an R-2 District if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.
- 305.2 There shall be no other property containing a community-based residential facility for seven (7) or more persons in the same square.
- 305.3 There shall be no other property containing a community-based residential facility for seven (7) or more persons within a radius of five hundred feet (500 ft.) from any portion of the property.
- 305.4 There shall be adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility.
- 305.5 The proposed facility shall meet all applicable code and licensing requirements.
- 305.6 The facility shall not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area.
- 305.7 The Board may approve more than one (1) community-based residential facility in a square or within five hundred feet (500 ft.) only when the Board finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations.
- 305.8 The Board may approve a facility for more than fifteen (15) persons, not including resident supervisors or staff and their families, only if the Board finds that the program goals and objectives of the District of Columbia cannot be achieved by a facility of a smaller size at the subject location and there is no other reasonable alternative to meet the program needs of that area of the District.
- 305.9 The Board shall submit the application to the D.C. Office of Planning for coordination, review, report, and impact assessment, along with reports in writing of all relevant District departments and agencies, including but not limited to the Departments of Transportation, Human Services, and Corrections and, if a historic district or historic landmark is involved, the State Historic Preservation Officer.

SOURCE: § 3102.44 of the Zoning Regulations, effective May 12, 1958; as added by Final Rulemaking published at 28 DCR 3482, 3492 (August 7, 1981); Final Rulemaking published at 40

DCR 726 (January 22, 1993); and as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8357-58 (October 20, 2000).

306 REHABILITATION AND SUBSTANCE ABUSERS' HOMES (R-2)

- 306.1 Youth rehabilitation homes, adult rehabilitation homes, or substance abusers' homes for one (1) to eight (8) persons, not including resident supervisors or staff and their families, shall be permitted as special exceptions in an R-2 District if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.
- 306.2 There shall be no other property containing a community-based residential facility for seven (7) or more persons in the same square.
- 306.3 There shall be no other property containing a community-based residential facility for seven (7) or more persons within a radius of five hundred feet (500 ft.) from any portion of the subject property.
- 306.4 There shall be adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility.
- 306.5 The proposed facility shall meet all applicable code and licensing requirements.
- 306.6 The facility shall not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area.
- 306.7 The Board may approve more than one (1) community-based residential facility in a square or within five hundred feet (500 ft.) only when the Board finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations.
- 306.8 The Board shall not approve more than one (1) youth rehabilitation home, adult rehabilitation home, or substance abusers home in a square or within five hundred feet (500 ft.) of each other.
- 306.9 The Board shall submit the application to the D.C. Office of Planning for coordination, review, report, and impact assessment, along with reports in writing of all relevant District of Columbia departments and agencies, including but not limited to the Departments of Transportation, Human Services, and Corrections and, if a historic district or historic landmark is involved, the State Historic Preservation Officer.

SOURCE: § 3102.45 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 28 DCR 3482, 3493 (August 7, 1981); Final Rulemaking published at 40 DCR 726 (January 22, 1993); and as amended by Final Rulemaking published at 47 DCR 9741-43

(December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8358 (October 20, 2000).

307-319 [RESERVED]

320 R-3 DISTRICTS: GENERAL PROVISIONS

320.1 The R-3 District is designed essentially for row dwellings, but there shall be included in an R-3 District areas within which row dwellings are mingled with one- family detached dwellings, one-family semi-detached dwellings, and groups of three (3) or more row dwellings. To maintain a family-life environment, permitted related uses are the same in R-3 Districts as in R-1 Districts.

320.2 Except as provided in chapters 20 through 25 of this title, in an R-3 District, no building or premises shall be used and no building shall be erected or altered that is arranged, intended, or designed to be used except for one (1) or more of the uses listed in §§ 320 through 329.

320.3 The following uses shall be permitted as a matter of right in an R-3 District:

- (a) Any use permitted in an R-2 District under § 300.3; and
- (b) Row dwelling.

SOURCE: §§ 3103.1, 3103.2, and 3103.3 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8358 (October 20, 2000).

321 ACCESSORY USES AND BUILDINGS (R-3)

321.1 The following accessory uses or accessory buildings incidental to the uses permitted in § 320.3 shall be permitted in R-3 Districts:

- (a) Any accessory use or accessory building permitted in R-1 Districts under §§ 202 and 204; and
- (b) Other accessory uses, buildings, or structures customarily incidental to the uses permitted in R-3 Districts under this chapter.

SOURCE: § 3103.5 of the Zoning Regulations effective May 12, 1958; as amended by Final Rulemaking published at 35 DCR 6916, 6918 (September 16, 1988); and as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8358 (October 20, 2000).

322 SPECIAL EXCEPTIONS: GENERAL (R-3)

322.1 Any use or structure permitted in R-2 Districts under §§ 302.1 and 303 through 306 shall be permitted as a special exception in an R-3 District if approved by the Board of Zoning Adjustment under § 3104.

322.2 A college or university use permitted in R-2 Districts under § 302.2 shall be permitted as a special exception in an R-3 District if approved by the Zoning Commission under § 3104.

SOURCE: § 3103.4 of the Zoning Regulations effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9725, 9730 (December 8, 2000).

323-329 [RESERVED]

330 R-4 DISTRICTS: GENERAL PROVISIONS

330.1 The R-4 District is designed to include those areas now developed primarily with row dwellings, but within which there have been a substantial number of conversions of the dwellings into dwellings for two (2) or more families.

330.2 Very little vacant land shall be included within the R-4 District, since its primary purpose shall be the stabilization of remaining one-family dwellings.

330.3 The R-4 District shall not be an apartment house district as contemplated under the General Residence (R-5) Districts, since the conversion of existing structures shall be controlled by a minimum lot area per family requirement.

330.4 Except as provided in chapters 20 through 25 of this title, in an R-4 District, no building or premises shall be used and no building shall be erected or altered that is arranged, intended, or designed to be used except for one (1) or more of the uses listed in §§ 330 through 349.

330.5 The following uses shall be permitted as a matter of right in an R-4 District:

- (a) Any use permitted in R-3 Districts under § 320.3;
- (b) Child/Elderly development center or adult day treatment facility located in a building that was built as a church and that has been used continuously as a church since it was built; provided, that all of the play space required for the center by the licensing regulations shall be located on the same lot on which the center is located;
- (c) Child/Elderly development center or adult day treatment facility; provided, that the center shall be limited to no more than sixteen (16) individuals;
- (d) Community-based residential facility; provided that, notwithstanding any provision in this title to the contrary, the Zoning Administrator has

determined that such community-based residential facility, that otherwise complies with the zoning requirements of this title that are of general and uniform applicability to all matter-of-right uses in an R-4 District, is intended to be operated as housing for persons with disabilities. For purposes of this subsection, a "disability" means, with respect to a person, a physical or mental impairment which substantially limits one or more of such person's major life activities, or a record of having, or being regarded as having, such an impairment, but such item does not include current, illegal use of, or addiction to, a controlled substance;

- (e) Repealed;
- (f) Flat;
- (g) Hospital, sanitarium, or clinic for humans;
- (h) Museum; and
- (i) Private club, lodge, fraternity house, sorority house, or dormitory, except when the use is a service customarily carried on as a business.

330.6 A rooming or boarding house shall be permitted as a matter of right in an R-4 District; provided:

- (a) Accommodations are not provided to transient guests who stay ninety (90) days or less at the premises;
- (b) No sign is displayed on the premises;
- (c) No advertisement is displayed or published on or off the premises holding out the establishment to be a hotel, motel, inn, hostel, bed and breakfast, private club, tourist home, guest house, or other transient accommodation;
- (d) Cooking facilities are not provided in any individual unit; and
- (e) In a rooming house, no central dining or food preparation area is provided for guests.

330.7 Conversion of an existing non-residential building or structure existing prior to May 12, 1958, to a residential building shall be permitted as a matter of right in the R-4 Zone District subject to the following conditions:

- (a) There is an existing non-residential building on the property at the time of filing an application for a building permit;
- (b) The maximum height of any addition to the existing structure shall not exceed thirty-five feet (35 ft.);

- (c) There shall be a minimum of nine hundred square feet (900 sq. ft.) of land area per dwelling unit;
- (d) An addition shall not extend further than ten feet (10 ft.) past the furthest rear wall of any principal residential building on an adjacent property;
- (e) A roof top architectural element original to the structure such as a turret, tower, or dormers shall not be removed or significantly altered, including changing its shape or increasing its height, elevation, or size;
- (f) Any addition, including a roof structure or penthouse, shall not block or impede the functioning of a chimney or other external vent on an adjacent property required by any municipal code;
- (g) Any addition, including a roof structure or penthouse, shall not interfere with the operation of an existing or permitted solar energy system on an adjacent property, as evidenced through a shadow, shade, or other reputable study acceptable to the Zoning Administrator; and
- (h) An apartment house in an R-4 Zone District converted from a non-residential building prior to June 26, 2015, shall be considered a conforming use and structure, but shall not be permitted to expand either structurally or through increasing the number of units, unless approved by the Board of Zoning Adjustment pursuant to §§ 3104.1 and 3104.3 and § 337.

SOURCE: § 3104.1 and 3104.3 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 28 DCR 3482, 3494 (August 7, 1981); Final Rulemaking published at 29 DCR 4913, 4918 (November 5, 1982); Final Rulemaking published at 35 DCR 465, 467 (January 22, 1988); by Final Rulemaking published at 36DCR 7625 (November 3, 1989); Final Rulemaking published at 46 DCMR 3997, 3998 (April 30, 1999); as amended by Notice of Emergency Rulemaking published at 47 DCR 5875(June 12, 2000); Final Rulemaking published at 47 DCR. 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8359 (October 20, 2000); and Final Rulemaking published at 49 DCR 2750 (March 22, 2002); and Final Rulemaking published at 53 DCR 10085(December 22, 2006); and as amended by Final Rulemaking published at 54 DCR 8965(September 14, 2007); 57 DCR 000126 (2010); as amended by Final Rulemaking and Order No. 14-11 published at 62 DCR 8883 (June 26, 2016); as amended by Final Rulemaking and Order No. 14-11(1) published at 62 DCR 12737 (September 25, 2015).

331 ACCESSORY USES AND BUILDINGS (R-4)

331.1 The following accessory uses or accessory buildings incidental to the uses permitted in §§ 330 through 349 shall be permitted in an R-4 District:

- (a) Any accessory use or accessory building permitted in R-3 Districts under § 321;

- (b) Accessory parking spaces or an accessory parking garage subject to the special provisions of chapters 21 and 23 of this title; and
- (c) Other accessory uses, buildings, or structures customarily incidental to the uses permitted in R-4 Districts under the provisions of this chapter, including mechanical amusement machines that are accessory to museum uses, subject to § 2501.

SOURCE: § 3104.5 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 35 DCR 465, 467 (January 22, 1988); and as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8360 (October 20, 2000).

332 SPECIAL EXCEPTIONS: GENERAL (R-4)

332.1 The following uses and structures shall be permitted as special exceptions in an R-4 District if approved by the Board of Zoning Adjustment under § 3104:

- (a) The uses and structures permitted in an R-3 District under § 322.1 not permitted as a matter of right under § 330.5; and
- (b) Telephone exchange, if declared necessary in the public interest by the Public Utilities Commission, and subject to requirements for setback, screening, or other safeguards as the Board deems necessary for the protection of neighboring property.

332.2 A college or university use permitted in an R-3 District under § 322.2, not permitted as a matter of right under § 330.5 shall be permitted as a special exception in an R-4 District if approved by the Zoning Commission under § 3104.

SOURCE: § 3104.4 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9725, 9731 (December 8, 2000).

333 STORAGE AND PARKING ON ALLEY LOTS (R-4)

333.1 Storage of wares and goods, parking lot, parking garage, or public storage garage not otherwise permitted under this chapter, on an alley lot so recorded on the records of the Surveyor, District of Columbia, or recorded on the records of the D.C. Office of Tax and Revenue, on or before November 1, 1957, shall be permitted as a special exception in an R-4 District if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.

333.2 No storage use authorized in this section shall be located in a building containing more than twenty-five hundred square feet (2,500 ft²) of gross floor area.

333.3 Any use authorized in this section shall not be likely to become objectionable because of noise, traffic, or number of employees.

333.4 The alley upon which the use is to be located shall be readily negotiable by any trucking necessary for the proposed operation.

333.5 The hours of active operation shall be arranged so as not to prove disturbing or otherwise objectionable to persons residing around the perimeter of the square in which located.

SOURCE: § 3104.43 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741- 43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking, published at 47 DCR 8335, 8360 (October 20, 2000).

334 COMMUNITY SERVICE CENTERS (R-4)

334.1 A community service center to accommodate organizations created for the purpose of improving the social or economic well-being of the residents of the neighborhood in which the center is proposed to be located which may include but not be limited to centers for job training, family counseling, consumer cooperatives, and such other facilities as are similar in nature and purpose, shall be permitted as a special exception in an R-4 District if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.

334.2 A community service center shall be located so that it is not likely to become objectionable to neighboring properties because of noise or other objectionable conditions.

334.3 No structural changes shall be made except those required by other municipal laws or regulations.

334.4 The use shall be reasonably necessary or convenient to the neighborhood in which it is proposed to be located.

334.5 A community service center shall not be organized for profit, and no part of its net income shall inure to the benefit of any private shareholder or individual.

SOURCE: § 3104.46 of the Zoning Regulations, effective May 12, 1958; as added by Case No 63-63, August 14, 1964; as amended by: Final Rulemaking published at 28 DCR 3482, 3495 (August 7, 1981); Final Rulemaking published at 31 DCR 6585, 6586 (December 28, 1984); Final Rulemaking, 46 DCR 8284, 8287 (October 15, 1999); and as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR. 8335, 8360 (October 20, 2000).

335 REHABILITATION AND SUBSTANCE ABUSERS' HOMES (R-4)

335.1 Youth rehabilitation homes, adult rehabilitation homes, or substance abusers' homes for one (1) to fifteen (15) persons, not including resident supervisors or

staff and their families, shall be permitted as special exceptions in an R-4 District if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.

- 335.2 There shall be no other property containing a community-based residential facility for seven (7) or more persons in the same square.
- 335.3 There shall be no other property containing a community-based residential facility for seven (7) or more persons within a radius of five hundred feet (500 ft.) from any portion of the subject property.
- 335.4 There shall be adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility.
- 335.5 The proposed facility shall meet all applicable code and licensing and requirements.
- 335.6 The facility shall not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area.
- 335.7 The Board may approve more than one (1) community-based residential facility in a square or within five hundred feet (500 ft.) only when the Board finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations.
- 335.8 The Board shall not approve more than one (1) youth rehabilitation home, adult rehabilitation home, or substance abusers' home in a square or within five hundred feet (500 ft.) of each other.
- 335.9 The Board shall submit the application to the D.C. Office of Planning for coordination, review, report, and impact assessment, along with reports in writing of all relevant District of Columbia departments and agencies including, but not limited to, the Departments of Transportation, Human Services, and Corrections and, if a historic district or historic landmark is involved, the State Historic Preservation Officer.

SOURCE: § 3104.47 of the Zoning Regulations, effective May 12, 1958; as added by Final Rulemaking published at 28 DCR 3482, 3495 (August 7, 1981); as amended by Final Rulemaking published at 40 DCR 726 (January 22, 1993); and as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8361 (October 20, 2000).

336 CONVERSION OF A RESIDENTIAL BUILDING EXISTING PRIOR TO MAY 12, 1958, TO APARTMENT HOUSES (R-4)

- 336.1 Conversion of an existing residential building existing prior to May 12, 1958, to an apartment house shall be permitted as a special exception in the R-4 District if

approved by the Board of Zoning Adjustment under § 3104, subject to §§ 336.2 through 336.14.

- 336.2 The maximum height of the residential building and any additions thereto shall not exceed thirty-five feet (35 ft.), except that the Board of Zoning Adjustment may grant a special exception from this limit under § 3104, subject to §§ 336.3 through 336.14.
- 336.3 The fourth (4th) dwelling unit and every additional even number dwelling unit thereafter shall be subject to the requirements of Chapter 26, Inclusionary Zoning, including the set aside requirement set forth at § 2603.9.
- 336.4 There must be an existing residential building on the property at the time of filing an application for a building permit.
- 336.5 There shall be a minimum of nine hundred square feet (900 sq. ft.) of land area per dwelling unit.
- 336.6 Any addition, including a roof structure or penthouse, shall not block or impede the functioning of a chimney or other external vent on an adjacent property required by any municipal code.
- 336.7 Any addition, including a roof structure or penthouse, shall not interfere with the operation of an existing or permitted solar energy system on an adjacent property, as evidenced through a shadow, shade, or other reputable study acceptable to the Board of Zoning Adjustment.
- 336.8 A roof top architectural element original to the house such as a turret, tower, or dormers shall not be removed or significantly altered, including changing its shape or increasing its height, elevation, or size.
- 336.9 An addition shall not extend further than ten feet (10 ft.) past the furthest rear wall of any principal residential building on an adjacent property.
- 336.10 Any addition shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:
- (a) The light and air available to neighboring properties shall not be unduly affected;
 - (b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised; and
 - (c) The conversion and any associated additions, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale, and pattern of houses along the subject street or alley.

- 336.11 In demonstrating compliance with § 336.10, the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the conversion and any associated addition to adjacent buildings and views from public ways.
- 336.12 The Board of Zoning Adjustment may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent or nearby properties, or to maintain the general character of a block.
- 336.13 The Board of Zoning Adjustment may modify or waive not more than three (3) of the requirements specified in §§ 336.6 through 336.9; provided, that any modification or waiver granted pursuant to this section shall not be in conflict with § 336.10.
- 336.14 An apartment house in an R-4 Zone District, converted from a residential building prior to June 26, 2015, or converted pursuant to §§ 3202.8, 3202.9, or 3202.10, shall be considered a conforming use and structure, but shall not be permitted to expand either structurally or through increasing the number of units, unless approved by the Board of Zoning Adjustment pursuant to §§ 3104.1 and 3104.3 and this section.

SOURCE: Final Rulemaking and Order No. 14-11 published at 62 DCR 8883 (June 26, 2015); as amended by Final Rulemaking and Order No. 14-11(1) published at 62 DCR 12737 (September 25, 2015); Final Rulemaking and Order No. 14-11A published at 63 DCR 10981.

337 CONVERSIONS OF NON-RESIDENTIAL BUILDINGS OR STRUCTURES EXISTING PRIOR TO MAY 12, 1958, TO APARTMENT HOUSES (R-4)

- 337.1 Conversion of a non-residential building or other structure existing prior to May 12, 1958, to an apartment house and not meeting one (1) or more of the requirements of § 330.7, shall be permitted as a special exception in an R-4 Zone District if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section, except that no special exception relief shall be available from the requirements of § 330.7(a).
- 337.2 Any addition shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:
- (a) The light and air available to neighboring properties shall not be unduly affected;
 - (b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised; and

- (c) The conversion and any associated additions, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale, and pattern of houses along the subject street or alley.

337.3 In demonstrating compliance with § 337.2, the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the conversion and any associated addition to adjacent buildings and views from public ways.

337.4 The Board of Zoning Adjustment may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent or nearby properties, or to maintain the general character of a block.

SOURCE: Final Rulemaking and Order No. 14-11 published at 62 DCR 8883 (June 26, 2015).

338-349 [RESERVED]

350 R-5 DISTRICTS: GENERAL PROVISIONS

350.1 The R-5 Districts are General Residence Districts designed to permit flexibility of design by permitting in a single district, except as provided in §§ 350 through 361, all types of urban residential development if they conform to the height, density, and area requirements established for these districts under chapter 4 of this title. The R-5 Districts shall also permit the construction of those institutional and semi-public buildings that would be compatible with adjoining residential uses and that are excluded from the more restrictive Residence Districts.

350.2 The R-5 Districts are subdivided into R-5-A, R-5-B, R-5-C, R-5-D, and R-5-E Districts. In R-5-A Districts, only a low height and density shall be permitted; in R-5-B, a moderate height and density shall be permitted; in R-5-C, a medium height and density shall be permitted; and in R-5-D and R-5-E, a relatively high height and medium-high density shall be permitted.

350.3 Except as provided in chapters 20 through 25 of this title, in any R-5 District, no building or premises shall be used and no building shall be erected or altered that is arranged, intended, or designed to be used except for one (1) or more of the uses listed in §§ 350 through 361.

350.4 The following uses shall be permitted as a matter of right in an R-5 District:

- (a) Any use permitted in the R-4 District subject to the requirements of § 353;
- (b) Child/Elderly development center or adult day treatment facility in R-5-D and R-5-E Districts; provided, that the center shall be limited to no more than twenty-five (25) individuals;

- (c) Fire Department Support Facility, communications services only;
- (d) Greenhouse or horticultural nursery;
- (e) Hotel, only in R-5-B, R-5-C, R-5-D, or R-5-E Districts, in existence as of May 16, 1980, with a valid Certificate of Occupancy or a valid application for a building permit; provided, that the gross floor area of the hotel may not be increased and the total area within the hotel devoted to function rooms, exhibit space, and commercial adjuncts may not be increased. An existing hotel may be repaired, renovated, remodeled, or structurally altered;
- (f) Multiple dwellings, subject to the requirements of § 353; provided, that in an apartment house, accommodations may be provided only to residents who stay at the premises a minimum of one (1) month;
- (g) Recreation building, park, playground, swimming pool, athletic field, ice rink, or other similar athletic facility, public or private, operated on and using local or federal land and approved by a joint federal-local jurisdictional transfer agreement; subject to the following:
 - (1) No part of any use is nearer than seventy feet (70 ft.) to the nearest residential structure;
 - (2) The uses shall not be organized for profit;
 - (3) All parking areas shall be shared by all uses on a lot;
 - (4) Scoreboards shall be installed such that the highest point is no taller than twenty-five feet (25 ft.) above grade; and
 - (5) Any lighting used to illuminate a park, playground, athletic field, trail or other outdoor space, shall be so arranged that all direct rays of lighting are confined to the boundaries of the lot;
- (h) Residence for teachers or staff of private schools;
- (i) Temporary surface parking lot accessory to the Ballpark shall be permitted on Square 882 in accordance with § 2110. In the event that the cumulative parking limit established in § 2110.1(a) is met, additional temporary surface parking spaces accessory to the Ballpark on Square 882 shall be permitted as a special exception use if approved by the Board of Zoning Adjustment pursuant to § 2110.2; and
- (j) Youth residential care home, community residence facility, or health care facility for seven (7) to fifteen (15) persons, not including resident

supervisors or staff and their families; provided, that there is no property containing an existing community-based residential facility for seven (7) or more persons either in the same square or within a radius of five hundred feet (500 ft.) from any portion of the subject property.

350.5 A parking garage on an alley lot so recorded on the records of the Surveyor, District of Columbia, or recorded on the records of the D.C. Office of Tax and Revenue, on or before November 1, 1957, shall be permitted as a matter of right in an R-5 District; provided:

- (a) No part of the garage shall be located within seventy-five feet (75 ft.) of any building line; and
- (b) Vehicular entrances and exits shall open directly onto an alley.

350.6 A chancery is a permitted use in R-5-D or R-5-E Districts, subject to disapproval by the Board of Zoning Adjustment in accordance with the requirements of chapter 10 of this title.

SOURCE: §§ 3105.1, 3105.2, 3105.3 of the Zoning Regulations, effective May 12, 1958; as amended: by Final Rulemaking published at 27 DCR 2066, 2068 (May 16, 1980); Final Rulemaking published at 28 DCR 3482, 3496 (August 7, 1981); Final Rulemaking published at 29 DCR 4913, 4919 (November 5, 1982); Final Rulemaking published at 30 DCR 3270, 3271 (July 1, 1983); Final Rulemaking published at 36 DCR 7625, 7626 (November 3, 1989); Final Rulemaking published at 39 DCR 8305 (November 13, 1992); Final Rulemaking published at 40 DCR 726 (January 22, 1993); Final Rulemaking published at 46 DCR 8284 8288 (October 15, 1999); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8361-62 (October 20, 2000); as amended by Final Rulemaking published at 52 DCR 9155 (October 14, 2005); as amended by Final Rulemaking published at 53 DCR 10085 (December 22, 2006); as amended by Final Rulemaking published at 54 DCR 3074 (April 6, 2007); as amended by Final Rulemaking published at 54 DCR 8980 (September 14, 2007); as amended by Final Rulemaking and Order No. 10-22 published at 58 DCR 7820 (September 2, 2011).

351 ACCESSORY USES AND BUILDINGS (R-5)

351.1 The following accessory uses or accessory buildings incidental to the uses listed in § 350 shall be permitted in an R-5 District:

- (a) Any accessory use or accessory building permitted in R-4 Districts under § 331;
- (b) Temporary exhibits, fundraising functions, and benefit sales for nonprofit organizations not to exceed ten (10) days in a hotel with more than one hundred (100) rooms or suites; and
- (c) Any other accessory uses or accessory buildings customarily incidental to the uses permitted in R-5 Districts under this chapter, including

mechanical amusement machines that are accessory to uses specified in § 350.4(e), subject to the provisions of § 2501.

351.2 Commercial adjuncts as accessory uses to a hotel containing one hundred (100) or more rooms or suites shall be permitted in an R-5 District; provided:

- (a) The total area within the hotel devoted to function rooms, exhibit space, and commercial adjuncts shall not be increased;
- (b) There shall be no direct entrance to the function rooms, exhibit space, and commercial adjuncts from the outside of the building;
- (c) No part of the adjunct or the entrance to the adjunct shall be visible from a sidewalk; and
- (d) No sign or display indicating the existence of the adjuncts shall be visible from the outside of the building.

SOURCE: § 3105.5 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 27 DCR 2066, 2068 (May 16, 1980); and as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8362 (October 20, 2000); 57 DCR 000126 (2010).

352 SPECIAL EXCEPTIONS: GENERAL (R-5)

352.1 Any use or structure permitted as a special exception in R-4 Districts under §§ 332.1 and 333 through 335 shall be permitted as a special exception in an R-5 District if approved by the Board of Zoning Adjustment under § 3104.

352.2 A college or university use permitted in R-4 Districts under § 332.2 shall be permitted as a special exception in an R-5 District if approved by the Zoning Commission under § 3104.

SOURCE: § 3105.4 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9725, 9731 (December 8, 2000).

353 NEW RESIDENTIAL DEVELOPMENTS (R-5-A)

353.1 In R-5-A Districts, all new residential developments, except those comprising all one-family detached and semi-detached dwellings, shall be reviewed by the Board of Zoning Adjustment as special exceptions under § 3104 in accordance with the standards and requirements in this section.

353.2 The Board shall refer the application to the D.C. Board of Education for comment and recommendation as to the adequacy of existing and planned area schools to accommodate the numbers of students that can be expected to reside in the project.

- 353.3 The Board shall refer the application to the D.C. Departments of Transportation and Housing and Community Development for comment and recommendation as to the adequacy of public streets, recreation, and other services to accommodate the residents of the project and the relationship of the proposed project to public plans and projects.
- 353.4 The Board shall refer the application to the D.C. Office of Planning for comment and recommendation on the site plan, arrangement of buildings and structures, and provisions of light, air, parking, recreation, landscaping, and grading as they relate to the future residents of the project and the surrounding neighborhood.
- 353.5 In addition to other filing requirements, the developer shall submit to the Board with the application, four (4) site plans and two (2) sets of typical floor plans and elevations, grading plans (existing and final), landscaping plans, and plans for all new rights-of-way and easements.

SOURCE: § 3105.42 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8362-63 (October 20, 2000); as amended by Final Rulemaking published at 54 DCR 3074(April 6, 2007).

354 CONVENIENCE STORES IN APARTMENT HOUSES (R-5)

- 354.1 Sale of the following convenience commodities and services as accessory uses and appropriate adjuncts to an apartment house that are designed to serve the tenants' daily living needs shall be permitted as a special exception in an R-5 District if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section:
- (a) Foods, drugs, and sundries; and
 - (b) Personal services.
- 354.2 The adjuncts authorized under this section shall be limited to the main floor of the building or below.
- 354.3 There shall be no direct entrance to the adjunct from the outside of the building.
- 354.4 No part of the adjunct or the entrance to the adjunct shall be visible from a sidewalk.
- 354.5 No sign or display indicating the existence of the adjunct shall be visible from the outside of the building.
- 354.6 The center of the principal entrance of the apartment house shall be more than one-fourth (1/4) mile walking distance from the nearest principal business street

frontage of any business district previously established and operating in a Commercial or Industrial District.

354.7 Subject to compliance with the provisions of § 354.6, these uses may also be permitted within an interior patio or other type of open ground level area; provided:

- (a) Access to the adjunct shall be through the apartment building or buildings intended to be served by the use; and
- (b) No part of the adjunct, the entrance to the adjunct, or any sign or display indicating the existence of the adjunct shall be visible from a public sidewalk.

354.8 The adjuncts authorized under this section are intended to supply tenants of the apartment house with commodities and services supplementary to those in established Commercial Districts, but in order to protect the value and stability of these Districts, the Board shall give consideration to the following:

- (a) The proximity of Commercial Districts to the adjuncts proposed;
- (b) The adequacy and convenience of parking spaces existing in or for those Commercial Districts;
- (c) The adequacy and scope of commodities and services provided within those Commercial Districts; and
- (d) The size and character of the apartment house, since the tenants of the apartment house will be expected to furnish all or substantially all of the financial support of the requested adjunct.

SOURCE: § 3105.42 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8363 (October 20, 2000).

355 PARKING GARAGES (R-5)

355.1 A parking garage constructed as a principal use on a lot other than an alley lot in an R-5-E District shall be permitted as a special exception in an R-5 District if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.

355.2 The use shall comply with all provisions of chapter 23 of this title.

355.3 No commercial advertising signs shall be permitted outside a building, except a sign advertising the rates as required by chapter 6 of title 24 DCMR, "Public Space and Safety."

355.4 The Board shall find that no dangerous or otherwise objectionable traffic conditions will result, that the present character and future development of the neighborhood will not be affected adversely, and that the parking garage is reasonably necessary and convenient to other uses in the vicinity.

355.5 Before taking final action on an application for the use, the Board shall submit the application to the D.C. Department of Transportation for review and report.

SOURCE: § 3105.43 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 39 DCR 8305, 8306 (November 13, 1992); and as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at: 47 DCR 8335, 8359 (October 20, 2000).

356 COMMERCIAL ADJUNCTS TO HOTELS (R-5)

356.1 Commercial adjuncts to a hotel containing less than one hundred (100) rooms or suites shall be permitted as special exceptions in an R-5 District if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.

356.2 The total area within the hotel devoted to function rooms, exhibit space, and commercial adjuncts shall not be increased.

356.3 There shall be no direct entrance to the adjunct from the outside of the building.

356.4 No part of the adjunct or the entrance to the adjunct shall be visible from a sidewalk.

356.5 No sign or display indicating the existence of the adjunct shall be visible from the outside of the building.

356.6 The hotel shall be of sufficient size and character so that the financial support of the requested adjunct may be expected to be furnished entirely or substantially by the hotel guests.

SOURCE: § 3105.44 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 27 DCR 2066, 2068 (May 16, 1980); and as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8363 (October 20, 2000).

357 REHABILITATION AND SUBSTANCE ABUSERS' HOMES (R-5)

357.1 Youth rehabilitation homes, adult rehabilitation homes, or substance abusers' homes for one (1) to twenty (20) persons, not including resident supervisors or staff and their families, shall be permitted as special exceptions in an R-5 District

if approved by the Board of Zoning Adjustment under § 3104, subject to the standards and requirements of §§ 358.2 through 358.7 and 358.9.

SOURCE: § 3105.410 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 28 DCR 3482, 3498 (August 7, 1981); Final Rulemaking published at 40 DCR 726 (January 22, 1993); and as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8359 (October 20, 2000).

358 YOUTH RESIDENTIAL CARE HOMES AND COMMUNITY RESIDENCE FACILITIES (R-5)

- 358.1 A youth residential care home or community residence facility for sixteen (16) to twenty-five (25) persons, not including resident supervisors or staff and their families, shall be permitted as a special exception in an R-5 District if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.
- 358.2 There shall be no other property containing a community-based residential facility for seven (7) or more persons in the same square.
- 358.3 There shall be no other property containing a community-based residential facility for seven (7) or more persons within a radius of five hundred feet (500 ft.) from any portion of the subject property.
- 358.4 There shall be adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility.
- 358.5 The proposed facility shall meet all applicable code and licensing requirements.
- 358.6 The facility shall not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area.
- 358.7 The Board may approve more than one (1) community-based residential facility in a square or within five hundred feet (500 ft.) only when the Board finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations.
- 358.8 The Board may approve a facility for more than twenty-five (25) persons, not including resident supervisors or staff and their families, only if the Board finds that the program goals and objectives of the District of Columbia cannot be achieved by a facility of a smaller size at the subject location and if there is no other reasonable alternative to meet the program needs of that area of the District.
- 358.9 The Board shall submit the application to the D.C. Office of Planning for coordination, review, report, and impact assessment along with reports in writing of all relevant District departments and agencies, including but not limited to the

Departments of Transportation, Human Services, and Corrections, and, if a historic district or historic landmark is involved, the State Historic Preservation Officer.

SOURCE: § 3105.47 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 28 DCR 3482, 3496 (August 7, 1981); Final Rulemaking published at 40 DCR 726 (January 22, 1993); and as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8364 (October 20, 2000).

359 HEALTH CARE FACILITIES (R-5)

359.1 Health care facilities for sixteen (16) to three hundred (300) persons not including resident supervisors or staff and their families, shall be permitted as special exceptions in an R-5 District if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.

359.2 The applicant shall meet the standards and requirements set forth in §§ 358.2 through 358.7.

359.3 The Board may approve a facility for more than three hundred (300) persons, not including resident supervisors or staff and their families, only if the Board finds that the program goals and objectives of the District of Columbia cannot be achieved by a facility of a smaller size at the subject location and if there is no other reasonable alternative to meet the program needs of that area of the District.

359.4 The Board shall submit the application to the D.C. Office of Planning for coordination, review, report, and impact assessment along with reports in writing of all relevant District departments and agencies, including but not limited to the Departments of Transportation, Human Services, and Corrections, and, if a historic district or historic landmark is involved, the State Historic Preservation Officer.

SOURCE: § 3105.48 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 28 DCR 3482, 3497 (August 7, 1981); Final Rulemaking published at 40 DCR 726 (January 22, 1993); and as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8364-65 (October 20, 2000).

360 EMERGENCY SHELTERS (R-5)

360.1 Emergency shelters for five (5) to twenty-five (25) persons, not including resident supervisors or staff and their families, shall be permitted as special exceptions in an R-5 District if approved by the Board of Zoning Adjustment under § 3104, subject to the standards and requirements of § 358.

SOURCE: § 3105.49 of the Zoning Regulations effective May 12, 1958; as amended by Final Rulemaking published at 28 DCR 3482, 3498 (August 7, 1981); Final Rulemaking published at 40

DCR 726 (January 22, 1993); and as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8365 (October 20, 2000).

361 ART GALLERIES (R-5)

- 361.1 An art gallery shall be permitted as a special exception in an R-5 District if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.
- 361.2 The art gallery shall be located and operated so that it is not likely to become objectionable to adjoining and nearby property because of objectionable noise, pedestrian and vehicular traffic, hours of operation, or other objectionable conditions.
- 361.3 The Board shall consider, and regulate, if necessary, the anticipated frequency, number of attendees, and other characteristics of show openings or other group gatherings.
- 361.4 Adequate off-street parking, but not less than that required by chapter 21 of this title, shall be provided to accommodate occupants, employees, and visitors likely to come to the gallery by automobile.
- 361.5 The proposed use shall not adversely affect the present character or future development of the surrounding area.
- 361.6 The Board may require special treatment in the way of design, screening of buildings and parking, signs, exterior and interior lighting, or other requirements it deems necessary to protect adjacent and nearby properties.

SOURCE: Final Rulemaking published at 35 DCR 465, 468 (January 22, 1988); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8365 (October 20, 2000).

TITLE 11 - ZONING

CHAPTER 4 RESIDENCE DISTRICT: HEIGHT, AREA, AND DENSITY REGULATIONS

Secs.

- 400 HEIGHT OF BUILDINGS OR STRUCTURES (R)
- 401 MINIMUM LOT DIMENSIONS (R)
- 402 FLOOR AREA RATIO (R)
- 403 PERCENTAGE OF LOT OCCUPANCY (R)
- 404 REAR YARDS (R)
- 405 SIDE YARDS (R)
- 406 COURTS (R)
- 407 MINOR FLEXIBILITY BY ZONING ADMINISTRATOR'S RULING (R)
- 408 GROSS FLOOR AREA (R)
- 409 [RESERVED]
- 410 [REPEALED]
- 411 PENTHOUSES (R)
- 412 PERVIOUS SURFACES
- 413 RETAINING WALLS
- 414 AFFORDABLE HOUSING PRODUCTION REQUIREMENT GENERATED BY CONSTRUCTION ON A NON-RESIDENTIAL BUILDING OF PENTHOUSE HABITABLE SPACE
- 400 HEIGHT OF BUILDINGS OR STRUCTURES (R)**
- 400.1 Except as specified in this chapter and in Chapters 20 through 25 of this title, the height of buildings or structures, not including the penthouse, in a Residence District shall not exceed that given in the following table:

ZONE DISTRICT	MAXIMUM HEIGHT (Feet)	MAXIMUM HEIGHT (Stories)
R-1-A, R-1-B, R-2, R-3, R-5-A	40	3
R-5-B	50	no limit
R-5-C	60	no limit
R-5-D	90	no limit
R-5-E	90	no limit
R-4 ZONE DISTRICT		
New construction of 3 or more immediately adjoining one- or two-family row dwellings built concurrently on separate record lots	40	3
All other structures	35	3

400.2 Except as provided in § 2510, the height of buildings or structures specified in § 400.1 may be exceeded as provided in §§ 400.3 through 400.13 and 400.23.

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

400.4 A chimney or smokestack may be erected to a height in excess of that authorized in the district in which it is located when required by other municipal law or regulation.

400.5 A penthouse may be erected to a height in excess of that authorized in the district in which it is located. The height of a penthouse, except as restricted in § 400.6 and as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat in any zone in § 411.5, as measured from the surface of the roof upon which the penthouse is located, shall not exceed that given in the following table:

ZONE DISTRICT	MAXIMUM PENTHOUSE HEIGHT	MAXIMUM PENTHOUSE STORIES
R-1-A, R-1-B, R-2, R-3, R-4, R-5-A	12 ft.	1
R-5-B	12 ft. except 15 ft. for penthouse mechanical space	1; second story permitted for penthouse mechanical space
R-5-C	12 ft., except 18 ft. 6 in. for penthouse mechanical space	1; second story permitted for penthouse mechanical space
R-5-D	20 ft.	1 plus mezzanine; second story permitted for penthouse mechanical space
R-5-E	20 ft.	1 plus mezzanine; second story permitted for penthouse mechanical space

400.6 A non-residential building constructed pursuant to §§ 400.7 through 400.12 shall be permitted a mechanical penthouse to a maximum height of eighteen feet six inches (18 ft. 6. in.).

- 400.7 A building or other structure may be erected to a height not exceeding ninety feet (90 ft.); provided, that the building or structure shall be removed from all lot lines of its lot for a distance equal to the height of the building or structure above the natural grade.
- 400.8 A church may be erected to a height of sixty feet (60 ft.); provided, that it shall not exceed the number of stories permitted in the district in which it is located.
- 400.9 An institutional building or structure may be erected to a height not exceeding ninety feet (90 ft.); provided, that the building or structure shall be removed from all lot lines of its lot a distance of not less than one foot (1 ft.) for each foot of height in excess of that authorized in the district in which it is located.
- 400.10 In an R-1, R-2, R-3, and R-4 District, a public school building or structure may be erected to a height not exceeding sixty feet (60 ft.).
- 400.11 In an R-5-A, R-5-B, and R-5-C District, a public school building or structure may be erected to a height not exceeding ninety feet (90 ft.).
- 400.12 In an R-5-B District, a college or university building or structure covered by an approved campus plan may be erected to a height not exceeding sixty feet (60 ft.).
- 400.13 Where required by An Act To Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452, as amended; D.C. Official Code §§ 6-601.01 to 6-601.09 (formerly codified at D.C. Code §§ 5-401 to 5-409 (1994 Repl. & 1999 Supp.))), a height in excess of that permitted shall be authorized by the Mayor.
- 400.14 A public recreation and community center in any residential zone may be erected to a height not to exceed forty-five feet (45 ft.).
- 400.15 The height of buildings in R zones shall be measured in accordance with the rules provided in § 400.16 through 400.21. If more than one (1) of these subsections applies to a building, the rule permitting the greater height shall apply.
- 400.16 The building height measuring point (BHMP) shall be established at the existing grade at the mid-point of the building façade of the principal building that is closest to a street lot line.
- 400.17 The height of a building with a flat roof shall be measured from the BHMP to the highest point of the roof excluding parapets and balustrades not exceeding four feet (4 ft.) in height.
- 400.18 The height of a building with a roof that is not a flat roof shall be measured as follows:

- (a) From the BHMP to the average level between the highest eave, not including the eave of a dormer and the highest point of the roof; and
- (b) Where there are no eaves, the average level shall be measured between the top of the highest wall plate and the highest point of the roof.

400.19 The height of a building permitted to be ninety feet (90 ft.) shall be measured from the BHMP to the highest point of the roof excluding parapets and balustrades not exceeding four feet (4 ft.) in height.

400.20 Where a building is removed from all lot lines by a distance equal to its proposed height above grade, the height of building shall be measured from the BHMP to the highest point of the roof or parapet.

400.21 If a building fronts on more than one (1) street, any front may be used to determine street frontage; but the basis for measuring the height of the building shall be established by the street selected as the front of the building

400.22 A conforming structure in existence on June 14, 2013 that would have been rendered nonconforming as a result of the adoption of amendments to this section made in Z.C. Order No. 12-11 shall be deemed conforming; provided that the height of the structure may neither be increased or extended.

400.23 In an R-4 Zone District, a building or other structure may be erected to a height not exceeding forty feet (40 ft.) if approved by the Board of Zoning Adjustment as a special exception, under § 3104, subject to the following conditions, except that if the building is being converted to an apartment house, special exception relief from the thirty-five foot (35 ft.) height limitation is only available pursuant to §§ 336 or 337 as applicable:

- (a) The applicant shall demonstrate that the overall building or structure height or upper addition will not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:
 - (1) The light and air available to neighboring properties shall not be unduly affected;
 - (2) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;
 - (3) An addition shall not block or impede the functioning of a chimney or other external vent on an adjacent property required by any municipal code;

- (4) An addition shall not interfere with the operation of an existing or permitted solar energy system on an adjacent property, as evidenced through a shadow, shade, or other reputable study acceptable to the Zoning Administrator; and
- (5) The resulting building or structure height, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale and pattern of houses along the subject street frontage;
- (b) The applicant shall demonstrate that overall building or structure height or an upper addition resulting from the additional five feet (5 ft.) will not have a substantially adverse effect on the defining architectural features of the building or result in the removal of such features; and
- (c) In demonstrating compliance with §§ 400.23(a) and (b), the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the new or extended building or structure to adjacent buildings and views from public ways.

400.24 In an R-4 Zone District, the following provisions shall apply:

- (a) A roof top architectural element original to the building such as a turret, tower or dormers, shall not be removed or significantly altered, including changing its shape or increasing its height, elevation, or size;
- (b) Any addition, including a roof structure or penthouse, shall not block or impede the functioning of a chimney or other external vent on an adjacent property required by any municipal code; and
- (c) Any addition, including a roof structure or penthouse, shall not interfere with the operation of an existing or permitted solar energy system on an adjacent property, as evidenced through a shadow, shade, or other reputable study acceptable to the Zoning Administrator.

400.25 In an R-4 Zone District, relief from the design requirements of § 400.24 may be approved by the Board of Zoning Adjustment as a special exception under § 3104, subject to the conditions of § 400.23(a), (b), and (c). If relief is granted from compliance with § 400.24(b) or (c), the special exception shall not be conditioned upon compliance with that same requirement as stated in § 400.23(a)(3) or (4).

AUTHORITY: Unless otherwise noted, the authority for this chapter is the Zoning Act of 1938, approved June 20, 1938 (52 Stat.797, as amended; D.C. Official Code §§ 6-641.01 to 6-641.15 (formerly codified at D.C. Code §§ 5-413 to 5-432 (1994 Repl. & 1999 Supp.)).

SOURCE: §§ 3201.1 3201.2, and 3201.3 of Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 33 DCR 3975 (July 4, 1986); Final Rulemaking published at 36 DCR 1509, 1522-23 (February 24, 1989); Final Rulemaking published at 39 DCR 8305, 8306 (November 13, 1992); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8336-67 (October 20, 2000) ; as amended by Final Rulemaking published at 50 DCR 10137 (November 28, 2003); as amended by Final Rulemaking published at 53 DCR 9580 (December 1, 2006); 57 DCR 000126 (2010); as amended by Final Rulemaking and Order No. 12-11 published at 60 DCR 8967 (June 14, 2013); as amended by Final Rulemaking and Order No. 14-11 published at 62 DCR 8883 (June 26, 2015); as amended by Final Rulemaking and Order No. 14-11(1) published at 62 DCR 12737 (September 25, 2015); .

401 MINIMUM LOT DIMENSIONS (R)

401.1 Except as provided in chapters 20 through 25 of this title and in the second sentence of this subsection, in the case of a building located, on May 12, 1958, on a lot with a lot area or width of lot, or both, less than that prescribed in § 401.3 for the district in which it is located, the building may not be enlarged or replaced by a new building unless it complies with all other provisions of this title. Notwithstanding the above, the lot area requirements of § 401.3 must be met when the building is being converted to a use or replaced by a building intended to house a use that would require more lot area or lot width than is on the building's lot.

401.2 Except as provided in § 401.3, in the case of an unimproved lot in single ownership on November 1, 1957, that has a lot area or width of lot less than that specified in § 401.3 for the district in which it is located and that does not adjoin another unimproved lot in the same ownership, a structure may be erected on the lot if both the lot area and width of lot are at least eighty percent (80%) of the lot area and width of lot specified under § 401.3; provided, that the structure shall comply with all other provisions of this title.

401.3 Except as prescribed in the other provisions of this chapter, the minimum dimensions of a lot in a Residence District shall be as set forth in the following table:

ZONE DISTRICT AND STRUCTURE	MINIMUM LOT AREA (square feet)	MINIMUM WIDTH OF LOT (feet)
R-1-A Public School	15,000	120
R-1-A All other structures	7,500	75
R-1-B Public School	15,000	120
R-1-B All other structures	5,000	50

ZONE	DISTRICT	AND	MINIMUM LOT AREA (square feet)	MINIMUM WIDTH OF LOT (feet)
R-2	Public School		9,000	120
R-2	One-family semi-detached dwelling		3,000	30
R-2	All other structures		4,000	40
R-3	Public School		9,000	120
R-3	Row dwelling		2,000	20
R-3	One-family semi-detached dwelling		3,000	30
R-3	All other structures		4,000	40
R-4	Public School		9,000	120
R-4	Row dwelling and flat		1,800	18
R-4	One-family semi-detached dwelling		3,000	30
R-4	Conversion of a building or structure pursuant to §§ 330.7 or 336 to an apartment house		900/apartment or bachelor apartment	None prescribed
R-4	All other structures		4,000	40
R-5-A	Public School		9,000	80
R-5-A	All other structures		As prescribed by the Board pursuant to § 3104	As prescribed by the Board pursuant to § 3104
R-5-B	Public School		9,000	80

ZONE	DISTRICT	AND	MINIMUM LOT AREA (square feet)	MINIMUM WIDTH OF LOT (feet)
R-5-C, R-5-D, R-5-E	Public School		None prescribed	80
R-5-B, R-5-C, R-5-D, R-5-E	All other structures		None prescribe	None prescribed

- 401.4 In the case of an unimproved plot of ground in single ownership on November 1, 1957, that has a lot area or width of lot less than two hundred percent (200%) of that prescribed in § 401.3 or the district in which it is located and that does not adjoin another unimproved plot of ground in the same ownership, two structures may be erected on the lot; provided, that each structure shall be erected on a lot that complies with eighty percent (80%) of both the required lot area and width of lot specified in § 401.3; and provided further, that each structure shall comply with all other provisions of this title.
- 401.5 In R-5-A Districts, each row dwelling shall have at least eighteen hundred square feet (1,800 ft.²) of gross land area exclusive of any land area in the project used as a basis for determining the floor area ratio of multi-family buildings. Each row dwelling, however, need not have a site of eighteen hundred square feet (1,800 ft.²), and the difference between the site area and the gross land area may be accumulated into common spaces. Land areas used to support this floor area ratio of multi-family buildings may also be used for common spaces.
- 401.6 Each lot created after February 15, 1966, to be used and occupied by a one-family detached dwelling, one-family semi-detached dwelling, community-house, or row dwelling, shall have a street frontage measured along the street a distance equal to at least forty percent (40%) of the required minimum width of lot and no case less than fourteen feet (14 ft.).
- 401.7 Each lot created after February 15, 1966, to be used and occupied by an apartment house shall have a street frontage measured along the street a distance of not less than thirty feet (30 ft.).
- 401.8 For public schools, minimum lot area may include adjacent parcels under the same ownership that are separated only by a public alley.
- 401.9 For public schools on a corner lot or through lot, minimum lot width may include the measurement of all street frontages.
- 401.10 For public schools on split-zoned lots, the minimum lot width and minimum lot area requirements if any, of the less restrictive zone shall apply to the entire lot as long as the lot was in existence as of February 13, 2006.

401.11 An apartment house in an R-4 Zone District, whether converted from a building or structure pursuant to former § 330.5(e) or existing §§ 330.7 or 336, or existing before May 12, 1958, may not be renovated or expanded so as to increase the number of dwelling units unless there are nine hundred square feet (900 sq. ft.) of lot area for each dwelling unit, both existing and new.

SOURCE: §§ 3301.1, 3301.2, 3301.3, and 3301.4 of the Zoning Regulations, effective May 12, 1958; §§ 3301.5 and 3301.6 added by Case No. 65-131, February 15, 1966; as amended by Final Rulemaking published at 39 DCR 8305, 8306 (November 13, 1992); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8337-68 (October 20, 2000); as amended by Final Rulemaking published at 53 DCR 9580 (December 1, 2006); as amended by Final Rulemaking published at 54 DCR 8965 (September 14, 2007); as amended by Final Rulemaking published at 54 DCR 8971 (September 14, 2007); as amended by Final Rulemaking and Order No. 14-11 published at 62 DCR 8883 (June 26, 2015).

402 FLOOR AREA RATIO (R)

402.1 In an R-1 and R-2 District, the maximum floor area ratio requirements applicable in each district may be increased for specific public school buildings or structures; provided, the total gross floor area of all buildings and structures on the campus shall not exceed a floor area ratio of nine-tenths (0.9).

402.2 In an R-3, R-4, R-5-A, and R-5-B District, the maximum floor area ratio requirements applicable to each district may be increased for specific public school buildings or structures, but shall not exceed the floor area ratio prescribed for the R-5-B District.

402.3 In all other Residence Districts not provided for in §§ 402.1 and 402.2, increases in the floor area ratio of all public school buildings and structures shall not exceed the floor area ratio prescribed for the R-5-C District.

402.4 Except as provided in other provisions of this chapter and in § 411, the maximum permitted floor area ratio in a Residence District shall be as set forth in the following table:

ZONE DISTRICT AND STRUCTURE	MAXIMUM FLOOR AREA RATIO (FAR)
R-1-A, R-1-B, R-2, R-3, R-4	None prescribed
R-5-A Public libraries	2.0
All Structures	0.9
R-5-B Public libraries	2.0
All structures	1.8
R-5-C All structures	3.0
R-5-D All structures	3.5
R-5-E Apartment house and hotel	6.0
Any other structure	5.0

- 402.5 First floor or basement areas designed and used for parking space or for recreation space shall not be counted in the floor area ratio; provided, that not more than fifty percent (50%) of the perimeter of the space may be comprised of columns, piers, walls or windows, or may be similarly enclosed.
- 402.6 A public recreation and community center in an R-1, R-2, or R-5-A district shall not exceed 0.9 floor area ratio, except that a public recreation and community center may have a floor area ratio up to 1.8 if approved by the Board of Zoning Adjustment, pursuant to § 3104.1.
- 402.7 A public recreation and community center in an R-3, R-4, R-5-B, R-5-C, R-5-D, or R-5-E district shall not exceed 1.8 floor area ratio.

SOURCE: § 3302 of the Zoning Regulations, effective May 12, 1958; as amended by: Zoning Commission Order No. 19, dated November 17, 1970, published at 17 DCR 306, 307 (November 30, 1970); Final Rulemaking published at 39 DCR 8305, 8306-8307 (November 13, 1992); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8368 (October 20, 2000); as amended by Final Rulemaking published at 50 DCR 10137 (November 28, 2003); as amended by Final Rulemaking and Order No. 09-17A published at 57 DCR 1898 (March 5, 2010).

403 PERCENTAGE OF LOT OCCUPANCY (R)

- 403.1 A public school building may occupy the lot upon which it is located in excess of the permitted percentage of lot occupancy prescribed in §403.2; provided, that the portion of the building excluding closed courts exceeding the lot coverage shall not exceed twenty feet (20 ft.) in height or two (2) stories; and provided further,

that direct pedestrian access not less than ten feet (10 ft) in width from at least two (2) public rights-of-way shall be provided to each roof area used for these purposes. The roof area shall be used only for open space, recreation areas, or other athletic and field equipment areas in lieu of similarly used space normally located at ground level. In the R-2, R-3, and R-4 zones, the total lot occupancy shall not exceed 70 percent.

403.2 No structure, including its accessory building, shall occupy its lot in excess of the percentage of lot occupancy set forth in the following table:

ONE DISTRICT AND STRUCTURE	MAXIMUM PERCENTAGE OF LOT OCCUPANCY
R-1-A, R-1-B, R-2 Church or public school	60%
R-1-A, R-1-B, R-2 All other structures	40%
R-3 Row dwelling, church, or public school	60%
R-3 All other structures	40%
R-4 Row dwelling, flat, church, or public school	60%
R-4 Conversion of a building or structure to an apartment house	Greater of 60% or the lot occupancy as of the date of conversion
R-4 All other structures	40%
R-5-A Church or public school	60%
R-5-A All other structures	40%
R-5-B All other structures	60%
R-5-C, R-5-D, R-5-E All other structures	75%

403.3 A public recreation and community center may be permitted a lot occupancy in excess of twenty percent (20%), but not to exceed forty percent (40%), if approved by the Board of Zoning Adjustment; provided that, in addition to the

requirements of § 3104.1, the agency shows that the increase is consistent with agency policy of preserving open space.

403.4 A public library may be permitted a lot occupancy in excess of that allowed by § 403.2 if approved by the Board of Zoning Adjustment, pursuant to § 3104.1.

SOURCE: § 3303 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 39 DCR 8305, 8307 (November 13, 1992); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8368 (October 20, 2000); as amended by Final Rulemaking published at 50 DCR 10137(November 28, 2003);as amended by Final Rulemaking published at 53 DCR 9580 (December 1, 2006); as amended by Final Rulemaking published at 54 DCR 8965 (September 14, 2007) ; as amended by Final Rulemaking and Order No. 09-17A published at 57 DCR 1898 (March 5, 2010).

404 REAR YARDS (R)

404.1 A rear yard shall be provided for each structure located in a Residence District, the minimum depth of which shall be as set forth in the following table:

ZONE DISTRICT	MINIMUM OF REAR YARD	DEPTH
R-1-A, R-1-B	25 feet	
R-2, R-3, R-4, R-5-A	20 feet	
R-5-B, R-5-C, R-5-D	4 inches per foot of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall, but not less than 15 feet.	
R-5-E	3 inches per foot of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall, but not less than 12 feet.	

404.2 In the case of a through lot or a corner lot abutting three (3) or more streets, the depth of rear yard may be measured from the center line of the street abutting the lot at the rear of the structure.

404.3 In the case of a lot proposed to be used by a public library, public school or a public recreation and community center that abuts or adjoins along the rear lot line a public open space, recreation area, or reservation, the required rear yard may be reduced or omitted.

404.4 In the case of a building existing on or before May 12, 1958, an extension or addition may be made to the building into the required rear yard; provided, that

the extension or addition shall be limited to that portion of the rear yard included in the building area on May 12, 1958.

SOURCE: § 3304 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 39 DCR 8305, 8307 (November 13, 1992); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8368-69 (October 20, 2000); as amended by Final Rulemaking published at 50 DCR 10137 (November 28, 2003); as amended by Final Rulemaking and Order No. 09-17A published at 57 DCR 1898 (March 5, 2010).

405 SIDE YARDS (R)

- 405.1 In an R-2, R-3, R-4, or R-5 District, a one-family detached dwelling shall be subject to the side yard requirements of an R-1 District.
- 405.2 In an R-3, R-4, or R-5 District, a one-family semi-detached dwelling shall be subject to the side yard requirements of an R-2 District.
- 405.3 In R-2, R-3, R-4, and R-5 Districts, when a one-family dwelling, flat, or multiple dwelling is erected that does not share a common division wall with an existing building or a building being constructed together with the new building, it shall have a side yard on each resulting free-standing side.
- 405.4 Except as provided in § 405.1, in an R-5-A District, one (1) side yard shall be provided for all structures unless the structure is an apartment house containing three (3) or more dwelling units per floor, in which case two (2) side yards shall be provided, each with the minimum width set forth in § 405.9.
- 405.5 A side yard shall not be required along a side street abutting a corner lot in a Residence District.
- 405.6 Except as provided in §§ 405.1 and 405.2, a side yard shall not be required in an R-3, R-4, R-5-B, R-5-C, R-5-D, or R-5-E District. However, if the yard is provided, it shall be at least three inches (3 in.) wide per foot of height of building, but not less than eight feet (8 ft.) wide.
- 405.7 In the case of a lot located in an R-1 or R-2 District proposed to be used by a public school or a public recreation and community center that abuts or adjoins on one (1) or more side lot lines a public open space, recreation area, or reservation, the required side yard may be reduced or omitted.
- 405.8 In the case of a building existing on or before May 12, 1958, with a side yard less than eight feet (8 ft.) wide, an extension or addition may be made to the building; provided, that the width of the existing side yard shall not be decreased; and provided further, that the width of the existing side yard shall be a minimum of five feet (5 ft.).

405.9

Side yards shall be provided on lots in Residence Districts as set forth in the following table, subject to the special requirements of other provisions of this chapter:

ZONE DISTRICT	MINIMUM WIDTH OF EACH SIDE YARD
R-1-A,R-1-B, R-2	8 feet
R-3, R-4	None required, except as provided under §§ 405.1, 405.2, and 405.6
R-5-A	3 inches per foot of height of building, but not less than 8 ft.
R-5-B, R-5-C, R-5-D, R-5-E	None required, except as provided under §§ 405.1, 405.2, and 405.6.

405.10

In the case of a lot in an R District proposed to be used by a public library that abuts or adjoins along one (1) or both side lot lines a public open space, recreation area, or reservation, the required side yards may be reduced or omitted.

SOURCE: § 3305 of the Zoning Regulations, effective May 12, 1958; as amended by: Zoning Commission Order No. 17, dated November 17, 1970, published at 17 DCR 305 (November 30, 1970); Final Rulemaking published at 39 DCR 8305, 8307 (November 13, 1992); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8369 (October 20, 2000) ; as amended by Final Rulemaking published at 50 DCR 10137 (November 28, 2003); as amended by Final Rulemaking and Order No. 09-17A published at 57 DCR 1898 (March 5, 2010).

406

COURTS (R)

406.1

Where a court is provided in a Residence District, the court shall have the minimum dimensions set forth in the following table:

ZONE DISTRICT AND STRUCTURE	MINIMUM WIDTH OF OPEN COURT	MINIMUM WIDTH AND AREA OF CLOSED COURT
R-1-A, R-1-B, R-2, R-3, R-4, R-5-A One-family dwelling	4 in. per foot of height of court, but not less than 6 ft.	Width: 4 in. per foot of height of court, but not less than 5 ft. Area: Twice the square of the required width of court dimension based on the height of court, but not less than 350 ft. ²
R-1-A, R-1-B, R-2, R-3, R-4, R-5-A All other structures	4 in. per foot of height of court, but not less than 10 ft.	Width: 4 in. per foot of height of court, but not less than 15 ft. Area: Twice the square of the required width of court dimension based on the height of court, but not less than 350 ft.
R-5-B One-family dwelling	4 in. per foot of height of court, but not less than 6 ft.	Width: 4 in. per foot of height of court, but not less than 15 ft. Area: Twice the square of the required width of court dimension based on the height of court, but not less than 350 ft. ²
R-5-B Hotel	3 in. per foot of height of court, but not less than 10 ft.	Width: 4 in. per foot of height of court, but not less than 15 ft. Area: Twice the square of the required width of court dimension based on the height of court, but not less than 350 ft. ²
R-5-B All other structures	4 in. per foot of height of court, but not less than 10 ft.	Width: 4 in. per foot of height of court, but not less than 15 ft. Area: Twice the square of the required width of court dimension based on the height of court, but not less than 350 ft. ²
R-5-C, R-5-D One-family dwelling	3 in. per foot of height of court, but not less than 6 ft	Width: 4 in per foot of height of court, but not less than 15 ft. Area: Twice the square of the required width of court

ZONE DISTRICT AND STRUCTURE	MINIMUM WIDTH OF OPEN COURT	MINIMUM WIDTH AND AREA OF CLOSED COURT
R-5-C, R-5-D All other structures	3 in. per foot of height of court, but not less than 10 ft.	dimension based on the height of court, but not less than 350 ft. ² Width: 4 in. per foot of height of court, but not less than 15 ft. Area: Twice the square of the required width of court dimension based on the height of court, but not less than 350 ft. ²
R-5-E One-family dwelling	3 in. per foot of height of but not less than 6 ft.	Width: 4 in. per foot of height of court, but not less than 15 ft. Area: Twice the square of the required width of court dimension based on the height or court, but not less than 350 ft. ²
R-5-E Hotel	2 1/2 in. per foot of height of court, but not less than 6 ft.	Width: 2 1/2 in. per foot of height of court, but not less than 12 ft. Area: Twice the square of the required width of court dimension based on the height of court, but not less than 250 ft. ²
R-5-E All other structures	3 in. per foot of height of court, but not less than 10 ft.	Width: 4 in. per foot of court, but not less than 15 ft. Area: Twice the square of the required width of court dimension based on the height of court, but not less than 350 ft. ²

406.2 No required opening for the admission of light and natural ventilation shall open onto a court niche where the ratio between the width of court niche and the depth of court niche is less than two to one (2/1).

406.3 No portion of a court niche shall be farther than three feet (3 ft.) from a point where the court niche is less than three feet (3 ft.) wide.

406.4 In the case of an alteration affecting the amount of light and ventilation required in an existing building in a Residence District by other municipal law or regulation, no legally required window shall be permitted to open onto a court that does not comply with the dimensions given in § 406.1.

SOURCE: § 3306 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 28 DCR 4192, 4193 (September 25, 1981); Final Rulemaking published at 39 DCR 8305, 8307-8309 (November 13, 1992); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8369 (October 20, 2000).

407 MINOR FLEXIBILITY BY ZONING ADMINISTRATOR'S RULING (R)

407.1 The Zoning Administrator is authorized to permit a deviation not to exceed two percent (2%) of the area requirements of §§ 401 and 403 (minimum lot dimensions and maximum percentage of lot occupancy); and a deviation not to exceed ten percent (10%) of the linear requirements of §§ 404 and 405 (minimum rear yard and minimum side yard requirements); and a deviation from the requirements of § 406 (minimum court dimensions), not to exceed either two percent (2%) of the area standard or ten percent (10%) of the width standard; provided, that:

- (a) A building shall be allowed to deviate from the requirements of no more than two (2) of the sections identified in this subsection;
- (b) The deviation or deviations shall be deemed by the Zoning Administrator not to impair the purpose of the otherwise applicable regulations; and
- (C) The flexibility or deviation shall not be applicable for any calculation or for determining compliance with §§ 330.7 or 336.

SOURCE: Final Rulemaking published at 45 DCR 1446, 1447-48 (March 13, 1998); as amended by Final Rulemaking and Order No. 14-11 published at 62 DCR 8883 (June 26, 2016).

408 GROSS FLOOR AREA (R)

408.1 A public recreation and community center shall not exceed a gross floor area of forty thousand square feet (40,000 sq. ft.), unless approved by the Board of Zoning Adjustment as a special exception in accordance with the provisions of § 3104.1.

SOURCE: Final Rulemaking published at 50 DCR 10137 (November 28, 2003); 57 DCR 000126 (2010).

409 [RESERVED]

410 [REPEALED]

SOURCE: §3307 of the Zoning Regulations, effective May 12, 1958; as amended by Zoning Commission Order No. 19, dated November 17, 1970, published at 17 DCR 306 (November 30, 1970); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8369-70 (October 20, 2000); as amended by Final Rulemaking published at 50 DCR 8824 (October 17, 2003); as Repealed by Final Rulemaking published at 54 DCR 3072 (April 6, 2007).

411 PENTHOUSES (R)

411.1 A penthouse permitted in this title shall comply with the conditions specified in this section.

411.2 [RESERVED]

411.3 Except for compliance with the setbacks required by § 411.18 and as otherwise noted in this section, a penthouse that is less than four feet (4 ft.) in height above a roof or parapet wall shall not be subject to the requirements of this section.

411.4 A penthouse may house mechanical equipment or any use permitted within the zone, except as follows:

- (a) Penthouse habitable space on a detached dwelling, semi-detached dwelling, rowhouse, or flat shall be limited pursuant to § 411.5 below;
- (b) Within residential zones and the Capitol Interest Overlay in which the building is limited to forty feet (40 ft.) maximum penthouse use shall be limited to penthouse mechanical space and ancillary space associated with a rooftop deck, to a maximum area of twenty percent (20%) of the building roof area dedicated to rooftop unenclosed and uncovered deck, terrace, or recreation space;
- (c) A nightclub, bar, cocktail lounge, or restaurant use shall only be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104; and
- (d) Penthouse habitable space is not permitted on any building within an area bound by I Street, N.W. to the north; Constitution Avenue, N.W. to the south; 19th Street, N.W. to the west, and 13th Street, N.W. to the east.

411.5 Notwithstanding § 411.4, a penthouse, other than screening for rooftop mechanical equipment or a guard-rail required by Title 12 of the DCMR (*CONSTRUCTION CODE SUPPLEMENT OF 2013*) for a roof deck, shall not be permitted on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat in any zone; however, the Board of Zoning Adjustment may approve a penthouse as a special exception under § 3104, provided the penthouse:

- (a) Is no more than ten feet (10 ft.) in height and contains no more than one (1) story; and
- (b) Contains only stair or elevator access to the roof, and a maximum of thirty square feet (30 sq. ft.) of storage space ancillary to a rooftop deck.

411.6 All penthouses shall be placed in one (1) enclosure, and shall harmonize with the main structure in architectural character, material, and color; except that a rooftop egress stairwell enclosure not containing any other form of habitable or mechanical space may be contained within a separate enclosure.

411.7 Mechanical equipment shall be enclosed fully, except that louvers for the enclosing walls may be provided. A roof over a cooling tower need not be provided when the tower is located at or totally below the top of enclosing walls.

411.8 When roof levels vary by one (1) floor or more or when separate elevator penthouses are required, there may be one (1) enclosure for each elevator penthouse at each roof level.

411.9 Enclosing walls of the penthouse shall be of equal, uniform height as measured from roof level, except that:

- (a) Enclosing walls of penthouse habitable space may be of a single different height than walls enclosing penthouse mechanical space;
- (b) For a penthouse containing no habitable space, enclosing walls of penthouse mechanical space shall be of a single uniform height except walls enclosing an elevator override may be of a separate uniform height; and
- (c) Required screening walls around uncovered mechanical equipment may be of a single, different uniform height.

411.10 Enclosing walls of a penthouse from roof level shall rise vertically to a roof, with a slope not exceeding twenty percent (20%) from vertical.

411.11 The Board of Zoning Adjustment may grant special exceptions under § 3104 from §§ 411.6 through 411.10 and 400.18 upon a showing that:

- (a) Operating difficulties such as meeting Building Code requirements for roof access and stairwell separation or elevator stack location to achieve reasonable efficiencies in lower floors; size of building lot; or other conditions relating to the building or surrounding area make full compliance unduly restrictive, prohibitively costly, or unreasonable;
- (b) The intent and purpose of this chapter and this title will not be materially impaired by the structure; and
- (c) The light and air of adjacent buildings will not be affected adversely.

- 411.12 Penthouses shall not exceed one-third (1/3) of the total roof area upon which the penthouse sits in the following areas:
- (a) Zones where there is a limitation on the number of stories other than the C-3-B Zone District; and
 - (b) Any property fronting directly onto Independence Avenue, S.W. between 12th Street, S.W. and Second Street, S.W.
- 411.13 For the purposes of calculating floor area ratio for the building, the aggregate square footage of all space on all penthouse levels or stories measuring six and one-half feet (6.5 ft.) or more in height shall be included in the total floor area ratio permitted for the building, with the following exceptions:
- (a) Penthouse mechanical space;
 - (b) Communal recreation space;
 - (c) Penthouse habitable space, other than as exempted in § 411.13(b), with a floor area ratio of less than four-tenths (0.4); and
 - (d) Mechanical equipment owned and operated as a penthouse by a fixed right-of-way public mass transit system.
- 411.14 Areas within curtain walls or screening without a roof, used where needed to give the appearance of one (1) structure, shall not be counted in floor area ratio, but shall be computed as a penthouse to determine if they comply with § 411.12.
- 411.15 The gross floor area of penthouse habitable space shall be included in calculations to determine the amount of off-street vehicle parking, bicycle parking, and loading as required elsewhere in this title; except that recreation space for residents or tenants of the building or other ancillary space associated with a rooftop deck shall not be included.
- 411.16 For residential buildings, the construction of penthouse habitable space, except penthouse habitable space devoted exclusively to communal rooftop recreation or amenity space for the primary use of residents of the residential building, is subject to the Inclusionary Zoning set-aside provisions of Chapter 26.
- 411.17 For non-residential buildings, the construction of penthouse habitable space, including all forms of habitable space, shall trigger the affordable housing requirement as set forth in § 414.
- 411.18 Penthouses, screening around unenclosed mechanical equipment, rooftop platforms for swimming pools, roof decks, trellises, and any guard rail on a roof shall be set back from the edge of the roof upon which it is located as follows:

- (a) A distance equal to its height from the front building wall of the roof upon which it is located;
- (b) A distance equal to its height from the rear building wall of the roof upon which it is located;
- (c) A distance equal to its height from the side building wall of the roof upon which it is located if:
 - (1) In any zone, it is on a building used as a detached dwelling, semi-detached dwelling, rowhouse, or flat, that is:
 - (A) Adjacent to a property that has a lower or equal permitted matter-of-right building height, or
 - (B) On a corner lot adjacent to a public or private street or alley right-of-way or a public park;
 - (2) In the R-1 through R-4 Zone Districts, it is on any building not described in (c)(1) that is:
 - (A) Adjacent to a property that has a lower or equal permitted matter-of-right building height, or
 - (B) On a corner lot adjacent to a public or private street or alley right-of-way or a public park;
 - (3) For zones not listed in paragraph (c)(2), it is on a building not described in paragraph (c)(1) that is located adjacent to a property that has a lower permitted matter-of-right building height;
 - (4) For any zone, it is on a building adjacent to a property improved with a designated landmark or contributing structure to a historic district that is built to a lower height regardless of the permitted matter-of-right building height; and
 - (5) For any zone, it is on a building with walls that border any court other than closed courts;
- (d) A distance equal to one-half (1/2) of its height from any side building wall of the roof upon which it is located that is not adjoining another building wall and not meeting the conditions of paragraphs (c)(1) through (5); or
- (e) A distance equal to two (2) times its height from any building wall of the roof upon which it is located which fronts onto Independence Avenue, S.W. between 12th Street, S.W. and 2nd Street, S.W., or fronting onto Pennsylvania Avenue, N.W. between 3rd Street, N.W. and 15th Street, N.W.,

subject to any penthouse constraints contained within adopted PADG Guideline documents.

- 411.19 For the administration of this section, mechanical equipment shall not include telephone equipment, radio, television, or electronic equipment of a type not necessary to the operation of the building or structure. Antenna equipment cabinets and antenna equipment shelters shall be regulated by Chapter 27 of this title.
- 411.20 RESERVED
- 411.21 RESERVED
- 411.22 RESERVED
- 411.23 RESERVED
- 411.24 A request to add penthouse habitable space to a building approved by the Zoning Commission as a planned unit development or through the design review requirements of Chapters 16, 18, 28, or 29 prior to January 8, 2016, may be filed as a minor modification for placement on the Zoning Commission consent calendar, pursuant to § 3030 provided:
- (a) The item shall not be placed on a Consent Calendar for a period of thirty (30) days minimum following the filing of the application; and
 - (b) The Office of Planning shall submit a report with a recommendation a minimum of seven (7) days in advance of the meeting.
- 411.25 In addition to meeting the requirements of § 3030, an application made pursuant to § 411.24 shall include:
- (a) A fully dimensioned copy of the approved and proposed roof plan and elevations as necessary to show the changes;
 - (b) A written comparison of the proposal to the Zoning Regulations; and
 - (c) Verification that the affected ANC has been notified of the request.
- 411.26 Pursuant to § 5 of the Height Act, D.C. Official Code § 601.05(h), a penthouse may be erected to a height in excess of that permitted therein if authorized by the Mayor or his or her designee and subject to the setback and other restrictions stated in the Act.

SOURCE: § 3308 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 33 DCR 3975 (July 4, 1986); Final Rulemaking published at 33 DCR 4682 (August 1, 1986); Final Rulemaking published at 33 DCR 7308 (November 21, 1986); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the

text of Proposed Rulemaking published at 47 DCR 8335, 8370 (October 20, 2000); as amended by Final Rulemaking published at 54 DCR 3064(April 6, 2007); as amended by Final Rulemaking published at 55 DCR 0034 (January 4, 2008); as amended by Final Rulemaking published at 55 DCR 1803 (February 22, 2008); 57 DCR 000126 (2010); as amended by Final Rulemaking and Order No. 14-13 published at 63 DCR 390 (January 8, 2016).

412 PERVIOUS SURFACE

412.1 The minimum pervious surface percentage requirement stated below—shall be applicable only in conjunction with the following:

- (a) The construction of a new principal structure;
- (b) An addition to a principal or accessory structure, other than a historic resource, that increases the existing lot occupancy at the time of building permit application by ten percent (10%) or more;
- (c) The construction of a new accessory structure that increases the existing lot occupancy at the time of building permit application by ten percent (10%) or more; or
- (d) An addition to a historic resource that increases the existing lot occupancy at the time of building permit application by twenty-five percent (25%) or more.

412.2 For the purposes of § 412.1 a historic resource is a building or structure listed in the District of Columbia Inventory of Historic Sites or a building or structure certified in writing by the State Historic Preservation Officer as contributing to the character of the historic district in which it is located.

412.3 Except as provided in §§ 412.1 and 412.4 or as otherwise required by this title, the minimum percentage of pervious surface of a lot in a Residence District listed in the table below shall be as set forth in the following table:

ZONE DISTRICT AND STRUCTURE	MINIMUM PERCENTAGE OF PERVIOUS SURFACE
R-1 through R-4 Public recreation and community centers	30%
R-1-A, R-1-B All other structures	50%
R-2 All other structures	30%
R-3 All other structures	20%

412.4 Except as required in § 412.3 for public recreations and community centers or as otherwise required by this title, in the R-4 zone a minimum pervious surface

requirement for structures other than those listed in § 412.2 shall be based on lot size as set forth in the following table:

MINIMUM LOT SIZE	MINIMUM PERCENTAGE OF PERVIOUS SURFACE
Less than 1,800 square feet	0%
1,801 to 2,000 square feet	10%
Larger than 2000 square feet	20%

412.5 The percent of pervious surface area shall be calculated by dividing the total area of pervious surface

412.6 Only the following shall be considered pervious surfaces for the purposes of calculating the pervious surface area:

- (a) Grass, mulched groundcover, all areas of a vegetated roof planted with a growing medium, and other planted areas;
- (b) Permeable pavers or paving that facilitate the infiltration of water into the soil; and
- (c) Decks or porches constructed above the surface of the lot that are erected on pier foundations, and that maintain a permeable surface underneath that can facilitate the infiltration of water into the soil.

412.7 The Board of Zoning Adjustment may grant, by special exception, a full or partial reduction in the minimum pervious surface requirement required by this section if, in addition to meeting the general requirements of § 3104, the applicant demonstrates that complying with the minimum pervious surface requirement is impractical because of size of lot, or other conditions relating to the lot or surrounding area that would tend to make full compliance unduly restrictive, prohibitively costly, or unreasonable, or as a result of equivalent measures being implemented on the property that provide the same minimum pervious surface amount.

SOURCE: Final Rulemaking and Order No. 12-10 published at 60 DCR 10077 (July 12, 2013).

413 RETAINING WALLS

413.1 In R-1, R-2, R-3, and R-4 Districts a retaining wall may be erected in accordance with the requirements of this section.

413.2 The height of a retaining wall shall be determined as follows:

- (a) The height of a retaining wall is the vertical distance measured from the natural grade at the base of the wall to the top of the wall;
- (b) When the height of a retaining wall varies, the height shall be measured at the highest point of the wall, from the natural grade at the base of the wall at that point; and

- (c) Berms or other similar forms of intermittent terrain elevation shall not be included in measuring retaining wall height.

413.3 Subject to the height limitations of § 413.4 through 413.7, the maximum height of a retaining wall shall be six feet (6 ft.).

413.4 A retaining wall shall not exceed four feet (4 ft.) in height in the following locations, unless a lower height is required by § 413.5 and 413.6:

- (a) Along a street frontage or property line;
- (b) Within any required side yard;
- (c) In the R-1 Districts, within twenty-five feet (25 ft.) of the rear property line, as measured from the rear property line inward; and
- (d) In the R-2, R-3, and R-4 Districts, within twenty feet (20 ft.) of the rear property line, as measured from the rear property line inward.

413.5 A retaining wall located along a street frontage on a block with adjacent existing retaining walls shall not be greater in height than the tallest adjacent existing retaining walls up to the maximum height of four feet (4 ft.).

413.6 A retaining wall located on any area between a property line and a building line shall not exceed a maximum height of forty-two inches (42 in.).

413.7 A retaining wall abutting an improved alley in the R-3 or R-4 Districts shall not exceed a maximum height of twelve feet (12 ft.).

413.8 Retaining walls may be tiered or terraced provided that the width of the area between each retaining wall is at least twice the height of the lower retaining wall. The area between each wall shall be pervious and may not be paved or otherwise covered with impervious materials.

413.9 Retaining walls not meeting the requirements of this section, may be approved by the Board of Zoning Adjustment as a special exception pursuant to § 3104.1. In addition to meeting the general conditions for being granted a special exception as set forth in that subsection, the applicant must demonstrate that conditions relating to the building, terrain, or surrounding area would to make full compliance unduly restrictive, prohibitively costly, or unreasonable.

SOURCE: Final Rulemaking and Order No. 13-06 published at 61 DCR 5981 (June 13, 2014).

414 AFFORDABLE HOUSING PRODUCTION REQUIREMENT GENERATED BY CONSTRUCTION ON A NON-

RESIDENTIAL BUILDING OF PENTHOUSE HABITABLE SPACE

- 414.1 The owner of a non-residential building proposing to construct penthouse habitable space shall produce or financially assist in the production of residential uses that are affordable to low-income households, as those households are defined by § 2601.1, in accordance with this section.
- 414.2 The requirements of this provision shall be triggered by the filing of a building permit application that, if granted, would result in the amount of penthouse habitable space exceeding one thousand square feet (1,000 sq. ft.).
- 414.3 The requirements of this section shall not apply to properties owned by the District government or the Washington Metropolitan Area Transit Authority and used for government or public transportation purposes.
- 414.4 Qualifying residential uses include one (1)-family dwellings, flats, multiple-family dwellings, including apartment houses, rooming houses, and boarding houses, but shall not include transient accommodations, all as defined in § 199.1.
- 414.5 If the owner constructs or rehabilitates the required housing, the provisions of §§ 414.6 through 414.11 shall apply.
- 414.6 The gross square footage of new or rehabilitated housing shall equal:
- (a) Not less than one-fourth (1/4) of the proposed penthouse habitable space if the required housing is situated on an adjacent property;
 - (b) Not less than one-third (1/3) of the proposed penthouse habitable space if the location of the required housing does not comply with paragraph (a) of this subsection, but is nonetheless within the same Advisory Neighborhood Commission area as the property, or if it is located within a Housing Opportunity Area as designated in the Comprehensive Plan; and
 - (c) Not less than one-half (1/2) of the proposed penthouse habitable space if the location of the required housing is other than as approved in paragraphs (a) and (b) above.
- 414.7 If the housing is provided as new construction, the average square feet of gross floor area per dwelling or per apartment unit shall be not less than eight hundred and fifty square feet (850 sq. ft.); provided, that no average size limit shall apply to rooming houses, boarding houses, or units that are deemed single-room occupancy housing.
- 414.8 For purposes of this section, the word "rehabilitation" means the substantial renovation of housing for sale or rental that is not habitable for dwelling purposes because it is in substantial violation of the Housing Regulations of the District of Columbia (14 DCMR).

- 414.9 In the case of rental housing, the required housing shall be maintained as affordable dwelling units for not less than twenty (20) years beginning on the issuance date of the first certificate of occupancy for the residential development, or if for a one (1)-family dwelling, the effective date of the first lease agreement.
- 414.10 If the required housing is provided for home ownership, it shall be maintained as affordable dwelling units for not less than twenty (20) years beginning on the issuance date of the first certificate of occupancy for the residential development, or if for a one-family dwelling, the effective date of the first sales agreement.
- 414.11 No certificate of occupancy shall be issued for the owner's building to permit the occupancy of penthouse habitable space until a certificate of occupancy has been issued for the housing required pursuant to this section, or in the case of a residential unit for which a certificate of occupancy is not required, prior to the final building inspection.
- 414.12 If the owner instead chooses to contribute funds to a housing trust fund, as defined in § 2499.2, the provisions of §§ 414.13 through 414.16 shall apply.
- 414.13 The contribution shall be equal to one-half (1/2) of the assessed value of the proposed penthouse habitable space.
- 414.14 The assessed value shall be the fair market value of the property as indicated in the property tax assessment records of the Office of Tax and Revenue no earlier than thirty (30) days prior to the date of the building permit application to construct the penthouse habitable space.
- 414.15 The contribution shall be determined by dividing the assessed value per square foot of land that comprises the lot upon which the building is or will be located by the maximum permitted non-residential FAR and multiplying that amount times the penthouse habitable space to be constructed.
- 414.16 Not less than one-half (1/2) of the required total financial contribution shall be made prior to the issuance of a building permit for construction of the penthouse habitable space, and the balance of the total financial contribution shall be made prior to the issuance of a certificate of occupancy for any or all of the building's penthouse habitable space.

SOURCE: Final Rulemaking and Order No. 14-13 published at 63 DCR 390 (January 8, 2016).

TITLE 11 - ZONING

CHAPTER 5 SPECIAL PURPOSE DISTRICTS

Secs.

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- 538 GROSS FLOOR AREA (SP)
- 500 GENERAL PROVISIONS (SP)**
- 500.1 The SP District (Special Purpose) is designed to stabilize those areas adjacent to C-3-C and C-4 Districts and other appropriate areas that contain:
- (a) Existing apartments, offices, and institutions; and
 - (b) Mixed use buildings.
- 500.2 The major purpose of the SP District shall be to act as a buffer between adjoining commercial and residential areas, and to ensure that new development is compatible in use, scale, and design with the transitional function of this zone district.
- 500.3 The SP District is designed to preserve and protect areas adjacent to Commercial Districts that contain a mix of row houses, apartments, offices, and institutions at a medium to high density, including buildings of historic and architectural merit.
- 500.4 The SP District is divided into SP-1 (medium density) and SP-2 (medium-high density) Districts. In both districts, new residential development shall be permitted at a higher density than new office development, both to be compatible with surrounding properties.
- 500.5 Except as provided in chapters 20 through 25 of this title, in the SP District, no building or premises shall be used and no building shall be erected or altered that is arranged, intended, or designed to be used except for one (1) or more of the uses listed in this chapter.

500.6 Upon receiving an application for an approval of a use specified in §§ 505 and 506, 508 through 510, and 512 through 515, the Board of Zoning Adjustment shall submit the application to the D.C. Office of Planning for coordination, review, report, and impact assessment, along with reviews in writing from all relevant District departments and agencies, including the Departments of Transportation and Housing and Community Development and, if a historic landmark or historic district is involved, the State Historic Preservation Officer.

AUTHORITY: Unless otherwise noted, the authority for this chapter is the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code §§ 6-641.01 to 6-641.15 (2001) (formerly codified at D.C. Code §§ 5-413 to 5-432 (1994 Repl. & 1999 Supp.))).

SOURCE: §§ 4101.1, 4101.2, and 4101.5 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 25 DCR 2756 (September 22, 1978); Final Rulemaking published at 47 DCR 9725, 9731-9732 (December 8, 2000); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference, in part, the text of Proposed Rulemaking published at 47 DCR 8335, 8371-72 (October 20, 2000).

501 USES AS A MATTER OF RIGHT (SP)

501.1 The following uses shall be permitted as a matter of right in an SP District:

- (a) Any use permitted in any R-5 District under §§ 350.4 and 350.5, except a hotel;
- (b) Antenna, subject to the standards and procedure which apply pursuant chapter 27 of this title;
- (c) Art gallery;
- (d) Car-sharing spaces, none of which may be a required parking space for any use on site;
- (e) Child/Elderly development center; or adult day treatment facility;
- (f) Community center building;
- (g) Driver's License Road Test Facility;
- (h) Park, playground, swimming pool, or athletic field operated by a local community organization;
- (i) Police Department General Facility, except as provided in § 504;
- (j) Private school, including kindergarten, elementary, secondary, trade, or any other school;

- (k) Public School, subject to the provisions of chapter 21 of this title;
- (l) Religious reading room; and
- (m) Ticket office.

501.2 An artist studio shall be permitted as a matter of right in an SP District, subject to the following criteria:

- (a) All operations and storage of materials shall occur inside the building;
- (b) Sales of art work produced by the occupants of the studio shall be permitted within the studio; and
- (c) The artist may teach the art to one or more persons.

501.3 General office use, including chancery, shall be permitted in an SP District as a replacement for office use for international organization, non-profit organization, labor union, architect, dentist, doctor, engineer, lawyer, or similar professional person existing and approved by the Board of Zoning Adjustment or the Zoning Commission or authorized by a validly issued certificate of occupancy prior to January 29, 1999.

SOURCE: § 4101.3 of the Zoning Regulations, effective May 12, 1958, as added by Final Rulemaking published at 25 DCR 2757 (September 22, 1981); amended by: Final Rulemaking published at 29 DCR 4913, 4919 (November 5, 1982); Final Rulemaking published at 35 DCR 465 (January 22, 1988); Final Rulemaking published at 46 DCR 812 (January 29, 1999); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8372, 8378 (October 20, 2000); as amended by Final Rulemaking published at 51 DCR 4778 (May 7, 2004); as amended by Final Rulemaking published at 52 DCR 7259 (August 5, 2005); as amended by Final Rulemaking published at 53 DCR 9580 (December 1, 2006); as amended by Final Rulemaking published at 53 DCR 10085 (December 22, 2006); as amended by Final Rulemaking published at 55 DCR 0034 (January 4, 2008); as amended by Final Rulemaking and Order No. 09-16 published at 57 DCR 2961 (April 2, 2010).

502 ACCESSORY USES (SP)

502.1 The following commercial uses shall be permitted in an SP District as accessory uses and appropriate adjuncts to an apartment house or hotel, incidental to the uses permitted in this chapter; provided, that the requirements of §§ 502.2 through 502.4 shall be met:

- (a) Barber shop;
- (b) Beauty parlor;
- (c) Cigar or news stand;

- (d) Drug stand, including soda fountain;
- (e) Dry cleaning or laundry pick-up station;
- (f) Florist shop;
- (g) Perfumery shop;
- (h) Pressing or tailoring establishment; and
- (i) Other similar uses.

502.2 There shall be no direct entrance to the commercial establishment from the outside of the building.

502.3 No part of the adjunct or the entrance to it shall be visible from a sidewalk.

502.4 No sign or display indicating the existence of the adjunct shall be visible from the outside of the building.

502.5 Mechanical amusement machines that are accessory to uses specified in §§ 502.1, 507, and 508, but in the case of § 502.1 only as to a hotel subject to the provisions of § 2501, shall be permitted as an accessory use incidental to the uses permitted in this chapter.

502.6 A child development home or an expanded child development home shall be permitted as an accessory use in an SP District incidental to the uses permitted in this chapter; provided:

- (a) The dwelling unit in which the use is located shall be the principal residence of the caregiver; and
- (b) The use otherwise shall meet the definition of a home occupation.

502.7 Any other accessory use and accessory building customarily incidental to the uses otherwise authorized by this chapter shall be permitted in an SP District, except that a firearms retail sales establishment shall not be permitted as a principal or an accessory use.

SOURCE: § 4101.6 of the Zoning Regulations, effective May 12, 1958, as added by Final Rulemaking published at 25 DCR 2759 (September 22, 1978); as amended by Final Rulemaking published at 29 DCR 4913, 4914 (November 5, 1982); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8372 (October 20, 2000); as amended by Final Rulemaking and Order No. 08-20 published at 56 DCR 2181 (March 13, 2009); as amended by Final Rulemaking and Order No. 15-17 published at 63 DCR 1632 (February 12, 2016).

503 CHANCERIES (SP)

503.1 A chancery shall be a permitted use in an SP District, subject to disapproval by the Board of Zoning Adjustment in accordance with chapter 10 of this title.

SOURCE: § 4108.8 of the Zoning Regulations, effective May 12, 1958, as added by Final Rulemaking published at 30 DCR 3270, 3271 (July 1, 1983); and as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8372 (October 20, 2000).

504 POLICE DEPARTMENT GENERAL FACILITY (SP)

504.1 A vehicle maintenance facility or equestrian unit shall be permitted in an SP District if approved by the Board of Zoning Adjustment as a special exception under §3104, subject to the provisions of this section.

504.2 The vehicle maintenance facility or equestrian unit shall be located so that it is not likely to become objectionable to adjoining or nearby property because of noise or fumes.

SOURCE: Final Rulemaking published at 51 DCR 4778(May 7, 2004)

505 PARKING LOTS (SP)

505.1 A parking lot in existence on October 5, 1978, under approval by the Board of Zoning Adjustment, may be permitted by the Board to continue in existence for a period not to exceed twenty (20) years from the date of expiration of the Certificate of Occupancy in effect on October 5, 1978, if approved by the Board as a special exception under § 3104, subject to the provisions of this section.

505.2 [DELETED]

505.3 Each application shall be referred to the National Capital Planning Commission for review and comment.

505.4 Each parking lot shall be located and all facilities of the lot shall be designed so that they are not likely to become objectionable to adjoining and nearby property because of noise, traffic, or other objectionable conditions.

505.5 The present character and future development of the neighborhood shall not be affected adversely by the use.

505.6 The parking facility shall serve either residential uses or provide short-term parking for retail, service, and public facility uses, but shall not provide all-day commuter parking.

505.7 The Board shall not have authority under this section to approve the establishment of any new parking lot.

SOURCE: § 4101.41 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 25 DCR 2570 (September 22, 1978); Final Rulemaking published at 30 DCR 2110 (May 5, 1983); Final Rulemaking published at 32 DCR 6890 (November 29, 1985); Final Rulemaking published at 37 DCR 6369 (October 5, 1990); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8373 (October 20, 2000).

506 PARKING GARAGES (SP)

506.1 Parking garages shall be permitted in an SP District if approved by the Board of Zoning Adjustment as a special exception under § 3104, subject to the provisions of chapter 23 and this section.

506.2 [DELETED]

506.3 Each parking garage shall be located and all facilities of the garage shall be designed so that they are not likely to become objectionable to adjoining and nearby property because of noise, traffic, or other objectionable conditions.

506.4 The present character and future development of the neighborhood shall not be affected adversely by the use.

506.5 The parking facility shall serve either residential uses or provide short-term parking for retail, service, and public facility uses, but shall not provide all-day commuter parking.

506.6 The parking provided shall be within eight hundred feet (800 ft.) of the use to be served, and shall be necessary to that use.

SOURCE: § 4101.42 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8373 (October 20, 2000).

507 COLLEGES AND UNIVERSITIES (SP)

507.1 A college or university that is an academic institution of higher learning, including a college or university hospital, dormitory, fraternity, or sorority house proposed to be located on the campus of a college or university, shall be permitted in an SP District if approved by the Zoning Commission as a special exception under § 3104, subject to the provisions of this section.

507.2 Upon receiving an application for an approval under this section, the Commission shall submit the application to the D.C. Office of Planning for coordination, review, report, and impact assessment, along with reviews in

writing from all relevant District departments and agencies, including the Departments of Transportation and Housing and Community Development, and, if a historic landmark or historic district is involved, the State Historic Preservation Officer.

507.3 The applicant shall have submitted and the Commission shall have approved a plan for developing the campus as a whole.

507.4 The plan required in § 507.3 shall show the location, height, and bulk, where appropriate, of all present and proposed improvements, including but not limited to:

- (a) Buildings, parking and loading facilities, screening, signs, streets, and public utility facilities;
- (b) Athletic and other recreational facilities;
- (c) A description of all activities conducted or to be conducted in the proposed facilities; and
- (d) A description of the capacity of all present and proposed campus development.

507.5 The plan required in § 507.3 may provide for the interim use, for a limited period of time, of land or improved property with any use that is a proper college or university function.

507.6 The Commission may approve the plan submitted in accordance with §§ 507.3 through 507.5, or any amendment to the plan, concurrent with an application for approval of a specific college or university building or use.

507.7 In approving the submitted plan, the Commission shall determine that the use is located so that it is not likely to become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable conditions.

507.8 In approving any application for a specific college or university building or use, the Commission shall determine that the proposed building or use is consistent with the approved campus plan; and further, that it is not likely to become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable conditions.

SOURCE: § 4101.43 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9725, 9732-33 (December 8, 2000).

508 OFFICE USES (SP)

508.1 Construction of a new office building or construction of an addition to a building for office use, or conversion of an existing building to office use, shall be permitted in an SP District if approved by the Board of Zoning Adjustment as a special exception under § 3104, subject to the provisions of this section. Construction of Fire Department Administrative Facilities shall also be permitted in an SP District if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.

508.2 [DELETED]

508.3 The use, height, bulk, and design shall be in harmony with existing uses and structures on neighboring property.

508.4 The use shall not create dangerous or other objectionable traffic conditions.

508.5 The Board may require special treatment in the way of design, screening of buildings, accessory uses, signs, and other facilities as it deems necessary to protect the value of neighboring property.

SOURCE: § 4101.44 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 30 DCR 3270 (July 1, 1983); Final Rulemaking published at 46 DCR 812 (January 29, 1999); and. Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8373-74, 8378 (October 20, 2000); as amended by Final Rulemaking published at 52 DCR 9155(October 14, 2005).

509 UTILITIES (SP)

509.1 If declared necessary in the public interest by the Public Service Commission, a telephone exchange, public utility pumping station, electric substation using nonrotating equipment, or a natural gas regulator station shall be permitted in an SP District if approved by the Board of Zoning Adjustment as a special exception under § 3104, subject to the provisions of this section.

509.2 Use as an optical transmission node shall be permitted in an SP District if approved by the Board of Zoning Adjustment in accordance with the conditions specified in § 3104, subject to the following:

(a) Any new construction of a freestanding structure used primarily for the purpose of housing an optical transmission node shall be built to appear compatible with surrounding construction, including exterior building material, fenestration, and landscaping; and

(b) There shall be no advertisement on the structure.

509.3 The utilities allowed in § 509.1 and optical transmission nodes in § 509.2 shall be subject to requirements for setbacks, screening, or other requirements, as

the Board deems necessary for the protection of neighboring or adjacent property.

SOURCE: § 4101.45 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8374 (October 20, 2000); as amended by Final Rulemaking published at 50 DCR 8818(October 17, 2003)

510 ACCESSORY PARKING SPACES (SP)

510.1 Accessory parking spaces elsewhere than on the same lot or part of the lot on which any principal SP use is permitted, except for a one-family dwelling, when the parking spaces will be established within the square in which the principal use is located, shall be permitted in an SP District if approved by the Board of Zoning Adjustment as a special exception under § 3104, subject to the provisions of this section.

510.2 [DELETED]

510.3 The total number of parking spaces provided for the principal use shall not exceed the minimum number of spaces required for the principal use.

510.4 It shall be considered economically impracticable or unsafe to locate the parking spaces within the principal building or on the same lot on which the building or use is permitted because of the following:

- (a) Strip zoning or shallow zoning depth;
- (b) Restricted size of lot caused by adverse adjoining ownership or substantial improvements adjoining or on the lot;
- (c) Unusual topography, grades, shape, size, or dimensions of the lot;
- (d) The lack of an alley or the lack of appropriate ingress or egress through existing or proposed alleys or streets; or
- (e) Traffic hazards caused by unusual street grades or other conditions.

510.5 The parking spaces shall be located and all facilities in relation to the parking spaces shall be designed so that they are not likely to become objectionable to adjoining or nearby property because of noise, traffic, or other objectionable conditions.

SOURCE: § 4101.46 of the Zoning Regulations, effective May 12, 1958; Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8374 (October 20, 2000).

511 [RESERVED]

512 HOTELS AND INNS (SP)

512.1 A hotel or inn shall be permitted in an SP District if approved by the Board of Zoning Adjustment as a special exception under § 3104, subject to the provisions of this section.

512.2 [DELETED]

512.3 The height, bulk, and design of the hotel or inn shall be in harmony with existing uses and structures on neighboring property.

512.4 To ensure that the height, bulk, and design of the hotel or inn is in harmony with existing uses and structures on neighboring property, the Board may require special treatment in the way of design, building setbacks, screening, landscaping, sign controls, and other features as it deems necessary to protect neighboring property.

512.5 The approval of the hotel or inn shall result in a balance of residential, office, and hotel or inn uses in the SP District in the vicinity of the hotel or inn.

512.6 The gross floor area devoted to function rooms and exhibit space shall not exceed fifteen percent (15%) of the gross floor area of the hotel.

512.7 The hotel or inn shall be located within thirteen hundred feet (1,300 ft.) of the Central Employment Area or a Metrorail station.

512.8 The thirteen hundred foot (1,300 ft.) distance required in § 512.7 shall be measured from the entrance of the hotel or inn that is closest to the main lobby and guest registration desk to the edge of the Central Employment Area or the entrance to the Metrorail station, following public rights-of-way.

512.9 The Board may require more or less off-street parking spaces and loading berths than required by chapters 21 and 22 of this title to accommodate the activities of the hotel or inn, so as to avoid unduly impacting parking or traffic on the surrounding streets.

512.10 The location and design of driveways, access roads, and other circulation elements of the hotel or inn shall be to avoid dangerous or other objectionable traffic conditions.

SOURCE: § 4101.48 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 27 DCR 2066, 2069 (May 16, 1980); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8374 (October 20, 2000).

513 COMMUNITY-BASED RESIDENTIAL FACILITIES (SP)

513.1 Community-based residential facilities in the following subcategories shall be permitted in an SP District if approved by the Board of Zoning Adjustment as a special exception under § 3104:

- (a) Youth residential care home or community residence facility for sixteen (16) to twenty-five (25) persons, not including resident supervisors or staff and their families, subject to the standards and requirements of § 358;
- (b) Health care facility for sixteen (16) to three hundred (300) persons, not including resident supervisors or staff and their families, subject to the standards and requirements of § 359;
- (c) Emergency shelter for five (5) to twenty (20) persons, not including resident supervisors or staff and their families, subject to the standards and requirements of § 360; and
- (d) Youth rehabilitation home, adult rehabilitation home, or substance abusers' home for one (1) to twenty (20) persons, not including resident supervisors or staff and their families, subject to the standards and requirements of §§ 358.2 through 358.7.

513.2 [DELETED]

SOURCE: § 4101.49 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 28 DCR 3482, 3498 (August 7, 1981); Final Rulemaking published at 40 DCR 726 (January 22, 1993); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8374-75 (October 20, 2000). January 4, 2008 514, 514.1 to 514.10 repealed at 55 DCR 0034

514 [DELETED]

SOURCE: Final Rulemaking published at 42 DCR 5541, 5542 (October 6, 1995); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8375 (October 20, 2000); as repealed by Final Rulemaking published at 55 DCR 0034(January 4, 2008).

515 [DELETED]

SOURCE: Final Rulemaking published at 42 DCR 5541, 5542 (October 6, 1995); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8375 (October 20, 2000); as repealed by Final Rulemaking published at 55 DCR 0034(January 4, 2008).

516 CLERICAL AND RELIGIOUS GROUP RESIDENCES (SP)

516.1 Use as residences for clerical groups and religious denominations in excess of fifteen (15) persons shall be permitted in an SP District if approved by the Board of Zoning Adjustment as a special exception under § 3104, subject to the provisions of this section.

516.2 Use as residences for clerical groups and religious denominations shall not adversely affect the use of neighboring property.

516.3 The amount and arrangement of parking spaces shall be adequate.

SOURCE: Final Rulemaking published at 42 DCR 5541, 5544 (October 6, 1995); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8376 (October 20, 2000).

517 CHURCH PROGRAMS (SP)

517.1 Use for a program conducted by a church congregation or group of churches shall be permitted in an SP District if approved by the Board of Zoning Adjustment as a special exception under § 3104, subject to the provisions of this section.

517.2 The part of the church program conducted on the property shall be carried on within the existing church building(s) or structure(s).

517.3 The operation of the program shall be such that it is not likely to become objectionable in the SP District because of noise and traffic.

517.4 No sign or display indicating the location of the church program shall be located on the outside of the building or the grounds.

517.5 Any authorization by the Board shall be limited to a period of three (3) years, but may be renewed at the discretion of the Board.

517.6 The operation of the program shall be such that it is not likely to become objectionable in the SP District because of noise and traffic.

SOURCE: Final Rulemaking published at 42 DCR 5541, 5544 (October 6, 1995); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8376 (October 20, 2000).

518 RETAIL AND SERVICE USES (SP-2)

518.1 The uses identified in § 518.4 shall be permitted in certain properties in an SP-2 District if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.

518.2 The properties are those located south of M Street, N.W. and N.E.

- 518.3 The uses shall be located on or below the ground floor of the building.
- 518.4 The uses shall be those permitted in §§ 701.1 through 701.5 of this Title.
- 518.5 The uses shall not include a drive-through.
- 518.6 The uses shall be located and designed such that they are not likely to become objectionable to neighboring properties because of noise, traffic, or other objectionable conditions.
- 518.7 The Board of Zoning Adjustment may impose requirements pertaining to screening, signage, or other requirements it deems necessary to protect adjacent or nearby property.

SOURCE: Final Rulemaking and Order No. 09-11 published at 57 DCR 1242 (February 5, 2010).

519-529 [RESERVED]

530 HEIGHT OF BUILDINGS OR STRUCTURES (SP)

530.1 Except as specified in §§ 530 through 537 and in Chapters 20 through 25 of this title, the height of buildings or structures, not including a penthouse, in an SP Zone District shall not exceed the height set forth in the following table:

ZONE DISTRICT	MAXIMUM HEIGHT (Feet)	MAXIMUM HEIGHT (Stories)
SP - 1	65	No Limit
SP - 2	90	No Limit

- 530.2 A public recreation and community center shall not exceed a height of forty-five feet (45 ft.).
- 530.3 The height of buildings or structures as specified in §§ 530.1 and 530.2 may be exceeded in the instances provided in §§ 530.4 through 530.6.
- 530.4 Spires, towers, domes, pinnacles or minarets serving as architectural embellishments, penthouses, ventilator shafts, antennas, chimneys, smokestacks, or fire sprinkler tanks may be erected to a height in excess of that which this section otherwise authorizes. This section shall not be interpreted to bypass otherwise required special exception reviews.
- 530.5 A penthouse may be erected to a height in excess of that which this section otherwise authorizes but shall not exceed the height, as measured from the surface of the roof upon which the penthouse is located, in the following table:

ZONE DISTRICT	MAXIMUM PENTHOUSE HEIGHT	MAXIMUM PENTHOUSE STORIES
SP-1	12 ft. except 18 ft. 6 in. for penthouse mechanical space	1; second story permitted for penthouse mechanical space
SP-2	20 ft.	1 plus mezzanine; second story permitted for penthouse mechanical space

530.6 [REPEALED]

530.7 Where required by the Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452, as amended; D.C. Official Code §§ 6-601.01 to 6-601.09 (formerly codified at D.C. Code §§ 5-401 to 5-409 (1994 Repl. & 1999 Supp.))), a height in excess of that permitted shall be authorized by the Mayor.

SOURCE: §§ 4201.1, 4201.2, and 4201.3 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 33 DCR 3975, 3976 (July 4, 1986); Final Rulemaking published at 36 DCR 1509, 1523 (February 24, 1989); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8376 (October 20, 2000); as amended by Final Rulemaking published at 50 DCR 10137(November 28, 2003); as amended by Final Rulemaking published at 55 DCR 0034(January 4, 2008); 57 DCR 000126 (2010); as amended by Final Rulemaking and Order No. 14-13 published at 63 DCR 390 (January 8, 2016).

531 FLOOR AREA RATIO (SP)

531.1 Except as provided in §§ 531.2 and 537, the maximum permitted floor area ratio in the SP District shall be as set forth in the following table:

ZONE DISTRICT	APARTMENT HOUSE OR OTHER RESIDENTIAL USE	OTHER PERMITTED USE	MAXIMUM PERMITTED (FAR)
SP-1	4.0	2.5	4.0
SP-2	6.0	3.5	6.0

531.2 A public recreation and community center shall not exceed a 1.8 floor area ratio.

531.3 The maximum permitted floor area ratio may be increased for specific applications approved by the Zoning Commission under the planned unit development process specified in chapter 24 of this title.

531.4 In the computation of gross floor area for a hotel, guest room areas and service areas shall be charged against the floor area ratio for "Apartment house or other residential use," as specified in § 531.1. Function rooms, exhibit space, and commercial adjuncts shall be charged against the floor area ratio for "other permitted use," as specified in § 531.1.

531.5 For the purposes of this section, an inn or community-based residential facility shall be charged against the floor area ratio for "Apartment house or other residential use," as specified in § 531.1.

SOURCE: §§ 4301.1, 4301.2, and 4301.3 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 27 DCR 2066, 2070 (May 16, 1980); Final Rulemaking published at 28 DCR 3482, 3498 (August 7, 1981); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8376-77 (October 20, 2000); as amended by Final Rulemaking published at 50 DCR 10137 (November 28, 2003).

532 PERCENTAGE OF LOT OCCUPANCY (SP)

532.1 In an SP District, no building, including accessory buildings, devoted to a residential use except a hotel shall occupy more than eighty percent (80%) of the lot upon which it is located.

532.2 No public recreation and community center may be permitted a lot occupancy in excess of twenty percent (20%).

532.3 A public recreation and community center may be permitted a lot occupancy in excess of twenty percent (20%), but not to exceed forty percent (40%), if approved by the Board of Zoning Adjustment; provided that, in addition to the requirements of § 3104.1, the agency shows that the increase is consistent with agency policy of preserving open space.

SOURCE: §4302.1 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8377 (October 20, 2000); as amended by Final Rulemaking published at 50 DCR 10137 (November 28, 2003).

533 [DELETED]

SOURCE: § 4302.2 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published. at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8377 (October 20, 2000); as amended by Final Rulemaking published at 54 DCR 3064(April 6, 2007).

534 REAR YARDS (SP)

534.1 To provide adequate light, view, movement of air, and visual privacy, a rear yard shall be provided for all structures located in an SP District.

534.2 The rear yard shall have a minimum depth of two and one-half inches (2 1/2 in.) per foot of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall, but shall not be less than twelve feet (12 ft.).

534.3 In an SP District, the depth of rear yard required in §§ 534.1 and 534.2 may be measured as follows:

- (a) Where a lot abuts an alley, from the center line of the alley to the rear wall of the building or other structure. A rear yard on the lot need not be provided below a horizontal plane twenty feet (20 ft.) above the mean finished grade measured at the middle of the rear wall of that portion of the building or other structure below the twenty foot (20 ft.) plane;
- (b) Where a lot does not abut an alley, the depth of rear yard shall be measured as specified in the definition of "rear yard," except a rear yard need not be provided below a horizontal plane twenty feet (20 ft.) above the mean finished grade measured at the middle of the rear wall of that portion of the building or other structure below the twenty foot (20 ft.) plane; and
- (c) In the case of a through lot or a corner lot abutting three (3) or more streets, the depth of rear yard may be measured from the center line of the street abutting the lot at the rear of the building or other structure.

534.4 In the case of a corner lot, a court complying with the width requirements for a closed court as specified in § 536.1 may be provided in lieu of a rear yard.

534.5 For the purposes of this section, the required court shall be provided above a horizontal plane beginning not more than twenty feet (20 ft.) above the curb grade opposite the center of the front of the building, and the width and area of the court shall be computed for the entire height of court.

534.6 The Board of Zoning Adjustment may waive the rear yard requirements of § 534; provided, that the objectives of this section are met in accordance with the standards provided in §§ 534.7 through 534.11.

534.7 No apartment window shall be located within forty feet (40 ft.) directly in front of another building.

534.8 No office window shall be located within thirty feet (30 ft.) directly in front of another office window, nor eighteen feet (18 ft.) in front of a blank wall.

534.9 In buildings that are not parallel to the adjacent buildings, the angle of sight lines and the distance of penetration of sight lines into habitable rooms shall be considered in determining distances between windows and appropriate setbacks.

534.10 Provision shall be included for service functions, including parking and loading access and adequate loading areas.

534.11 Upon receiving an application for an approval under§ 534.6, the Board shall submit the application to the D.C. Office of Planning for coordination, review, report, and impact assessment, along with reviews in writing from all relevant District of Columbia departments and agencies, including the Department of Transportation, the District of Columbia Housing Authority and, if a historic district or historic landmark is involved, the State Historic Preservation Officer.

534.12 Antennas, antenna towers and monopoles shall comply with the side yard requirements as specified in chapter 27.

SOURCE: §§ 4303.1, 4303.2, 4303.3, and 4303.4 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8377 (October 20, 2000); as amended by Final Rulemaking published at 55 DCR 0034(January 4, 2008).

535 SIDE YARDS (SP)

535.1 Side yards shall be provided in an SP District as specified in this section.

535.2 A one-family detached dwelling shall comply with the side yard requirements of an R-1 District.

535.3 A one-family semi-detached dwelling shall comply with the side yard requirements of an R-2 District.

535.4 Antennas, antenna towers and monopoles shall comply with the side yard requirements as specified in chapter 27.

535.5 For all other structures, no side yard shall be required but, if the yard is provided, it shall be at least two inches (2 in.) wide for each foot of height of building, but not less than eight feet (8 ft.).

SOURCE: § 4303.1 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8377 (October 20, 2000); as amended by Final Rulemaking published at 55 DCR 0034(January 4, 2008).

536 COURTS (SP)

536.1 Where a court is provided for a building or portion of a building devoted to nonresidential uses, at any elevation in the court, the width of court shall be a minimum of three inches per foot (3 in./ft.) of height measured from the lowest level of the court to that elevation; provided, that in no case shall the width of court be less than twelve feet (12 ft.).

- 536.2 In the case of a closed court under § 536.1, the minimum area shall be at least twice the square of the width of court based upon the height of court, but shall not be less than two hundred fifty square feet (250 ft.²).
- 536.3 Where a court is provided for a building or portion of a building devoted to residential uses, at any elevation in the court, the width of court shall be a minimum of four inches per foot (4 in./ft.) of height measured from the lowest level of the court to that elevation; provided, that in no case shall the width of court be less than fifteen feet (15 ft.).
- 536.4 In the case of a closed court under § 536.3, the minimum area shall be at least twice the square of the width of court based upon the height of court, but not less than three hundred fifty square feet (350 ft.²).
- 536.5 In the case of a building devoted to both residential and nonresidential uses, the minimum width and area of a court shall be computed as follows:
- (a) When the residential and nonresidential uses are located on different floors of the building, the width and area requirements shall be computed for each use at the plane of each floor of the building; and
 - (b) When the residential and nonresidential uses are located on the same floor of the building, the width and area requirements for that plane shall be computed based on the requirements for a residential building in §§ 536.3 and 536.4.
- 536.6 For the purposes of this section, "residential uses" shall include dwellings, flats, multiple dwellings, hospitals, and community-based residential facilities.
- 536.7 No required opening for the admission of light and natural ventilation shall open onto a court niche where the ratio between the width of court niche and the depth of court niche is less than two to one (2:1).
- 536.8 No portion of a court niche shall be farther than three feet (3 ft.) from a point where the court niche is less than three feet (3 ft.) wide.
- 536.9 In the case of an alteration affecting the amount of light and ventilation required by other municipal law or regulation in an existing structure in the SP District, no legally required window shall be permitted to open onto a court that does not comply with the dimensions given in §§ 536.1 through 536.4.

SOURCE: §§ 4305.1 through 4305.7 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8377-78 (October 20, 2000).

537 PENTHOUSES (SP)

537.1 The provisions of § 411 shall also regulate penthouses in SP Zone Districts.

537.2 [REPEALED]

SOURCE: §§ 4306.1 and 4306.2 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8378 (October 20, 2000); as amended by Final Rulemaking and Order No. 14-13 published at 63 DCR 390 (January 8, 2016).

538 GROSS FLOOR AREA (SP)

538.1 A public recreation and community center shall not exceed a gross floor area of forty thousand square feet (40,000 sq. ft.), unless approved by the Board of Zoning Adjustment as a special exception in accordance with the provisions of § 3104.1.

SOURCE: Final Rulemaking published at 50 DCR 10137(November 28, 2003)

TITLE 11 - ZONING

**CHAPTER 6 MIXED USE (COMMERCIAL RESIDENTIAL)
DISTRICTS**

Secs.

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- 630 HEIGHT OF BUILDINGS OR STRUCTURES (CR)
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- 636 REAR YARDS (CR)
- 637 SIDE YARDS (CR)
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- 639 PENTHOUSES (CR)

600 GENERAL PROVISIONS (CR)

- 600.1 The purpose of the Mixed Use Commercial Residential (CR) District shall be to encourage a diversity of compatible land uses that may include a mixture of residential, office, retail, recreational, light industrial, and other miscellaneous uses.
- 600.2 Development shall be guided by an approved public policy or plan and through the use of the planned unit development, special exception, or other site plan review process.
- 600.3 By the use of the public review and planning powers, the provisions of this chapter also shall be intended to:
- (a) Help create major new residential and mixed use areas in planned locations at appropriate densities, heights, and mixtures of uses;
 - (b) Encourage the preservation and rehabilitation of structures of historic or architectural merit in the District of Columbia;
 - (c) Encourage areas devoted primarily to pedestrians by separating pedestrian and vehicular circulation patterns and by requiring off-street parking spaces in accordance with this objective and with the objectives of specific area plans;

- (d) Encourage flexibility in architectural design and building bulk; provided, that the designs and building bulk shall be compatible and harmonious with adjoining development over the CR District as a whole;
- (e) Make recreation areas more accessible to the CR District's residents and visitors; and
- (f) In a variety of ways, create environments conducive to a higher quality of life and environment for residents, businesses, employees, and institutions in the District of Columbia as specified in District plans and policies.

600.4 The CR District shall be applied to selected geographic areas where a mixture of uses and building densities is intended to carry out elements of District of Columbia development plans, including goals in employment, population, transportation, housing, public facilities, and environmental quality.

600.5 A CR District may be located on the periphery of the Central Employment Area.

600.6 In certain of these areas, as designated now or in the future by public plans and policies, a mixture of uses and building densities shall be intended to promote and protect the public health, safety, convenience, order, prosperity, and general welfare of the community as best accomplished by the CR District.

600.7 Except as provided in chapters 23 through 25 of this title, in the CR District, no building or premises shall be used and no building shall be erected or altered that is arranged, intended, or designed to be used, except for one (1) or more of the uses listed in §§ 601, 606, and 608 through 618.

AUTHORITY: Unless otherwise noted, the authority for this chapter is the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code §§ 6-641.01 to 6-641.15 (formerly codified at D.C. Code §§ 5-413 to 5-432 (1994 Repl. & 1999 Supp.))).

SOURCE: §§ 4501.1 and 4502.1 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 29 DCR 584 (February 5, 1982); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8379 (October 20, 2000).

601 USES AS A MATTER OF RIGHT (CR)

601.1 The following uses shall be permitted as a matter of right in a CR District:

- (a) Antenna, subject to the standards and procedures which apply to the particular class of antenna pursuant to chapter 27 of this title;
- (b) Artist's studio;
- (c) Boat club or marina;

- (d) Car-sharing spaces, none of which may be a required parking space for any use on site;
- (e) Church or other place of worship;
- (f) Community center;
- (g) Driver's License Road Test Facility;
- (h) Electronic Equipment Facility (EEF) use under either or both of the following circumstances:
 - (1) The EEF use occupies no more than twenty-five percent (25%) of the above ground constructed gross floor area of the building, provided that no EEF use is located on the ground floor; or
 - (2) The EEF use is located below ground floor;
- (i) Embassy, chancery, or international organization;
- (j) Fire Department Administrative Facility;
- (k) Fire Department Support Facility;
- (l) Fire Station;
- (m) Group Instruction Center or Studio;
- (n) Hotel or inn;
- (o) Library (other than public library);
- (p) Museum;
- (q) Office;
- (r) One-Family dwelling, flat, or multiple dwelling;
- (s) Park or open space;
- (t) Private club, restaurant, prepared food shop fast food establishment, or food delivery service; provided, that a fast food establishment or food delivery service shall not include a drive-through;
- (u) Private or public theater;
- (v) Private school or trade school;

- (w) Police Department General Facility, except as provided in § 607;
- (x) Police Department Local Facility;
- (y) Public library;
- (z) Public recreation and community center;
- (aa) Public School, subject to the provisions of chapter 21 of this title;
- (bb) Recreational building or use;
- (cc) Retail sales or services not specified in §§ 602, 606, and 608 through 618;
- (dd) Rooming or boarding house;
- (ee) Swimming pool; and
- (ff) Notwithstanding § 602.1, temporary surface parking lot accessory to the Ballpark shall be permitted on Squares 603, 605, 657, 660, 661, 662, 662E, 664, 665, 700, 701, 882; and on Square 658, Lot 7; Square 767, Lots 44-47; Square 768, Lots 19-22; and Square 769, Lot 19 and those portions of Lots 18 and 20 within the CR District; in accordance with § 2110. In the event that the cumulative parking limit established in § 2110.1 (a) is met, additional temporary surface parking spaces accessory to the Ballpark on Squares 603, 605, 657, 658, 660, 661, 662, 662E, 664, 665, 700, 701, 882; and on Square 767, Lots 44-47; Square 768, Lots 19-22; and Square 658, Lot 7; Square 769, Lot 19 and those portions of Lots 18 and 20 within the CR District, shall be permitted as a special exception if approved by the Board of Zoning Adjustment pursuant to § 2110.2.

601.2 In addition to the uses provided in § 601.1, the following uses also shall be permitted as a matter of right in a CR District:

- (a) Community-Based Residential Facilities, as limited by the following:
 - (1) Youth residential care home, community residence facility, or health care facility for not more than six (6) persons, not including resident supervisors or staff and their families; or for not more than eight (8) persons, including resident supervisors or staff and their families; provided, that the number of persons being cared for shall not exceed six (6); and
 - (2) Emergency shelter for not more than four (4) persons, not including resident supervisors or staff and their families;

- (b) Youth residential care home, community residence facility, or health care facility for five (7) to fifteen (15) persons, not including resident supervisors or staff and their families; provided, that there shall be no property containing an existing community-based residential facility for seven (7) or more persons in the same square and no property containing an existing community-based residential facility for seven (7) or more persons within a radius of five hundred feet (500 ft.) from any portion of the subject property; and
- (c) Child/Elderly development center or adult day treatment facility.

601.3 Accessory uses (including parking), accessory buildings, or accessory structures customarily incidental and subordinate to the principal uses permitted in §§ 601.1 and 601.2 shall be permitted as a matter of right in a CR District.

601.4 Subject to the provisions of § 2501, mechanical amusement machines shall be permitted as a matter of right in a CR District as accessory uses to the following uses:

- (a) Boat club or marina;
- (b) Bowling alley;
- (c) College or university;
- (d) Hotel or inn;
- (e) Restaurant or private club; and
- (f) Retail sales or services not specified in §§ 602, 606, and 608 through 618.

601.5 A child development home or an expanded child development home shall be permitted as a matter of right as an accessory use in a CR District; provided, the dwelling unit in which the child development home is located is the principal residence of the caregiver and the use shall otherwise meet the definition of a home occupation.

601.6 An elderly day care home shall be permitted as a matter of right as an accessory use in a CR District; provided the dwelling unit in which the elderly day care home is located is the principal residence of the caregiver and the use shall otherwise meet the definition of a home occupation.

601.7 Notwithstanding § 602.1, and not subject to any otherwise applicable proximity requirement, a surface parking lot accessory to the Washington Metropolitan Area Transit Authority garage facility located on Square 700, Lot 857, is permitted as a temporary use on:

- (a) Square 661, Lot 805, for a period of five (5) years maximum, beginning from the date of issuance of a certificate of occupancy for such use, with the 5-year period renewable by the Zoning Commission; and
- (b) Square 700, Lot 46, for a period of three (3) years maximum, beginning from the date of issuance of a certificate of occupancy for such use, with the 3-year period renewable by the Zoning Commission.

SOURCE: § 4502.2 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 27 DCR 2066, 2070 (May 16, 1980); Final Rulemaking published at 28 DCR 3482, 3501 (August 7, 1981); Final Rulemaking published at 29 DCR 4913, 4914 (November 5, 1982); by Final Rulemaking published at 30 DCR 3270, 3272 (July 1, 1983); Final Rulemaking published at 32 DCR 4374, 4375 (July 26, 1985); Final Rulemaking published at 36 DCR 1509, 1520 (February 24, 1989); Final Rulemaking published at 40 DCR 726 (January 22, 1993); Final Rulemaking published at 40 DCR 3744, 3747 (June 11, 1993); Final Rulemaking, 46 DCR 8284, 8288 (October 15, 1999); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8380 (October 20, 2000); Final Rulemaking published at 48 DCR 9830, 9832 (October 26, 2001); and Final Rulemaking published at 49 DCR 1655, (February 22, 2002), incorporating by reference the text of Proposed Rulemaking published at 48 DCR 11159, 11160 (December 7, 2001); as amended by Final Rulemaking published at 50 DCR 10137 (November 28, 2003) ; as amended by Final Rulemaking published at 50 DCR 10822 (December 19, 2003) ; as amended by Final Rulemaking published at 51 DCR 4778 (May 7, 2004) ; as amended by Final Rulemaking published at 52 DCR 7259 (August 5, 2005) ; as amended by Final Rulemaking published at 52 DCR 9155 (October 14, 2005) ; as amended by Final Rulemaking published at 53 DCR 9580 (December 1, 2006); as amended by Final Rulemaking published at 53 DCR 10085 (December 22, 2006) ; as amended by Final Rulemaking published at 54 DCR 1037 (February 2, 2007) ; as amended by Final Rulemaking published at 54 DCR 8976 (September 14, 2007) ; as amended by Final Rulemaking published at 54 DCR 10295 (October 26, 2007); as amended by Final Rulemaking published at 55 DCR 34 (January 4, 2008); as amended by Final Rulemaking published at 55 DCR 7308 (July 4, 2008); as amended by Final Rulemaking and Order No. 09-16 published at 57 DCR 2961 (April 2, 2010); as amended by Final Rulemaking and Order No. 11-22 published at 59 DCR 4236 (May 4, 2012); as amended by Final Rulemaking and Order No. 15-17 published at 63 DCR 1632 (February 12, 2016).

602 PROHIBITED USES (CR)

602.1 The following uses shall be specifically prohibited in CR Districts:

- (a) Any establishment that has as a principal use the administration of massages;
- (b) Any industrial use prohibited in an M District;
- (c) Any use first permitted in the M District;
- (d) Car wash, as a principal use;
- (e) Carting, express, moving, or hauling terminal or yard, except a cooperative central delivery or pick-up system for goods or merchandise solely to serve businesses in the area;

- (f) Chemical manufacturing, storage, or distribution;
- (g) Drive-through establishment (any establishment where goods or services are rendered directly to occupants of motor vehicles while in the vehicles);
- (h) Enameling, plating, or painting (except artist' s studio), as a principal use;
- (i) Firearms retail sales establishments as a principal or an accessory use;
- (j) Gasoline service station;
- (k) Material salvage;
- (l) Outdoor advertising or billboard as a principal use;
- (m) Outdoor material storage;
- (n) Packing or crating operations as a principal use;
- (o) Parking lot, except a temporary surface parking lot permitted pursuant to § 601.1(ff);
- (p) Sexually-oriented business establishment;
- (q) Smelting or rendering; and
- (r) Veterinary hospital.

SOURCE: § 4502.4 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 22 DCR 1901 (October 14, 1975); Final Rulemaking published at 24 DCR 5144, 5147 (December 16, 1977); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8380 (October 20, 2000) ; as amended by Final Rulemaking published 54 DCR 8943 (September 14, 2007); as amended by Final Rulemaking published 54 DCR 8976 (September 14, 2007); as amended by Final Rulemaking and Order No. 09-16 published at 57 DCR 2961 (April 2, 2010); as amended by Final Rulemaking and Order No. 11-22 published at 59 DCR 4236 (May 4, 2012).

603 [RESERVED]

604 [RESERVED]

605 PLANNING OFFICE REVIEW (CR)

605.1 Wherever §§ 606 and 608 through 618 require referral of an application to the D.C. Office of Planning for coordination, review, and report, including the following:

- (a) Whether the proposed use furthers the objectives of the CR District;
- (b) The relationship of the proposed use to other planning considerations for the area and the District of Columbia as a whole, including the plans, programs, and policies of other departments and agencies of the District government;
- (c) The proposed site plan, including the relationship of different uses on the site;
- (d) The impact of the proposed site plan on neighboring properties; and
- (e) Any other matters that are within the Office's jurisdiction.

605.2 Wherever §§ 606 and 608 through 618 require referral of an application by the D.C. Office of Planning to the D.C. Department of Transportation, the report by the Department of Transportation to the Office of Planning shall include the following matters related to transportation and the environment:

- (a) Considerations of the traffic to be generated and its impact;
- (b) Location and design of vehicular access and parking facilities;
- (c) Number of parking and loading facilities;
- (d) Treatment of public space;
- (e) Availability of sewer and water capacity;
- (f) Impact on air quality;
- (g) Potential noise from commercial, industrial, and traffic sources; and
- (h) Any other matters that are within the Department's jurisdiction.

SOURCE: § 4502.313 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8380-81 (October 20, 2000).

606 HOSPITALS AND CLINICS (CR)

606.1 Hospital or clinic use shall be permitted in a CR District as a special exception when authorized by the Board of Zoning Adjustment under § 3104, if the Board considers that this use is appropriate in furthering the objectives of the CR Districts, subject to the provisions of this section.

- 606.2 The hospital or clinic use shall be located so that it is not likely to become objectionable to surrounding and nearby property because of noise, traffic, or parking.
- 606.3 There shall be a demonstrated need for the facility.
- 606.4 The applicant shall submit to the Board a detailed plan for the hospital or clinic and accessory facilities, showing the following:
- (a) Location, height, and bulk of all improvements, including but not limited to buildings, parking and loading facilities, screening, signs, and public utility facilities; and
 - (b) A description of the activities to be carried on at the hospital or clinic, including the capacities of the various facilities within the hospital or clinic.
- 606.5 Before taking final action on an application for hospital or clinic use, the Board shall refer the application to the D.C. Office of Planning for coordination, review, and report, including review and report by the Department of Human Services on the need for the facility as well as the specific design of the facility.
- 606.6 The report of the D.C. Office of Planning shall include the reports and recommendations of the D.C. Department of Transportation, as well as other departments and agencies of the District of Columbia government as appropriate.
- 606.7 [DELETED]
- SOURCE: § 4502.31 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8381-82 (October 20, 2000).

607 POLICE DEPARTMENT GENERAL FACILITY (CR)

- 607.1 A vehicle maintenance facility or equestrian unit shall be permitted in a CR District if approved by the Board of Zoning Adjustment as a special exception under § 3104, subject to the provisions of this section.
- 607.2 The vehicle maintenance facility or equestrian unit shall be located so that it is not likely to become objectionable to adjoining or nearby property because of noise or fumes.

SOURCE: Final Rulemaking published at 31 DCR 6585, 6586 (December 28, 1984); as amended by Final Rulemaking published at 51 DCR 4778 (May 7, 2004).

608 UTILITIES (CR)

- 608.1 Use as an electric substation, natural gas regulator station, public utility pumping station, optical transmission node, or telephone exchange, shall be permitted in a CR District as a special exception when authorized by the Board of Zoning Adjustment under § 3104, if the Board considers that this use is appropriate in furthering the objectives of the CR District, subject to the provisions of this section.
- 608.2 Any new construction of a freestanding structure used primarily for the purpose of housing an optical transmission node shall be subject to the following:
- (a) The structure shall be built to appear compatible with surrounding construction, including exterior building material, fenestration, and landscaping; and
 - (b) There shall be no advertisement on the structure.
- 608.3 The Board may impose any requirements for setbacks, screening, or other safeguards that it deems necessary for protection of the neighborhood.

SOURCE: § 4502.33 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8382 (October 20, 2000); as amended by Final Rulemaking published at 50 DCR 8818 (October 17, 2003); 57 DCR 000126 (2010).

609 BOWLING ALLEYS (CR)

- 609.1 Use as a bowling alley shall be permitted in a CR District as a special exception when authorized by the Board of Zoning Adjustment under § 3104, if the Board considers that this use is appropriate in furthering the objectives of the CR Districts, subject to the provisions of this section.
- 609.2 Bowling alley use shall not be within twenty-five feet (25 ft.) of a Residence District unless separated from such district by a street or alley.
- 609.3 Soundproofing to the extent deemed necessary for the protection of adjoining and nearby property shall be required.
- 609.4 Accessory off-street parking spaces shall be required as for places of public assembly as provided in § 2101.1.
- 609.5 Before taking final action on an application for bowling alley use, the Board shall refer the application to the D.C. Office of Planning for coordination, review, and report.
- 609.6 The report of the D.C. Office of Planning shall include the reports and recommendations of the D.C. Department of Transportation, and of other departments and agencies of the District of Columbia as appropriate.

609.7 The Board may impose requirements pertaining to design, appearance, screening, lighting, additional off-street parking spaces, signs, or any other requirements it deems necessary for the protection of neighboring or adjacent property.

SOURCE: § 4502.34 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 31 DCR 6585, 6586 (December 28, 1984); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8382 (October 20, 2000).

610 MANUFACTURING AND PROCESSING (CR)

610.1 Use for light manufacturing, processing, fabricating, or milling shall be permitted as in a CR District as a special exception when authorized by the Board of Zoning Adjustment under § 3104, if the Board considers that this use is appropriate in furthering the objectives of the CR Districts, subject to the provisions of this section.

610.2 Use for light manufacturing, processing, fabricating, or milling shall comply with the standards of external effects for C-M Districts contained in § 804 and, further, shall have no adverse effects on other uses on the same or adjoining properties.

610.3 Use for light manufacturing, processing, fabricating, or milling shall not result in dangerous or otherwise objectionable traffic conditions.

610.4 There shall be adequate off-street parking for trucks and other service vehicles.

610.5 There shall be no outdoor storage of materials.

610.6 The Board may impose requirements pertaining to design, appearance, or screening, or any other requirements that it deems necessary for the protection of neighboring or adjacent property.

610.7 Before taking final action on an application for use for light manufacturing, processing, fabricating, or milling, the Board shall refer the application to the D.C. Office of Planning for coordination, review, and report.

610.8 The report of the D.C. Office of Planning shall include the reports and recommendations of the D.C. Department of Transportation, and other District departments and agencies as appropriate.

SOURCE: § 4502.35 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8382 (October 20, 2000).

611 WAREHOUSES AND WHOLESALERS (CR)

611.1 Warehouse or wholesaler use shall be permitted in a CR District as a special exception when authorized by the Board of Zoning Adjustment under § 3104, if the Board considers that this use is appropriate in furthering the objectives of the CR Districts, subject to the provisions of § 610.

SOURCE: § 4502.36 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8382-83 (October 20, 2000).

612 BUILDING SERVICE TRADES (CR)

612.1 Use for building service trade, including but not limited to plumber, electrician, exterminator, or air conditioning mechanic, shall be permitted in a CR District as a special exception when authorized by the Board of Zoning Adjustment under § 3104, if the Board considers that this use is appropriate in furthering the objectives of the CR Districts, subject to the provisions of § 610.

SOURCE: §§ 4502.36 and 4502.37 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8383 (October 20, 2000).

613 RESEARCH OR TESTING LABORATORY (CR)

613.1 Use for experimental research or testing laboratory shall be permitted in a CR District as a special exception when authorized by the Board of Zoning Adjustment under § 3104, if the Board considers that this use is appropriate in furthering the objectives of the CR Districts, subject to the provisions of § 610.

SOURCE: § 4502.38 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8383-84 (October 20, 2000).

614 VEHICLE SALES OR REPAIR (CR)

614.1 Use for automobile or motorcycle sales or repair shall be permitted in a CR District as a special exception when authorized by the Board of Zoning Adjustment under § 3104, if the Board considers that this use is appropriate in furthering the objectives of the CR Districts, subject to the provisions of this section.

614.2 Use for vehicle sales or repair shall be located so that it is not objectionable to other uses on the same or neighboring property because of noise, fumes, or other conditions.

614.3 Use for vehicle sales or repair shall not result in dangerous or otherwise objectionable traffic conditions.

- 614.4 The use for vehicle sales or repair, and all its accessory facilities, including automobile storage, shall be located within a building.
- 614.5 No portion of a building use for vehicle sales or repair shall be used within fifty feet (50 ft.) of a Residence District or Special Purpose District.
- 614.6 The Board may impose additional requirements pertaining to location of buildings or other structures, entrances, exits, or soundproofing, or other requirements as the Board deems necessary to protect adjacent or nearby property.
- 614.7 Before taking final action on an application for use for vehicle sales or repair, the Board shall refer the application to the D.C. Office of Planning for coordination, review, and report.
- 614.8 The report of the D.C. Office of Planning shall include the reports and recommendations of the D.C. Department of Transportation, and of other departments and agencies of the District of Columbia as appropriate.

SOURCE: § 4502.39 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8384 (October 20, 2000).

615 COLLEGES AND UNIVERSITIES (CR)

- 615.1 College or university use shall be permitted as a special exception in a CR District when authorized by the Zoning Commission under § 3104, if the Commission considers that this use is appropriate in furthering the objectives of the CR Districts, subject to the provisions of this section.
- 615.2 The college or university use shall be located so that it is not likely to become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable conditions.
- 615.3 The applicant shall submit to the Commission a plan for developing the campus as a whole, showing the location, height, and bulk, where appropriate, of all present and proposed improvements including but not limited to buildings, parking and loading facilities, screening, signs, streets, and public facilities, athletic and other recreational facilities, and a description of all activities conducted or to be conducted in the facilities, and of the capacity of all present and proposed campus development.
- 615.4 Within a reasonable distance of the college or university campus, and subject to compliance with §§ 615.2 and 3104, the Commission may also permit the interim use of land or improved property with any use that the Commission may determine is a proper college or university function.

615.5 Before taking final action on an application for college or university use, the Commission shall refer the application to the D.C. Office of Planning for coordination, review, and report.

615.6 The Office of Planning report shall include the reports and recommendations of the D.C. Department of Transportation and of other departments and agencies of the District of Columbia as appropriate.

SOURCE: § 4502.310 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9725, 9733-34 (December 8, 2000).

616 COMMUNITY-BASED RESIDENTIAL FACILITIES (CR)

616.1 The following categories of uses as a community-based residential facility shall be permitted in a CR District as a special exception when authorized by the Board of Zoning Adjustment under § 3104, if the Board considers that the use is appropriate in furthering the objectives of the CR Districts, subject to the provisions of this section.

- (a) Youth residential care home or community residence facility for sixteen (16) to twenty-five (25) persons, not including resident supervisors or staff and their families, subject to the standards and requirements of § 358;
- (b) Health care facility for sixteen (16) to three hundred (300) persons, not including resident supervisors or staff and their families, subject to the standards and requirements of § 359;
- (c) Emergency shelter for five (5) to twenty-five (25) persons, not including resident supervisors or staff and their families, subject to the standards and requirements of § 360; and
- (d) Youth rehabilitation home, adult rehabilitation home, or substance abusers' home for one (1) to twenty (20) persons, not including resident supervisors or staff and their families, subject to the standards and requirements of §§ 358.2 through 358.7.

SOURCE: § 4502.312 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 28 DCR 3482, 3502 (August 7, 1981); Final Rulemaking published at 40 DCR 726 (January 22, 1993); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8384 (October 20, 2000).

617 ANTENNA TOWER AND MONOPOLE (CR)

617.1 If the Board considers that it is appropriate in furthering the objectives of the mixed use districts an antenna tower or monopole 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 as specified in chapter 27 of this title.

SOURCE: Final Rulemaking published at 36 DCR 1509, 1520 (February 24, 1989); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8385 (October 20, 2000); as amended by Final Rulemaking published at 55 DCR 34 (January 4, 2008).

618 MISCELLANEOUS USES (CR)

- 618.1 Other uses not specified in § 601 and not prohibited by § 602 shall be permitted in a CR District as a special exception when authorized by the Board of Zoning Adjustment in accordance with § 3104, if the Board considers that this use is appropriate in furthering the objectives of the CR Districts, subject to the provisions of this section.
- 618.2 Uses authorized under this section shall not adversely affect the present character and future development of the neighborhood.
- 618.3 No dangerous or otherwise objectionable traffic conditions shall result from the establishment of any miscellaneous use.
- 618.4 The Board may impose requirements pertaining to the design, appearance, screening, or any other requirements that it deems necessary for the protection of neighboring or adjacent property.
- 618.5 Before taking final action on an application for any miscellaneous use, the Board shall refer the application to the D.C. Office of Planning for coordination, review, and report.
- 618.6 The report of the Office of Planning shall include the reports and recommendations of the D.C. Department of Transportation, and of other departments and agencies of the District of Columbia as appropriate.

SOURCE: § 4502.311 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8385 (October 20, 2000).

619-629 [RESERVED]

630 HEIGHT OF BUILDINGS OR STRUCTURES (CR)

- 630.1 Except as provided in this section, the height of buildings and structures, not including a penthouse, shall not exceed ninety feet (90 ft.).
- 630.2 Free-standing, primarily ground-supported signs shall not exceed twenty feet (20 ft.) in height.
- 630.3 Spires, towers, domes, pinnacles or minarets serving as architectural embellishments, penthouses over elevator shafts, ventilator shafts, antennas,

chimneys, smokestacks, or fire sprinkler tanks may be erected to a height in excess of that which this sections otherwise authorizes. This section shall not be interpreted to bypass otherwise required special exception reviews.

630.4 A penthouse may be erected to a height in excess of that which this section otherwise authorizes, but shall not exceed a height of twenty feet (20 ft.) or one (1) story, as measured from the surface of the roof upon which the penthouse sits. A mezzanine for habitable or mechanical space is permitted; and a second story is permitted for penthouse mechanical space only.

630.5 [REPEALED]

630.6 A public recreation and community center shall not exceed a height of forty-five (45) feet.

SOURCE: §§ 4503.1 through 4503.5 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 33 DCR 3975, 3977 (July 4, 1986); Final Rulemaking published at 35 DCR 179, 192 (January 8, 1988); and Final Rulemaking published at 47 DCR 974143 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8385 (October 20, 2000); as amended by Final Rulemaking published at 50 DCR 10137 (November 28, 2003); as amended by Final Rulemaking published at 55 DCR 34 (January 4, 2008); as amended by Final Rulemaking and Order No. 14-13 published at 63 DCR 390 (January 8, 2016).

631 FLOOR AREA RATIO (CR)

631.1 In the CR District, the floor area ratio of all buildings and structures on a lot shall not exceed six (6.0), not more than three (3.0) of which may be used for other than residential purposes.

631.2 For the purposes of this section, the term "residential purposes" shall include dwellings, flats, multiple dwellings, rooming and boarding houses, community-based residential facilities, inns, and guest room areas and service areas within hotels, except that this term shall not include guest room areas and service areas within hotels located or proposed to be located on CR zoned property in the Capital Gateway Overlay District as established by Chapter 16 of this Title or the Southeast Federal Center Overlay District established by chapter 18 of this Title.

631.3 For the purposes of this section, the allowable residential and nonresidential bulk of a CR District may be apportioned between two (2) or more lots in the same square, regardless of the limits on floor area; provided, that the aggregate residential and nonresidential floor area may not exceed the limits for the CR District.

631.4 A covenant running with the land and applicable to all properties involved in the apportionment shall be executed by all of the owners of the properties and the District of Columbia government prior to the issuance of any building permits. The covenant shall be for the purpose of insuring that the aggregate residential

and nonresidential floor area does not exceed the limits applicable to residential and nonresidential uses.

SOURCE: §§ 4504.1, 4504.2 and 4504.3 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 27 DCR 2066, 2070 (May 16, 1980); Final Rulemaking published at 28 DCR 3482, 3502 (August 7, 1981); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8386 (October 20, 2000); as amended by Final Rulemaking published at 51 DCR 6837 (July 9, 2004); as amended by Final Rulemaking published at 52 DCR 63 (January 7, 2005).

632 GROSS FLOOR AREA (CR)

632.1 A public recreation and community center shall not exceed a gross floor area of forty thousand square feet (40,000 sq. ft.), unless approved by the Board of Zoning Adjustment as a special exception in accordance with the provisions of § 3104.1.

SOURCE: 31 DCR 6585, 6586 (December 28, 1984); as amended by Final Rulemaking published at 50 DCR 10137 (November 28, 2003).

633 REQUIRED PUBLIC SPACE AT GROUND LEVEL (CR)

633.1 An area equivalent to ten percent (10%) of the total lot area shall be provided for all new development.

633.2 The area for new development shall be located immediately adjacent to the main entrance to the principal building or structure on the lot, and shall serve as a transitional space between the street or pedestrian right-of-way and the building or structure.

633.3 The area for new development shall be open to the sky or have a minimum vertical clearance of one (1) story or ten feet (10 ft.).

633.4 The area shall be suitably lighted and landscaped for public use, and may be utilized for temporary commercial displays.

633.5 The space shall be open and available to the general public on a continuous basis.

633.6 The area shall not be charged against the gross floor area of the building.

SOURCE: § 4506.1 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8386 (October 20, 2000).

634 PERCENTAGE OF LOT OCCUPANCY (CR)

- 634.1 Except as provided in § 634.4, no structure, including an accessory building devoted to residential use, shall occupy more than seventy- five percent (75%) of the lot upon which it is located.
- 634.2 For the purposes of this section, the percentage of lot occupancy may be calculated on a horizontal plane located at the lowest level where residential uses begin.
- 634.3 For the purposes of this section, "residential uses" includes dwellings, flats, multiple dwellings, rooming and boarding houses, hospitals, and community-based residential facilities.
- 634.4 No public recreation and community center shall occupy more than twenty percent (20%) of the lot upon which it is located; except that it may occupy up to forty percent (40%) if approved by the Board of Zoning Adjustment pursuant to § 3104.1, provided that the agency shows that the increase is consistent with agency policy of preserving open space.

SOURCE: § 4506.2 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 28 DCR 3482, 3503 (August 7, 1981); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8386 (October 20, 2000); as amended by Final Rulemaking published at 50 DCR 10137 (November 28, 2003).

635 [REPEALED]

SOURCE: § 4506.3 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published 28 DCR 3482, 3503 (August 7, 1981); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8386 (October 20, 2000); as amended by Final Rulemaking published at 54 DCR 3064 (April 6, 2007).

636 REAR YARDS (CR)

- 636.1 A rear yard shall be provided for each residential building or structure.
- 636.2 When the residential use begins at or below grade, the minimum depth of rear yard shall be three inches per foot (3 in./ft.) of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof, but not less than twelve feet (12 ft.).
- 636.3 When the residential use begins above grade, the minimum depth of rear yard shall be three inches per foot (3 in./ft.) of vertical distance from the horizontal plane upon which the residential use begins to the highest point of the main roof, but not less than twelve feet (12 ft.).
- 636.4 The rear yard referenced in § 636.3 shall be provided at and above the residential plane.

636.5 In the case of a through lot or a corner lot abutting three (3) or more streets, no rear yard shall be required for any building or structure.

636.6 For the purposes of this section, "residential building or structure" shall include dwellings, flats, multiple dwellings, rooming and boarding houses, hospitals, hotels, inns, and community-based residential facilities.

SOURCE: § 4506.4 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 27 DCR 2066, 2070 (May 16, 1980); Final Rulemaking published at 28 DCR 3482, 3503 (August 7, 1981); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8386 (October 20, 2000).

637 SIDE YARDS (CR)

637.1 No side yard shall be required for any structure located in a CR district, except as may be otherwise established for ground mounted antennas.

637.2 If a side yard is provided, its minimum width shall be three inches per foot (3 in./ft.) of building height, but not less than eight feet (8 ft.).

SOURCE: § 4506.5 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8386 (October 20, 2000); as amended by Final Rulemaking published at 55 DCR 34 (January 4, 2008).

638 COURTS (CR)

638.1 Where an open court is provided in a CR District, the court shall have the following minimum dimensions:

- (a) Residential building, except hotel Width: Three inches per foot (3 in./ft.) of height of court, but not less than ten feet (10 ft.);
- (b) Hotel and other permitted structure Two and one-half inches per foot building (2 1/2 in.ft.) of height of court, but not less than six feet (6 ft.);

638.2 Where a closed court is provided in a CR District, the court shall have the following minimum dimensions:

- (a) Residential building, except hotel Width: Four inches per foot (4 in./ft.) of height of court, but not less than fifteen feet (15 ft.);
- Area: Twice the square of the required width of court dimension; and

- (b) Hotel and other permitted structure Width: Two and one-half inches per foot (2 1/2 in./ft.) of height of court, but not less than twelve feet (12 ft.);

Area: Twice the square of the required width of court dimension.

638.3 For the purposes of this section, "residential building" shall include dwellings, flats, multiple dwellings, rooming and boarding houses, hospitals, and community-based residential facilities.

638.4 In the case of a building devoted to both residential and nonresidential uses, the minimum width and area of a court shall be computed as follows:

- (a) When the residential and nonresidential uses are located on different floors of the building, the width and area requirements shall be computed for each use at the plane of each floor of the building; and
- (b) When the residential and nonresidential uses are located on the same floor of the building, the width and area requirements for that plane shall be computed based on the requirements for residential buildings in §§ 638.1 and 638.2.

638.5 No required opening for the admission of light and natural ventilation shall open onto a court niche where the ratio between the width of court niche and the depth of court niche is less than two to one (2:1).

638.6 No portion of a court niche shall be farther than three feet (3 ft.) from a point where the court niche is less than three feet (3 ft.) in width.

SOURCE: § 4506.6 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 27 DCR 2066, 2070 (May 16, 1980); Final Rulemaking published at 28 DCR 3482, 3503 (August 7, 1981); Final Rulemaking published at 28 DCR 4192, 4196 (September 25, 1981); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335 (October 20, 2000).

639 PENTHOUSES (CR)

639.1 The provisions of § 411 shall also regulate penthouses in CR Zone Districts.

639.2 [REPEALED]

SOURCE: § 4506.7 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 27 DCR 2066, 2070 (May 16, 1980); Final Rulemaking published at 28 DCR 3482, 3503 (August 7, 1981); Final Rulemaking published at 28 DCR 4192, 4196 (September 25, 1981); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8397

(October 20, 2000); as amended by Final Rulemaking and Order No. 14-13 published at 63 DCR 390 (January 8, 2016).

TITLE 11 - ZONING

CHAPTER 7 COMMERCIAL DISTRICTS

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700 NEIGHBORHOOD SHOPPING DISTRICTS (C-1)

- 700.1 The Neighborhood Shopping (C-1) District is designed to provide convenient retail and personal service establishments for the day-to-day needs of a small tributary area, with a minimum impact upon surrounding residential development.
- 700.2 Each C-1 District shall only permit low-bulk development and, in general, shall be mapped only in outlying areas.
- 700.3 Some community facilities, housing, and mixed uses, as well as the usual neighborhood shopping and service establishments, shall be permitted.
- 700.4 Except as provided in chapters 20 through 25 of this title, in a C-1 District, no building or premises shall be used and no building shall be erected or altered that is arranged, intended, or designed to be used except for one (1) or more of the uses listed in §§ 701 through 711.

AUTHORITY: Unless otherwise noted, the authority for this chapter is the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code §§ 6-641.01 to 6-641.15 (formerly codified at D.C. Code §§ 5-413 to 5-432 (1994 Repl. & 1999 Supp.))).

SOURCE: §§ 5101.1 and 5101.2 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8389 (October 20, 2000).

701 USES AS A MATTER OF RIGHT (C-1)

- 701.1 The following service establishments shall be permitted in a C-1 District as a matter of right:
 - (a) Bank or other financial institution;
 - (b) Bar or cocktail lounge;
 - (c) Barber or beauty shop;
 - (d) Cobbler or shoe repair shop;
 - (e) Collection station for dry-cleaning, dyeing, or laundry;
 - (f) Dressmaking shop or establishment;
 - (g) Frozen food locker for family or individual use only;

- (h) Gasoline service station existing on May 12, 1958;
- (i) Gasoline service station as an accessory use to a parking garage or public storage garage, subject to the provisions of chapter 23 of this title; provided:
 - (1) All portions of the gasoline service station shall be located entirely within the garage;
 - (2) No part of the accessory use shall be visible from a sidewalk; and
 - (3) Signs or displays indicating the existence of the accessory use shall not be visible from the outside of the garage;
- (j) Group Instruction Center or Studio;
- (k) Laundry, self-service, not exceeding twenty-five hundred square feet (2,500 ft.²) of gross floor area;
- (l) Laundry or dry cleaning establishment, not exceeding twenty-five hundred square feet (2,500 ft.²) of gross floor area;
- (m) Locksmith;
- (n) Newspaper distribution station;
- (o) Optician and optometrist;
- (p) Radio or television repairs;
- (q) Shoeshine parlor;
- (r) Tailor shop or valet shop not exceeding twenty-five hundred square feet (2,500 ft.²) of gross floor area; and
- (s) Watch repair shop.

701.2 Any use permitted in any R-5 District under §§ 350.4 and 350.5 or in the SP District under § 501, except a community-based residential facility for seven (7) or more persons not including resident supervisors or staff and their families, shall be permitted in a C-1 District as a matter of right.

701.3 A youth residential care home, community residence facility, or health care facility for seven (7) to eight (8) persons, not including resident supervisors or staff and their families, shall be permitted in a C-1 District as a matter of right; provided, that there shall be no property containing an existing community-based residential facility for seven (7) or more persons either in the same square or

within a radius of five hundred feet (500 ft.) from any portion of the subject property.

701.4 The following retail establishments shall be permitted in a C-1 District as a matter of right:

- (a) Art supplies store;
- (b) Automatic ice delivery station;
- (c) Automobile accessories sales, excluding installation;
- (d) Bakery; provided, that any manufacture of bakery goods shall be limited to goods retailed on the premises;
- (e) Bicycle sales and repair;
- (f) Book store;
- (g) Camera or photographic supplies store;
- (h) Cosmetics or toiletries store;
- (i) Drug store or pharmacy;
- (j) Electric appliance store, including television and radio sales;
- (k) Flower stand or florist shop;
- (l) Food or grocery store;
- (m) Gift shop;
- (n) Hardware store;
- (o) Hobby shop, including the sale of toys;
- (p) Jewelry store;
- (q) Music store;
- (r) Newsstand;
- (s) Notions or novelty store;
- (t) Off-premises alcoholic beverages sales;

- (u) Paint store;
- (v) Prepared food shop, with no more than 18 seats for patrons and no drive-through except that no limitation on seats shall apply to a prepared food shop in Square 5912.
- (w) Restaurant, but not including a fast food establishment or a food delivery service. A fast food establishment with no drive-through shall be permitted in Square 5912, Square 3499 (Lot 3), and Square 3664 (Lot 820) as a matter of right;
- (x) Sporting goods store;
- (y) Stationery store;
- (z) Tobacco products store; and
- (aa) Variety store.

701.5 Other service or retail use similar to that provided for in §§ 701.1 and 701.4, including assemblage and repair clearly incidental to the conduct of a permitted service or retail establishment on the premises, shall be permitted in a C-1 District as a matter of right.

701.6 The following uses shall also be permitted in a C-1 District as a matter of right:

- (a) Chancery;
- (b) College, university, or other academic institution of higher learning;
- (c) Fire Department Support Facility;
- (d) Hotel or inn;
- (e) Library; (other than public library);
- (f) Office, except new chancery and international organization;
- (g) Optical Transmission Node;
- (h) Parking lot, parking garage, or public storage garage, subject to the provisions of chapter 23 of this title;
- (i) Rooming or boarding house; provided:
 - (1) No sign is displayed on the premises;

- (2) No advertisement is displayed or published on or off the premises holding out the establishment to be a hotel, motel, inn, hostel, bed and breakfast, private club, tourist home, guest house, or other transient accommodation;
 - (3) Cooking facilities are not provided in any individual unit; and
 - (4) In a rooming house, no central dining or food preparation area is provided for guests; and
- (j) Telephone exchange, electric substation using non-rotating equipment, and natural gas regulator station.

701.7 - 701.9 [DELETED]

SOURCE: § 5101.3 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 27 DCR 2066, 2071 (May 16, 1980); Final Rulemaking published at 28 DCR 3482, 3504 (August 7, 1981); Final Rulemaking published at 30 DCR 3270, 3274 (July 1, 1983); Final Rulemaking published at 32 DCR 4374, 4375 (July 26, 1985); Final Rulemaking published at 36 DCR 1509, 1571 (February 24, 1989); Final Rulemaking published at 36 DCR 7625, 7626 (November 3, 1989); Final Rulemaking published at 40 DCR 726 (January 22, 1993); Final Rulemaking published at 40 DCR 3744 (June 11, 1993); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8389-90 (October 20, 2000); Final Rulemaking published at 49 DCR 8891, 8894 (September 27, 2002); as amended by Final Rulemaking published at 50 DCR 8818 (October 17, 2003); as amended by Final Rulemaking published at 50 DCR 10822 (December 19, 2003); as amended by Final Rulemaking published at 52 DCR 8155 (October 14, 2005); as amended by Final Rulemaking published at 54 DCR 9393 (September 28, 2007); as amended by Final Rulemaking published at 55 DCR 34 (January 4, 2008); .1as amended by Final Rulemaking published at 55 DCR 4377 (April 18, 2008); as amended by Final Rulemaking and Order No. 10-02 published at 57 DCR 12241 (December 24, 2010); as amended by Final Rulemaking and Order No. 11-22 published at 59 DCR 4236 (May 4, 2012).

702 ACCESSORY USES AND BUILDINGS (C-1)

702.1 A mechanical amusement machine shall be permitted in a C-1 District as an accessory use incidental to the uses permitted in §§ 701 through 711; provided, that the machine shall be subject to the provisions of § 2501.

702.2 A child development home or an expanded child development home shall be permitted in a C-1 District as an accessory building and use incidental to the uses permitted in §§ 701 through 711; provided:

- (a) The dwelling unit in which the use is located shall be the principal residence of the caregiver; and
- (b) The use otherwise shall meet the definition of a home occupation.

702.3 An elderly day care home shall be permitted in a C- 1 District as a matter of right as an accessory use incidental to the uses permitted in §§ 701 through 711; provided:

(a) The dwelling unit in which the use is located shall be the principal residence of the caregiver; and

(b) The use otherwise shall meet the definition of a home occupation.

702.4 Other accessory uses customarily incidental and subordinate to the uses permitted in C-1 Districts shall be permitted in a C-1 District, except that a firearms retail sales establishment shall not be permitted as a principal or an accessory use.

SOURCE: § 5101.6 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 29 DCR 4913, 4915 (November 5, 1982); Final Rulemaking published at 46 DCR 8284, 8288 (October 15, 1999); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8391 (October 20, 2000); as amended by Final Rulemaking and Order No. 08-20 published at 56 DCR 2181 (March 13, 2009); 57 DCR 000126 (2010); as amended by Final Rulemaking and Order No. 15-17 published at 63 DCR 1632 (February 12, 2016).

703 [RESERVED]

704 SPECIAL EXCEPTIONS: GENERAL (C-1)

704.1 The following uses as specified in §§ 706 through 712 shall be permitted as special exceptions in a C-1 District if approved by the Board of Zoning Adjustment under § 3104.

SOURCE: Final Rulemaking published at 42 DCR 5541, 5545 (October 6, 1995); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8391 (October 20, 2000); as amended by Final Rulemaking published at 54 DCR 9393 (September 28, 2007).

705 PLANNING OFFICE REVIEW (C-1)

705.1 Upon receiving an application for an approval under §§ 706 through 711, the Board of Zoning Adjustment shall submit the application to the D.C. Office of Planning for coordination, review, report, and impact assessment.

705.2 The submitted application shall be accompanied by reviews in writing of all relevant District of Columbia departments and agencies, including the Departments of Transportation and Housing and Community Development and, if a historic district or historic landmark is involved, the State Historic Preservation Officer.

SOURCE: § 5101.5 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8389 (October 20, 2000).

706 GASOLINE SERVICE STATIONS (C-1)

706.1 A gasoline service station established or enlarged after May 12, 1958, shall be permitted in a C-1 District as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of chapter 23 of this title and the provisions of this section.

706.2 [DELETED]

706.3 The station shall not be located within twenty-five feet (25 ft.) of a Residence District unless separated from the Residence District by a street or alley.

706.4 The operation of the use shall not create dangerous or other objectionable traffic conditions.

706.5 The Board may impose requirements pertaining to design, appearance, screening, or lighting, or other requirements it deems necessary to protect adjacent or nearby property.

706.6 Required parking spaces may be arranged so that all spaces are not accessible at all times. All parking spaces provided under this subsection shall be designed and operated so that sufficient access and maneuvering space is available to permit the parking and removal of any vehicles without moving any other vehicle onto public space.

SOURCE: § 5101.41 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8391-92 (October 20, 2000).

707 UTILITIES (C-1)

707.1 A public utility pumping station, subject to any requirements pertaining to setbacks, or screening, or other requirements that the Board of Zoning Adjustment deems necessary for the protection of neighboring or adjacent property, shall be permitted in a C-1 District as a special exception if approved by the Board under § 3104.

SOURCE: § 5101.42 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 33 DCR 5898 (September 26, 1986); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8392 (October 20, 2000).

708 ACCESSORY PARKING SPACES (C-1)

708.1 Accessory parking spaces elsewhere than on the same lot or part of a lot on which any principal C-1 use is permitted, except for a one-family dwelling, when the parking spaces will be established within the square in which the principal use is

located, shall be permitted in a C-1 District as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of § 510.

708.2 [DELETED]

SOURCE: § 5101.43 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8392 (October 20, 2000).

709 BOWLING ALLEYS (C-1)

709.1 A bowling alley shall be permitted in a C-1 District as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.

709.2 [DELETED]

709.3 The use shall not be within twenty-five feet (25 ft.) of a Residence District unless separated from the Residence District by a street or alley.

709.4 Soundproofing to the extent deemed necessary for the protection of adjoining and nearby property shall be required.

709.5 Accessory off-street parking spaces shall be required on the basis of a place of public assembly as provided by § 2101.1.

709.6 The Board may impose requirements pertaining to design, appearance, screening, lighting, additional off-street parking spaces, signs, or any other requirement it deems necessary for the protection of neighboring or adjacent property.

SOURCE: § 5101.44 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8392-93 (October 20, 2000).

710 AUTOMOBILE ACCESSORY SALES (C-1)

710.1 Automobile accessory sales, including installations when the operations are carried on entirely within a building, shall be permitted in a C-1 District as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of § 706.

710.2 [DELETED]

SOURCE: § 5101.45 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8393 (October 20, 2000).

711 COMMUNITY-BASED RESIDENTIAL FACILITIES (C-1)

711.1 Community-based residential facilities in the following subcategories shall be permitted in a C-1 District as a special exception if approved by the Board of Zoning Adjustment under § 3104:

- (a) Youth residential care home or community residence facility for nine (9) to fifteen (15) persons, not including resident supervisors or staff and their families, subject to the standards and requirements of § 303;
- (b) Health care facility for nine (9) to three hundred (300) persons, not including resident supervisors or staff and their families, subject to the standards and requirements of § 304;
- (c) Emergency shelter for five (5) to fifteen (15) persons, not including resident supervisors or staff and their families, subject to the standards and requirements of § 305; and
- (d) Youth rehabilitation home, adult rehabilitation home, or substance abusers' home for one (1) to fifteen (15) persons, not including resident supervisors or staff and their families, subject to the standards and requirements of § 306.

SOURCE: § 5101.46 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 28 DCR 3482, 3504 (August 7, 1981); Final Rulemaking published at 40 DCR 726 (January 22, 1993); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8393 (October 20, 2000).

712 PREPARED FOOD SHOP (C-1)

712.1 A Prepared Food Shop with more than eighteen seats for patrons shall be permitted in a C-1 District as a special exception if approved by the Board of Zoning Adjustment under § 3104 provided that no drive-through shall be permitted.

SOURCE: Final Rulemaking published at 54 DCR 9393 (September 28, 2007); 57 DCR 000126 (2010).

713-719 [RESERVED]

720 COMMUNITY BUSINESS CENTER DISTRICTS (C-2)

720.1 The Community Business Center (C-2) District is divided into C-2-A, C-2-B, C-2-B-1, and C-2-C Districts.

720.2 The C-2-A District is designed to provide facilities for shopping and business needs, housing, and mixed uses for large segments of the District of Columbia outside of the central core.

- 720.3 The C-2-A Districts shall be located in low and medium density residential areas with access to main highways or rapid transit stops, and shall include office employment centers, shopping centers, and medium-bulk mixed use centers.
- 720.4 The C-2-A District shall permit development to medium proportions.
- 720.5 The C-2-A District shall accommodate a major portion of existing commercial strip developments.
- 720.6 The C-2-B and C-2-B-1 Districts are designated to serve commercial and residential functions similar to the C-2-A District, but with high-density residential and mixed uses.
- 720.7 The C-2-B and C-2-B-1 Districts shall be compact and located on arterial streets, in uptown centers, and at rapid transit stops.
- 720.8 In the C-2-B and C-2-B-1 Districts, building use may be entirely residential or a mixture of commercial and residential uses.
- 720.9 The C-2-C District is designed to serve commercial and residential functions similar to the C-2-A District, but with higher density residential and mixed uses.
- 720.10 The C-2-C District is also designated for those areas previously zoned C-2-B, where the Zoning Commission had permitted a maximum floor area ratio of six (6.0).
- 720.11 The C-2-C Districts shall be compact and located in or near the Central Employment Area.
- 720.12 In the C-2-C District, buildings may be entirely residential, or may be a mixture of commercial and residential uses.
- 720.13 Except as provided in Chapters 20 through 25 of this title, in a C-2 District, no building or premises shall be used and no building shall be erected or altered that is arranged, intended, or designed to be used except for one (1) or more of the uses listed in §§ 721, 722, and 726 through 734.

SOURCE: §§ 5102.1 and 5102.2 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335 (October 20, 2000); as amended by Final Rulemaking and Order No. 14-16 published at 62 DCR 5190 (April 24, 2015).

721 USES AS A MATTER OF RIGHT (C-2)

- 721.1 Any use permitted in C-1 Districts under § 701 shall be permitted in a C-2 District as a matter of right.

721.2

In addition to the uses permitted in C-1 Zone Districts by § 701.1, the following service establishments shall be permitted in a C-2 Zone District as a matter-of-right:

- (a) Animal boarding located in a basement or cellar space, provided:
 - (1) The use shall not be located within twenty-five feet (25 ft.) of a lot within a Residence District. The twenty-five feet (25 ft.) shall be measured to include any space on the lot or within the building not used by the animal boarding use and any portion of a street or alley that separates the use from a lot within a Residence District. Shared facilities not under the sole control of the animal boarding use, such as hallways and trash rooms, shall not be considered as part of the animal boarding use;
 - (2) There shall be no residential use on the same floor as the use or on the floor immediately above the animal boarding use;
 - (3) Windows and doors of the space devoted to the animal boarding use shall be kept closed, and all doors facing a residential use shall be solid core;
 - (4) No animals shall be permitted in an external yard on the premises;
 - (5) Animal waste shall be placed in closed waste disposal containers and shall be collected by a licensed waste disposal company at least weekly;
 - (6) Odors shall be controlled by means of an air filtration or an equivalently effective odor control system; and
 - (7) Floor finish materials, and wall finish materials measured a minimum of forty-eight inches (48 in.) from the floor, shall be impervious and washable;
- (b) Automobile laundry, with reservoir space for at least fifteen (15) automobiles;
- (c) Automobile rental agency;
- (d) Billiard parlor or pool hall;
- (e) Blueprinting or similar reproduction service;
- (f) Bowling alley; provided, that it shall be soundproof;

- (g) Catering establishment;
- (h) Dental laboratory;
- (i) Driver's License Road Test Facility;
- (j) Film exchange;
- (k) Funeral, mortuary, or undertaking establishment;
- (l) General indoor storage, not exceeding twenty-five hundred square feet (2,500 sq. ft.) of gross floor area;
- (m) Interior decorating shop;
- (n) Laundry, self service, with no limitations on the gross floor area;
- (o) Laboratory, optical;
- (p) Parcel delivery service;
- (q) Photographic studio;
- (r) Picture framing studio or shop;
- (s) Plumbing or heating shop, excluding outdoor storage;
- (t) Printing, lithographing, or photoengraving establishment, in each case not exceeding twenty-five hundred square feet (2,500 sq. ft.) of gross floor area;
- (u) Public bath, physical culture, or health service;
- (v) Radio or television broadcasting studio not including antenna tower, or monopole;
- (w) Streetcar or bus passenger depot;
- (x) Tailor shop or valet shop, with no limitation on the gross floor area;
- (y) Telegraph office; and
- (z) Veterinary hospital, which may also include the incidental boarding of animals as necessary for convalescence, pet grooming, and the sale of pet supplies, but not as an independent line of business.

721.3

In addition to the uses permitted in C-1 Districts by § 701.4, the following retail establishments shall be permitted in a C-2 District as a matter of right:

- (a) Antique store or shop;
- (b) Auction house;
- (c) Automobile accessories sales, including installations;
- (d) Automobile and truck sales;
- (e) Boat or other marine sales;
- (f) Department store;
- (g) Display stand or store for mail order sales;
- (h) Drive-in type restaurant;
- (i) Dry goods store;
- (j) Fast food establishment or food delivery service, only in a C-2-B, C-2-B-1, or C-2-C District; provided:
 - (1) No part of the lot on which the use is located shall be within twenty-five feet (25 ft.) of a Residence District, unless separated therefrom by a street or alley;
 - (2) If any lot line of the lot abuts an alley containing a zone district boundary line for a Residence District, a continuous brick wall at least six feet (6 ft.) high and twelve inches (12 in.) thick shall be constructed and maintained on the lot along the length of that lot line;
 - (3) Any refuse dumpsters shall be housed in a three (3) sided brick enclosure equal in height to the dumpster or six feet (6 ft.) high, whichever is greater. The entrance to the enclosure shall include an opaque gate. The entrance shall not face a Residence District; and
 - (4) The use shall not include a drive-through. Subparagraphs (1) and (2) shall not apply to a fast food establishment located in Square 5912;
- (k) Firearms retail sales establishments, provided that no portion of the establishment, other than a single establishment operated at the

Metropolitan Police Department at 300 Indiana Avenue, N.W., shall be located within three hundred feet (300 ft.) of:

- (1) A Residence (R) or Special Purpose (SP) District; or
- (2) A church or other place of worship, public or private school, public library, or playground;

- (l) Furniture store;
- (m) Home furnishings sales;
- (n) Ice sales;
- (o) Leather goods store;
- (p) Musical instruments and accessories sales;
- (q) Office supplies and equipment sales;
- (r) Optical goods store;
- (s) Precision instrument sales; and
- (t) Prepared food shop, except that in a C-2-A District, a prepared food shop with greater than eighteen (18) seats for patrons shall only be permitted by special exception pursuant to 11 DCMR § 712.

721.4 Other service or retail use similar to that permitted in §§ 721.2 and 721.3, including assemblage and repair clearly incidental to the conduct of a permitted service or retail establishment on the premises, shall be permitted in a C-2 District as a matter of right.

721.5 A youth residential care home, community residence facility, or health care facility for seven (7) to fifteen (15) persons, not including resident supervisors or staff and their families, shall be permitted in a C-2 District as a matter of right; provided, that there shall be no property containing an existing community-based residential facility for seven (7) or more persons either in the same square or within a radius of five hundred feet (500 ft.) from any portion of the subject property.

721.6 The following uses shall also be permitted in a C-2 District as a matter of right:

- (a) Assembly hall, auditorium, or public hall;
- (b) International organization; and

(c) Theater, including movie theater.

721.7 Notwithstanding § 735, an animal boarding use in existence as of July 11, 2005, under a Certificate of Occupancy for a “Dog Care Center” or “Dog Day Care Center,” may be permitted to apply for a new Certificate of Occupancy as an animal boarding use if the use does not abut a Residence Zone, except that the continued use of an external yard shall require the approval of the Board of Zoning Adjustment as a special exception pursuant to § 736.

721.8 Any internal or external expansion of an animal boarding use permitted under § 721.7 shall require the approval of the Board of Zoning Adjustment as a special exception.

SOURCE: § 5102.3 of the Zoning Regulations, effective May 12, 1958; as amended by; Final Rulemaking published at 28 DCR 3482, 3504 (August 7, 1981); Final Rulemaking published at 30 DCR 3270, 3274 (July 1, 1983); Final Rulemaking published at 32 DCR 4374 (July 26, 1985); Final Rulemaking published at 40 DCR 726 (January 22, 1993); Final Rulemaking published at 40 DCR 3744, 3746 (June 11, 1993); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8389 (October 20, 2000); Final Rulemaking published at 49 DCR 8891, 8894 (September 27, 2002); as amended by Final Rulemaking published at 52 DCR 7259 (August 5, 2005); as amended by Final Rulemaking and Order No. 05-21 published at 53 DCR 6363 (August 4, 2006); as amended by Final Rulemaking published at as amended by Final Rulemaking published at 54 DCR 8943 (September 14, 2007); as amended by Final Rulemaking published at 54 DCR 9393 (September 28, 2007); as amended by Final Rulemaking published at 54 DCR 11720 (December 7, 2007); as amended by Final Rulemaking published at 55 DCR 34 (January 4, 2008); as amended by Final Rulemaking published at 55 DCR 5377 (April 18, 2008); as amended by Final Rulemaking and Order No. 08-20 published at 56 DCR 2181 (March 13, 2009); 57 DCR 000126 (2010); as amended by Final Rulemaking and Order No. 11-16 published at 58 DCR 10652 (12/16/11); as amended by Final Rulemaking and Order No. 14-10 published at 62 DCR 3127 (March 13, 2015); as amended by Final Rulemaking and Order No. 14-16 published at 62 DCR 5190 (April 24, 2015).

722 ACCESSORY USES AND BUILDINGS (C-2)

722.1 A mechanical amusement machine shall be permitted in a C-2 District as an accessory use incidental to the uses permitted in §§ 721, 722, and 726 through 734, subject to provisions of § 2501.

722.2 A child development or an expanded child development home shall be permitted in a C-2 District as an accessory building and use incidental to the uses permitted §§ 721, 722, and 726 through 734; provided:

(a) The dwelling unit in which the use is located shall be the principal residence of the caregiver; and

(b) The use otherwise shall meet the definition of a home occupation.

722.3 Other accessory uses customarily incidental and subordinate to the uses permitted in C-2 Districts shall be permitted in a C-2 District.

SOURCE: § 5102.6 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 29 DCR 4913, 4915 (November 5, 1982); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8395 (October 20, 2000); as amended by Final Rulemaking and Order No. 15-17 published at 63 DCR 1632 (February 12, 2016).

723 [RESERVED]

724 SPECIAL EXCEPTIONS: GENERAL (C-2)

724.1 The following uses as specified in §§ 726 through 734 shall be permitted in a C-2 District as a special exception if approved by the Board of Zoning Adjustment under § 3104.

SOURCE: Final Rulemaking published at 42 DCR 5541, 5545 (October 6, 1995); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8395 (October 20, 2000).

725 PLANNING OFFICE REVIEW (C-2)

725.1 Upon receiving an application for an approval under §§ 726 through 734, the Board of Zoning Adjustment shall submit the application to the D.C. Office of Planning for coordination, review, report, and impact assessment.

725.2 The Planning Office report shall be accompanied by reviews in writing of all relevant District of Columbia departments and agencies, including the Departments of Transportation and Housing and Community Development, and, if a historic district or historic landmark is involved, the State Historic Preservation Officer.

SOURCE: § 5102.5 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8396 (October 20, 2000).

726 GASOLINE SERVICE STATIONS (C-2)

726.1 A gasoline service station established or enlarged after May 12, 1958, or a repair garage not including body and fender work, shall be permitted in a C-2 District as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of § 706 and chapter 23 of this title.

SOURCE: § 5102.41 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8396 (October 20, 2000).

727 MOTORCYCLE SALES AND REPAIR (C-2)

727.1 Motorcycle sales and repair shall be permitted in a C-2 District as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.

727.2 [DELETED]

727.3 The use and all its accessory facilities shall be located within a building.

727.4 No portion of a building used for motorcycle sales and repair shall be located within fifty feet (50 ft.) of a Residence or Special Purpose District.

727.5 The Board may impose additional requirements pertaining to location of buildings, other structures, entrances, exits, or soundproofing, or other requirements as the Board deems necessary to protect adjacent or nearby property.

SOURCE: § 5102.42 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8396 (October 20, 2000).

728 UTILITIES (C-2)

728.1 A public utility pumping station, subject to any requirements pertaining to setbacks, screening, or other requirement that the Board of Zoning deems necessary for the protection of adjacent or nearby property, shall be permitted in a C-2 District as a special exception if approved by the Board under § 3104.

728.2 [DELETED]

SOURCE: § 5102.43 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8397 (October 20, 2000).

729 LAUNDRY AND DRY CLEANING (C-2)

729.1 Enlargement of an existing laundry or dry cleaning establishment that contains more than twenty-five hundred square feet (2,500 ft.²) of gross floor area shall be permitted in a C-2 District as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.

729.2 [DELETED]

729.3 Any noise or odor shall not adversely affect the neighborhood.

729.4 Dangerous or otherwise objectionable traffic conditions shall not be created.

729.5 The Board may impose additional requirements as to the location of the building and other structures, the location of equipment, and other requirements as the Board deems necessary to protect adjacent or nearby property.

SOURCE: § 5102.44 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8397 (October 20, 2000).

730 ACCESSORY PARKING SPACES (C-2)

730.1 Accessory parking spaces elsewhere than on the same lot or part of a lot on which any principal C-2 use is permitted, except for a one-family dwelling, when the parking spaces will be established within the square in which the principal use is located, shall be permitted in a C-2 District as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of § 510.

730.2 [DELETED]

SOURCE: § 5102.45 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8397 (October 20, 2000).

731 MASSAGE ESTABLISHMENTS (C-2)

731.1 Any establishment that has as a principal use the administration of massages shall be permitted in a C-2 District as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.

731.2 [DELETED]

731.3 The establishment shall be compatible with other uses in the area.

731.4 The use shall not be objectionable because of its effect on the character of the neighborhood or because of noise, traffic, or other conditions.

731.5 The establishment shall not have an adverse impact on religious, educational, or other institutional facilities located in the area.

SOURCE: § 5102.46 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 22 DCR 1901, 1902 (October 14, 1975); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8397-98 (October 20, 2000).

732 COMMUNITY-BASED RESIDENTIAL FACILITIES (C-2)

732.1 Community-based residential facilities in the following subcategories shall be permitted in a C-2 District as a special exception if approved by the Board of Zoning Adjustment under § 3104:

- (a) Youth residential care home or community residence facility for sixteen (16) to twenty-five (25) persons, not including resident supervisors or staff and their families, subject to the standards and requirements of § 358;
- (b) Health care facility for sixteen (16) to three hundred (300) persons, not including resident supervisors or staff and their families, subject to the standards and requirements of § 359;
- (c) Emergency shelter for five (5) to twenty-five (25) persons, not including resident supervisors or staff and their families, subject to the standards and requirements of § 360; and
- (d) Youth rehabilitation home, adult rehabilitation home, or substance abusers' home for one (1) to twenty (20) persons, not including resident supervisors or staff and their families, subject to the standards and requirements of §§ 358.2 through 358.7.

732.2 [DELETED]

SOURCE: § 5102.47 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 28 DCR 3482, 3505 (August 7, 1981); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8398 (October 20, 2000).

733 FAST FOOD ESTABLISHMENTS (C-2-A)

- 733.1 Fast food establishments shall be permitted in a C-2-A District as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.
- 733.2 No part of the lot on which the use is located shall be within twenty-five feet (25 ft.) of a Residence District unless separated therefrom by a street or alley.
- 733.3 If any lot line of the lot abuts an alley containing a zone district boundary line for a Residence District, a continuous brick wall at least six feet (6 ft.) high and twelve inches (12 in.) thick shall be constructed and maintained on the lot along the length of that lot line. The brick wall shall not be required in the case of a building that extends for the full width of its lot.
- 733.4 Any refuse dumpsters shall be housed in a three (3) sided brick enclosure equal in height to the dumpster or six feet (6 ft.) high, whichever is greater. The entrance to the enclosure shall include an opaque gate. The entrance shall not face a Residence District.
- 733.5 The use shall not include a drive-through.

- 733.6 There shall be no customer entrance in the side or rear of a building that faces a street or alley containing a zone district boundary line for a Residence District.
- 733.7 The use shall be designed and operated so as not to become objectionable to neighboring properties because of noise, sounds, odors, lights, hours of operation, or other conditions.
- 733.8 The use shall provide sufficient off-street parking, but not less than that required by § 2101.1, to accommodate the needs of patrons and employees.
- 733.9 The use shall be located and designed so as to create no dangerous or other objectionable traffic conditions.
- 733.10 There shall be adequate facilities to allow deliveries to be made and trash to be collected without obstructing public rights-of-way or unreasonably obstructing parking spaces, aisles, or driveways on the site.
- 733.11 The Board may impose conditions pertaining to design, screening, lighting, soundproofing, off-street parking spaces, signs, method and hours of trash collection, or any other matter necessary to protect adjacent or nearby property.
- 733.12 An applicant for special exception under this section may request the Board to modify the conditions enumerated in §§ 733.2 through 733.4; provided that the general purposes and intent of this section are complied with.

SOURCE: Final Rulemaking published at 33 DCR 4374, 4375 (July 26, 1985); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8398-99 (October 20, 2000); as amended by Final Rulemaking published at 54 DCR 9393 (September 28, 2007); 57 DCR 000126 (2010).

734 FOOD DELIVERY SERVICE (C-2-A)

- 734.1 Food delivery service shall be permitted in the C-2-A District if approved by the Board of Zoning Adjustment in accordance with the conditions specified in § 3104 for special exceptions, subject to the provisions of this section.
- 734.2 No part of the lot on which the use is located shall be within twenty-five feet (25 ft.) of a Residence District unless separated therefrom by a street or alley.
- 734.3 If any lot line of the lot abuts an alley containing a zone district boundary line for a Residence District, a continuous brick wall at least six feet (6 ft.) high and twelve inches (12 in.) thick shall be constructed and maintained on the lot along the length of that lot line. The brick wall shall not be required in the case of a building that extends for the full width of its lot.

- 734.4 Any refuse dumpster shall be housed in a three (3) sided brick enclosure equal in height to the dumpster or six feet (6 ft.) high, whichever is greater. The entrance to the enclosure shall include an opaque gate. The entrance shall not face a Residence District.
- 734.5 The use shall not include a drive-through.
- 734.6 The use shall be designed and operated so as not to become objectionable to neighboring properties because of noise, sounds, odors, lights, hours of operation, or other conditions.
- 734.7 The use shall provide sufficient off-street parking, but not less than that required by § 2101.1 to accommodate the needs of patrons and employees.
- 734.8 The use shall be located and designed so as to create no dangerous or otherwise objectionable traffic conditions.
- 734.9 The Board may impose conditions pertaining to design, screening, lighting, soundproofing, off-street parking spaces, signs, method and hours of trash collection, or any other matter necessary to protect adjacent or nearby property.
- 734.10 [DELETED]

SOURCE: Final Rulemaking published at 40 DCR 3744, 3745 (June 11, 1993); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8397 (October 20, 2000); 57 DCR 000126 (2010).

735 ANIMAL BOARDING (C-2)

- 735.1 An animal boarding use that is not permitted as a matter-of-right pursuant to § 721.2(a) may be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the requirements of this section.
- 735.2 The use shall not be located within twenty-five feet (25 ft.) of a lot within a Residence District. The twenty-five feet (25 ft.) shall be measured to include any space on the lot or within the building not used by the animal boarding use and any portion of a street or alley that separates the use from a lot within a Residence District. Shared facilities that are not under the sole control of the animal boarding use, such as hallways and trash rooms, shall not be considered as part of the animal boarding use.
- 735.3 The animal boarding use shall produce no noise or odor objectionable to adjacent properties, including residential units located in the same building as the use.

735.4 The applicant shall demonstrate that the animal boarding use will comply with the following conditions and any Board's approval shall be subject to the use's continued compliance with these standards:

- (a) The animal boarding use shall take place entirely within an enclosed building;
- (b) Buildings shall be designed and constructed to mitigate noise to limit negative impacts on adjacent properties, including residential units located in the same building as the use. Additional noise mitigation shall be required for existing buildings not originally built for the boarding of animals, including the use of acoustical tiles, caulking to seal penetrations made in floor slabs for pipes, and spray-on noise insulation;
- (c) The windows and doors of the space devoted to the animal boarding use shall be kept closed, and all doors facing a residential use shall be solid core;
- (d) No animals shall be permitted in an external yard on the premises;
- (e) Animal waste shall be placed in closed waste disposal containers and shall be collected by a waste disposal company at least weekly;
- (f) Odors shall be controlled by means of an air filtration system or an equivalently effective odor control system; and
- (g) Floor finish material, and wall finish materials measured a minimum of forty-eight inches (48 in.) from the floor, shall be impervious and washable.

735.5 The Board of Zoning Adjustment may impose additional requirements pertaining to the location of buildings or other structures, entrances and exits; buffers, banners, and fencing, soundproofing, odor control, waste storage and removal (including frequency), the species and/or number of animals; or other requirements, as the Board deems necessary to protect adjacent or nearby property.

735.6 External yards or other exterior facilities for the keeping of animals shall not be permitted.

SOURCE: Final Rulemaking published at 53 DCR 6363 (August 4, 2006); as amended by Final Rulemaking published at 54 DCR 8943 (September 14, 2007); 57 DCR 000126 (2010); as amended by Final Rulemaking and Order No. 14-10 published at 62 DCR 3127 (March 13, 2015).

736 PET GROOMING ESTABLISHMENT (C-2)

- 736.1 A pet grooming establishment may be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the requirements of this section.
- 736.2 The pet grooming establishment shall produce no noise or odor objectionable to nearby properties, including residential units located in the same building as the use.
- 736.3 The applicant shall demonstrate that the pet grooming establishment will comply with the following conditions and any Board's approval shall be subject to the use's continued compliance with these standards:
- (a) All animal waste shall be placed in closed waste disposal containers and shall be collected by a waste disposal company at least weekly;
 - (b) Odor shall be controlled by means of an air filtration system or an equivalently effective odor control system; and
 - (c) No animals shall be permitted in an external yard on the premises.
- 736.4 The use shall not be located within twenty-five feet (25 ft.) of a lot within a Residence District. The twenty-five feet (25 ft.) shall be measured to include any space on the lot or within the building not used by the pet grooming establishment and any portion of a street or alley that separates the use from a lot within a Residence District. Shared facilities that are not under the sole control of the pet grooming establishment, such as hallways and trash rooms, shall not be considered as part of the pet grooming use.
- 736.5 The sale of pet supplies is permitted as an accessory use.
- 736.6 The Board of Zoning Adjustment may impose additional requirements as it deems necessary to protect nearby properties.

SOURCE: Final Rulemaking published at 53 DCR 6363 (August 4, 2006); Final Rulemaking published at 54 DCR 8943 (September 14, 2007); 57 DCR 000126 (2010); as amended by Final Rulemaking and Order No. 14-10 published at 62 DCR 3127 (March 13, 2015).

737 PET SHOP (C-2)

- 737.1 A pet shop may be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the requirements of this section.
- 737.2 The pet shop shall be located and designed to create no objectionable condition to adjacent properties resulting from animal noise, odor, or waste, including residential units located in the same building as the use.

737.3 The use shall not be located within twenty-five feet (25 ft.) of a lot within a Residence District. The twenty-five feet (25 ft.) shall be measured to include any space on the lot or within the building not used by the pet shop and any portion of a street or alley that separated the use from a lot within a Residence District. Shared facilities that are not under the sole control of the pet shop, such as hallways and trash rooms shall not be considered as part of the pet shop use.

737.4 External yards or other external facilities for the keeping of animals shall not be permitted.

737.5 The Board of Zoning Adjustment may impose additional requirements as it deems necessary to protect adjacent or nearby properties.

SOURCE: Final Rulemaking published at 54 DCR 8943 (September 14, 2007); 57 DCR 000126 (2010); as amended by Final Rulemaking and Order No. 14-10 published at 62 DCR 3127 (March 13, 2015).

738 VETERINARY BOARDING HOSPITAL (C-2)

738.1 A veterinary boarding hospital may be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the requirements of this section.

738.2 A veterinary boarding hospital may board any animal permitted to be lawfully sold in the District of Columbia, pursuant to D.C. Official Code § 8-1808(h)(1).

738.3 No more than fifty percent (50%) of the gross floor area of the veterinary boarding hospital may be devoted to the boarding of animals.

738.4 The veterinary boarding hospital shall be located and designed to create no objectionable condition to adjacent properties resulting from animal noise, odor, or waste, including residential units located in the same building as the use.

738.5 The use shall not be located within twenty-five feet (25 ft.) of a lot within a Residence District. The twenty-five feet (25 ft.) shall be measured to include any space on the lot or within the building not used by the veterinary boarding hospital and any portion of a street or alley that separated the use from a lot within a Residence District. Shared facilities that are not under the sole control of the veterinary boarding hospital, such as hallways and trash rooms shall not be considered as part of the veterinary boarding hospital.

738.6 External yards or other external facilities for the keeping of animals shall not be permitted.

738.7 Pet grooming, the sale of pet supplies, and incidental boarding of animals as necessary for convalescence, are permitted as accessory uses.

738.8 The Board may impose additional requirements as it deems necessary to protect adjacent or nearby properties.

SOURCE: Final Rulemaking published at 54 DCR 8943 (September 14, 2007); 57 DCR 000126 (2010); as amended by Final Rulemaking and Order No. 14-10 published at 62 DCR 3127 (March 13, 2015).

739 ANIMAL SHELTER (C-2)

739.1 An animal shelter may be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the requirements of this section.

739.2 The animal shelter shall be located and designed to create no objectionable condition to adjacent properties resulting from animal noise, odor, or waste, including residential units located in the same building as the use.

739.3 The applicant shall demonstrate that the animal shelter use will comply with the following conditions and any Board of Zoning Adjustment approval shall be subject to the use's continued compliance with these standards:

- (a) The animal shelter shall utilize industry standard sound-absorbing materials, such as acoustical floor and ceiling panels, acoustical concrete and masonry, and acoustical landscaping;
- (b) All animal waste shall be placed in closed waste disposal containers and shall be collected by a waste disposal company at least weekly;
- (c) Odor shall be controlled by means of an air filtration system or an equivalently effective odor control system; and
- (d) External yards or other external facilities for the keeping of animals shall not be permitted unless the entire yard is located a minimum of two hundred feet (200 ft.) from an existing residential use or Residence District.

739.4 The use shall not be located within twenty-five feet (25 ft.) of a lot within a Residence District. The twenty-five feet (25 ft.) shall be measured to include any space on the lot or within the building not used by the animal shelter use and any portion of a street or alley that separated the use from a lot within a Residence District. Shared facilities that are not under the sole control of the animal shelter, such as hallways and trash rooms shall not be considered as part of the animal shelter use.

739.5 The Board of Zoning Adjustment may impose additional requirements as it deems necessary to protect adjacent or nearby properties.

SOURCE: Final Rulemaking published at 54 DCR 8943 (September 14, 2007); 57 DCR 000126 (2010); as amended by Final Rulemaking and Order No. 14-10 published at 62 DCR 3127 (March 13, 2015).

740 MAJOR BUSINESS AND EMPLOYMENT CENTERS (C-3)

- 740.1 The C-3 District is designed to accommodate major business and employment centers supplementary to the Central Business (C-4) District.
- 740.2 All C-3 Districts shall provide substantial amounts of employment, housing, and mixed uses.
- 740.3 The C-3 District shall be divided into C-3-A, C-3-B, and C-3-C Districts.
- 740.4 The C-3-A District shall permit medium density development, with a density incentive for residential development within a general pattern of mixed-use development.
- 740.5 The C-3-A Districts shall be compact in area and located on arterial streets, in uptown centers, and at rapid transit stops.
- 740.6 The C-3-B District shall permit medium density development, including office-retail, housing, and mixed uses. It is intended for uptown locations, where the largest component of development will be office-retail and other nonresidential uses.
- 740.7 The C-3-B Districts shall be compact in area and shall be located in or near the Central Employment Area, on arterial streets, in uptown centers, and at rapid transit stops.
- 740.8 C-3-C Districts shall permit medium-high density development, including office, retail, housing, and mixed-use development. They shall be compact in area.
- 740.9 Except as provided in chapters 20 through 25 of this title, in a C-3 District, no building or premises shall be used and no building shall be erected or altered that is arranged, intended, or designed to be used except for one (1) or more of the uses listed in §§ 741 through 744.

SOURCE: §§ 5103.1 and 5103.2 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 27 DCR 2226 (May 23, 1980); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8399 (October 20, 2000).

741 USES AS A MATTER OF RIGHT (C-3)

- 741.1 Any use permitted in C-2 Districts under § 721 shall be permitted in a C-3 District as a matter of right.
- 741.2 In addition to the uses permitted in C-2 Districts by § 721.1, the following service establishments shall be permitted in a C-3 District as a matter of right:
- (a) Amusement enterprise, including penny arcade or shooting gallery;
 - (b) Gasoline service station as an accessory use to a mechanical parking garage, subject to the conditions for the accessory use in § 701.1(i);
 - (c) Laundry or dry cleaning establishment, not exceeding five thousand square feet (5,000 ft.²) of gross floor area; and
 - (d) Printing, lithographing, or photoengraving establishment, with no limitation on gross floor area.
- 741.3 In addition to the uses permitted in C-2 Districts by § 721.3, the following retail establishments shall be permitted in a C-3 District as a matter of right:
- (a) Any establishment that has as a principal use the administration of massages, only in C-3-C Districts; provided, that no portion of the establishment shall be located within two hundred feet (200 ft.) of a Residence District;
 - (b) Fast food establishment or food delivery service; provided, that in a C-3-A District, no part of the lot on which the use is located shall be within twenty- five feet (25 ft.) of a Residence District, unless separated therefrom by a street or alley; and
 - (c) Motorcycle sales and repair, only in C-3-C Districts; provided:
 - (1) The use and all its accessory facilities shall be located within a building; and
 - (2) No portion of a building used for motorcycle sales or repair shall be located within fifty feet (50 ft.) of a Residence or Special Purpose District.
- 741.4 Other service or retail use similar to that allowed in §§ 741.2 and 741.3 shall be permitted in a C-3 District, including assemblage and repair clearly incidental to the conduct of a permitted service or retail establishment on the premises.
- 741.5 The following uses shall also be permitted as a matter of right in a C-3 District:
- (a) Community-based residential facility;

- (b) Mechanical parking garage, only in C-3-C Districts;
- (c) Public swimming pool; and
- (d) Temporary surface parking lot accessory to the Ballpark shall be permitted on Square 769, Lot 21 and those portions of Lots 18 and 20 within the C-3-C District, in accordance with § 2110.1 (a). In the event that the cumulative parking limit established in § 2110.1 (b) is met, additional temporary surface parking spaces accessory to the Ballpark on Square 769, Lot 21 and those portions of Lots 18 and 20 within the C-3-C District, shall be permitted as a special exception if approved by the Board of Zoning Adjustment pursuant to § 2110.2.

741.6 [DELETED]

741.7 [DELETED]

741.8 Electronic Equipment Facility (EEF) use under either or both of the following circumstances:

- (a) The EEF use occupies no more than twenty-five percent (25%) of the above ground constructed gross floor area of the building; or
- (b) The EEF use is located below ground floor.

SOURCE: § 5103.31 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 22 DCR 1901, 1902 (October 14, 1975); Final Rulemaking published at 27 DCR 2066, 2071 (May 16, 1980); Final Rulemaking published at 27 DCR 2226, 2228 (May 23, 1980); Final Rulemaking published at 28 DCR 3482, 3505 (August 7, 1981); Final Rulemaking published at 32 DCR 4374, 4377 (July 26, 1985); Final Rulemaking published at 33 DCR 7499 (December 20, 1985); Final Rulemaking published at 36 DCR 1509, 1517 (February 24, 1989); Final Rulemaking published at 40 DCR 3744, 3747 (June 11, 1993); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8399-8400 (October 20, 2000); Final Rulemaking published at 48 DCR 9830, 9832 (October 26, 2001); Final Rulemaking published at 49 DCR 1655 (February 22, 2002), incorporating by reference the text of Proposed Rulemaking published at 48 DCR 11159, 11160 (December 7, 2001); as amended by: Final Rulemaking published at 54 DCR 8976 (September 14, 2007); as amended by Final Rulemaking published at 54 DCR 9393 (September 28, 2007); as amended by: Final Rulemaking published at January 4, 2008 (55 DCR 34); 57 DCR 000126 (2010).

742 ACCESSORY USES AND BUILDINGS (C-3)

742.1 A mechanical amusement machine shall be permitted in a C-3 District as an accessory use incidental to the uses permitted in §§ 741 through 744, subject to provisions of § 2501.

742.2 A child development home or an expanded child development home shall be permitted in a C-3 District as an accessory building and use incidental to the uses permitted in §§ 741 through 744; provided:

- (a) The dwelling unit in which the use is located shall be the principal residence of the caregiver; and
- (b) The use otherwise shall meet the definition of a home occupation.

742.3 Other accessory uses customarily incidental and subordinate to the uses permitted in C-3 Districts shall be permitted in a C-3 District.

742.4 A drive-through accessory to a fast food establishment shall be permitted in a C-3 District, subject to the provisions for drive-throughs in § 2304.

SOURCE: § 5103.5 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 27 DCR 2226 (May 23, 1980); Final Rulemaking published at 29 DCR 4913, 4916 (November 5, 1982); Final Rulemaking published at 32 DCR 4374 (July 26, 1985); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8400-01 (October 20, 2000); as amended by Final Rulemaking published at 54 DCR 9393 (September 28, 2007); as amended by Final Rulemaking and Order No. 15-17 published at 63 DCR 1632 (February 12, 2016).

743 SPECIAL EXCEPTIONS (C-3)

743.1 A gasoline service station established or enlarged after December 20, 1985, a repair garage in any C-3 District, or a mechanical parking garage in C-3-A and C-3-B Districts, shall be permitted in a C-3 District as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of § 706 and chapter 23 of this title.

743.2 The following buildings and uses shall be permitted in a C-3 District as a special exception if approved by the Board of Zoning Adjustment under § 3104:

- (a) Motorcycle sales and repair in C-3-A and C-3-B Districts, subject to the conditions for the use in § 727;
- (b) Public utility pumping station, subject to any requirements pertaining to setbacks, screening, or other requirements that the Board deems necessary for the protection of adjacent or nearby property;
- (c) Enlargement of existing laundry or dry cleaning establishment that contains more than five thousand square feet (5,000 ft.²) of gross floor area, subject to the conditions for the use in § 729; and
- (d) Accessory parking spaces elsewhere than on the same lot or part of the lot on which any principal use is permitted in C-3 Districts, except for a one-

family dwelling or motel, when the parking spaces will be established within the square in which the principal use is located, subject to the provisions of § 510.

743.3 Any establishment that has as a principal use the administration of massages may locate in a C-3 District within two hundred feet (200 ft.) of any Residence District, if approved by the Board of Zoning Adjustment as a special exception under § 3104; provided:

- (a) The establishment shall be compatible with other uses in the area;
- (b) The use shall not become objectionable because of its effect on the character of the neighborhood or because of noise, traffic, or other conditions; and
- (c) The establishment shall not have an adverse impact on religious, educational, or other institutional facilities located in the area.

743.4 A fast food establishment shall be permitted in a C-3-A District, where the lot on which the use is located is within twenty-five feet (25 ft.) of a Residence District and not separated therefrom by a street or alley if approved by the Board of Zoning Adjustment as a special exception under § 3104; provided:

- (a) Any refuse dumpsters shall be housed in a three (3) sided brick enclosure equal to the height of the dumpster or six feet (6 ft.) high, whichever is greater. The entrance to the enclosure shall include an opaque gate. The entrance shall not face a Residence District;
- (b) The use shall be designed and operated so as not to become objectionable to neighboring properties because of noise, sounds, odors, lights, hours of operation, or other conditions;
- (c) The use shall provide sufficient off-street parking, but not less than that required by § 2101.1, to accommodate the needs of patrons and employees;
- (d) The use shall be located and designed so as to create no dangerous or other objectionable traffic conditions;
- (e) There shall be adequate facilities to allow deliveries to be made and trash to be collected without obstructing public rights-of-way or unreasonably obstructing parking spaces, aisles, or driveways on the site;
- (f) There shall be no customer entrance in the side or rear of a building that faces a zone district boundary line for a Residence District; and
- (g) The Board may impose conditions pertaining to design, screening, buffering, lighting, soundproofing, off-street parking spaces, signs,

method and hours of trash collection, or any other matter necessary to protect adjacent or nearby property.

- 743.5 Each application submitted under § 743.4 shall be referred to the D.C. Office of Planning for coordination and review by all relevant District agencies, for report and impact assessment.

SOURCE: § 5103.4 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 27 DCR 2066, 2228 (May 16, 1980); Final Rulemaking published at 32 DCR 7499 (December 20, 1985); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8401-02 (October 20, 2000); as amended by Final Rulemaking published at 54 DCR 9393 (September 28, 2007).

744 SEXUALLY-ORIENTED BUSINESSES (C-3)

- 744.1 A sexually-oriented business establishment shall be permitted in C-3-C Districts as a special exception only if approved by the Board of Zoning Adjustment under § 3104, subject to the requirements of this section.

- 744.2 No portion of the establishment shall be located within six hundred feet (600 ft.) of a Residence or Special Purpose District.

- 744.3 No portion of the establishment shall be located within six hundred feet (600 ft.) of a church, school, library, playground, or the area under the jurisdiction of the Commission of Fine Arts pursuant to the Shipstead-Luce Act, approved May 16, 1930 (46 Stat. 366, as amended; D.C. Official Code § 6-611.01 (formerly codified at D.C. Code § 5-410 (1994 Repl.))).

- 744.4 No portion of the establishment shall be located within three hundred feet (300 ft.) of any other sexually-oriented business establishment.

- 744.5 There shall be no display of goods or services visible from the exterior of the premises.

- 744.6 The establishment shall be compatible with other uses in the area.

- 744.7 The use shall not become objectionable because of its effect on the character of the neighborhood or because of noise, traffic, or other conditions.

- 744.8 The establishment shall not have an adverse impact on religious, educational, or governmental facilities located in the area.

SOURCE: § 5103.47 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 24 DCR 5144, 5156 (December 16, 1977); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8402 (October 20, 2000).

745 ELECTRONIC EQUIPMENT FACILITIES (C-3)

- 745.1 An Electronic Equipment Facility (EEF) that does not qualify as a matter-of-right use under § 741.8 may be permitted as a special exception in a C-3 District if approved by the Board of Zoning Adjustment under § 3104, subject to the requirements of this section.
- 745.2 An EEF shall not occupy more than fifty percent (50%) of the constructed gross floor area of the building, unless approved as part of a planned unit development pursuant to chapter 24 of this title.
- 745.3 An applicant seeking a special exception for an EEF shall demonstrate, in addition to the requirements of § 3104, that the proposed use will not, as a consequence of its design, operation, low employee presence, or proximity to other EEFs, inhibit future revitalization of the neighborhood, reduce the potential for vibrant streetscapes, deplete street life, or inhibit pedestrian or vehicular movement.
- 745.4 In evaluating whether an EEF will have any of the adverse impacts described in § 745.3, the Board shall consider, in addition to other relevant factors, the:
- (a) Absence of retail uses or a design capable of accommodating retail uses in the future;
 - (b) Presence of security or other elements in the design that could impair street life and pedestrian flow;
 - (c) Disruption of existing or elimination of officially proposed pedestrian or vehicular routes; and
 - (d) Inability of the EEF to be adapted in the future for permitted uses.
- 745.5 The Board, in weighing the potentially adverse factors listed in § 745.4(a) through (d), shall consider the economic development potential of the area in which the EEF is proposed to be established and shall give greater negative weight to these factors if the EEF is to be located in proximity to an existing or proposed Metrorail station or along a pedestrian corridor.
- 745.6 The Board may give positive weight to any economic benefits that the proposed EEF will have on adjacent properties, including the potential for increased business activity within the neighborhood, if that activity will foster economic development.
- 745.7 The Board may impose requirements pertaining to design, appearance, landscaping, parking, and other such requirements as it deems necessary to protect adjacent property and to achieve an active, safe, and vibrant street life.

SOURCE: Final Rulemaking published at 48 DCR 9330, 9832-34 (October 26, 2001); as amended by Final Rulemaking published at 49 DCR 1655 (February 22, 2002), incorporating by reference the text of Proposed Rulemaking published at 48 DCR 11159, 11161 (December 7, 2001).

746-749 [RESERVED]

750 CENTRAL BUSINESS DISTRICT (C-4)

750.1 The Central Business (C-4) District shall be designed for the downtown core that comprises the retail and office centers for both the District of Columbia and the metropolitan area.

750.2 The C-4 District shall be large enough to provide an adequate area for a variety of commercial, retail, and business uses to serve the metropolitan area, but nevertheless compact enough to retain its identity.

750.3 The C-4 District also shall contain high-density residential and mixed use developments.

750.4 Except as provided in chapters 20 through 25 of this title, in a C-4 District, no building or premises shall be used and no building shall be erected or altered that is arranged, intended, or designed to be used except for one (1) or more of the uses listed in §§ 751 through 755.

SOURCE: §§ 5104.1 and 5104.2 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8403 (October 20, 2000).

751 USES AS A MATTER OF RIGHT (C-4)

751.1 The conversion of gross floor area in an existing structure from above ground parking to any use permitted in the C-4 District shall be permitted in a C-4 District as a matter of right; provided:

- (a) The amount of area to be converted shall not exceed a floor area ratio of one (1.0);
- (b) The parking to be eliminated shall not be parking required under the provisions of this title; and
- (c) The area to be converted shall meet the requirements of all applicable codes and regulations of the District of Columbia for the proposed use.

751.2 The following uses also shall be permitted in a C-4 District as a matter of right:

- (a) Any use permitted in a C-3 District under § 741;

- (b) Gasoline service station subject to the provisions of chapter 23 of this title; and
- (c) Other similar service or retail use, including assemblage and repair clearly incidental to the conduct of a permitted service or retail establishment on the premises.

SOURCE: § 5104.3 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 974143 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8403 (October 20, 2000).

752 ACCESSORY USES AND BUILDINGS (C-4)

752.1 A mechanical amusement machine shall be permitted in a C-4 District as an accessory use incidental to the uses permitted in §§ 751 through 754, subject to provisions of § 2501.

752.2 A child development home or an expanded child development home shall be permitted in a C-4 District as an accessory building and use incidental to the uses permitted in §§ 751 through 754; provided:

- (a) The dwelling unit in which the use is located shall be the principal residence of the caregiver; and
- (b) The use otherwise shall meet the definition of a home occupation.

752.3 Other accessory uses customarily incidental and subordinate to the uses permitted in C-4 Districts shall be permitted in a C-4 District.

752.4 A drive-through accessory to a fast food establishment shall be permitted in a C-4 District, subject to the provisions for drive-throughs in § 2304.

SOURCE: § 5104.5 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 29 DCR 4913, 4916 (November 5, 1982); Final Rulemaking published at 32 DCR 4374, 4377 (July 26, 1985); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8404 (October 20, 2000); as amended by Final Rulemaking published 54 DCR 9393 (September 28, 2007).

753 SPECIAL EXCEPTIONS (C-4)

753.1 The following buildings and uses shall be permitted in a C-4 District as a special exception if approved by the Board of Zoning Adjustment under § 3104:

- (a) Public utility pumping station, subject to any requirements pertaining to setbacks or screening, or other requirements the Board deems necessary for the protection of adjacent or nearby property;

- (b) Enlargement of an existing laundry or dry cleaning establishment that contains more than five thousand square feet (5,000 ft.²) of gross floor area, subject to the conditions for the use in § 729; and
- (c) Accessory parking spaces elsewhere than on the same lot or part of the lot on which any principal use is permitted in a C-4 District, except for a one-family dwelling or motel, when the parking spaces will be established within the square in which the principal use is located, subject to the provisions of § 510.

753.2 Any establishment that has as a principal use the administration of massages may locate in a C-4 District within two hundred feet (200 ft.) of any Residence District, if approved by the Board of Zoning Adjustment as a special exception under § 3104; provided:

- (a) The establishment shall be compatible with other uses in the area;
- (b) The use shall not become objectionable because of its effect on the character of the neighborhood or because of noise, traffic, or other conditions; and
- (c) The establishment shall not have an adverse impact on religious, educational, or other institutional facilities located in the area.

SOURCE: § 5104.4 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 22 DCR 1901, 1902 (October 14, 1975); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8404 (October 20, 2000); as amended by Final Rulemaking and Order No. 15-17 published at 63 DCR 1632 (February 12, 2016).

754 SEXUALLY-ORIENTED BUSINESSES (C-4)

754.1 A sexually-oriented business establishment shall be permitted as a special exception in a C-4 District, if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.

754.2 No portion of the establishment shall be located within six hundred feet (600 ft.) of a Residence or Special Purpose District.

754.3 No portion of the establishment shall be located within six hundred feet (600 ft.) of a church, school, library, playground, or the area under the jurisdiction of the Commission of Fine Arts pursuant to the Shipstead-Luce Act, approved May 16, 1930 (46 Stat. 366, as amended; D.C. Official Code § 6-611.01 (formerly codified at D.C. Code § 5-410 (1994 Repl.))).

754.4 No portion of the establishment shall be located within three hundred feet (300 ft.) of any other sexually-oriented business establishment.

- 754.5 There shall be no display of goods or services visible from the exterior of the premises.
- 754.6 The establishment shall be compatible with other uses in the area.
- 754.7 The use shall not become objectionable because of its effect on the character of the neighborhood or because of noise, traffic, or other conditions.
- 754.8 The establishment shall not have an adverse impact on religious, educational, or governmental facilities located in the area.

SOURCE: § 5104.45 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 24 DCR 5144, 5146 (December 16, 1977); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8405 (October 20, 2000).

755 DOWNTOWN HISTORIC PROPERTIES RESIDENTIAL REHABILITATION INCENTIVE PROGRAM (C-4)

- 755.1 This section authorizes the transfer of development rights from a qualifying rehabilitation project within the C-4 District to a receiving zone or lot established pursuant to § 1709.
- 755.2 A rehabilitation project within the C-4 District that provides for the construction of new apartment house use on-site shall qualify to earn transferable development rights, provided the project:
- (a) Retains and rehabilitates a building, consistent with plans approved pursuant to the Historic Landmark and Historic District Protection Act of 1978, effective March 3, 1979 (D.C. Law 2-144, as amended; D.C. Official Code §§ 6-1101 to 6-1115 (formerly codified at D.C. Code §§ 5-1001 to 5-1015 (1994 Repl. & 1999 Supp.))), that is designated as a historic landmark or determined to be a contributing building to a historic district by the Historic Preservation Review Board;
 - (b) Retains sufficient historic fabric to constitute "whole building retention," as determined by the D.C. Office of Planning, Historic Preservation Division; and
 - (c) Is undertaken pursuant to a building permit issued after May 8, 2000.755.3 A rehabilitation project qualifying under § 755.2 shall earn two (2) square feet of transferable development rights for each one (1) square foot of new apartment house use developed.

- 755.4 In order to convey the transferable development rights provided for in this section, the owner of the building shall execute, file, and record an instrument of transfer as provided in § 1709.
- 755.5 Up to one-half (1/2) of the total number of transferable development rights generated by a qualifying rehabilitation project shall vest and may be transferred upon the owner's certification in writing and the Zoning Administrator's concurrence that fifty percent (50%) of the rehabilitation of the landmark or contributing building is complete and constructed in a manner consistent with the building permit for the project.
- 755.6 The remainder of the total number of transferable development rights generated by a qualifying rehabilitation project shall vest and may be transferred after the owner obtains written certification from the Historic Preservation Division of the completion, consistent with the building permit, of the landmark or contributing building.

SOURCE: Final Rulemaking published at 47 DCR 5871, 5873-74 (July 21, 2000).

756 ELECTRONIC EQUIPMENT FACILITIES (C-4)

- 756.1 An Electronic Equipment Facility (EEF) that does not qualify as a matter-of-right use under § 751 may be permitted as a special exception in a C-4 District if approved by the Board of Zoning Adjustment under § 3104, subject to the requirements of this section.
- 756.2 An EEF shall not occupy more than fifty percent (50%) of the constructed gross floor area of the building, unless approved as part of a planned unit development pursuant to chapter 24 of this title.
- 756.3 An applicant seeking a special exception for an EEF shall demonstrate, in addition to the requirements of § 3104, that the proposed use will not, as a consequence of its design, operation, low employee presence, or proximity to other EEFs, inhibit future revitalization of the neighborhood, reduce the potential for vibrant streetscapes, deplete street life, or inhibit pedestrian or vehicular movement.
- 756.4 In evaluating whether an EEF will have any of the adverse impacts described in § 756.3, the Board shall consider, in addition to other relevant factors, the:
- (a) Absence of retail uses or of a design capable of accommodating retail uses in the future;
 - (b) Presence of security or other elements in the design that could impair street life and pedestrian flow;

- (c) Disruption of existing or elimination of officially proposed pedestrian or vehicular routes; and
- (d) Inability of the EEF to be adapted in the future for permitted uses.

756.5 The Board, in weighing the potentially adverse factors listed in § 756.4(a) through (d), shall consider the economic development potential of the area in which the EEF is proposed to be established and shall give greater negative weight to these factors if the EEF is to be located in proximity to an existing or proposed Metrorail station or along a pedestrian corridor.

756.6 The Board may give positive weight to any economic benefits that the proposed EEF will have on adjacent properties, including the potential for increased business activity within the neighborhood, if that activity will foster economic development.

756.7 The Board may impose requirements pertaining to design, appearance, landscaping, parking, and other such requirements as it deems necessary to protect adjacent property and to achieve an active, safe, and vibrant street life.

SOURCE: Final Rulemaking published at 48 DCR 9830, 9834-35 (October 26, 2001); as amended by Final Rulemaking published at 49 DCR 1655 (February 22, 2002), incorporating by reference the text of Proposed Rulemaking published at 48 DCR 11159, 11161-62 (December 7, 2001).

757-759 [RESERVED]

760 PENNSYLVANIA AVENUE DEVELOPMENT DISTRICT (C-5 (PAD))

760.1 The Pennsylvania Avenue Development (C-5 (PAD)) District is established to promote and protect the public health, safety, and general welfare and amenities in the area adjacent to the north side of Pennsylvania Avenue, N.W., between 10th Street and 15th Street, N.W., consistent with the goals and mandates of the U.S. Congress in the Pennsylvania Avenue Development Corporation Act of 1972, approved October 27, 1972 (86 Stat. 1266, as amended; 40 U.S.C. §§ 871-885), and in accordance with the development plan promulgated under that Act.

760.2 Beyond the general purposes specified in § 760.1, the C-5 (PAD) District shall be established to:

- (a) Encourage development to the potential permitted under the Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452, as amended; D.C. Official Code §§ 6-601.01 to 6-601.09 (formerly codified at D.C. Code §§ 5-401 to 5-409 (1994 Repl. & 1999 Supp.))), along a portion of the north side of Pennsylvania Avenue, N.W., as designated in that Act and the Pennsylvania Avenue Plan - 1974;

- (b) Reinforce Pennsylvania Avenue's unique role as a physical and symbolic link between the White House and the U.S. Capitol;
- (c) Improve land utilization in the prime location within the downtown core of Washington, D.C.;
- (d) Improve the physical and economic relationship of the downtown core of Washington, D.C.;
- (e) Encourage an appropriate mix of retail, entertainment, restaurants, and other facilities to serve shoppers, tourists, and office populations; and
- (f) Encourage the development of appropriate public spaces for their symbolic value as well as for their public use.

760.3 Except as provided in chapters 20 through 25 of this title, in the C-5 (PAD) District, no building or premises shall be used and no building shall be erected or altered that is arranged, intended, or designed to be used except for one (1) or more of the uses listed in § 761.

SOURCE: Final Rulemaking published at 25 DCR 2726, 2734 (September 22, 1978); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8405-06 (October 20, 2000).

761 C-5 (PAD) DISTRICT USES

761.1 Any use permitted in a C-4 District under § 751 shall be permitted in the C-5 (PAD) District as a matter of right, except that an animal boarding use shall be prohibited and a gasoline service station shall be permitted only as an accessory use to a parking garage subject to the conditions of § 701.1(i).

761.2 Uses as specified and controlled under §§ 753 and 754 shall be permitted in the C-5 (PAD) District if approved by the Board of Zoning Adjustment in accordance with the conditions specified in § 3104 for special exceptions.

761.3 Mechanical amusement machines shall be permitted in a C-5 (PAD) District as an accessory use incidental to the uses permitted in this section, subject to the provisions of § 2501.

761.4 A child development home or an expanded child development home shall be permitted in the C-5 (PAD) District as an accessory use incidental to the uses permitted in this section; provided:

- (a) The dwelling unit in which the use is located shall be the principal residence of the caregiver; and

(b) The use otherwise shall meet the definition of a home occupation.

761.5 Other accessory uses customarily incidental and subordinate to the uses permitted in the C-5 (PAD) District shall be permitted in the C-5 (PAD) District if approved by the Board of Zoning Adjustment in accordance with the conditions specified under § 3104 for special exceptions.

761.6 A drive-through accessory to a fast food establishment shall be permitted in the C-5 (PAD) District, subject to the special provisions for drive-throughs in § 2304.

SOURCE: Final Rulemaking published at 25 DCR 2726, 2734 (September 22, 1978); as amended by: Final Rulemaking published at 29 DCR 4913, 4916 (November 5, 1982); Final Rulemaking published at 32 DCR 4374, 4378 (July 26, 1985); and Final Rulemaking published at 47 DCR 974143 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8406 (October 20, 2000); as amended by Final Rulemaking published at 53 DCR 6363 (August 4, 2006); as amended by Final Rulemaking published at 54 DCR 9393 (September 28, 2007); as amended by Final Rulemaking and Order No. 15-17 published at 63 DCR 1632 (February 12, 2016).

762 C-5 (PAD) DISTRICT BONUS INCENTIVE SYSTEM

762.1 For the purpose of encouraging public amenities, development design, and in-town residential uses, the maximum permissible floor area ratio for a building or other structure in the C-5 (PAD) District specified in § 771 may be increased by a maximum additional floor area ratio of two (2.0) for the improvements or amenities listed in § 762.4; provided, that the criteria in §§ 763 through 767 shall be satisfied.

762.2 Where floor area or floor area ratio is awarded in addition to that specified in § 762.1, the addition to the floor area ratio of the building or other structure created by the award may be used to exceed the floor area ratio limit in the C-5 (PAD) District prescribed in § 771. That limit shall not be exceeded by more than two (2.0) floor area ratio, even though more floor area ratio may be accrued by award under § 762.1 and this section.

762.3 In addition to those areas of a building normally included in the computation of gross floor area, the floor area of the following improvements or amenities shall be included in computing the gross floor area of the building of which they are a part:

- (a) Open arcade;
- (b) Pedestrian space; and
- (c) Through square connection.

762.4 The following bonus incentives (including the maximum floor area bonus or floor area ratio bonus) shall be available in the C-5 (PAD) District:

- (a) Open arcade - three gross square feet (3 ft.²) may be added to the gross floor area of the building for each square foot of open arcade provided in accordance with § 763;
- (b) Enclosed pedestrian space - four gross square feet (4 ft.²) may be added to the gross floor area of the building for each square foot of enclosed pedestrian space provided in accordance with § 764;
- (c) Through square connection - four gross square feet (4 ft.²) may be added to the gross floor area of the building for each square foot of through square connection provided in accordance with § 765;
- (d) Theaters - four gross square feet (4 ft.²) may be added to the gross floor area of the building for each square foot of a legitimate theater or performing arts facility containing a minimum of one hundred fifty (150) seats. Where a legitimate theater or performing arts facility contains twelve hundred (1,200) or more seats, an award of eight gross square feet (8 ft.²) for each square foot of facility may be made. The increase in bulk shall be granted in accordance with § 766;
- (e) Residential uses - additional gross floor area equal to a floor area ratio of one (1.0) shall be granted where twenty (20) or more residential units of any size are provided; and
- (f) Closed court - fifteen gross square feet (15 ft.²) may be added to the gross floor area of the building for each square foot of closed court in excess of the area requirement specified in § 776 for the C-5 (PAD) District in accordance with § 767.

SOURCE: Final Rulemaking published at 24 DCR 10769, 10779 (June 16, 1978); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8406-07 (October 20, 2000).

763 OPEN ARCADE CRITERIA (C-5 (PAD))

- 763.1 Where an open arcade is provided, it shall meet the criteria of this section to qualify for the award of the bonus specified in § 762.4.
- 763.2 An open arcade for its entire length shall be along the perimeter of a building and shall adjoin a street.
- 763.3 An open arcade shall also be open to the street it adjoins, except for structural piers, columns, or arches.
- 763.4 An open arcade shall have an unobstructed and continuous passageway for its entire length of no less than ten feet (10 ft.) in width at any point.

- 763.5 An open arcade shall be no less than fifteen feet (15 ft.) in height at any point within the arcade.
- 763.6 An open arcade shall have its floor at the same level and continuous with the sidewalks, and shall connect to existing adjoining open arcades or shall be constructed to permit the connection in the future.
- 763.7 The use of the area within an open arcade shall be restricted essentially to pedestrian uses. Vehicular access to or through an open arcade shall be minimized.
- 763.8 An open arcade shall have retail and service uses fronting on it, with those uses directly accessible from the open arcade and the adjoining street.
- 763.9 The floor area bonus awarded for the provision of an open arcade shall be computed on the basis of the floor area embraced within the boundary of the open arcade.
- 763.10 Where vehicular access is permitted across an open arcade, that portion of the open arcade used as vehicular access space shall be excluded from the computation of the floor area of the open arcade for the purpose of determining the bonus incentive award under § 762.4.

SOURCE: Final Rulemaking published at 24 DCR 10769, 10781 (June 16, 1978); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8407 (October 20, 2000).

764 ENCLOSED PEDESTRIAN SPACE CRITERIA (C-5 (PAD))

- 764.1 Where an enclosed pedestrian space is provided in the C-5 (PAD) District, the space created shall meet the criteria of this section before the floor area bonus in § 762.4 can be awarded.
- 764.2 The space shall be directly accessible to the public and shall be located to provide direct or indirect access to the public space of the main floor of the building.
- 764.3 The ceiling height shall be a minimum of twenty feet (20 ft.) above any floor level of the enclosed pedestrian space.
- 764.4 There may be more than one (1) floor level in the enclosed pedestrian space, but inter-floor level barrier-free connections shall be required.
- 764.5 The average horizontal dimensions between any of the walls forming an enclosed pedestrian space shall be at least forty feet (40 ft.) wide, but at no point shall the width be less than thirty feet (30 ft.), measured at the main pedestrian circulation floor level of the space; except when an entrance to the enclosed pedestrian space

is provided at the facade of the building, the width of the entrance shall be no less than twenty feet (20 ft.).

764.6 Pedestrian bridges, balconies, pennants, banners, lighting fixtures, mobiles, or other decorative elements shall be permitted overhead obstructions; provided, that they do not cover in the aggregate more than thirty percent (30%) of the floor area of the enclosed pedestrian space.

764.7 An enclosed pedestrian space shall be appropriately lighted.

764.8 Interfloor level connections, columns, or similar elements, planting, landscaping, ornamental fountains, statuary, bazaar furniture, kiosks, works of art, or other similar features shall be permitted within the enclosed pedestrian space; provided, that pedestrian circulation shall be barrier-free and shall not be hampered by the features.

SOURCE: Final Rulemaking published at 24 DCR 10769, 10781 (June 16, 1978); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8407 (October 20, 2000).

765 THROUGH SQUARE CONNECTION CRITERIA (C-5 (PAD))

765.1 Where a through square connection is provided in the C-5 (PAD) District, the space created within the square as the connection shall meet the criteria of this section before additional gross square feet shall be awarded increasing the gross floor area of the building as specified in § 762.4.

765.2 The exterior entrances of a through square connection shall be at the same level as the street it adjoins.

765.3 A through square connection may be enclosed in whole or in part and shall have an average width of at least twenty feet (20 ft.), but at no point shall the width be less than fifteen feet (15 ft.).

765.4 A through square connection shall have a minimum height of twenty feet (20 ft.).

765.5 Except for a building or other structure occupying a through lot or corner lot bounded by three (3) streets, no bonus incentive for a through square connection shall be awarded unless the Board of Zoning Adjustment has determined that the requirement of a continuous connection through the square can be accomplished.

765.6 In the C-5 (PAD) District, a through square connection shall only be permitted between two (2) parallel or opposite streets.

765.7 A through square connection shall be appropriately lighted and open to the public.

- 765.8 A through square connection may contain ornamental fountains, sculptures, displays, or kiosks; provided, that pedestrian circulation shall be barrier-free and shall not be hampered by the features.
- 765.9 Only retail and service uses shall be provided along the through square connection.
- 765.10 A through square connection may be created by linking one (1) or more of the following:
- (a) Open arcade;
 - (b) Portico;
 - (c) Plaza;
 - (d) Interior space or lobby of a building;
 - (e) Court;
 - (f) Rear yard;
 - (g) Side yard; or
 - (h) Enclosed pedestrian space.
- 765.11 The floor areas of the features listed in § 765.10 shall not be included in computing the floor area of the through square connection for determining the bonus incentive award under § 762.4.

SOURCE: Final Rulemaking published at 24 DCR 10769, 10782 (June 6, 1978); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8407-08 (October 20, 2000).

766 THEATER CRITERIA (C-5 (PAD))

- 766.1 The Board of Zoning Adjustment may authorize within a C-5 (PAD) District an increase in bulk as specified in § 762.4 for any new building containing a legitimate theater or similar performing arts facility.
- 766.2 The Board may also prescribe appropriate conditions and safeguards to ensure the achievement of good design objectives and, in determining the precise extent of the increase permitted, the Board shall require that the requirements of this section be met.
- 766.3 The legitimate theater or similar performing arts facility shall be of a size and type appropriate for the C-5 (PAD) District.

766.4 Adequate supporting facilities associated with the operation of a legitimate theater or similar performing arts facility, such as rehearsal areas, studios, or storage space, shall be provided.

766.5 Open spaces, open arcades, through square connections, enclosed pedestrian spaces, mass transit, and vehicular circulation shall be adequate to accommodate the circulation of pedestrians or vehicles attracted by the facilities.

SOURCE: Final Rulemaking published at 24 DCR 10769, 10783 (June 6, 1978); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8408 (October 20, 2000).

767 CLOSED COURTS CRITERIA (C-5 (PAD))

767.1 Where a closed court in the C-5 (PAD) District is enlarged for the purpose of obtaining an award of a bonus incentive, the criteria in this section shall be met.

767.2 A closed court shall be landscaped and may be used for a restaurant or a recreational exhibit purpose.

767.3 No permanent structure shall be permitted in the closed court, except structures incidental to the landscaping, such as fountains or art objects.

767.4 Temporary structures incidental to a cafe or an exhibit purpose shall be permitted.

767.5 A closed court for which a bonus incentive award is sought shall be directly accessible to the public and connected to the public space of the main floor of the building.

767.6 Vehicular access or use of the closed court shall be prohibited if a bonus incentive is awarded.

767.7 Only that portion of the area of a closed court in excess of the requirement under § 776 shall qualify for a bonus incentive as provided under § 762.4.

SOURCE: Final Rulemaking published at 24 DCR 10769, 10783 (June 16, 1978); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8399 (October 20, 2000).

768 BONUS INCENTIVE PROCEDURES (C-5 (PAD))

768.1 Application, review, and award under the Bonus Incentive System shall be made to the Board of Zoning Adjustment.

768.2 The Board shall process the application in accordance with its normal rules of procedure.

768.3 Application shall be filed with the Board, which shall include the following information:

- (a) A statement describing the amenity to be provided and the bonus requested, including a detailed statement showing how the application meets the requirements of regulations;
- (b) A finished site plan showing the location and external dimensions of all buildings and other structures, utilities and other easements, walkways, driveways, plazas, planting, and any other open space;
- (c) A landscape plan showing all existing contour lines and landscaping to be retained and all new contours, planting, and landscaping;
- (d) A circulation plan, including pedestrian and vehicular access ways and areas devoted to parking and loading;
- (e) Floor plan of the level upon which a bonus element is proposed;
- (f) Architectural elevations for all open sides of the proposed building;
- (g) A computation of gross floor area and floor area ratio of the proposed bonus element; and
- (h) A development schedule for the total site showing:
 - (1) Total lot area;
 - (2) Total floor area ratio;
 - (3) Gross floor area devoted to each use;
 - (4) Total number of type of residential uses;
 - (5) Total number of off-street parking spaces; and
 - (6) Total number of off-street loading berths.

768.4 The Board shall review the application made under the Bonus Incentive System and may award additional square feet in an amount not to exceed the limitations in § 762.4, applying the criteria in §§ 763 through 767; provided, that the requirements of §§ 768.5 through 768.9 shall be met.

768.5 The application shall be consistent with the intent and purpose of the C-5 (PAD) District and encourage improved pedestrian circulation and activities, mixture of uses, and more attractive urban design.

768.6 The application shall have received the approval of the Pennsylvania Avenue Development Corporation.

768.7 The proposed development under a bonus award shall not significantly and adversely impact upon adjoining property.

768.8 Upon receiving an application for an approval under § 768.4, the Board shall submit the application to the D.C. Office of Planning for coordination, review, report, and impact assessment, along with review in writing of all relevant District of Columbia departments and agencies including the Departments of Transportation and Housing and Community Development, and, if a historic district or historic landmark is involved, the State Historic Preservation Officer.

768.9 The Board of Zoning Adjustment may require other special conditions as it deems necessary to protect neighboring or adjacent property and to generally promote the public health, safety, and welfare.

SOURCE: Final Rulemaking published at 24 DCR 10769, 10784 (June 16, 1978); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8408-09 (October 20, 2000).

769 [RESERVED]

770 HEIGHT OF BUILDINGS OR STRUCTURES (C)

770.1 Except as provided in this section and in Chapters 17 and 20 through 25 of this title, the height of a building or structure in a Commercial District shall not exceed that set forth in the following table:

ZONE DISTRICT	MAXIMUM HEIGHT (Feet)	MAXIMUM HEIGHT (Stories)
C-1	40	3
C-2-A	50	No Limit
C-2-B,C-3-A	65	No Limit
C-3-B	70	6
C-2-B-1	75	No Limit
C-2-C,C-3-C	90	No Limit
C-4	110	No Limit
C-5(PAD)	130	No Limit

770.2 The height of buildings or structures specified in § 770.1 may be exceeded in the instances provided in §§ 770.3 through 770.9.

770.3 Spires, towers, domes, pinnacles or minarets serving as architectural embellishments, penthouses, ventilator shafts, antennas, chimneys, smokestacks, or fire sprinkler tanks may be erected to a height in excess of that which this sections otherwise authorizes. This section shall not be interpreted to bypass otherwise required special exception reviews.

770.4 In the C-4 District, a building or other structure may be erected to a height not exceeding one hundred thirty feet (130 ft.); provided, that the building or other structure shall face or abut a street not less than one hundred ten feet (110 ft.) wide between building lines.

770.5 In the C-5 (PAD) District, a building or other structure may be erected to a height not exceeding one hundred sixty feet (160 ft.); provided:

- (a) The height of the building or structure shall be measured only from the Pennsylvania Avenue curb at the middle of the front of the building or other structure to the highest point of the roof or parapet exclusive of any structure on the roof; and
- (b) That portion of the building or other structure that exceeds one hundred thirty-five feet (135 ft.) in height shall be set back a minimum of fifty feet (50 ft.) from the building line along Pennsylvania Avenue.

770.6 A penthouse may be erected to a height in excess of that which this section otherwise authorizes but shall not exceed the height, as measured from the surface of the roof upon which the penthouse is located, in the following table:

ZONE DISTRICT	MAXIMUM PENTHOUSE HEIGHT	MAXIMUM PENTHOUSE STORIES
C-1, C-2-A	12 ft. except 15 ft. for penthouse mechanical space	1; second story permitted for penthouse mechanical space
C-2-B, C-3-A	12 ft. except 18 ft. 6 in. for penthouse mechanical space	1; second story permitted for penthouse mechanical space
C-2-B-1, C-3-B	20 ft.	1; second story permitted for penthouse mechanical space
C-2-C; C-3-C; C-4; C-5	20 ft.	1 plus mezzanine; second story permitted for penthouse mechanical space

770.7 [REPEALED]

770.8 [REPEALED]

770.9 The height permitted for a building eligible for the additional density permitted pursuant to § 771.4 shall be that permitted by the Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452, as amended; D.C. Official Code §§ 6-601.01 to 6-601.09).

SOURCE: §§ 5201.1, 5201.2, and 5201.3 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 27 DCR 2226, 2227 (May 23, 1980); Final Rulemaking published at 33 DCR 3975, 3978 (July 4, 1986); Final Rulemaking published at 36 DCR 1509, 1523 (February 24, 1989); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8409-10 (October 20, 2000); as amended by Final Rulemaking published at 55 DCR 34 (January 4, 2008); as amended by Final Rulemaking and Order No. 10-01 published at 57 DCR 3492 (April 23, 2010) ; as amended by Final Rulemaking and Order No. 14-16 published at 62 DCR 5190 (April 24, 2015); as amended by Final Rulemaking and Order No. 14-13 published at 63 DCR 390 (January 8, 2016).

771 FLOOR AREA RATIO (C)

770.1 Except as provided in this section and in Chapters 17 and 20 through 25 of this title, the height of a building or structure in a Commercial District shall not exceed that set forth in the following table:

ZONE DISTRICT	MAXIMUM HEIGHT (Feet)	MAXIMUM HEIGHT (Stories)
C-1	40	3
C-2-A	50	No Limit
C-2-B,C-3-A	65	No Limit
C-3-B	70	6
C-2-B-1	75	No Limit
C-2-C,C-3-C	90	No Limit
C-4	110	No Limit
C-5(PAD)	130	No Limit

771.2 For a building or structure for which an application for a building permit was filed on or after November 17, 1978, the maximum permitted floor area ratio shall be as set forth in the following table:

ZONE DISTRICT	APARTMENT HOUSE OR OTHER RESIDENTIAL USE OR PUBLIC SCHOOL	OTHER PERMITTED USE	MAXIMUM PERMITTED (FAR)
C-1	1.0	1.0	1.0
C-2-A	2.5	1.5	2.5
C-2-B, C-2-B-1	3.5	1.5	3.5
C-2-C	6.0	2.0	6.0
C-3-A	4.0	2.5	4.0
C-3-B	5.0	4.0	5.0
C-3-C	6.5	6.5	6.5
C-4	8.5	8.5	8.5

C-5 (PAD)	10.0	10.0	10.0
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- 771.3 For a building or structure in existence with a valid Certificate of Occupancy prior to November 17, 1978, or for which an application for a building permit was filed prior to November 17, 1978, the maximum floor area ratio to be devoted to an "other permitted use" shall be as shown in the table in § 771.2. An "apartment house or other residential use" may occupy all or any portion of the building or structure.
- 771.4 As an alternative to purchasing transferable development rights to achieve additional density as permitted in the receiving zones described in §§ 1709.15 through 1709.19, a building or structure located in any such zones that is being developed as part of an approved New Community Plan approved by the Council of the District of Columbia or that qualify as a low or moderate income subsidized housing development as defined in § 3042.2 ("Eligible Projects") may utilize the following additional density as a matter of right, provided that the Zoning Administrator determines that the proposed building or structure is not inconsistent with the approved New Community Plan, if applicable, or the Comprehensive Plan:
- (a) Eligible Projects located in the New Downtown, North Capitol, Capitol South, and Southwest receiving zones may be constructed to a maximum FAR of 10.0 for buildings permitted a height of one hundred thirty feet (130 ft.) pursuant to § 770.9, and 9.0 for buildings permitted a lesser height; or
 - (b) Eligible Projects located in the Downtown East receiving zone may be constructed to a maximum FAR of 9.0.
- 771.5 In the C-4 District, a building or structure that is erected to a height in excess of one hundred ten feet (110 ft.) as permitted in § 770.4 may have a floor area ratio not exceeding ten (10.0), except as provided in § 2405.2.
- 771.6 In the C-5 (PAD) District, the maximum permitted floor area ratio, as specified in §§ 771.1 through 771.3, may be increased as provided in §§ 762.1 and 762.2.
- 771.7 In the computation of gross floor area for a hotel, guestroom areas and service areas shall be charged against the floor area ratio for "apartment house or other residential use," as specified in §§ 771.1 through 771.3.
- 771.8 In the computation of gross floor area for a hotel, function rooms, exhibit space, and commercial adjuncts shall be charged against the floor area ratio for "other permitted use," as specified in §§ 771.1 through 771.3.

771.9 For the purposes of this section, an inn or community-based residential facility shall be charged against the floor area ratio for "apartment house or other residential use," as specified in §§ 771.1 through 771.3.

771.10 In a C-1 District, the maximum floor area ratio requirements may be increased for specific public school buildings or structures, but shall not exceed the floor area ratio 1.8.

SOURCE: §§ 5301 through 5301.4 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 27 DCR 382 (January 25, 1980); Final Rulemaking published at 27 DCR 2226, 2227 (May 23, 1980); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8410-11 (October 20, 2000); as amended by Final Rulemaking published at 53 DCR 9580 (December 1, 2006); as amended by Final Rulemaking and Order No. 10-01 published at 57 DCR 3492 (April 23, 2010); as amended by Final Rulemaking and Order No. 14-16 published at 62 DCR 5190 (April 24, 2015).

772 **PERCENTAGE OF LOT OCCUPANCY (C)**

772.1 In a Commercial District, no building or portion of a building devoted to a residential use, including accessory buildings but excluding hotels, shall occupy the lot upon which it is located in excess of the percentage of lot occupancy in the following table:

ZONE DISTRICT	MAXIMUM PERCENTAGE OF LOT OCCUPANCY
C-1	60%
C-2-A	60%
C-3-A	75%
C-2-B, C-2-B-1, C-2-C	80%
C-3-B, C-3-C, C-4, C-5 (PAD)	100%

SOURCE: § 5302.1 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 27 DCR 2226, 2227 (May 23, 1980); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8411 (October 20, 2000); as amended by Final Rulemaking and Order No. 14-16 published at 62 DCR 5190 (April 24, 2015).

773 **[DELETED]**

SOURCE: § 5302.2 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 26 DCR 1794 (October 19, 1979); Final Rulemaking published at 27 DCR 2226, 2227 (May 23, 1980); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8411 (October 20, 2000); as amended by Final Rulemaking published 54 DCR 3064 (April 6, 2007).

774 REAR YARDS (C)

774.1 Except as provided in this section, a rear yard shall be provided for each structure located in a Commercial District, the minimum depth of which shall be as prescribed in the following table:

ZONE	DISTRICT	AND	MINIMUM	DEPTH	OF
STRUCTURE			REAR YARD		
C-1			20 feet		
All structures					
C-2-A, C-2-B, C-2-B-1, C-2-C			15 feet		
All structures					
C-3-A, C-3-B, C-3-C, C-4, C-5 (PAD)			2-1/2 inches per foot of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall, but not less than 12 feet		
All structures					

774.2 The Board of Zoning Adjustment may waive the rear yard requirements of this section pertaining to C-3-A, C-3-B, C-3-C, and C-4 Districts in accordance with the requirements of § 3104 for special exceptions; provided, that the standards in §§ 774.3 through 774.6 shall be met.

774.3 Apartment and office windows shall be separated from other buildings that contain facing windows a distance sufficient to provide light and air and to protect the privacy of building occupants.

774.4 In determining distances between windows in buildings facing each other, the angle of sight lines and the distance of penetration of sight lines into habitable rooms shall be sufficient to provide adequate light and privacy to the rooms.

774.5 The building plan shall include provisions for adequate off-street service functions, including parking and loading areas and access points.

774.6 Upon receiving an application for an approval under § 774.2, the Board shall submit the application to the D.C. Office of Planning for coordination review, report, and impact assessment, along with reviews in writing of all relevant District of Columbia departments and agencies including the Departments of Transportation and Housing and Community Development and, if a historic district or historic landmark is involved, the State Historic Preservation Officer.

774.7 In a C-1, C-2, or C-3-A District, where a lot upon which a building or other structure is located abuts an alley, the rear yard, as required by §§ 774.1 through 774.6, may be measured as follows:

- (a) For that portion of the structure below a horizontal plane twenty feet (20 ft.) above the mean finished grade at the middle of the rear of the structure from the center line of the alley to the rear wall of the portion; and
- (b) For that portion of the structure above the horizontal plane described in § 774.7(a), the depth of rear yard shall be measured from the rear lot line to the rear wall of that portion immediately above the plane.

774.8 Subsection 774.7 shall not apply to any one-family dwelling.

774.9 In the C-3-B, C-3-C, C-4, and C-5 (PAD) Districts, the depth of rear yard required in §§ 774.1 through 774.6 may be measured as follows:

- (a) Where a lot abuts an alley, the depth of rear yard may be measured from the center line of the alley, to the rear wall of the building or other structure. A rear yard on the lot need not be provided below a horizontal plane twenty feet (20 ft.) above the mean finished grade measured at the middle of the rear wall of that portion of the building or other structure below the twenty foot (20 ft.) plane;
- (b) Where a lot does not abut an alley, the depth of rear yard shall be measured as specified in the definition of rear yard in § 199.1, except a rear yard need not be provided below a horizontal plane twenty feet (20 ft.) above the mean finished grade measured at the middle of the rear wall of that portion of the building or other structure below the twenty foot (20 ft.) plane; and
- (c) In the case of a corner lot, a court complying with the width requirements for a closed court as specified in § 776 may be provided in lieu of a rear yard. For the purpose of this section, the required court shall be provided above a horizontal plane beginning not more than twenty feet (20 ft.) above the curb grade opposite the center of the front of the building, and the width of the court shall be computed for the entire height of court.

774.10 Subsection 774.9 shall not apply to any one-family dwelling.

774.11 In the case of a through lot or a corner lot abutting three (3) or more streets, the depth of rear yard may be measured from the center line of the street abutting the lot at the rear of the building or other structure.

SOURCE: §§ 5303.1 through 5303.1 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 27 DCR 2226, 2227 (May 23, 1980); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8411-12 (October 20, 2000); as amended by Final Rulemaking and Order No. 14-16 published at 62 DCR 5190 (April 24, 2015).

775 SIDE YARDS (C)

- 775.1 Side yards shall be provided for structures in a Commercial District as specified in this section.
- 775.2 A one-family detached dwelling shall be subject to the side yard requirements of an R-1 District.
- 775.3 A one-family semi-detached dwelling shall be subject to the side yard requirements of an R-2 District.
- 775.4 No side yard shall be required for a hotel; but if a side yard is provided, the width of the yard shall be as follows:
- (a) In a C-1, C-2, or C-3-A District: three inches (3 in.) wide for each foot of height of building, but not less than eight feet (8 ft.); and
 - (b) In a C-3-B, C-3-C, C-4, or C-5 (PAD) District: two inches (2 in.) wide for each foot of height of building, but not less than six feet (6 ft.).
- 775.5 No side yard shall be required for any other building or structure; but if a side yard is provided, it shall be at least two inches (2 in.) wide for each foot of height of building, but not less than six feet (6 ft.).

SOURCE: § 5303.4 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 27 DCR 2226, 2228 (May 23, 1980); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8412 (October 20, 2000).

776 COURTS (C)

- 776.1 Where a court is provided for a building or portion of a building devoted to nonresidential uses, at any elevation in the court, the width of court shall be a minimum of three inches per foot (3 in./ft.) of height, measured from the lowest level of the court to that elevation; provided, that in no case shall the width of court be less than twelve feet (12 ft.).
- 776.2 In the case of a closed court for a building or portion of a building devoted to nonresidential uses, the minimum area shall be at least twice the square of the width of court based upon the height of court, but not less than two hundred fifty square feet (250 ft.²).
- 776.3 Where a court is provided for a building or portion of a building devoted to residential uses, at any elevation in the court, the width of court shall be a minimum of four inches per foot (4 in./ft.) of height, measured from the lowest level of the court to that elevation; provided, that in no case shall the width of court be less than fifteen feet (15 ft.).

- 776.4 In the case of a closed court for a building or portion of a building devoted to residential uses, the minimum area shall be at least twice the square of the width of court based upon the height of court, but not less than three hundred fifty square feet (350 ft.²).
- 776.5 In the case of a building devoted to both residential and nonresidential uses, the minimum width and area of a court shall be computed as follows:
- (a) When the residential and nonresidential uses are located on different floors of the building, the width and area requirements shall be computed for each use at the plane of each floor of the building; and
 - (b) When the residential and nonresidential uses are located on the same floor of the building, the width and area requirements for that plane shall be computed based on the requirements for a residential building in §§ 776.3 and 776.4.
- 776.6 For the purposes of this section, "residential uses" shall include dwellings, flats, multiple dwellings, hospitals, and community-based residential facilities.
- 776.7 No required opening for the admission of light and natural ventilation shall open onto a court niche where the ratio between the width of court niche and the depth of court niche is less than two to one (2:1).
- 776.8 No portion of a court niche shall be farther than three feet (3 ft.) from a point where the court niche is less than three feet (3 ft.) wide.
- 776.9 In the case of an alteration affecting the amount of light and ventilation required by other municipal law or regulation in an existing structure in a Commercial District, no legally required window shall be permitted to open onto a court that does not comply with the dimensions in §§ 776.1 through 776.4.

SOURCE: §§ 5305.1 and 5303.7 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 28 DCR 4192, 4196 (September 25, 1981); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8412 (October 20, 2000).

777 PENTHOUSES (C)

777.1 The provisions of § 411 shall also regulate penthouses in the Commercial Districts.

777.2 [REPEALED]

SOURCE: §§ 5306.1 and 5303.2 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8412 (October 20, 2000); as amended by Final Rulemaking and Order No. 14-13C published at 63 DCR 390 (January 8, 2016).

TITLE 11 - ZONING

CHAPTER 8 INDUSTRIAL DISTRICTS

Secs.

800	COMMERCIAL-LIGHT MANUFACTURING DISTRICTS (C-M)
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800 COMMERCIAL-LIGHT MANUFACTURING DISTRICTS (C-M)

800.1 The Commercial-Light Manufacturing (C-M) Districts are intended to provide sites for heavy commercial and light manufacturing activities employing large numbers of people and requiring some heavy machinery under controls that minimize any adverse effect on other nearby, more restrictive districts.

800.2 Heavy truck traffic and loading and unloading operations are expected to be characteristic of C-M Districts.

800.3 The three (3) C-M Districts provide a varying schedule for both density and height controls. They shall be mapped throughout the District of Columbia, and shall embrace areas used for low density warehousing as well as areas presently improved with both high and medium density buildings in warehousing, light manufacturing, office, and automotive usage.

800.4 Except as is explicitly provided in § 801, no new dwelling shall be permitted in a C-M District.

800.5 Except as provided in chapters 20 through 25 of this title, in a C-M District, no building or premises shall be used and no building shall be erected or altered that is arranged, intended, or designed to be used except for one (1) or more of the uses listed in §§ 801 through 803.

800.6 No use specifically prohibited in an M District shall be permitted in a C-M District.

AUTHORITY: Unless otherwise noted, the authority for this chapter is the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code §§ 6-641.01 to 6-641.15 (formerly codified at D.C. Code §§ 5-413 to 5-432 (1994 Repl. & 1999 Supp.))).

SOURCE: §§ 6101.1 and 6101.2 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 27 DCR 2066, 2071 (May 16, 1980); Final Rulemaking published at 28 DCR 3482, 3505 (August 7, 1981); Final Rulemaking published at 30 DCR 3270, 3275 (July 1, 1983); Final Rulemaking published at 32 DCR 4374, 4378 (July 26, 1985); Final Rulemaking published at 35 DCR 465, 467 (January 22, 1988); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8414 (October 20, 2000).

801 USES AS A MATTER OF RIGHT (C-M)

801.1 The uses set forth in this section shall be permitted in a C-M District as a matter of right.

- 801.2 Any commercial use permitted in the C-4 District under § 751, except establishments whose principal use is the administration of massages, sexually-oriented business establishments, and international organizations, shall be permitted as a matter of right in a C-M District. For purposes of this subsection, a community-based residential facility shall not be considered a commercial use.
- 801.3 Any dwelling existing on May 12, 1958, shall be permitted as a matter of right in a C-M District; provided, any addition to or enlargement of the dwelling shall conform with the yard, court, and percentage of lot occupancy standards for an R-3 District; and provided further, any increase in the building area of the dwelling shall be based upon a lot of a size not greater than that existing on May 12, 1958.
- 801.4 An apartment for the use of a caretaker, watchman, or janitor employed on the premises shall be permitted as a matter of right in a C-M District.
- 801.5 An apartment integrated with and accessory to an artist studio shall be permitted as a matter of right in a C-M District; provided, occupancy of the apartment shall be limited to the artist using the studio portion of the premises and the family of the artist.
- 801.6 A hotel or inn shall be permitted as a matter of right in a C-M District.
- 801.7 The following additional uses shall be permitted as a matter-of-right in a C-M Zone District, subject to the standards of external effects in § 804:
- (a) An animal shelter shall be permitted as a matter-of-right subject to the following standards:
- (1) The animal shelter shall utilize industry standard sound-absorbing materials, such as acoustical floor and ceiling panels, acoustical concrete and masonry, and acoustical landscaping;
 - (2) Animal shelters shall place all animal waste in closed waste disposal containers and shall utilize a waste disposal company to collect and dispose of all animal waste at least weekly. Odor shall be controlled by means of an air filtration system or an equivalently effective odor control system;
 - (3) The use shall not be located within twenty-five feet (25 ft.) of a lot within a Residence District. The twenty-five feet (25 ft.) shall be measured to include any space on the lot or within the building not used by the animal shelter use and any portion of a street or alley that separate the use from a lot within a Residence District. Shared facilities that are not under the sole control of the animal shelter, such as hallways and trash rooms shall not be considered as part of the animal shelter use; and

- (4) Outdoor runs and external yards for the exercise of animals shall be permitted, subject to the following requirements:
 - (A) No animals shall be permitted in outdoor runs or external yards between the hours of 8:00 p.m. and 8:00 a.m.;
 - (B) External yards and outdoor runs shall be enclosed with fencing or walls for the safe confinement of the animals and the absorption of noise fencing and/or walls shall be a minimum of eight feet (8 ft.) in height and constructed of solid or opaque materials with maximal noise-absorbing characteristics;
 - (C) No more than three (3) animals shall be permitted within any exterior yard or outdoor run at a time; and
 - (D) No part shall be located within two hundred feet (200 ft.) of an existing residential use or Residence District;
- (b) An asphalt plant located in D.C. Village on the part of parcel 253/26 west of Shepherd Parkway, S.W., and east of the Anacostia Freeway (D.C. Village site) if the plant was located in Square 705, Lot 802 on November 21, 2005 and was relocated to the D.C. Village site, provided that the plant:
 - (1) Meets the requirements of § 802.17(a) through (h); and
 - (2) Displays no signs visible from the Anacostia Freeway;
- (c) An Electronic Equipment Facility (EEF), provided an EEF exceeding twenty-five percent (25%) of the gross floor area of a building shall not be located within eight hundred feet (800 ft.) of an established or planned Metrorail station or within one thousand, two hundred and fifty feet (1,250 ft.) of the edge of a river as measured at mean high tide;
- (d) Any light manufacturing, processing, fabricating, or repair establishment, except those uses for which a special exception is required pursuant to § 802;
- (e) Carting, express, moving, or hauling terminal or yard;
- (f) Commercial athletic field;
- (g) Driver's License Road Test Facility;
- (h) Experimental, research, or testing laboratory;

- (i) Fire Department Training Facility;
- (j) Incinerator;
- (k) Laundry or dry cleaning establishment, without limitation on gross floor area;
- (l) Motorcycle sales and repair, with no limitation on location;
- (m) Public utility pumping station;
- (n) Repair garage; and
- (o) Wholesale or storage establishment, including open storage, except a junk yard.

801.8 Accessory uses and accessory buildings customarily incidental to the uses otherwise authorized by §§ 801 through 803 shall be permitted as a matter of right in a C-M District, including mechanical amusement machines subject to § 2501.

801.9 Yards, buildings, and structures for the repair, maintenance, and storage of equipment related to a fixed right-of-way mass transit system shall be permitted as a matter of right in a C-M District.

801.10 A drive-through accessory to a fast food establishment shall be permitted in a C-M District, subject to § 2304.

801.11 The emergency shelter located at 2210 Adams Place, N.E. (Square 4259, Parcel 54/81) shall be permitted as a matter of right in the C-M District; provided that a Certificate of Occupancy as an emergency shelter is obtained within one year of the effective date of this amendment.

SOURCE: § 6101.3 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 22 DCR 1901, 1903 (October 14, 1975); Final Rulemaking published at 24 DCR 5144, 5147 (December 16, 1977); Final Rulemaking published at 28 DCR 3482, 3505 (August 7, 1981); Final Rulemaking published at 30 DCR 3270, 3275 (July 1, 1983); Final Rulemaking published at 32 DCR 4374, 4378 (July 26, 1985); Final Rulemaking published at 35 DCR 465, 467 (January 22, 1988); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8414-15 (October 20, 2000); Final Rulemaking published at 48 DCR 9830, 9835 (October 26, 2001); Final Rulemaking published at 49 DCR 1655 (February 22, 2002), incorporating by reference Proposed Rulemaking published at 48 DCR 11159, 11162 (December 7, 2001); as amended by Final Rulemaking published at 50 DCR 1194 (February 7, 2003); as amended by Final Rulemaking published at 52 DCR 7259 (August 5, 2005); as amended by Final Rulemaking published at 52 DCR 9155 (October 14, 2005); as amended by Final Rulemaking published at 53 DCR 5881, 5885 (July 21, 2006); as amended by Final Rulemaking published at 54 DCR 8943 (September 14, 2007); as amended by Final Rulemaking published at 54 DCR 9393 (September 28, 2007); as amended by Final Rulemaking published at 55 DCR 757 (January 25, 2008); as

amended by Final Rulemaking published at 55 DCR 1794 (February 22, 2008); as amended by Final Rulemaking and Order No. 14-10 published at 62 DCR 3127 (March 13, 2015).

802 SPECIAL EXCEPTIONS (C-M)

- 802.1 The uses in this section shall be permitted as special exceptions in a C-M District if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section except that emergency shelters shall not be permitted in a C-M-3 District.
- 802.2 Any establishment whose principal use is the administration of massages shall be permitted; provided:
- (a) The establishment shall be compatible with other uses in the area;
 - (b) The use shall not be objectionable because of its effect on the character of the neighborhood or because of noise, traffic, or other conditions; and
 - (c) The establishment shall not have an adverse impact on religious, educational, or other institutional facilities located in the area.
- 802.3 An Intermediate Materials Recycling Facility shall be permitted; provided:
- (a) No portion of the facility, including any structure, loading docks and truck bays, storage, transfer equipment, truck parking, or other similar processing equipment and operations, shall be located within two hundred feet (200 ft.) of a residential property line;
 - (b) The use shall not have unacceptable adverse impacts on the character of the neighborhood due to noise, traffic, parking, odor, or other objectionable conditions. There shall be no truck access or queuing to the site from residential streets. The facility shall comply with the "Standards of External Effects (C-M)" in § 804 and the District of Columbia Noise Control Act of 1977, effective March 16, 1978, D.C. Law 2-53, as amended, and Standards; 20 DCMR chapters 27 - 29;
 - (c) The facility shall be enclosed on all sides by a fence or wall at least ten feet (10 ft.) high. The public view side and the side of the facility facing Residence Districts shall be landscaped and have an opaque screen, fence, or wall, not less than ten feet (10 ft.) high. The site shall be secured from unauthorized entry and removal of materials when attendants are not present;
 - (d) The site shall be maintained free of litter, trash, debris, and any other nonrecyclable materials;
 - (e) The facility shall provide on-site parking and queuing as follows:

- (1) Space shall be provided on-site to park each commercial vehicle operated by the facility;
 - (2) One employee parking space shall be provided for each commercial vehicle operated by the facility;
 - (3) If the facility serves the public, all parking and queuing space shall be provided on-site to accommodate projected peak demand;
 - (4) Additional parking, truck maneuvering, or queuing space may be required by the Board after considering the applicant's analysis of the needs and the reports of the D.C. Department of Transportation and the Office of Planning;
 - (5) No parking, queuing, or standing of trucks will be permitted on residential streets;
- (f) All storage of waste or recycled materials shall be in sturdy containers or enclosures that are fully covered, secured, and maintained in good condition. Storage containers for waste or recycled flammable materials shall be approved by the Fire and Emergency Medical Services Department. No storage containers outside the facility structures shall be visible above the height of a required fence or wall. Outside storage shall only be permitted for a reasonable period of time and in reasonable quantities to allow for separation, conversion, baling, processing, and shipment of processed and nonprocessed materials;
 - (g) If the facility is located within five hundred feet (500 ft.) of a Residence District, it shall not be in operation between 7:00 p.m. and 7:00 a.m. Hours of operation shall include the arrival and departure of trucks and delivery and removal of materials and equipment. The facility shall be administered by on-site personnel during the hours the facility is open. Intermediate Materials Recycling Facilities shall not operate on Sunday;
 - (h) Intermediate Materials Recycling Facilities shall comply with all environmental permit requirements established by the District of Columbia government; and
 - (i) The Board may impose conditions pertaining to design, screening, buffering, lighting, soundproofing, signs, methods and hours of operation, or any matter necessary to protect adjacent and nearby property, and special consideration will be given to protecting residential property from excessive noise and traffic.

802.4

Any establishment to be used as a solid waste handling facility shall be permitted only if the following requirements are met:

- (a) No portion of the facility, including any structure, loading dock, truck bay, storage container, transfer equipment, or any other processing equipment or operation, shall be located within three hundred feet (300 ft.) of a property in a Residence District used for residential purposes or within fifty feet (50 ft.) of any adjacent property used as a public park or for retail, office, or institutional purposes;
- (b) No truck access to or egress from the site shall be located within fifty feet (50 ft.) of any adjacent property used as a public park or for residential, retail, office, or institutional purposes;
- (c) The facility shall be designed to have access to a railway siding or spur to enable the transportation by rail of solid waste out of the District of Columbia. Solid waste shall be shipped from a facility by rail, except that shipping of solid waste by truck may be permitted by the Board, if the Board finds that the applicant has demonstrated by substantial evidence that the use of rail is not practically, economically, or physically feasible;
- (d) The site shall be of sufficient size so as to permit the avoidance or reduction of adverse impacts on the character of the neighborhood due to noise, traffic, parking, odors, rodents and other disease vectors, dust, litter, fire hazard, decomposition gases, vehicle and other pollution, or other hazards or objectionable conditions;
- (e) The applicant shall provide credible evidence to the Board to demonstrate the ability of the facility and its ancillary elements to comply with all applicable regulations. The evidence shall include, but not be limited to, the following:
 - (1) An indication of the site and description of land uses within one fourth (1/4) of a mile;
 - (2) A site plan showing the layout of the proposed facility, including main buildings, fences, and screens, access to rail if available, street access, parking and queuing areas, and a functional diagram indicating the proposed use of the site;
 - (3) An operating plan indicating types of waste to be accepted at the facility and estimates of the volume and number of trips of incoming and outgoing materials daily and during peak periods;
 - (4) A plan for preventing and controlling offensive noises, odors, rodents and other disease vectors;

- (5) A traffic study that indicates truck routes to and from the facility on streets, to the extent possible, that are major arterials and highways that do not abut residential neighborhoods along the way, with the objective of minimizing potential adverse impacts on adjacent neighborhoods; and
- (6) A certified statement by an architect or engineer licensed in the District of Columbia that the facility as sited and designed to the best of his or her professional knowledge and belief is capable of complying with this subsection and all other applicable regulations of the District of Columbia government including without limitation, regulations adopted pursuant to the Solid Waste Facility Permit Act of 1995, effective February 27, 1996 (D.C. Law 11-94, as amended; D.C. Official Code §§ 8-1051 to 8-1063 (formerly codified at D.C. Code §§ 6-3451 to 6-3463 (1999 Supp.)));
- (f) There shall be no truck access, parking, standing, or queuing to the facility from any street or block-long portion of a street for which fifty percent (50%) or more of the abutting properties on either side are used for residential purposes. No truck dumping or picking up solid waste shall park, stand, or queue for the facility from any public right-of-way. Vehicular traffic resulting from operations at the facility shall not obstruct traffic. The location of the facility shall provide access from a paved street with a road base capable of withstanding anticipated load limits;
- (g) The facility shall also be subject to the "Standards of External Effects (C M)" in § 804 and the District of Columbia Noise Control Act of 1977 (D.C. Law 2-53, as amended, and Standards, 20 DCMR chapters 27 - 29;
- (h) All solid waste handling activities, including depositing, processing, separation, and loading shall be within a fully enclosed building to minimize the adverse impacts due to noise, traffic, parking, odors, rodents and other disease vectors, dust, litter, fire hazard, decomposition gases, wastewater, vehicle and other pollution, or other hazards or objectionable conditions;
- (i) The facility shall be enclosed on all sides by an opaque fence or wall at least ten feet (10 ft.) high. The facility shall be secured from unauthorized deposit and removal of solid waste or other materials when attendants are not present; and
- (j) The facility shall provide on-site parking and queuing as follows:
 - (1) Space shall be provided on-site to park each commercial vehicle operated by the facility;

- (2) One employee parking space shall be provided for each commercial vehicle lawfully parked on the site after operating hours;
- (3) If the facility serves the public, all parking and queuing space shall be provided on-site to accommodate projected peak demand; and
- (4) Additional parking, truck maneuvering, or queuing space may be required by the Board after considering the applicant's analysis of such needs and the reports of the D.C. Department of Transportation and the Office of Planning. However, at a minimum, the facility shall be configured in such a manner that trucks entering or leaving the facility shall not back in from or back out onto any public right- of-way.

802.5 The Board may proscribe or require specific operating hours for the facility and the use of any street or highway for trucks entering or leaving the facility to lessen traffic congestion and otherwise assure the quiet enjoyment of residential uses adjacent to a facility.

802.6 Nothing in this section shall preclude the Board from imposing additional or more strict conditions pertaining to design, screening, buffering, lighting, soundproofing, signs, or any matter necessary to protect adjacent property. Special consideration will be given to protecting residential property from excessive noise and traffic.

802.7 In determining whether to grant a special exception, the Board shall not take into consideration whether the District of Columbia issued the applicant an interim-operating permit for the facility. The granting of a special exception to a facility does not authorize that facility to operate, unless the facility has been granted all other forms of permission required for solid waste handling facilities, including, but not limited to, a valid interim operating permit or solid waste facility permit. A solid waste handling facility that has been granted a special exception remains obligated to abide by all laws applicable to solid waste handling facilities and is subject to all claims or enforcement actions that may arise from violations of such laws.

802.8 Any otherwise valid interim permit issued by the District government to the operator of a solid waste handling facility shall be given effect by the Board only during the pendency of the Board's consideration of an application. In the event the Board denies the application, the continued operation of the facility shall be unlawful. In the event the Board grants an application, it may provide the applicant a reasonable time in which to construct the facility as approved by the Board.

- 802.9 For purposes of this section, “solid waste” shall not include hazardous waste, which shall be subject to compliance with other regulations.
- 802.10 An Electronic Equipment Facility (EEF) that does not qualify as a matter-of-right use under § 801.7(c) may be permitted as a special exception in a C-M District if approved by the Board of Zoning Adjustment under § 3104, subject to the requirements of §§ 802.11 through 802.16.
- 802.11 An EEF shall be subject to the Standards of External Effects in § 804.
- 802.12 An applicant seeking a special exception for an EEF shall demonstrate, in addition to the requirements of § 3104, that the proposed use will not, as a consequence of its design, operation, low employee presence, or proximity to other EEFs, inhibit future revitalization of the neighborhood, reduce the potential for vibrant streetscapes, deplete street life, or inhibit pedestrian or vehicular movement.
- 802.13 In evaluating whether an EEF will have any of the adverse impacts described in § 802.12, the Board shall consider, in addition to other relevant factors, the:
- (a) Absence of retail uses or of a design capable of accommodating retail uses in the future;
 - (b) Presence of security or other elements in the design that could impair street life and pedestrian flow;
 - (c) Disruption of existing or elimination of officially proposed pedestrian or vehicular routes; and
 - (d) Inability of the EEF to be adapted in the future for permitted uses.
- 802.14 The Board, in weighing the potentially adverse factors listed in § 802.13(a) through (d), shall consider the economic development potential of the area in which the EEF is proposed to be established and shall give greater negative weight to these factors if the EEF is to be located in proximity to an existing or proposed Metrorail station or along a pedestrian corridor.
- 802.15 The Board may give positive weight to any economic benefits that the proposed EEF will have on adjacent properties, including the potential for increased business activity within the neighborhood, if that activity will foster economic development.
- 802.16 The Board may impose requirements pertaining to design, appearance, landscaping, parking, and other such requirements as it deems necessary to protect adjacent property and to achieve an active, safe, and vibrant street life.

802.17

A facility that manufactures, processes, mixes, stores, or distributes concrete or asphalt or the materials that are used to make concrete or asphalt shall be permitted, provided that the following requirements shall be met:

- (a) No portion of the facility, including the land used by such facility, shall be located within two hundred feet (200 feet) of a residential property line or of any property that is a public park or is used for retail, office, church, school, or institutional purposes;
- (b) There shall be no truck access, parking, standing, or queuing to the facility from any street or block-long portion of a street for which fifty percent (50%) or more of the abutting properties on either side are used for residential purposes;
- (c) No truck dumping or picking up concrete or asphalt or related materials shall park, stand, or queue for the facility along any public right-of-way. Vehicular traffic resulting from operations at the facility shall not obstruct traffic and the location of the facility shall provide access from a paved street with a road base capable of withstanding anticipated load limits;
- (d) Any facility located within five hundred feet (500 feet) of a residence district shall not be in operation between 7:00 p.m. and 7:00 a.m. Hours of operation shall include the arrival and departure of trucks;
- (e) The use shall not have unacceptable adverse impacts on the character of the neighborhood due to traffic, parking, or other objectionable conditions;
- (f) The facility shall meet the "Standards of External Effects" pursuant to § 804;
- (g) The facility shall be enclosed on all sides by a fence or wall at least ten feet (10 feet) in height. The public view side and the side of the facility facing residence districts or nearby or adjacent property used as a public park or for retail, office, church, school, or institutional purposes shall be landscaped and shall have an opaque screen, fence or wall, not less than ten feet (10 feet) in height. The use of barbed wire or razor wire that is visible from residential or public space is prohibited;
- (h) Landscaping standards shall be applied as follows:
 - (1) A landscape area of evergreen trees shall be maintained in the front, side and rear yards, and along all public rights-of-way;
 - (2) The landscaping shall be maintained in healthy growing condition; and

(3) The trees shall be a minimum of eight (8) feet in height when planted; and

(i) An asphalt facility shall not be located in Squares 3582, 3584, and 3518.

802.18 The Board shall submit an application for a concrete or asphalt plant to the D.C. Office of Planning for coordination, review, report, and impact assessment, along with reports in writing of all relevant District departments and agencies, including but not limited to the Departments of Public Works, Transportation, and Health, the Soil Resources Branch of the Department of Consumer and Regulatory Affairs and, if a historic district or historic landmark is involved, the State Historic Preservation Officer.

802.19 The applicant for a concrete or asphalt plant special exception shall provide the following:

- (a) A site plan showing the layout of the proposed facility, including fences and screens, street access, parking, and queuing areas;
- (b) A landscape plan showing the planting locations and soil preparation techniques;
- (c) A lighting plan showing the proposed lighting locations, illumination spread, and noting the proposed height and wattage of the lighting fixtures;
- (d) A traffic study which indicates truck routes to and from the facility on streets abutting residential neighborhoods, with the objective of minimizing potential adverse impacts on adjacent neighborhoods; and
- (e) A description of the facility's methods and specifications for the control of odor, dust, smoke and other air pollutants, and noise.

802.20 In addition to any other conditions deemed necessary to mitigate potential adverse impacts of the concrete or asphalt plant, the Board may impose additional conditions pertaining to design, screening, buffering, lighting, soundproofing, signs, methods and hours of operations, or any matter necessary to protect adjacent and nearby property, particularly with respect to protecting residential property from excessive noise and truck traffic.

802.21 An animal boarding use may be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the requirements of this section.

802.22 The animal boarding use shall be located and designed to create no condition objectionable to adjacent properties resulting from animal noise, odor, or waste, including residential units located in the same building as the use.

- 802.23 The use shall not be located within twenty-five feet (25 ft.) of a lot within a Residence District. The twenty-five feet (25 ft.) shall be measured to include any space on the lot or within the building not used by the animal boarding use and any portion of a street or alley that separates the use from a lot within a Residence District. Shared facilities that are not under the sole control of the animal boarding use, such as hallways and trash rooms, shall not be considered as part of the animal boarding use.
- 802.24 External yards or other exterior facilities for the keeping of animals shall not be permitted.
- 802.25 A pet grooming establishment may be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the following requirements of this subsection:
- (a) The pet grooming establishment shall be located and designed to create no objectionable condition to adjacent properties resulting from animal noise, odor, or waste;
 - (b) Animal waste shall be placed in closed waste disposal containers and shall be collected by a licensed waste disposal company at least weekly;
 - (c) The use shall not be located within twenty-five feet (25 ft.) of a lot within a Residence District. The twenty-five feet (25 ft.) shall be measured to include any space on the lot or within the building not used by the pet grooming establishment use and any portion of a street or alley that separates the use from a lot within a Residence District. Shared facilities that are not under the sole control of the pet grooming establishment, such as hallways and trash rooms, shall not be considered as part of the pet grooming establishment;
 - (d) External yards or other external facilities for the keeping of animals shall not be permitted;
 - (e) The sale of pet supplies is permitted as an accessory use;
 - (f) Odor shall be controlled by means of an air filtration system or an equivalently effective odor control system; and
 - (g) The Board may impose additional requirements as it deems necessary to protect adjacent or nearby properties.
- 802.26 A pet shop may be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the following requirements of this subsection:

- (a) The pet shop shall be located and designed to create no objectionable condition to adjacent properties resulting from animal noise, odor, or waste;
- (b) The use shall not be located within twenty-five feet (25 ft.) of a lot within a Residence District. The twenty-five feet (25 ft.) shall be measured to include any space on the lot or within the building not used by the pet shop use and any portion of a street or alley that separates the use from a lot within a Residence District. Shared facilities that are not under the sole control of the pet shop, such as hallways and trash rooms, shall not be considered as part of the pet shop use;
- (c) External yards or other external facilities for the keeping of animals shall not be permitted; and
- (d) The Board of Zoning Adjustment may impose additional requirements as it deems necessary to protect adjacent or nearby properties.

802.27

A veterinary boarding hospital may be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the following requirements of this subsection:

- (a) A veterinary boarding hospital may board any animal permitted to be lawfully sold in the District of Columbia, pursuant to D.C. Official Code § 8-1808(h)(1);
- (p) No more than fifty percent (50%) of the gross floor area of the veterinary boarding hospital may be devoted to the boarding of animals;
- (c) The veterinary boarding hospital shall be located and designed to create no objectionable conditions to adjacent properties resulting from animal noise, odor, or waste;
- (d) The use shall not be located within twenty-five feet (25 ft.) of a lot within a Residence District. The twenty-five feet (25 ft.) shall be measured to include any space on the lot or within the building not used by the veterinary boarding hospital and any portion of a street or alley that separates the use from a lot within a Residence District. Shared facilities that are not under the sole control of the veterinary boarding hospital, such as hallways and trash rooms, shall not be considered as part of the veterinary boarding hospital;
- (e) External yards or other external facilities for the keeping of animals shall not be permitted;

- (f) Pet grooming, the sale of pet supplies, and incidental boarding of animals as necessary for convalescence, are permitted as accessory uses; and
- (g) The Board of Zoning Adjustment may impose additional requirements as it deems necessary to protect adjacent or nearby properties.

802.28

An emergency shelter for five (5) to one hundred and fifty (150) persons not including resident supervisors or staff and their families, shall be permitted in a C-M-1 and C-M-2 Districts only, if the following requirements are met:

- (a) There shall be no other property containing an emergency shelter for five (5) or more persons in the same square;
- (b) There shall be no other property containing an emergency shelter for five (5) or more persons within a radius of one thousand (1,000) feet from any portion of the property;
- (c) Emergency shelters shall not be located within one thousand (1,000) feet of a square containing a sewerage treatment plant, a wastewater treatment facility, or a solid waste handling facility;
- (d) There shall be adequate, appropriately located, and screened off- street parking to provide for the needs: of occupants, employees, and visitors to the facility;
- (e) The shelter shall not have any adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area;
- (f) Notwithstanding § 802.28 (b) the Board may approve up to one additional emergency shelter to be located in the same square as an existing emergency shelter for five (5) or more persons only if the Board finds that the cumulative effect of the two facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations;
- (g) The Board may approve a facility for between one hundred and fifty-one (151) and three hundred (300) persons, not including resident supervisors or staff and their families, only if the Board finds that the program goals and objectives of the District of Columbia cannot be achieved by a facility of a smaller size at the subject location and there is no other reasonable alternative to meet the program needs of that area of the District provided that no shelter shall be approved that would increase the total number of emergency shelter residents housed within the square to exceed four hundred and fifty (450) persons; and
- (h) The Board shall submit the application to the D.C. Office of Planning for coordination, review, report, and impact assessment, along with reports in

writing of all relevant District departments and agencies, including but not limited to the Departments of Transportation and Human Services and, if a historic district or historic landmark is involved, the State Historic Preservation Officer.

SOURCE: §§ 6101.36 and 6101.41 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 22 DCR 1901, 1903 (October 14, 1975); Final Rulemaking published at 40 DCR 1951, 1952 (March 19, 1993); Final Rulemaking published at 45 DCR 1848, 1849 (March 27, 1998); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8415-17 (October 20, 2000); Final Rulemaking published at 48 DCR 9830, 9835-36 (October 26, 2001); and Final Rulemaking published at 49 DCR 1655 (February 22, 2002), incorporating by reference the text of Proposed Rulemaking published at 48 DCR 11159, 11162-63 (December 7, 2001); as amended by Final Rulemaking published at 50 DCR 1194 (February 7, 2003); as amended by Final Rulemaking published at 53 DCR 5881, 5885 (July 21, 2006); as amended by Final Rulemaking published at 53 DCR 6363 (August 4, 2006); as amended by Final Rulemaking published at 54 DCR 8943 (September 14, 2007); as amended by Final Rulemaking published at 55 DCR 1794 (February 22, 2008); 57 DCR 000126 (2010); as amended by Final Rulemaking and Order No. 14-10 published at 55 DCR 1794 (February 22, 2008).

803 ACCESSORY PARKING SPACES (C-M)

803.1 Accessory parking spaces, except for a motel, wholly within three hundred feet (300 ft.) of the lot or part of the lot on which the principal use is permitted, shall be permitted as a special exception in a C-M District when those parking spaces are approved by the Board of Zoning Adjustment in accordance with the requirements of §§ 213.3 through 213.5 and 3104.

SOURCE: § 6101.8 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8417 (October 20, 2000).

804 STANDARDS OF EXTERNAL EFFECTS (C-M)

804.1 All uses established in a C-M District under authority of § 801.7 and any uses accessory to those uses shall be operated so as to comply with the standards of external effects in this section.

804.2 The volume of sound inherently and recurrently generated shall not exceed the standards in §§ 804.3 through 804.6 at any point along the boundaries of the zone district in which the use is located.

804.3 Sound levels shall be measured with a sound level meter and associated octave band filter manufactured according to standards prescribed by the American Standards Association on May 12, 1958.

804.4 Objectionable sounds of an intermittent nature shall be controlled so as not to become a nuisance to adjacent uses.

804.5 [DELETED]

804.6 Except as provided in § 804.7, maximum sound pressure levels shall not exceed those provided in the following table:

OCTAVE (cycles per second)	BAND	MAXIMUM SOUND PRESSURE LEVEL IN DECIBELS (0.0002 dynes per square centimeter)
0-74		72
75-149		67
150-299		59
300-599		52
600-1,199		46
1,200-2,399		40
2,400-4,800		34
Above 4,800		32

804.7 Where a C-M District abuts an M District, the standards in § 825 shall apply along the zone boundary separating the C-M and M Districts.

804.8 The emission of any smoke from any source to a density greater than that density described as No. 2 on the Ringelmann Smoke Chart shall be prohibited. The Ringelmann Smoke Chart, published by the Bureau of Mines, U.S. Department of the Interior, in Information Circular 8333, shall be adopted by reference and made a part of this title.

804.9 The emission of any odorous gases or other odorous matter or steam in quantities that are offensive or noisome at any point along the boundaries of the zone district in which the use is located shall be prohibited.

804.10 No noxious, toxic, or corrosive fumes or gases shall be permitted to escape or to be discharged from any use permitted in a C-M District.

804.11 No objectionable amounts of cinders, dust, or fly-ash shall be permitted to escape or to be discharged from any use permitted in a C-M District.

804.12 No direct or reflected glare or heat from any source shall be detectable in objectionable amounts beyond the boundaries of the zone district in which the use is located.

804.13 Every use shall be operated so that ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point along any boundary of the zone district in which the use is located.

804.14 Where an Electronic Equipment Facility (EEF) use is proposed in a C-M District on a lot that abuts a Residence (R), Special Purpose (SP), Waterfront (W), or Mixed Use (CR) zoned property, the following conditions shall apply:

- (a) Use of barbed or razor wire that is visible from neighboring property or public space is prohibited; and
- (b) Any back-up generators or power systems shall be either:
 - (1) Fully enclosed within the principal structure; or
 - (2) Located no closer than two hundred feet (200 ft.) from the nearest R, SP, W, or CR zoned property line.

SOURCE: § 6101.6 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8417-8418 (October 20, 2000); and Final Rulemaking published at 48 DCR 9830, 9836-37 (October 26, 2001).

805 EXTERNAL EFFECTS PERMIT APPLICATIONS (C-M)

805.1 When filing an application for a building permit or certificate of occupancy with the Department of Consumer and Regulatory Affairs for a use permitted under § 801.7, the applicant shall submit with the application three (3) copies of:

- (a) A site plan showing buildings and other structures, roadways, drainage and sanitary facilities, parking spaces, loading berths, landscaping, and exterior lighting, and back-up generators or power supplies (if any); and
- (b) A description of any operations that would be subject to the standards of external effects in § 804.

805.2 The applicant shall submit any other information as may be necessary to determine compliance with § 804.

805.3 The approved site plan shall become a part of the building permit or certificate of occupancy.

SOURCE: §6101.7 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8418 (October 20, 2000); and Final Rulemaking published at 48 DCR 9830, 9837 (October 26, 2001).

806 LANGDON OVERLAY DISTRICT (LO)

- 806.1 The Langdon Overlay (LO) District shall apply to the C-M-1 zoned properties of Squares 4103, 4106, 4107(3), 4108, 4255, 4256, 4265, 4282, 4284, and 4347 (west of the B&O Railroad right-of-way) in the general vicinity of 24th and Douglas Streets, N.E.
- 806.2 The purposes of the LO District shall be to:
- (a) Implement the Comprehensive Plan by protecting residences and residents from the adverse environmental, safety, and aesthetic impacts of abutting industrially zoned properties and uses; and
 - (b) Encourage retention of existing commercial and light manufacturing uses and allow new businesses under special controls designed to protect the quality of life and neighborhood character of the adjacent residential neighborhood.
- 806.3 The LO District and the underlying C-M District shall together constitute the zoning regulations for the geographic area identified in § 806.1. Where there is a conflict between this section and the underlying zoning, the provisions of this section shall govern.
- 806.4 The following uses shall be prohibited in the LO District on any lot located in whole or in part within one hundred feet (100 ft.) of a Residence District:
- (a) Any use prohibited in the Mixed Use (CR) District by § 602;
 - (b) Outdoor materials storage or outdoor processing, fabricating, or repair, whether a principal or accessory use; and
 - (c) Incinerator.
- 806.5 The following yard and screening standards shall apply to development of a lot in the LO District that coincides with the lot line of a property in a Residence District or that is separated only by a street or alley from a property in a Residence District:
- (a) A yard of twenty-five feet (25 ft.) shall be provided on the portion of the lot adjacent to the Residence District; provided:
 - (1) Where there is a street or an alley between the residential and industrial lots, the required yard shall be fifteen feet (15 ft.) measured from the lot line; and
 - (2) The yard shall not be used for parking, loading, or accessory uses;

- (b) A fence or wall shall be erected as a buffer between the residential and industrial lots, as follows:
 - (1) Where the residential and industrial lots abut each other, or where there is a street separating the residential and industrial lots, the fence or wall shall be erected along the required fifteen-foot (15 ft.) setback line, or a building wall may be located at the setback line in place of the fence or wall;
 - (2) Where an alley serves as the residential-industrial zone district boundary, the fence or wall shall be erected along the lot line adjacent to the alley; and
 - (3) The fence or wall shall be no less than eight feet (8 ft.) and no more than ten feet (10 ft.) high, and shall be either a solid, wood or board-on-board fence or a brick or stone wall; and
- (c) Whenever a yard is required by paragraph (a) of this subsection, it shall be landscaped with evergreen trees; provided:
 - (1) The landscaping shall be maintained in a healthy, growing condition;
 - (2) The trees shall be a minimum of six feet to eight feet (6 ft. to 8 ft.) high when planted; and
 - (3) Planting locations and soil preparation techniques shall be shown on a landscape plan submitted with the building permit application to the Department of Consumer and Regulatory Affairs for review and approval according to standards maintained by the Department's Soil Erosion and Storm Management Branch, which may require replacement of heavy or compacted soils with top and drainage mechanisms as necessary.

806.6 The Board of Zoning Adjustment, after public hearing, may waive or vary the requirements of this chapter relating to building setback, landscaping, fencing, and parking, as a special exception under § 3104; provided the proposed variations in standards are generally consistent with this chapter.

SOURCE: Final Rulemaking published at 38 DCR 2057 (April 5, 1991); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8418-20 (October 20, 2000).

807-819 [RESERVED]

820 GENERAL INDUSTRY DISTRICTS (M)

- 820.1 The General Industry (M) Districts are designed to provide areas suitable for development as heavy industrial sites, but at the same time protect those industrial developments from the intrusion of non-industrial uses that impede the full utilization of properly located industrial sites.
- 820.2 Except as provided in § 821.2, no new residential building shall be permitted in M Districts.
- 820.3 Since the zoning regulations relative to operation of permitted uses are only those minimally required to protect nearby industrial and commercial uses, M Districts, whenever possible, shall not be mapped adjacent to Residence Districts.
- 820.4 Other than certain specifically prohibited uses, any use conforming to specified standards of external effects shall be permitted in the M Districts.
- 820.5 Except as provided in chapters 20 through 25 of this title, in an M District, no building or premises shall be used and no building shall be erected or altered that is arranged, intended, or designed to be used except for one (1) or more of the uses in §§ 821 through 824.

SOURCE: §§ 6102.1 and 6102.2 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8420 (October 20, 2000).

821 USES AS A MATTER OF RIGHT (M)

- 821.1 The uses in this section shall be permitted as a matter of right in M Districts.
- 821.2 Any uses permitted in a C-M District under §§ 801.2 and 801.4 through 801.10.
- 821.3 Any other lawful use not regulated by §§ 822 or 823 shall be permitted, subject to the standards of external effects in § 825, except emergency shelters.
- 821.4 Accessory uses and accessory buildings customarily incidental to the uses in this section, including mechanical amusement machines subject to § 2501, shall be permitted.
- 821.5 A drive-through accessory to a fast food establishment shall be permitted in an M District, subject to § 2304.
- 821.6 An Intermediate Materials Recycling Facility shall be permitted; provided:
- (a) No portion of the facility, including any structure, loading docks and truck bays, storage, transfer equipment, truck parking, or other similar processing equipment and operations, shall be located within two hundred feet (200 ft.) of a residential property line;

- (b) There shall be no truck access or queuing to the site from residential streets. The facility shall comply with the "Standards of External Effects (M)" in § 825 and the District of Columbia Noise Control Act of 1977, effective March 16, 1978 (D.C. Law 2-53, as amended), and Standards, 20 DCMR chapters 27 - 29;
- (c) The facility shall be enclosed on all sides by a fence or wall at least ten feet (10 ft.) high. The public view side or the side of the facility facing Residence Districts shall be landscaped and have an opaque screen, fence or wall not less than ten feet (10 ft.) high. The site shall be secured from unauthorized entry and removal of materials when attendants are not present;
- (d) The site shall be maintained free of litter, trash, debris, and any other nonrecyclable materials;
- (e) The facility shall provide on-site parking and queuing, as follows:
 - (1) Space shall be provided on-site to park each commercial vehicle operated by the facility;
 - (2) One employee parking space shall be provided for each commercial vehicle operated by the facility;
 - (3) If the facility serves the public, all parking and queuing space shall be provided on-site to accommodate projected peak demand; and
 - (4) No parking, queuing, or standing of trucks will be permitted on residential streets;
- (f) All storage of waste or recycled materials shall be in sturdy containers or enclosures that are fully covered, secured, and maintained in good condition. Storage containers for waste or recycled flammable materials shall be approved by the Fire and Emergency Medical Services Department. No storage containers outside the facility structures shall be visible above the height of a required fence or wall. Outside storage shall only be permitted for a reasonable period of time and in reasonable quantities to allow for separation, conversion, baling, processing, and shipment of processed and nonprocessed materials;
- (g) If the facility is located within five hundred feet (500 ft.) of a Residence District, it shall not be in operation between 7:00 p.m. and 7:00 a.m. Hours of operation shall include the arrival and departure of trucks and delivery and removal of materials and equipment. The facility shall be administered by on-site personnel during the hours the facility is open.

Intermediate Materials Recycling Facilities shall not operate on Sunday;
and

- (h) Intermediate Materials Recycling Facilities shall comply with all environmental permit requirements of the District of Columbia government.

SOURCE: § 6102.3 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 22 DCR 1901, 1904 (October 14, 1975); Final Rulemaking published at 32 DCR 4374, 4378 (July 26, 1985); Final Rulemaking published at 35 DCR 465, 467 (January 22, 1988); Final Rulemaking published at 40 DCR 1951 (March 19, 1993); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8420-21 (October 20, 2000); as amended by Final Rulemaking published at 54 DCR 9393 (September 28, 2007); as amended by Final Rulemaking published at 55 DCR 1794 (February 22, 2008).

822 SPECIAL EXCEPTIONS (M)

822.1 The uses in this section shall be permitted as special exceptions in the M District if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions specified in this section.

822.2 Any establishment whose principal use is the administration of massages shall be permitted; provided:

- (a) The establishment shall be compatible with other uses in the area;
- (b) The use shall not be objectionable because of its effect on the character of the neighborhood or because of noise, traffic, or other conditions; and
- (c) The establishment shall not have an adverse impact on religious, educational, or other institutional facilities located in the area.

822.3 Any establishment to be used as a solid waste handling facility shall be permitted only if the following requirements are met:

- (a) No portion of the facility, including any structure, loading dock, truck bay, storage container, transfer equipment, or any other processing equipment or operation shall be located within three hundred feet (300 ft.) of a property in a Residence District used for residential purposes or located within fifty feet (50 ft.) of any adjacent property used as a public park or retail, office, or institutional purposes;
- (b) No truck access to or egress from the site shall be located within fifty feet (50 ft.) of any adjacent property used as a public park or for residential, retail, office, or institutional purposes;

- (c) The facility shall be designed to have access to a railway siding or spur to enable the transportation by rail of solid waste out of the District of Columbia. Solid waste shall be shipped from a facility by rail, except that shipping of solid waste by truck may be permitted by the Board, if the Board finds that the applicant has demonstrated by substantial evidence that the use of rail is not practically, economically, or physically feasible;
- (d) The site shall be of sufficient size so as to permit the avoidance or reduction of adverse impacts on the character of the neighborhood due to noise, traffic, parking, odors, rodents and other disease vectors, dust, litter, fire hazards, decomposition gases, vehicle and other pollution, or other hazards or objectionable conditions;
- (e) The applicant shall provide credible evidence to the Board to demonstrate the ability of the facility and its ancillary elements to comply with all applicable regulations. The evidence shall include, but not be limited to, the following:
 - (1) An indication of the site and description of land uses within one-fourth (1/4) of a mile of the site;
 - (2) A site plan showing the layout of the proposed facility, including main buildings, fences and screens, access to rail if available, street access, parking and queuing areas, and a functional diagram indicating the proposed use of the site;
 - (3) An operating plan indicating types of waste to be accepted at the facility and estimates of the volume and number of trips of incoming and outgoing materials daily and during peak periods;
 - (4) A plan for preventing and controlling offensive noises, odors, and rodents and other disease vectors;
 - (5) A traffic study that indicates truck routes to and from the facility on streets, to the extent possible, that are major arterials and highways that do not abut residential neighborhoods along the way, with the objective of minimizing potential adverse impacts on adjacent neighborhoods; and
 - (6) A certified statement by an architect or engineer licensed in the District of Columbia that the facility as sited and designed to the best of his or her professional knowledge and belief is capable of complying with this subsection and all other applicable regulations of the District of Columbia government, including without limitation, regulations adopted pursuant to the Solid Waste Facility Permit Act of 1995, effective February 27, 1996 (D.C. Law 11-94,

as amended; D.C. Official Code §§ 8-1051 to 8-1063 (formerly codified at D.C. Code §§ 6-3451 to 3463 (1999 Supp.));

- (f) There shall be no truck access, parking, standing or queuing to the facility from any street or block-long portion of a street for which fifty percent (50%) or more of the abutting properties on either side are used for residential purposes. No truck dumping or picking up solid waste shall park, stand, or queue for the facility from any public right-of-way. Vehicular traffic resulting from operations at the facility shall not obstruct traffic. The location of the facility shall provide access from a paved street with a road base capable of withstanding anticipated load limits;
- (g) The facility shall also be subject to the "Standards of External Effects (C-M)" in § 804 and the District of Columbia Noise Control Act of 1977, effective March 16, 1978 (D.C. Law 2-53, as amended), and Standards, 20 DCMR chapters 27 - 29;
- (h) All solid waste handling activities, including depositing, processing, separation and loading shall be within a fully enclosed building to minimize the adverse impacts due to noise, traffic, parking, odors, rodents and other disease vectors, dust, litter, fire hazards, decomposition gases, wastewater, vehicle and other pollution, and other hazards or objectionable conditions;
- (i) The facility shall be enclosed on all sides by an opaque fence or wall at least ten feet (10 ft.) high. The facility shall be secured from unauthorized deposit and removal of solid waste or other materials when attendants are not present; and
- (j) The facility shall provide on-site parking and queuing as follows:
 - (1) Space shall be provided on-site to park each commercial vehicle operated by the facility;
 - (2) One employee parking space shall be provided for each commercial vehicle lawfully parked on the site after operating hours;
 - (3) If the facility serves the public, all parking and queuing space shall be provided on-site to accommodate projected peak demand; and
 - (4) Additional parking, truck maneuvering, or queuing space may be required by the Board after considering the applicant's analysis of such needs and the reports of the D.C. Department of Transportation and the Office of Planning. However, at a minimum, the facility shall be configured in such a manner that trucks

entering or leaving the facility shall not back in from or back out onto any public right-of-way.

- 822.4 The Board may proscribe or require specific operating hours for the facility and the use of any street or highway for trucks entering or leaving the facility to lessen traffic congestion and otherwise assure the quiet enjoyment of residential uses adjacent to a facility.
- 822.5 Nothing in this section shall preclude the Board from imposing additional or more strict conditions pertaining to design, screening, buffering, lighting, soundproofing, signs, or any matter necessary to protect adjacent property, and special consideration will be given to protecting residential property from excessive noise and traffic
- 822.6 In determining whether to grant a special exception, the Board shall not take into consideration whether the District of Columbia government issued the applicant an interim operating permit for the facility. The granting of a special exception to a facility does not authorize that facility to operate, unless the facility has been granted all other forms of permission required for solid waste handling facilities, including, but not limited to, a valid interim operating permit or solid waste facility permit. A solid waste handling facility that has been granted a special exception remains obligated to abide by all laws applicable to solid waste handling facilities and is subject to all claims or enforcement actions that may arise from violations of the laws.
- 822.7 Any otherwise valid interim permit issued by the District government to the operator of a solid waste handling facility shall be given effect by the Board only during the pendency of the Board's consideration of an application. In the event the Board denies the application, the continued operation of the facility shall be unlawful. In the event the Board grants an application, it may provide the applicant a reasonable time in which to construct the facility as approved by the Board.
- 822.8 For purposes of this section, "solid waste" shall not include hazardous waste, which shall be subject to other regulations.
- 822.9 An Electronic Equipment Facility (EEF) that does not qualify as a matter-of-right use under § 801 may be permitted as a special exception.
- 822.10 An applicant seeking a special exception for an EEF shall demonstrate, in addition to the requirements of § 3104, that the proposed use will not, as a consequence of its design, operation, low employee presence, or proximity to other EEFs, inhibit future revitalization of the neighborhood, reduce the potential for vibrant streetscapes, deplete street life, or inhibit pedestrian or vehicular traffic.
- 822.11 In evaluating whether an EEF will have any of the adverse impacts described in § 822.10, the Board shall consider, in addition to other relevant factors, the:

- (a) Absence of retail uses or of a design capable of accommodating retail uses in the future;
- (b) Presence of security or other elements in the design that could impair street life and pedestrian flow;
- (c) Disruption of existing or elimination of officially proposed pedestrian or vehicular routes; and
- (d) Inability of the EEF to be adapted in the future for permitted uses.

822.12 The Board, in weighing the potentially adverse factors listed in § 822.11(a) through (d), shall consider the economic development potential of the area in which the EEF is proposed to be established and shall give greater negative weight to these factors if the EEF is to be located in proximity to an existing or proposed Metrorail station or along a pedestrian corridor.

822.13 The Board may give positive weight to any economic benefits that the proposed EEF will have on adjacent properties, including the potential for increased business activity within the neighborhood, if that activity will foster economic development.

822.14 In approving an EEF, the Board may impose requirements pertaining to design, appearance, landscaping, parking, and other such requirements as it deems necessary to protect adjacent property and to achieve an active, safe, and vibrant street life

822.15 An asphalt plant shall be permitted as a special exception in the M District if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of §§ 802.17 through 802.20.

822.16 An animal boarding use may be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the requirements of this section.

822.17 The animal boarding use shall be located and designed to create no condition objectionable to adjacent properties resulting from animal noise, odor, or waste.

822.18 The animal boarding use shall not abut a Residence District.

822.19 External yards or other exterior facilities for the keeping of animals shall not be permitted.

822.20 A pet grooming establishment may be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the requirements of this subsection.

- (a) The pet grooming establishment shall be located and designed to create no objectionable condition to adjacent properties resulting from animal noise, odor, or waste;
- (b) All animal waste shall be placed in closed waste disposal containers and shall utilize a qualified waste disposal company to collect and dispose of all animal waste at least weekly. Odor shall be controlled by means of an air filtration system or an equivalently effective odor control system;
- (c) The pet grooming establishment shall not abut an existing residential use or a Residence District;
- (d) External yards or other external facilities for the keeping of animals shall not be permitted;
- (e) The sale of pet supplies is permitted as an accessory use; and
- (f) The Board may impose additional requirements as it deems necessary to protect adjacent or nearby properties.

822.21 A pet shop may be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the requirements of this subsection.

- (a) The pet shop shall be located and designed to create no objectionable condition to adjacent properties resulting from animal noise, odor, or waste;
- (b) The pet shop shall not abut an existing residential use or a Residence District;
- (c) External yards or other external facilities for the keeping of animals shall not be permitted; and
- (d) The Board may impose additional requirements as it deems necessary to protect adjacent or nearby properties.

822.22 A veterinary boarding hospital may be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the requirements of this subsection.

- (a) A veterinary boarding hospital may board any animal permitted to be lawfully sold in the District of Columbia, pursuant to D.C. Official Code § 8-1808 (h)(1), except domesticated dogs;

- (b) No more than fifty percent (50%) of the gross floor area of the veterinary boarding hospital may be devoted to the boarding of animals;
- (c) The veterinary boarding hospital shall be located and designed to create no objectionable conditions to adjacent properties resulting from animal noise, odor, or waste;
- (d) The veterinary boarding hospital shall not abut an existing residential use or a Residence District;
- (e) External yards or other external facilities for the keeping of animals shall not be permitted;
- (f) Pet grooming, the sale of pet supplies, and incidental boarding of animals as necessary for convalescence, are permitted as accessory uses; and
- (g) The Board may impose additional requirements as it deems necessary to protect adjacent or nearby properties.

SOURCE: § 6102.4 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 22 DCR 1901, 1904 (October 14, 1975); Final Rulemaking published at 45 DCR 1848, 1852-55 (March 27, 1998); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8421-22 (October 20, 2000); Final Rulemaking published at 48 DCR 9830, 9837-38 (October 26, 2001); Final Rulemaking published at 49 DCR 1655 (February 22, 2002), incorporating by reference Proposed Rulemaking published at 48 DCR 11159, 11163 (December 7, 2001); as amended by Final Rulemaking published at 53 DCR 5881, 5886 (July 21, 2006); as amended by Final Rulemaking published at 53 DCR 6369 (August 4, 2006); as amended by Final Rulemaking published at 54 DCR 8954 (September 14, 2007).

823 PROHIBITED USES (M)

823.1 The following uses are prohibited in M Districts:

- (a) Abattoir or slaughter house;
- (b) Acetylene gas manufacture;
- (c) Ammunition and explosive manufacture or storage;
- (d) Animal rendering;
- (e) Arsenal;
- (f) Bituminous products refining or manufacture, other than asphalt;
- (g) Bone products manufacture;

- (h) Calcium carbide manufacture;
- (i) Curing, tanning, or storage of hides;
- (j) Fertilizer manufacture;
- (k) Rock quarry or the excavation of rock for commercial purpose;
- (l) Rubber products manufacture or treatment;
- (m) Steel furnace, blast furnace, bloom furnace, coke oven, or rolling mill; and
- (n) Any other use with objectionable characteristics similar to those listed in this subsection.

SOURCE: § 6102.5 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8422 (October 20, 2000); as amended by Final Rulemaking published at 53 DCR 5881, 5885 (July 21, 2006).

824 ACCESSORY PARKING SPACES (M)

- 824.1 Accessory parking spaces, except for a motel, wholly within three hundred feet (300 ft.) of the lot or part of the lot on which the principal use is permitted, shall be permitted as a special exception in an M District when those parking spaces are approved by the Board of Zoning Adjustment in accordance with the requirements of §§ 213.3 through 213.5 and § 3104.

SOURCE: § 6101.8 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8422 (October 20, 2000).

825 STANDARDS OF EXTERNAL EFFECTS (M)

- 825.1 All uses established in an M District under §§ 801.7 or 821.3, all Electronic Equipment Facility (EEF) uses established in an M District, and all uses accessory to those uses shall be operated to comply with the standards of external effects in this section.
- 825.2 The volume of sound inherently and recurrently generated shall not exceed the standards in §§ 825.3 through 825.6 at any point along the boundaries of the zone district in which the use is located.
- 825.3 Sound levels shall be measured with a sound level meter and associated octave band filter manufactured according to standards prescribed by the American Standards Association on May 12, 1958.

825.4 Objectionable sounds of an intermittent nature shall be controlled so as not to become a nuisance to adjacent uses.

825.5 Except as provided in § 825.6, maximum sound pressure levels shall not exceed those provided in the following table:

OCTAVE BAND (cycles per second)	MAXIMUM SOUND PRESSURE LEVEL IN DECIBELS (0.0002 dynes per square centimeter)
0-74	79
75-149	74
150-299	66
300.599	59
600-1,199	53
1,200-2,399	47
2,400-4,800	41
Above 4,800	39

825.6 Where an M District abuts a Residence, Special Purpose, or Commercial District, maximum sound pressure levels along the zone district boundary separating the M District from such districts shall not exceed the standards in § 804.6.

825.7 The emission of any smoke from any source whatever to a density greater than that permitted by the DC Department of the Environment Regulations, Title 20 DCMR Section 606 shall be prohibited.

825.8 The emission of any odorous gases or other odorous matter or steam in quantities that are offensive or noisome at any point along the boundaries of the District in which the use is located shall be prohibited.

825.9 No noxious, toxic, or corrosive fumes or gases shall be permitted to escape or be discharged from any building or other structure housing any use permitted in an M District.

825.10 No objectionable amounts of cinders, dust, or fly-ash shall be permitted to escape or be discharged from any building or other structure that houses any use permitted in an M District.

825.11 No direct or reflected glare or heat from any source shall be detectable in objectionable amounts beyond the boundaries of the zone district in which the use is located.

825.12 Every use shall be operated so that ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point along any boundary of the zone district in which the use is located.

825.13 Where an Electronic Equipment Facility (EEF) use is proposed in an M District on a lot that abuts a Residence (R), Special Purpose (SP), Waterfront (W), or Mixed Use (CR) zoned property, the following conditions shall apply:

- (a) Use of barbed or razor wire that is visible from neighboring property or public space is prohibited; and
- (b) Any back-up generators or power systems shall be either:
 - (1) Fully enclosed within the principal structure; or
 - (2) Located no closer than two hundred feet (200 ft.) from the nearest R, SP, W, or CR zoned property line.

SOURCE: § 6102.6 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8422-23 (October 20, 2000); Final Rulemaking published at 48 DCR 9830, 9838 (October 26, 2001); and by Final Rulemaking published at 49 DCR 1655 (February 22, 2002), incorporating by reference the text of Proposed Rulemaking published at 48 DCR 11159, 11164 (December 7, 2001); 57 DCR 000126 (2010).

826 EXTERNAL EFFECTS PERMIT APPLICATIONS (M)

826.1 When filing an application for a building permit or a certificate of occupancy with the Department of Consumer and Regulatory Affairs for a hotel or inn permitted in an M District under § 821.2 or for a use permitted under § 821.3, the applicant shall submit with the application three (3) copies of a site plan that shows buildings and other structures, roadways, drainage and sanitary facilities, parking spaces, loading berths, landscaping, exterior lighting (if any), and backup generators or power supplies (if any); and a description of any operations that would be affected by the standards of external effects in § 825.

826.2 The applicant shall submit other information as may be necessary to determine compliance with § 825.

826.3 The approved site plan shall become part of the building permit or certificate of occupancy.

SOURCE: § 6102.7 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8422-23 (October 20, 2000); and Final Rulemaking published at 48 DCR 9830, 9838 (October 26, 2001).

827-839 [RESERVED]

840 HEIGHT OF BUILDINGS OR STRUCTURES (C-M, M)

840.1 Except as provided in § 840.2 and in Chapters 20 through 25 of this title, the height of buildings or structures, not including a penthouse, in an Industrial District shall not exceed that given in the following table:

ZONE DISTRICT	MAXIMUM HEIGHT (Feet)	MAXIMUM HEIGHT (Stories)
C-M-1	40	3
C-M-2	60	No Limit
C-M-3	90	No Limit
M	90	No Limit

840.2 Spires, towers, domes, pinnacles or minarets serving as architectural embellishments, penthouses, ventilator shafts, antennas, chimneys, smokestacks, or fire sprinkler tanks may be erected to a height in excess of that which this section otherwise authorizes. This section shall not be interpreted to bypass otherwise required special exception reviews.

840.3 A penthouse may be erected to a height in excess of that which this section otherwise authorizes but shall not exceed the height, as measured from the surface of the roof upon which the penthouse is located, in the following table:

ZONE DISTRICT	MAXIMUM PENTHOUSE HEIGHT	MAXIMUM PENTHOUSE STORIES
CM-1	12 ft. except 15 ft. for penthouse mechanical space	1; second story permitted for penthouse mechanical space
CM-2	12 ft. except 18 ft. 6 in. for penthouse mechanical space	1; second story permitted for penthouse mechanical space
CM-3, M	20 ft.	1 plus mezzanine; second story permitted for penthouse mechanical space

840.4 [REPEALED]

840.5 [REPEALED]

SOURCE: §§ 6201.1, 6201.2 and 6201.3 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 33 DCR 3975, 3979 (July 4, 1986); by Final Rulemaking published at 36 DCR 1509, 1523 (February 24, 1989); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8422-23 (October 20, 2000); as amended by Final Rulemaking published at 55 DCR 34 (January 4, 2008); as amended by Final Rulemaking and Order No. 14-13 published at 63 DCR 390 (January 8, 2016).

841 FLOOR AREA RATIO (C-M, M)

841.1 Except as provided in § 845, the maximum permitted floor area ratio of buildings in an Industrial District shall be given in the following table:

ZONE DISTRICT	MAXIMUM FLOR AREA RATIO (FAR)
C-M-1	3.0
C-M-2	4.0
C-M-3	6.0
M	6.0

841.2 The bulk of a structure erected, altered, converted, or reconstructed for use as a mechanical parking garage, as determined by the floor area ratio for the district in which it is located, may be based upon the assumption that the finished-floor to finished-floor distance between floors is ten feet (10 ft.).

SOURCE: §§ 6301.1 and 6301.2 of the Zoning Regulations, effective May 12, 1958; Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8424 (October 20, 2000).

842 REAR YARDS (C-M, M)

842.1 A rear yard shall be provided for each structure located in an Industrial District.

842.2 Except as provided in § 842.5, the rear yard need not be provided below a horizontal plane twenty feet (20 ft.) above the mean finished grade at the middle of the rear of the structure.

842.3 For that portion of the structure above the horizontal plane, the depth of rear yard may be measured as follows:

- (a) When the lot abuts an alley, from the center line of the alley to the rear wall of the portion immediately above the plane; or
- (b) When the lot does not abut an alley, from the rear lot line to the rear wall of the portion immediately above the plane.

842.4 The minimum depth of the rear yard shall be two and one-half inches per foot (2.5 in./ft.) of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall, but not less than twelve feet (12 ft.).

842.5 Where the rear lot line of a lot abuts a Residence District or is separated only by an alley from a Residence District, the waiver in § 842.2 shall not apply and a rear yard shall be provided from the ground up.

842.6 In the case of a through lot or a corner lot abutting three (3) or more streets, the depth of rear yard may be measured from the center line of the street abutting the lot at the rear of the structure.

SOURCE: §§ 6302.1 through 6302.5 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8424 (October 20, 2000).

843 SIDE YARDS (C-M, M)

843.1 No side yard shall be required on a lot in an Industrial District, except where a side lot line of the lot abuts a Residence District.

843.2 Where a side lot line abuts a Residence District, a side yard shall be provided along that side lot line with a minimum width of at least three inches per foot (3 in./ft.) of height of building, but not less than eight feet (8 ft.).

SOURCE: § 6303.1 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8424 (October 20, 2000).

844 COURTS (C-M, M)

844.1 Where a court is provided in an Industrial District, that court shall have the dimensions specified in this section.

844.2 An open court shall be at least two and one-half inches wide per foot (2.5 in./ft.) of height of court, but not less than six feet (6 ft.) wide.

844.3 A closed court shall be at least two and one-half inches wide per foot (2.5 in./ft.) of height of court, but not less than twelve feet (12 in.) wide.

844.4 A closed court shall have an area at least twice the square of the required width of court dimension based on the height of court, but not less than two hundred fifty square feet (250 ft.²).

844.5 In the case of an alteration affecting the amount of light and ventilation required by other municipal law or regulation in an existing building in any Industrial District, no legally required window shall be permitted to open onto a court that does not comply with the dimensions in §§ 844.1 through 844.4.

SOURCE: §§ 6304.1 and 6304.2 of the Zoning Regulations, effective May 12, 1958; Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8425 (October 20, 2000).

845 PENTHOUSES (C-M, M)

845.1 Section 411 shall be applicable to penthouses in the Industrial Districts.

845.2 [REPEALED]

SOURCE: §§ 6305.1 and 6305.2 of the Zoning Regulations, effective May 12, 1958; Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8425 (October 20, 2000); as amended by Final Rulemaking and Order No. 14-13 published at 63 DCR 390 (January 8, 2016).

TITLE 11 - ZONING

CHAPTER 9 WATERFRONT DISTRICTS

Secs.

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- 900 GENERAL PROVISIONS: WATERFRONT DISTRICTS**
- 900.1 The Waterfront (W) Districts are applied to waterfront areas that have one (1) or more of the following characteristics:
 - (a) Geographically, historically, or locationally unique;
 - (b) Adjacent to well-established residential areas;
 - (c) Undergoing transition from light and heavy industrial uses to office and commercial uses; or

(d) Where the public health, safety, general welfare, and amenity would be promoted and protected by the encouragement of mixed uses.

900.2 The Waterfront District shall be subdivided into W-0, W-1, W-2, and W-3 Districts.

900.3 The W-0 District permits open space, park, and low-density and low-height waterfront-oriented retail and arts uses, the W-1 District permits a moderate height and density, the W-2 District allows a medium height and density, and the W-3 District allows the greatest height and density of the Waterfront Districts.

900.4 The purpose of the Waterfront Districts is to encourage a diversity of compatible land uses at various densities, including combinations of residential, offices, retail, recreational, arts and cultural, and other miscellaneous uses.

900.5 The W-1, W-2, and W-3 Districts are also intended to be relatively self-contained by supplying a variety of housing, service, employment, and recreational opportunities in one (1) location. This characteristic allows one (1) area to serve many different needs of a single population and to thereby reduce the amount of vehicular traffic generated by the uses in the districts.

900.6 The W-0 District is intended to provide waterfront recreation areas with related waterfront-oriented or waterfront-enhancing uses, to serve local and regional open space recreation needs.

900.7 Except as provided in chapter 21 of this title, in the Waterfront Districts, no building or premises shall be used and no building shall be erected or altered that is arranged, intended, or designed to be used except as specified in §§ 901, 902, and 906 through 925.

AUTHORITY: Unless otherwise noted, the authority for this chapter is the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code §§ 6-641.01 to 6-641.15 (formerly codified at D.C. Code §§ 5-413 to 5-432 (1994 Repl. & 1999 Supp.))).

SOURCE: §§ 4401.1 and 4402.1 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9725, 9734 (December 8, 2000); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8429 (October 20, 2000); as amended by Final Rulemaking published at 51 DCR 3440 (April 2, 2004) ; as amended by Final Rulemaking published at 52 DCR 6358 (July 8, 2005).

901 USES AS A MATTER OF RIGHT (W)

901.1 The following uses shall be permitted in the W-1, W-2, and W-3 Districts as a matter of right:

(a) Artist's studio;

- (b) Antenna, subject to the standards and procedure that apply to the particular class of antenna pursuant to chapter 27 of this title;
- (c) Boat club or marina;
- (d) Child/Elderly development center or adult day treatment facility;
- (e) Church or other place of worship;
- (f) Community-Based Residential Facilities, as limited by the following:
 - (1) Youth residential care home, community residence facility, or health care facility for not more than six (6) persons, not including resident supervisors or staff and their families; or for not more than eight (8) persons, including resident supervisors or staff and their families; provided, that the number of persons being cared for shall not exceed six (6); and
 - (2) Emergency shelter for not more than four (4) persons, not including resident supervisors or staff and their families;
- (g) Community center;
- (h) Embassy, chancery, or international organization;
- (i) Hotel or inn;
- (j) Fire Department Administrative Facility;
- (k) Fire Department Support Facility;
- (l) Fire Station;
- (m) Group Instruction Center or Studio;
- (n) Library (other than public library);
- (o) Museum;
- (p) Office;
- (q) One-Family dwelling, flat, or multiple dwelling;
- (r) Park or open space;

- (s) Private club, restaurant, fast food establishment, prepared food shop, or food delivery service, provided that a fast food establishment, or food delivery service shall not include a drive-through;
- (t) Private or public theater;
- (u) Police Department General Facility, except as provided in § 917;
- (v) Police Department Local Facility;
- (w) Public library;
- (x) Public recreation and community center;
- (y) Public School, subject to the provisions of chapter 21 of this title;
- (z) Recreational building or use;
- (aa) Retail sales or services not specified in §§ 902 and 906 through 915;
- (bb) Rooming or boarding house;
- (cc) Swimming pool;
- (dd) Youth residential care home, community residence facility, or health care facility for seven (7) to fifteen (15) persons, not including resident supervisors or staff and their families; provided, that there shall be no property containing an existing community-based residential facility for seven (7) or more persons either in the same square or within a radius of five hundred feet (500 ft.) from any portion of the subject property; and
- (ee) Notwithstanding § 352.3, temporary surface parking lot accessory to the Ballpark shall be permitted on Squares 664E, 707, 708, 708E, 708S, or 744S, in accordance with § 2110. In the event that the cumulative parking limit established in § 2110.1 (a) is met, additional temporary surface parking spaces accessory to the Ballpark on Squares 664E, 707, 708, 708E, 708S, or 744S shall be permitted as a special exception in a W-2 District if approved by the Board of Zoning Adjustment pursuant to § 2110.2.

901.2 Accessory use (including parking), building, or structure customarily incidental and subordinate to the principal uses permitted in § 901.1 shall be permitted in the W-1, W-2, and W-3 Districts as a matter of right, except that a firearms retail sales establishment shall not be permitted as a principal or an accessory use.

901.3 Mechanical amusement machines shall be permitted in the W-1, W-2, and W-3 Districts as a matter of right, as accessory to the following uses:

- (a) Boat club or marina;
- (b) Fire Department Administrative Facility;
- (c) Fire Station;
- (d) Hotel or inn;
- (e) Private school, trade school, college, or university; but only to a college or university subject to § 2501;
- (f) Restaurant or private club; and
- (g) Retail sales or services not specified in §§ 902, 906 through 911, and 913 through 915.

901.4 A child development home and an elderly day care home shall be permitted in the W-1, W-2, and W-3 Districts as a matter of right, as an accessory use; provided, that the dwelling unit in which the use is located shall be the principal residence of the caregiver and that the use shall otherwise meet the definition of a home occupation.

901.5 Within the W-0 District, the following uses shall be permitted as a matter of right:

- (a) Boat construction on an occasional basis by a local community organization;
- (b) Community garden operated by a local community organization or District government agency;
- (c) Publicly-accessible park or open space, playground, or athletic field, including pedestrian and bicycle trails, necessary support facilities, and fitness circuits;
- (d) Public nature education or interpretive center including a boat dock; and
- (e) Seasonal or occasional market for produce, arts, and crafts, with non-permanent structures.

901.6 A Driver's License Road Test Facility, shall be permitted within the W-2 and W-3 Districts.

SOURCE: § 4402.2 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 27 DCR 2066, 2070 (May 16, 1980); Final Rulemaking published at 28 DCR 3482, 3499 (August 7, 1981); Final Rulemaking published at 29 DCR 4913, 4914 (November 5, 1982); Final Rulemaking published at 32 DCR 4374, 4375 (July 26, 1985); Final Rulemaking published at 36 DCR 1509, 1520 (February 24, 1989); Final Rulemaking published at

40 DCR 726 (January 22, 1993); Final Rulemaking published at 40 DCR 3744, 3747 (June 11, 1993); Final Rulemaking published at 46 DCR 8284, 8288 (October 15, 1999); Final Rulemaking published at 47 DCR 9725, 9734-35 (December 8, 2000); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8429-30 (October 20, 2000); Final Rulemaking published at 49 DCR 2742, 2747 (March 22, 2002); as amended by Final Rulemaking published at 50 DCR 10137 (November 28, 2003); as amended by Final Rulemaking published at 50 DCR 10822 (December 19, 2003); as amended by Final Rulemaking published at 51 DCR 3440 (April 2, 2004); as amended by Final Rulemaking published at 51 DCR 4778 (May 7, 2004); as amended by Final Rulemaking published at 52 DCR 6358 (July 8, 2005); as amended by Final Rulemaking published at 52 DCR 7259 (August 5, 2005); as amended by Final Rulemaking published at 52 DCR 9155 (October 14, 2005); as amended by Final Rulemaking published at 53 DCR 9580 (December 1, 2006); as amended by Final Rulemaking published at 53 DCR 10085 (December 22, 2006); as amended by Final Rulemaking published at 54 DCR 8981 (September 14, 2007); as amended by Final Rulemaking published at 54 DCR 9393 (September 28, 2007); as amended by Final Rulemaking published at 55 DCR 34 (January 4, 2008); as amended by Final Rulemaking published at 55 DCR 2623 (March 14, 2008); as amended by Final Rulemaking published at 55 DCR 7308 (July 4, 2008); as amended by Final Rulemaking and Order No. 08-20 published at 56 DCR 2181 (March 13, 2009); as amended by Final Rulemaking and Order No. 11-22 published at 59 DCR 4236 (May 4, 2012).

902 PROHIBITED USES (W)

902.1 The following uses are prohibited in Waterfront Districts:

- (a) Any establishment that has as a principal use the administration of massages;
- (b) Any industrial use prohibited in the M District;
- (c) Automobile or motorcycle sales or repairs;
- (d) Car wash;
- (e) Carting, express, moving, or hauling terminal or yard;
- (f) Chemical manufacturing, storage, or distribution;
- (g) Drive-through establishment (any establishment where goods or services are rendered directly to occupants of motor vehicles);
- (h) Enameling, plating, or painting (except artist's studio) as a principal use;
- (i) Firearms Retail Sales Establishment;
- (j) Gasoline service station;
- (k) Material salvage;
- (l) Outdoor advertising or billboard;

- (m) Outside material storage;
- (n) Packing or crating operation;
- (o) Parking Lot:
 - (1) except a temporary surface parking lot permitted pursuant to § 901.1(ee); or
 - (2) other than as permitted by special exception in the W-0 District in §926;
- (p) Smelting or rendering;
- (q) Sexually-oriented business establishment; and
- (r) Veterinary hospital.

SOURCE: § 4402.4 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 22 DCR 1901 (October 14, 1975); Final Rulemaking published at 24 DCR 5144, 5147 (December 10, 1977); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8430-31 (October 20, 2000); as amended by Final Rulemaking published at 51 DCR 3440 (April 2, 2004) ; as amended by Final Rulemaking published at 52 DCR 6358 (July 8, 2005); as amended by Final Rulemaking published at 54 DCR 8943 (September 14, 2007); as amended by Final Rulemaking published at 54 DCR 8976 (September 14, 2007); as amended by Final Rulemaking and Order No. 08-20 published at 56 DCR 2181 (March 13, 2009); 57 DCR 000126 (2010); as amended by Final Rulemaking and Order No. 11-22 published at 59 DCR 4236 (May 4, 2012).

903-904 [RESERVED]

905 PLANNING OFFICE REVIEW (W)

905.1 Wherever §§ 906 through 926 require referral of an application to the D.C. Office of Planning for coordination, review, and report, the report shall reflect consideration of the following:

- (a) Whether the proposed use furthers the objectives of the Waterfront Districts;
- (b) The relationship of the proposed use to other planning considerations for the area and the District of Columbia as a whole, including the plans, programs, and policies of other departments and agencies of the District government;

- (c) The proposed site plan, including the relationship of different uses on the site;
- (d) The effect of the proposed site plan on neighboring properties and the waterfront shoreline (if applicable); and
- (e) Other considerations deemed appropriate for report.

905.2 Whenever the Office of Planning refers an application to the D.C. Department of Transportation under §§ 906 through 926, the report shall reflect consideration of the following transportation and environmental matters:

- (a) Traffic to be generated;
- (b) Location and design of vehicular access and parking facilities;
- (c) Number of parking and loading facilities;
- (d) Treatment of public space;
- (e) Availability of sewer and water capacity;
- (f) Air quality;
- (g) Noise from commercial, industrial, and traffic sources; and
- (h) Other considerations deemed appropriate for report.

SOURCE: § 4402.310 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8430-31 (October 20, 2000); as amended by Final Rulemaking published at 51 DCR 3440 (April 2, 2004); as amended by Final Rulemaking published at 52 DCR 6358 (July 8, 2005).

906 HOSPITALS AND CLINICS (W-1, W-2, AND W-3)

906.1 If the Board of Zoning Adjustment considers that it is appropriate in furthering the objectives of the Waterfront District, a hospital or clinic shall be permitted as a special exception in the W-1, W-2, and W-3 Districts when authorized by the Board under § 3104, subject to the provisions of this section.

906.2 The facility shall be designed to enhance the visual and recreational opportunities offered by the Waterfront.

906.3 The facility shall be located so that it is not likely to become objectionable to surrounding and nearby property because of noise, traffic, or parking.

- 906.4 There shall be a demonstrated need for the facility.
- 906.5 The applicant shall submit to the Board a detailed plan for the hospital or clinic and accessory facilities.
- 906.6 The plan required in § 906.5 shall include:
- (a) Location, height, and bulk of all improvements, but not limited to buildings, parking, and loading facilities;
 - (b) Screening, signs, and public utility facilities; and
 - (c) A description of the activities to be carried on at the hospital or clinic, including the capacities of the various facilities within the hospital or clinic.
- 906.7 Before taking final action on an application for use as a hospital or clinic, the Board shall refer the application to the D.C. Office of Planning for coordination, review, and report. The application shall include reports and recommendations from all appropriate District agencies.

SOURCE: § 4402.31 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8431 (October 20, 2000); as amended by Final Rulemaking published at 51 DCR 3440 (April 2, 2004); as amended by Final Rulemaking published at 52 DCR 6358 (July 8, 2005).

907 UTILITIES (W-1, W-2, AND W-3)

- 907.1 If the Board of Zoning Adjustment considers that it is appropriate in furthering the objectives of the Waterfront District, an electric substation, natural gas regulator station, public utility pumping station, optical transmission node, or telephone exchange shall be permitted as a special exception in the W-1, W-2, and W-3 Districts when authorized by the Board under § 3104, subject to the provisions of this section.
- 907.2 Any new construction of a freestanding structure used primarily for the purpose of housing an optical transmission node shall be subject to the following:
- (a) The structure shall be built to appear compatible with surrounding construction, including exterior building material, fenestration, and landscaping; and
 - (b) There shall be no advertisement on the structure.
- 907.3 The Board shall establish requirements for setbacks and screening.

907.4 The Board shall establish other safeguards as deemed necessary for protection of the neighborhood.

SOURCE: § 4402.32 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 50 DCR 8818 (October 17, 2003); as amended by Final Rulemaking published at 51 DCR 3440 (April 2, 2004); as amended by Final Rulemaking published at 52 DCR 6358 (July 8, 2005).

908 BOWLING ALLEYS (W-1, W-2, AND W-3)

908.1 If the Board of Zoning Adjustment considers that it is appropriate in furthering the objectives of the Waterfront District, a bowling alley shall be permitted as a special exception in the W-1, W-2, and W-3 Districts when authorized by the Board under § 3104, subject to the provisions of this section.

908.2 The use shall not be within twenty-five feet (25 ft.) of a Residence District unless separated from the Residence District by a street or alley.

908.3 Soundproofing to the extent deemed necessary for the protection of adjoining and nearby property shall be required.

908.4 Before taking final action on an application for bowling alley use, the Board shall refer the application to the D.C. Office of Planning for coordination, review, and report. The report shall include the recommendations of all appropriate District agencies.

908.5 The Board may impose requirements pertaining to design, appearance, screening, lighting, signs, and other requirements it deems necessary for the protection of neighboring or adjacent property.

SOURCE: § 4402.33 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8432 (October 20, 2000); as amended by Final Rulemaking published at 51 DCR 3440 (April 2, 2004); as amended by Final Rulemaking published at 52 DCR 6358 (July 8, 2005).

909 MANUFACTURING AND PROCESSING (W-1, W-2, AND W-3)

909.1 If the Board of Zoning Adjustment considers that it is appropriate in furthering the objectives of the Waterfront District, a light manufacturing, processing, fabricating, or milling establishment shall be permitted as a special exception in the W-1, W-2, and W-3 Districts when authorized by the Board under § 3104, subject to the provisions of this section.

909.2 The facility shall be designed to enhance the visual and recreational opportunities offered by the Waterfront.

- 909.3 The use shall comply with the standards of external effects for C-M Districts in § 804 and, further, shall have no adverse effects on other uses on the same or adjoining properties.
- 909.4 The use shall not result in dangerous or otherwise objectionable traffic conditions.
- 909.5 There shall be adequate off-street parking for trucks and other service vehicles.
- 909.6 There shall be no outdoor storage of materials.
- 909.7 The Board may impose requirements pertaining to design, appearance, screening, and other requirements as it deems necessary for the protection of neighboring or adjacent properties.
- 909.8 Before taking final action on an application for the use, the Board shall refer the application to the D.C. Office of Planning for coordination, review, and report. The report shall include the recommendations of all appropriate District agencies.

SOURCE: § 4402.34 of the Zoning Regulations, effective May 12, 1958; Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8432 (October 20, 2000); as amended by Final Rulemaking published at 51 DCR 3440 (April 2, 2004); as amended by Final Rulemaking published at 52 DCR 6358 (July 8, 2005).

910 WAREHOUSES AND WHOLESALERS (W-1, W-2, AND W-3)

- 910.1 If the Board of Zoning Adjustment considers that it is appropriate in furthering the objectives of the Waterfront District, a warehouse or wholesale use shall be permitted as a special exception in the W-1, W-2, and W-3 Districts when authorized by the Board under § 3104, subject to the provisions of § 909.

SOURCE: § 4402.35 of the Zoning Regulations, effective May 12, 1958; Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8432 (October 20, 2000); as amended by Final Rulemaking published at 51 DCR 3440 (April 2, 2004); as amended by Final Rulemaking published at 52 DCR 6358 (July 8, 2005).

911 BUILDING SERVICE TRADES (W-1, W-2, AND W-3)

- 911.1 If the Board of Zoning Adjustment considers that it is appropriate in furthering the objectives of the Waterfront District, a building service trade, including but not limited to plumber, electrician, exterminator, or air-conditioning mechanic shall be permitted as a special exception in the W-1, W-2, and W-3 Districts when authorized by the Board under § 3104, subject to the provisions of § 909.

SOURCE: § 4402.36 of the Zoning Regulations, effective May 12, 1958; Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8433 (October 20, 2000); as amended by Final

Rulemaking published at 51 DCR 3440 (April 2, 2004); as amended by Final Rulemaking published at 52 DCR 6358 (July 8, 2005).

912 PRIVATE SCHOOLS AND TRADE SCHOOLS (W-1, W-2, AND W-3)

912.1 If the Board of Zoning Adjustment considers that it is appropriate in furthering the objectives of the Waterfront District, a private school or trade school shall be permitted as a special exception in the W-1, W-2, and W-3 Districts when authorized by the Board under § 3104, subject to the provisions of this section.

912.2 The facility shall be designed to enhance the visual and recreational opportunities offered by the Waterfront.

912.3 The use shall be designed and located so that it is not likely to become objectionable because of noise, traffic, number of students, or other conditions.

SOURCE: § 4402.37 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9725, 9735-36 (December 8, 2000); as amended by Final Rulemaking published at 51 DCR 3440 (April 2, 2004); as amended by Final Rulemaking published at 52 DCR 6358 (July 8, 2005).

913 COMMUNITY-BASED RESIDENTIAL FACILITIES (W-1, W-2, AND W-3)

913.1 If the Board of Zoning Adjustment considers that they are appropriate in furthering the objectives of the Waterfront District, community-based residential facilities in the following categories shall be permitted as special exceptions in the W-1, W-2, and W-3 Districts when authorized by the Board under § 3104:

- (a) Youth residential care home or community residence facility for sixteen (16) to twenty-five (25) persons, not including resident supervisors or staff and their families, subject to the standards and requirements of § 358;
- (b) Health care facility for sixteen (16) to three hundred (300) persons, not including resident supervisors or staff and their families, subject to the standards and requirements of § 359;
- (c) Emergency shelter for five (5) to twenty-five (25) persons, not including resident supervisors or staff and their families, subject to the standards and requirements of § 360; and
- (d) Youth rehabilitation home, adult rehabilitation home, or substance abusers' home for one (1) to twenty (20) persons, not including resident supervisors or staff and their families, subject to the standards and requirements of §§ 358.2 through 358.7.

SOURCE: § 4402.39 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 28 DCR 3482, 3499 (August 7, 1981); Final Rulemaking published at 40 DCR 726 (January 22, 1993); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8433 (October 20, 2000); as amended by Final Rulemaking published at 51 DCR 3440 (April 2, 2004); as amended by Final Rulemaking published at 52 DCR 6358 (July 8, 2005).

914 ANTENNA TOWER AND MONOPOLE (W-1, W-2, AND W-3)

- 914.1 If the Board considers that it is appropriate in furthering the objectives of the Waterfront Districts, an antenna tower or monopole shall be permitted as a special exception in the W-1, W-2, and W-3 Districts, if approved by the Board of Zoning Adjustment subject to the standards and procedures as specified in chapter 27 of this title.

SOURCE: Final Rulemaking published at 36 DCR 1509, 1521 (February 24, 1989); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8433 (October 20, 2000); Final Rulemaking published at 49 DCR 8891, 8894 (September 27, 2002); as amended by Final Rulemaking published at 51 DCR 3440 (April 2, 2004); as amended by Final Rulemaking published at 52 DCR 6358 (July 8, 2005); as amended by Final Rulemaking published at 55 DCR 34 (January 4, 2008).

915 MISCELLANEOUS USES (W-1, W-2, AND W-3)

- 915.1 If the Board of Zoning Adjustment considers that they are appropriate in furthering the objectives of the Waterfront District, other uses not specified in §§ 902, 906 through 914, and 916 shall be permitted as special exceptions in the W-1, W-2, and W-3 Districts when authorized by the Board under § 3104, subject to the provisions of this section.
- 915.2 The facility shall be designed to enhance the visual and recreational opportunities offered by the Waterfront.
- 915.3 The use shall not adversely affect the present character or future development of the neighborhood.
- 915.4 No dangerous or otherwise objectionable traffic conditions shall result from the establishment of the use.
- 915.5 The Board may impose requirements pertaining to the design, appearance, and screening, and other requirements as it deems necessary for the protection of neighboring or adjacent property.
- 915.6 Before taking final action on an application for the use, the Board shall refer the application to the D.C. Office of Planning for coordination, review, and report. The report shall include the recommendations of all appropriate District agencies.

SOURCE: § 4402.38 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9725, 9736 (December 8, 2000); as amended by Final Rulemaking published at 51 DCR 3440 (April 2, 2004); as amended by Final Rulemaking published at 52 DCR 6358 (July 8, 2005).

916 COLLEGES AND UNIVERSITIES (W-1, W-2, AND W-3)

916.1 If the Zoning Commission considers that it is appropriate in furthering the objectives of the Waterfront District, a college or university shall be permitted as a special exception in the W-1, W-2, and W-3 Districts when authorized by the Commission under § 3104, subject to the provisions of this section.

916.2 The facility shall be designed to enhance the visual and recreational opportunities offered by the Waterfront.

916.3 The use shall be designed and located so that it is not likely to become objectionable because of noise, traffic, number of students, or other conditions.

916.4 The applicant shall submit to the Commission a plan for developing the campus as a whole.

916.5 The plan required in § 916.4 shall include:

- (a) The location, height, and bulk, where appropriate, of all present and proposed improvements, including but not limited to buildings, parking and loading facilities, screening, signs, streets, public utility facilities, and athletic and other recreational facilities;
- (b) A description of all activities conducted or to be conducted in the facilities; and
- (c) The capacity of present and proposed campus development.

916.6 Before taking final action on an application, the Commission shall refer the application to the D.C. Office of Planning for coordination, review, and report. The report shall include the recommendations of appropriate agencies of the District government.

SOURCE: Final Rulemaking published at 47 DCR 9725, 9736-37 (December 8, 2000); as amended by Final Rulemaking published at 51 DCR 3440 (April 2, 2004); as amended by Final Rulemaking published at 52 DCR 6358 (July 8, 2005).

917 POLICE DEPARTMENT GENERAL FACILITY (W-1, W-2, AND W-3)

917.1 A vehicle maintenance facility or equestrian unit shall be permitted in W-1, W-2, and W-3 Districts if approved by the Board of Zoning Adjustment as a special exception under § 3104, subject to the provisions of this section.

917.2 The vehicle maintenance facility or equestrian unit shall be located so that it is not likely to become objectionable to adjoining or nearby property because of noise or fumes.

SOURCE: Final Rulemaking published at 51 DCR 4778 (May 7, 2004); 57 DCR 000126 (2010).

918 [RESERVED]

SOURCE: Final Rulemaking published at 52 DCR 6358 (July 8, 2005).

919 [RESERVED]

SOURCE: Final Rulemaking published at 52 DCR 6358 (July 8, 2005).

920 USES SUBJECT TO SPECIAL EXCEPTION (W-0) - GENERAL PROVISIONS

920.1 The uses described in §§ 921 through 925 are permitted if approved as special exceptions in the W-0 District.

920.2 Except as provided in § 920.3, applications for special exceptions within the W-0 District shall be heard by the Board of Zoning Adjustment.

920.3 As part of its consideration of a petition or application to zone a property or properties to the W-0 District, the Zoning Commission may also review special exceptions (whether authorized in this chapter or elsewhere in this Title) and variance requests for the subject properties simultaneously with the zoning map amendment application. The Commission's rules of procedure shall apply to such reviews.

920.4 At the time of filing an application with the Commission, the applicant shall pay the filing fee specified in § 3180.1(b)(16) plus such fees as apply to any additional zoning relief requested. The provisions of § 3181 relating to the administration of fees shall apply, except that the applicant may appeal any decision of the Director regarding the fee schedule to the Commission, which shall decide the appeal at a meeting or hearing as a preliminary matter to hearing the application.

920.5 With respect to any special exception use under consideration, the Commission may authorize the following if the applicant is able to demonstrate that application of normally applied zoning regulations would result in an infeasible project and would hinder furtherance of the objectives of the Waterfront District:

- (a) An increase of not more than five percent (5%) in the maximum lot occupancy, height, or floor area ratio as otherwise prescribed in this Title. The Commission shall have the option to approve a greater increase if the subject property is surrounded by National Park Service lands; or
- (b) A reduction of not more than five percent (5%) of the minimum yard or court requirements as otherwise prescribed in this Title. The Commission shall have the option to approve a greater decrease if the subject property is surrounded by National Park Service lands.

SOURCE: Final Rulemaking published at 51 DCR 3440 (April 2, 2004); as amended by Final Rulemaking published at 52 DCR 6358 (July 8, 2005).

921 BOATHOUSE (W-0)

- 921.1 If appropriate in furthering the objectives of the Waterfront District, a boathouse shall be permitted as a special exception in the W-0 District.
- 921.2 In addition to demonstrating that the boathouse meets the criteria for special exceptions set forth in §§ 927 and 3104 of this Title, the applicant shall further demonstrate that the boathouse and associated structures:
 - (a) Will be designed to enhance the visual and recreational opportunities offered along the waterfront;
 - (b) Will not result in the filling of normally submerged areas, and will minimize excavation to that reasonably required for a facility that is principally above-grade; and
 - (c) Will be located so as not likely to become objectionable to surrounding and nearby property because of noise, traffic, or parking.
- 921.3 One or more motorized safety launches for coaches are allowed for supervision of rowing practice and water safety.
- 921.4 A boathouse may include rest rooms, showers, locker rooms, kitchen, exercise area, boat storage and maintenance, coach's office, one caretaker's residence pursuant to § 924, rowing tank, dock, and related functions.
- 921.5 Off-street parking spaces shall be provided in the amount and manner specified in Chapter 21 - Off-Street Parking Requirements, except as may be permitted in accordance with the provisions of § 926.

SOURCE: Final Rulemaking published at 51 DCR 3440 (April 2, 2004); as amended by Final Rulemaking published at 52 DCR 6358 (July 8, 2005).

922 MARINA (W-0)

922.1 If appropriate in furthering the objectives of the Waterfront District, a marina shall be permitted as a special exception in the W-0 District, provided that the applicant demonstrates the proposed use meets the special exception criteria set forth in §§ 927 and 3104 of this Title.

922.2 A marina may also include as accessory uses the following:

- (a) Boat launching;
- (b) Minor repairs and maintenance to boats and marine engines;
- (c) The sale of marine fuels; Office for the operation of the marina
- (d) Rental of boats;
- (e) Retail sales of supplies and services for small pleasure and commercial vessels and
- (f) Retail sales of supplies and services for small pleasure and commercial vessels.

922.3 Floating homes shall be permitted within a permitted marina provided that the maximum density of floating home berths shall not exceed fifty percent (50%) of the total number of berths in the marina. This percentage may be increased by special exception, subject to the provisions of § 927.

922.4 A home occupation within a floating home, including a Bed and Breakfast, is permitted, subject to the provisions of §203.

922.5 Off-street parking spaces for a marina and each floating home permitted shall be provided in the amount and manner specified in Chapter 21 - Off Street Parking Requirements, except as may be permitted in accordance with the provisions of § 926.

SOURCE: Final Rulemaking published at 51 DCR 3440 (April 2, 2004); as amended by Final Rulemaking published at 52 DCR 6358 (July 8, 2005).

923 YACHT CLUB (W-0)

923.1 If appropriate in furthering the objectives of the Waterfront District, a yacht club shall be permitted as a special exception in the W-0 District.

- 923.2 In addition to demonstrating that the yacht club meets the criteria for special exceptions set forth in §§ 927 and 3104 of this Title, the applicant shall further demonstrate that the yacht club and associated facilities:
- (a) Will be primarily for the use of the members of the yacht club, except that the yacht club may provide transient berths;
 - (b) Will be located so as not likely to become objectionable to surrounding and nearby property because of noise, traffic, or parking; and
 - (c) Will not result in the filling of normally submerged areas and will minimize excavation to that reasonably required for a facility that is principally above-grade.
- 923.3 Floating homes shall be permitted within a permitted yacht club provided that the maximum density of floating home berths shall not exceed fifty percent (50%) of the total number of berths in the yacht club. This percentage may be increased by special exception, subject to the provisions of § 927.
- 923.4 A home occupation within a floating home, including a Bed and Breakfast, is permitted, subject to the provisions of § 203.
- 923.5 Off-street parking spaces for a yacht club and each floating home shall be provided in the amount and manner specified in Chapter 21 - Off-Street Parking Requirements, except as may be permitted in accordance with the provisions of § 926.

SOURCE: Final Rulemaking published at 51 DCR 3440 (April 2, 2004); as amended by Final Rulemaking published at 52 DCR 6358 (July 8, 2005).

924 CARETAKER'S RESIDENCE (W-0)

- 924.1 A caretaker's residence, for a person employed on the premises, as an accessory use within a boathouse, marina, or yacht club in the W-0 District shall be permitted as a special exception.
- 924.2 In addition to demonstrating that the caretaker's residence meets the criteria for special exceptions set forth in §§ 927 and 3104 of this Title, the applicant shall further demonstrate that the residence is clearly secondary in design, location, and size to the principal use of the building.
- 924.3 The caretaker's residence shall be located within the principal building and exclusively for the use of the facility's caretaker and immediate family.
- 924.4 If the caretaker's residence is larger than 1,200 square feet, it shall occupy no more than 20% of the total area of the principal building.

924.5 One on-site parking space, in addition to other parking requirements, shall be provided.

SOURCE: Final Rulemaking published at 51 DCR 3440 (April 2, 2004); as amended by Final Rulemaking published at 52 DCR 6358 (July 8, 2005).

925 ADDITIONAL SPECIAL EXCEPTION USES (W-0)

925.1 In addition to the uses set forth in §§ 920 through 924 of this Chapter, the following uses shall also be permitted as special exceptions in the W-0 District if appropriate in furthering the objectives of the Waterfront District; Provided that the applicant shall demonstrate that the proposed use meets the special exception criteria set forth in §§ 927 and 3104 of this Title:

- (a) Amusement enterprise;
- (b) Antique store;
- (c) Art gallery;
- (d) Art supply store;
- (e) Artist studio;
- (f) Auction house;
- (g) Bakery;
- (h) Bicycle sale, repair, or rental;
- (i) Boat accessory sales;
- (j) Boat repair, rental, or sales;
- (k) Boat launching facility, dock, wharf, or pier except as provided by § 901.5(d);
- (l) Book store;
- (m) Cabaret;
- (n) Camera / photo supplies;
- (o) Child care facility;
- (p) Cosmetic / toiletries sales;

- (q) Cruise line operation, including necessary associated dock and land facilities;
- (r) Fish monger;
- (s) Floating home, only within a permitted marina or yacht club and subject to the provisions of § 922.3;
- (t) Flower stand / florist;
- (u) Food / grocery store;
- (v) Gift shop;
- (w) Hobby shop;
- (x) Jewelry store;
- (y) Leather goods store;
- (z) Legitimate theater;
- (aa) Library, private or public;
- (bb) Mass transit facility;
- (cc) Museum;
- (dd) Music store, including the sale of musical instruments;
- (ee) Newsstand;
- (ff) Off-premises sale of beer and wine, with sale directly to consumers;
- (gg) Pet shop;
- (hh) Photo studio;
- (ii) Picture framing studio / shop;
- (jj) Place of worship;
- (kk) Private club other than a yacht club;
- (ll) Public parking - uncovered surface parking lot or underground structure only;

- (mm) Recreation building or use;
- (nn) Restaurant;
- (oo) Retail establishments;
- (pp) Sporting goods store;
- (qq) Stationery store;
- (rr) Swimming pool operated by a local community organization or District government agency;
- (ss) Temporary use of premises by fairs, circuses, or carnivals, upon compliance with the provisions of 19 DCMR Chapter 13, "Amusements and Recreation;"
- (tt) Ticket office;
- (uu) Water taxi information / ticket booth and passenger shelter; and
- (vv) Other maritime-related retail and service commercial uses.

SOURCE: Final Rulemaking published at 51 DCR 3440 (April 2, 2004); as amended by Final Rulemaking published at 52 DCR 6358 (July 8, 2005); as amended by Final Rulemaking published at 55 DCR 2623 (March 14, 2008).

926 PARKING SPACES (W-0)

926.1 Notwithstanding § 2116.1. of this Title, parking spaces for boathouses, marinas, yacht clubs, or other recreational uses to be located elsewhere than on the same lot or part of the lot on which the principal use is located, may be permitted as a special exception, if the applicant proves that compliance with this parking requirement would be unsafe or economically impractical and:

- (a) The parking spaces will be located to furnish reasonable and convenient parking for patrons of the principal building;
- (b) Any support facility in relation to the parking spaces is designed so as not likely to become objectionable to adjoining or nearby property, park space, or the waterfront because of noise, traffic, or other objectionable conditions;
- (c) The parking spaces will be adequately screened from adjacent park space and from the waterfront, and shall be designed to prevent storm water run-off directly into the river; and

(d) All other requirements of Chapter 21 will be met.

926.2 The applicant shall prove that compliance would be unsafe or economically impractical by showing that one or more of the following applies:

- (a) The lack of street frontage or the separation of the use from any publicly-accessible street by public park space;
- (b) Unusual topography, grades, shape, size, or dimensions of the lot;
- (c) The lack of appropriate ingress or egress through existing or proposed streets;
- (d) Strip zoning or shallow zoning depth;
- (e) Restricted size of lot caused by adverse adjoining ownership or substantial improvements adjoining or on the lot; or
- (f) Traffic hazards caused by unusual street grades or other conditions.

926.3 All or a portion of required parking spaces for a boathouse may be reduced or eliminated by special exception if the applicant proves that:

- (a) The provision of parking would result in significant adverse impacts on adjacent park land;
- (b) The type or location of the associated principal use results in diminished need for parking from what would otherwise be required by zoning regulations; or
- (c) Reasonable and conveniently-located alternatives to the required parking exist and are available to the boathouse users with minimal impact on adjacent land or development.

SOURCE: Final Rulemaking published at 51 DCR 3440 (April 2, 2004); as amended by Final Rulemaking published at 52 DCR 6358 (July 8, 2005).

927 SPECIAL EXCEPTION REVIEW CRITERIA (W-0)

927.1 In addition to proving that the proposed use meets all specific special exception criteria applicable to it as well as the general criteria set forth in § 3104, the applicant shall also demonstrate that:

- (a) The buildings, structures, and uses will enhance the visual and public recreational opportunities offered along the waterfront;

- (b) Buildings, structures, and uses on land will be located and designed to minimize adverse impacts on the river and riverbank areas;
- (c) If the proposed use is a boathouse, marina, or yacht club, the buildings will be located entirely on shore directly in front of berths, separated only by the setback area described in § 938, unless doing so would result in an infeasible project and would hinder furtherance of the objectives of the W-0 District;
- (d) Buildings, structures, and uses on, under, or over water will be located and designed to minimize adverse impacts on the river and riverbank areas;
- (e) All structures and buildings will be located so as not likely to become objectionable to surrounding and nearby property because of noise, traffic, or parking, and so as not to limit public access along or to the waterfront, other than directly in front of the principal building or structure of a boathouse, marina, or yacht club;
- (f) Impervious surfaces will be minimized, and buildings, structures, and other uses will be designed and sited to minimize potential for surface storm water run-off directly into the river;
- (g) Screening, coping, setbacks, fences, the location of entrances and exits, or any other consideration for accessory or non-accessory parking spaces will be designed to screen and protect adjacent parkland and the waterfront; and
- (h) Emergency access will be provided to any buildings, structures, or other space devoted to active public use.

SOURCE: Final Rulemaking published at 51 DCR 3440 (April 2, 2004); as amended by Final Rulemaking published at 52 DCR 6358 (July 8, 2005).

928 SPECIAL EXCEPTION APPLICATION REQUIREMENTS (W-0)

928.1 An applicant for a special exception shall provide a survey plan showing:

- (a) Existing vertical contours at two-foot intervals;
- (b) The 100-year floodplain and all existing streams, wetlands, and bodies of water, as well as general drainage patterns with arrows indicating the directions of major drainage flow;
- (c) Existing vegetation, including a listing of most abundant species; and

- (d) All existing disturbed areas, including the locations of utilities, paved areas, streets, culverts, storm water management systems, and bridges.

928.2 The applicant shall provide a proposed site plan showing:

- (a) The proposed location, height, bulk, and design of all improvements, including buildings, structures, pedestrian and vehicular access, parking, piers and wharves, berths, utilities, paved areas, culverts, storm water management, and bridges;
- (b) Suitable open space treatment of a waterfront setback area, as required in § 938, for uses such as walkway, bikeway, passive or active recreation; and including provisions assuring private maintenance of the space, convenient and public access to the space, and suitable connections to adjacent public space along the waterfront;
- (c) Proposed grading, including a calculation of the amount of cutting from and filling to natural grade;
- (d) Proposed landscaping, including riverbank treatment/restoration; and
- (e) The location and design of fencing, gates, screening, exterior lighting, and signage.

928.3 An applicant for a special exception shall provide a parking plan showing:

- (a) The location and design of parking spaces, access driveways, and other impervious surface landscaping;
- (b) The location and design of emergency vehicle access to all buildings, structures, and active public spaces; and
- (c) For boathouse, marina, and yacht club facilities, a parking management plan for special events (such as regattas).

928.4 An applicant for a special exception shall provide a description of activities proposed to be conducted at the site.

SOURCE: Final Rulemaking published at 51 DCR 3440 (April 2, 2004); as amended by Final Rulemaking published at 52 DCR 6358 (July 8, 2005).

929 REFERRAL OF SPECIAL EXCEPTION APPLICATIONS (W-0)

929.1 Before commencement of a Public Hearing on an application for any special exception in the W-0 Zoning District, the Commission or Board shall refer the application to the D.C. Office of Planning for coordination, review, and report.

The application shall include reports and recommendations from the Departments of Health and Transportation and all other appropriate agencies.

929.2 The report submitted by the Office of Planning shall specifically address the environmental impact of the proposed use, as that impact is identified by the Department of Health; provided that any such report is not intended to be, and shall not be construed to constitute, the functional equivalent of an Environmental Impact Assessment or Statement.

SOURCE: Final Rulemaking published at 51 DCR 3440 (April 2, 2004); as amended by Final Rulemaking published at 52 DCR 6358 (July 8, 2005).

930 HEIGHT OF BUILDINGS OR STRUCTURES (W)

930.1 Except as provided in this section, the height of buildings and structures, not including a penthouse, shall not exceed the maximum height in the following table:

ZONE DISTRICT	MAXIMUM HEIGHT (Feet)
W-0	40 feet
W-1	45 feet
W-2	60 feet
W-3	90 feet

Notwithstanding the above, the maximum height of a building or structure located on, in, or over the water within the W-0 District, including a floating home, shall be twenty-five (25) feet, measured from the mean high water level along the shore directly in front of the building or structure to the highest point of the building or structure, not including sailboat masts.

930.2 Spires, towers, domes, pinnacles or minarets serving as architectural embellishments, penthouses, ventilator shafts, antennas, chimneys, smokestacks, or fire sprinkler tanks may be erected to a height in excess of that which this section otherwise authorizes. This section shall not be interpreted to bypass otherwise required special exception reviews or mayoral approvals.

930.3 A penthouse may be erected to a height in excess of that which this section otherwise authorizes but shall not exceed the height, as measured from the surface of the roof upon which the penthouse is located, in the following table:

ZONE DISTRICT	MAXIMUM PENTHOUSE HEIGHT	MAXIMUM PENTHOUSE STORIES
W-0; W-1	12 ft. except 15 ft. for penthouse mechanical space	1; second story permitted for penthouse mechanical space
W-2	12 ft., except 18 ft. 6 in. for penthouse	1; second story permitted for

	mechanical space	penthouse mechanical space
W-3	20 ft.	1 plus mezzanine; second story permitted for penthouse mechanical space

930.4 [REPEALED]

930.5 Roof structures less than ten (10) feet in height above a roof or parapet wall of a structure in the W-0 District on Kingman Island shall not be subject to the requirements of this section when the top of the roof structure is below maximum building height prescribed for the W-0 District.

SOURCE: § 4403.1 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 33 DCR 3975, 3977 (July 4, 1986); Final Rulemaking published at 36 DCR 1509, 1523 (February 24, 1989); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8434 (October 20, 2000); as amended by Final Rulemaking published at 50 DCR 10137 (November 28, 2003); as amended by Final Rulemaking published at 51 DCR 3440 (April 2, 2004); as amended by Final Rulemaking published at 52 DCR 6358 (July 8, 2005); as amended by Final Rulemaking published at 55 DCR 34 (January 4, 2008); as amended by Final Rulemaking published at 55 DCR 2623 (March 14, 2008).

931 FLOOR AREA RATIO (W)

931.1 In the W-0 District, the floor area ratio of all buildings and structures shall not exceed five-tenths (0.5), provided that:

- (a) The floor area ratio on a lot used exclusively for recreational use, marina, yacht club, or boathouse buildings and structures shall not exceed 0.75; and
- (b) For the purposes of this sub-section, floor area ratio shall be the gross floor area of all buildings and structures located on land and any associated permanent structure located on, in, or over water, other than a floating home, divided by the total area of the lot.

931.2 In the W-1 District, the floor area ratio of all buildings and structures on a lot shall not exceed two and five-tenths (2.5), not more than one (1.0) of which may be used for other than residential purposes. The floor area ratio of public recreation and community centers shall not exceed 1.8.

931.3 In the W-2 District, the floor area ratio of all buildings and structures on a lot shall not exceed four (4.0), not more than two (2.0) of which may be used for other than residential purposes. The floor area ratio of public recreation and community centers shall not exceed 1.8.

931.4 In the W-3 District, the floor area ratio of all buildings and structures on a lot shall not exceed six (6.0), not more than five (5.0) of which may be used for other

than residential purposes. The floor area ratio public recreation and community centers shall not exceed 1.8.

931.5 For the purposes of this section, "residential purposes" shall include dwellings, flats, multiple dwellings, rooming and boarding houses, community-based residential facilities, inns, and guestroom areas and service areas within hotels.

SOURCE: §§ 4404.1 through 4404.4 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 27 DCR 2066, 2070 (May 16, 1980); Final Rulemaking published at 28 DCR 3482, 3500 (August 7, 1981); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8434 (October 20, 2000); as amended by Final Rulemaking published at 50 DCR 10137 (November 28, 2003); as amended by Final Rulemaking published at 51 DCR 3440 (April 2, 2004); as amended by Final Rulemaking published at 52 DCR 6358 (July 8, 2005).

932 PERCENTAGE OF LOT OCCUPANCY (W)

932.1 No building or portion of a building devoted to residential use, including accessory buildings, shall occupy the lot upon which it is located in excess of the percentage of lot occupancy in the following table:

ZONE DISTRICT	MAXIMUM PERCENTAGE OF LOT OCCUPANCY
W-1	80%
W-2,W-3	75%

932.2 Within the W-0 District, no building or portion of a building, including accessory buildings, shall occupy greater than twenty-five percent (25%) of the lot upon which it is located, provided that:

- (a) The lot occupancy on a lot used exclusively for a recreational use, marina, yacht club, or boathouse buildings and structures shall not exceed fifty percent (50%) and
- (b) For the purposes of this sub-section, the lot occupancy shall be the total area occupied by all buildings and structures located on land and by any associated permanent structure located on, in, or over water, other than a floating home, divided by the total area of the lot.

932.3 For the purposes of this section, the percentage of lot occupancy in the W-1, W-2, and W-3 Districts may be calculated on a horizontal plane located at the lowest level where residential uses begin.

932.4 For the purposes of this section, the phrase "residential use" shall mean dwellings, flats, multiple dwellings, rooming houses, boarding houses, hospitals, and community-based residential facilities.

SOURCE: § 4406.1 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 27 DCR 2066, 2071 (May 16, 1980); Final Rulemaking published at 28 DCR 3482, 3500 (August 7, 1981); and Final Rulemaking published at 31 DCR 6585, 6586 (December 28, 1984); as amended by Final Rulemaking published at 50 DCR 10137 (November 28, 2003); as amended by Final Rulemaking published at 51 DCR 3440 (April 2, 2004); as amended by Final Rulemaking published at 52 DCR 6358 (July 8, 2005); 57 DCR 000126 (2010).

933 REAR YARDS (W)

933.1 A rear yard shall be provided for each residential building or structure, other than a floating home.

933.2 When a residential use begins at or below grade, the minimum depth of rear yard shall be three inches per foot (3 in./ft.) of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof, but not less than twelve feet (12 ft.).

933.3 When a residential use begins above grade, the minimum depth of rear yard shall be three inches per foot (3 in./ft.) of vertical distance from the horizontal plane upon which the residential use begins to the highest point of the main roof, but not less than twelve feet (12 ft.). The rear yard shall be provided at and above the residential plane.

933.4 For the purposes of this section, “residential building or structure” shall include those used as or intended to be used as dwellings, flats, multiple dwellings, rooming and boarding houses, hospitals, hotels, inns, and community-based residential facilities.

SOURCE: § 4406.2 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 28 DCR 3482, 3500 (August 7, 1981); and Final Rulemaking published at 31 DCR 6585, 6586 (December 28, 1984); as amended by Final Rulemaking published at 51 DCR 3440 (April 2, 2004); as amended by Final Rulemaking published at 52 DCR 6358 (July 8, 2005).

934 SIDE YARDS (W)

934.1 Within the W-0 District, for any building or structure located in whole or in part on land, the minimum width of each side yard shall be twelve (12) feet.

934.2 No side yard shall be required in the W-1, W-2, and W-3 Districts. If a side yard is provided, its minimum width shall be at least eight (8) feet.

SOURCE: § 4406.3 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 51 DCR 3440 (April 2, 2004); as amended by Final Rulemaking published at 52 DCR 6358 (July 8, 2005).

935 COURTS (W)

935.1 Where a court is provided in a Waterfront District, the court shall have the following minimum dimensions:

STRUCTURE	MINIMUM WIDTH OF OPEN COURT	MINIMUM WIDTH AND AREA OF CLOSED COURT
Residential building	4 in. per foot of height; Minimum: 10 ft.	Width: 4 in. per foot of height; Minimum: 15 ft. Area: 2 x square of required width; Minimum: 350 ft. ²
Hotel and but	3 in. per foot of height; Minimum: 10 ft.	Same as above
Other structure	2½ in. per foot of height; Minimum: 6 ft.	Width: 2½ in. pr foot of height; Area: 2 x square of required width; Minimum: 250 ft. ²

935.2 In the case of a building devoted to both residential and nonresidential uses, the minimum width and area of a court shall be computed as follows:

- (a) When the residential and nonresidential uses are located on different floors of the building, the width and area requirements shall be computed for each use at the plane of each floor of the building; and
- (b) When the residential and nonresidential uses are located on the same floor of the building, the width and area requirements for that plane shall be computed based on the requirements for a residential building in § 936.1.

935.3 For the purposes of this section, "residential building" shall include dwellings, flats, multiple dwellings, rooming and boarding houses, hospitals, and community-based residential facilities.

935.4 No required opening for the admission of light and natural ventilation shall open onto a court niche where the ratio between the width and depth of the court niche is less than two to one (2:1).

935.5 No portion of a court niche shall be further than three feet (3 ft.) from a point where the court niche is less than three feet (3 ft.) wide.

SOURCE: § 4406.4 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 31 DCR 6585, 6586 (December 28, 1984); and Final Rulemaking

published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8435 (October 20, 2000).

936 PENTHOUSES (W)

936.1 The provisions of § 411 shall apply to penthouses in the Waterfront Zone Districts.

936.2 [REPEALED]

SOURCE: §§ 4407.1 and 4407.2 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 27 DCR 2066, 2070 (May 16, 1980); Final Rulemaking published at 28 DCR 3482, 3501 (August 7, 1981); Final Rulemaking published at 28 DCR 4192, 4194 (September 25, 1981); Final Rulemaking published at 31 DCR 6585, 6586 (December 28, 1984); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8435 (October 20, 2000); as amended by Final Rulemaking and Order No. 14-13 published at 63 DCR 390 (January 8, 2016).

937 GROSS FLOOR AREA (W)

937.1 A public recreation and community center shall not exceed a gross floor area of forty thousand square feet (40,000 sq. ft.), unless approved by the Board of Zoning Adjustment as a special exception in accordance with the provisions of § 3104.1.

SOURCE: Final Rulemaking published at 50 DCR 10137 (November 28, 2003).

938 WATERFRONT SETBACK (W-0)

938.1 A setback inland from the bulkhead or the mean high water level, whichever provides the larger setback, of not less than one hundred feet (100 ft.) to any building or structure, shall be provided.

938.2 Notwithstanding § 938.1, a waterfront setback need not be provided for a water taxi ticketing/information booth, or for structures directly associated with a public-accessible wharf, dock, or pier and for a public nature education center on Kingman Island.

938.3 A special exception may be granted in accordance with the criteria of §§ 927 and 3104, for any proposed waterfront setback of greater than twenty (20) feet and less than one hundred (100) feet.

938.4 Parking spaces, passenger drop-off areas, access to parking spaces, and access to loading areas shall not be located within the required waterfront setback area.

SOURCE: Final Rulemaking published at 51 DCR 3440 (April 2, 2004); as amended by Final Rulemaking published at 52 DCR 6358 (July 8, 2005); as amended by Final Rulemaking published at 55 DCR 2623 (March 14, 2008).

TITLE 11 - ZONING

**CHAPTER 10 MIXED USE DIPLOMATIC OVERLAY
DISTRICT AND CHANCERY USES**

Secs.

1000 GENERAL PROVISIONS

1001 CHANCERY USE CRITERIA

1002 BOARD OF ZONING ADJUSTMENT REVIEW

1000 GENERAL PROVISIONS

1000.1 The Mixed Use Diplomatic (D) Overlay District is established to implement the Foreign Missions Act, approved August 24, 1982 (96 Stat. 282, as amended; D.C. Official Code §§ 6-1301 to 6-1315 (formerly codified at D.C. Code §§ 5-1201 to 5-1215 (1994 Repl.))).

1000.2 The D Overlay District shall be mapped at suitable locations in implementation of the Foreign Missions Act and the Foreign Missions and International Organizations element of the Comprehensive Plan.

1000.3 The D Overlay District shall be mapped in combination with another district and not instead of the underlying district.

1000.4 All uses, buildings, and structures permitted in accordance with this chapter, and the appropriate regulations of the underlying district with which the mapped D Overlay District is combined, shall be permitted in the combined districts.

1000.5 All restrictions and prohibitions provided with respect to either of the districts combined in accordance with this chapter shall also apply, except as specifically modified by this chapter.

1000.6 The criteria and procedures in this chapter also apply to chancery uses in R-5-D, R-5-E, and SP Districts.

AUTHORITY: Unless otherwise noted, the authority for this chapter is the Zoning Act of 1938 (52 Stat. 797, as amended; D.C. Official Code §§ 6-641.01 to 6-641.15 (formerly codified at D.C. Code §§ 5-413 to 5-432 (1994 Repl. & 1999 Supp.))), and § 206 of the Foreign Missions Act, approved August 24, 1982 (96 Stat. 283, 286; D.C. Official Code § 6-1306 (formerly codified at D.C. Code § 5-1206 (1994 Repl.))).

SOURCE: Final Rulemaking published at 30 DCR 3270, 3272 (July 1, 1983); as amended by Final Rulemaking published at 41 DCR 6623 (September 30, 1994); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8436 (October 20, 2000).

1001 CHANCERY USE CRITERIA

- 1001.1 A chancery shall be a permitted use in a D Overlay District, subject to disapproval by the Board of Zoning Adjustment, based on the criteria in this section.
- 1001.2 The Board shall consider the international obligation of the United States to facilitate the provision of adequate and secure facilities for foreign missions in the Nation's Capital.
- 1001.3 The Board shall consider historic preservation, as determined by the Board in carrying out this section.
- 1001.4 To ensure compatibility with historic landmarks and historic districts, substantial compliance with District of Columbia and federal regulations governing historic preservation shall be required with respect to new construction and to demolition of or alteration to historic landmarks.
- 1001.5 The Board shall consider the adequacy of off-street or other parking, and the extent to which the area will be served by public transportation to reduce parking requirements, subject to any special security requirements that may be determined by the United States Secretary of State, after consultation with federal agencies authorized to perform protective services.
- 1001.6 The Board shall consider the extent to which the area is capable of being adequately protected, as determined by the Secretary of State, after consultation with federal agencies authorized to perform protective services.
- 1001.7 The Board shall consider the municipal interest, as determined by the Mayor.
- 1001.8 The Board shall consider the federal interest, as determined by the Secretary of State.

SOURCE: Final Rulemaking published at 30 DCR 3270, 3272 (July 1, 1983); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8437 (October 20, 2000).

1002 BOARD OF ZONING ADJUSTMENT REVIEW

- 1002.1 To locate, replace, or expand a chancery in an R-5-D, R-5-E, or SP District or in the D Overlay District, or to reconstruct an existing chancery that is destroyed in an R-1, R-2, R-3, R-4, R-5-A, R-5-B, or R-5-C District, application shall be made to the Board of Zoning Adjustment.
- 1002.2 An application submitted in accordance with § 1002.1 shall be reviewed by the Board in accordance with this section and with the applicable requirements of the

Board of Zoning Adjustment Rules of Practice and Procedure, chapter 31 of this title.

- 1002.3 The consideration of an application submitted under this section shall be considered a rulemaking proceeding.
- 1002.4 Any determination by the Board shall be based solely on the criteria in § 1001.
- 1002.5 The Board shall refer each application to the Mayor for review and comment. The Board shall specifically request a determination by the Mayor as to the municipal interest, as set forth in § 1001.7.
- 1002.6 The Board shall refer each application to the United States Secretary of State for review and comment. The Board shall specifically request a determination by the Secretary of State as to the federal interest, as set forth in § 1001.8; special security requirements, as set forth in § 1001.5; and the extent to which the area is capable of being adequately protected, as set forth in § 1001.6.
- 1002.7 When a chancery is located in an historic landmark or historic district and the use requires review and processing of new construction, demolition, or alteration pursuant to the Historic Landmark and Historic District Protection Act of 1978, effective March 3, 1979 (D.C. Law 2-144, as amended; D.C. Official Code §§ 6-1101 to 6-1115 (formerly codified at D.C. Code §§ 5-1001 to 5-1015 (1994 Repl. & 1999 Supp.))), the application shall be referred to the Historic Preservation Review Board, or the Commission of Fine Arts if required by D.C. Law 2-144, for report and recommendation to the Board of Zoning Adjustment.
- 1002.8 The Board of Zoning Adjustment shall make the final determination as to substantial compliance with D.C. Law 2-144 and the federal regulations governing historic preservation.
- 1002.9 The applicant shall submit sufficiently detailed plans to facilitate review by the Board of any proposed new construction, demolition, or alteration.
- 1002.10 A final determination on an application to locate, replace, or expand a chancery shall be made not later than six (6) months after the date of the filing of the application.

SOURCE: Final Rulemaking published at 30 DCR 3270, 3273 (July 1, 1983); as amended by: Final Rulemaking published at 36 DCR 6789, 6890 (September 22, 1989); Final Rulemaking published at 41 DCR 6623 (September 30, 1994); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8437-38 (October 20, 2000).

TITLE 11 - ZONING

CHAPTER 11 HOTEL-RESIDENTIAL INCENTIVE OVERLAY DISTRICT

Secs.

1100 GENERAL PROVISIONS

1101 USE, BULK, AND HEIGHT REGULATIONS

1100 GENERAL PROVISIONS

1100.1 This chapter establishes a Hotel-Residential Incentive (HR) Overlay District that is applied to selected geographic areas within and on the immediate periphery of the Central Employment Area.

1100.2 The purpose of the HR Overlay District is to encourage construction of hotels and apartment houses in these areas to further elements of the District of Columbia's development plans, including goals in employment, population, transportation, housing, public facilities, and environmental quality.

1100.3 The incentive for hotel development is intended to encourage development of an adequate number of hotels within a convenient distance of the Washington Convention Center to enable the Center to function in an optimum fashion, including an adequate quantity of visitor accommodations to serve the Center and a compatible mixture of uses within the general areas.

1100.4 The incentive for apartment house development is intended to further the land use and other objectives of the Downtown Urban Renewal Plan and other public policy objectives in the area where the HR Overlay District is applied.

1100.5 This chapter authorizes hotels and apartment houses to be constructed at greater building heights and densities than other buildings and uses permitted in the underlying zone districts.

AUTHORITY: Unless otherwise noted, the authority for this chapter is the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Code, 2001 Ed. §§ 6-641.01 to 6-641.15 (formerly codified at D.C. Code §§ 5-413 to 5-432 (1994 Repl. & 1999 Supp.))).

SOURCE: Final Rulemaking published at 28 DCR 1336 (March 27, 1981); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8438 (October 20, 2000).

1101 USE, BULK, AND HEIGHT REGULATIONS

- 1101.1 The HR Overlay District shall be mapped in combination with any district mapped at each location and shall not be instead of that district.
- 1101.2 All uses, buildings, and structures permitted in accordance with this section and the appropriate sections of this title for the district with which the mapped HR Overlay District is combined shall be permitted in the combined districts.
- 1101.3 All restrictions and prohibitions provided with respect to either of the districts combined in accordance with this chapter shall also apply, except as specifically modified by this chapter.
- 1101.4 In an HR Overlay District, a hotel shall be permitted as a matter of right where the underlying zone district with which the HR Overlay District is mapped permits a hotel either as a matter of right or as a special exception.
- 1101.5 Where the underlying zone district does not permit a hotel as a matter of right or as a special exception, the height and floor area ratio incentives provided in §§ 1101.6 and 1101.7 shall apply only to an apartment house.
- 1101.6 In the HR Overlay District, a building containing a hotel or an apartment house may be erected to a height in excess of that permitted in the underlying zone; provided:
- (a) The maximum height shall be no more than that permitted by An Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452, as amended; D.C. Code, 2001 Ed. §§ 6-601.01 to 6-601.09 (formerly codified at D.C. Code §§ 5-401 to 5-409 (1994 Repl. & 1999 Supp.)));
 - (b) The building shall contain a minimum floor area ratio of two (2.0) devoted to hotel or apartment house use; and
 - (c) No part of the building shall project above a plane drawn at a forty-five degree (45°) angle from a line located one hundred ten feet (110 ft.) directly above the right-of-way line of a street.
- 1101.7 The following types of bonus density is available in the HR Overlay District:

Base Zone	IZ Bonus		
	Maximum Height	Lot Occupancy	Bonus FAR
Hotel Residential			
C-3-C	§1101.6(a)	100%	20%
SP-2	§1101.6(a)	80%	20%
	General Bonus		
Use	Maximum Height	Lot Occupancy	Bonus FAR
Hotel and Apartment House	0	0	2.0

1101.8 Any use of the bonus density provided for in §1101.7 shall be deemed to first utilize the IZ bonus.

1101.9 Use of the general bonus shall not count towards the set-aside requirements of §2603.

SOURCE: Final Rulemaking published at 28 DCR 1336, 1337 (March 27, 1981); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8439 (October 20, 2000); as amended by Final Rulemaking published at 55 DCR 2608 (March 14, 2000).

TITLE 11 - ZONING

CHAPTER 12 CAPITOL INTEREST OVERLAY DISTRICT

Secs.

- 1200 PREAMBLE
- 1201 USE REGULATIONS
- 1202 SPECIAL EXCEPTIONS
- 1203 HEIGHT, AREA, AND BULK REGULATIONS
- 1204 INCLUSIONARY ZONING

1200 PREAMBLE

- 1200.1 The Capitol Interest (CAP) Overlay District is established to promote and protect the public health, safety, and general welfare of the U.S. Capitol precinct and the area adjacent to this jurisdiction, in a manner consistent with the goals and mandates of the United States Congress in title V of the Legislative Branch Appropriation Act, 1976 (Master Plan for Future Development of the Capitol Grounds and Related Areas), approved July 25, 1975 (Pub. L. No. 94-59, 89 Stat. 288), and in accordance with the plan submitted to the Congress pursuant to the Act.
- 1200.2 The land use controls embodied in the Zoning Regulations for the land adjacent to the U.S. Capitol should reflect the importance of the area to the District of Columbia and the nation.
- 1200.3 The CAP Overlay District, controlling land use as well as height and bulk, shall provide sufficient controls for the areas south of the U.S. Capitol and the historic residential district to the east of the U.S. Capitol.
- 1200.4 The CAP Overlay District is intended to provide particular controls adjacent to properties having an obvious and well-recognized general public interest.
- 1200.5 The CAP Overlay District shall further restrict some of the permitted uses allowed in the existing zone districts and applicable in the area to reduce the possibility of harming the site, district, or building to be protected.
- 1200.6 The list of permitted uses contained in this chapter shall include only those uses that would have very limited external impacts.

- 1200.7 The CAP Overlay District shall provide for more control of the height and bulk allowed in existing zone districts now applicable in the area.
- 1200.8 The CAP Overlay District shall be mapped in combination with any zone district mapped at such location and shall not be in lieu of any district mapped at that location.
- 1200.9 All uses, buildings, and structures permitted in accordance with the appropriate sections of this title for the district with which the mapped CAP Overlay District is combined shall be permitted in those combined districts, except as specifically modified by this chapter.
- 1200.10 All restrictions and prohibitions provided with respect to either of the zone districts combined pursuant to this chapter shall also apply in the CAP Overlay District.

AUTHORITY: Unless otherwise noted, the authority for this chapter is the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code §§ 6-641.01 to 6-641.15 (formerly codified at D.C. Code §§ 5-413 to 5-432 (1994 Repl. & 1999 Supp.))).

SOURCE: Final Rulemaking published at 32 DCR 3022 (May 31, 1985); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8440-41 (October 20, 2000).

1201 USE REGULATIONS

1201.1 Except as provided in chapters 20 through 25 of this title, in the CAP Overlay District, no building or premises shall be used and no building shall be erected or altered that is arranged, intended, or designed to be used except for one (1) or more of the uses listed in §§ 1201.2 through 1201.4.

1201.2 The following uses shall be permitted as a matter of right:

- (a) In the CAP/R-4 Overlay District, any use permitted as a matter of right in the R-4 District;
- (b) In the CAP/R-5-B Overlay District, any use permitted as a matter of right in the R-5-B District;
- (c) In the CAP/SP Overlay District, any use permitted as a matter of right in the SP District; and
- (d) In the CAP/C-2-A and CAP/C-M-1 Overlay Districts, any use permitted as a matter of right in the C-2-A District, except that the following uses shall not be permitted:

- (1) Automobile laundry;

- (2) Automobile or truck sales;
- (3) Automobile rental agency;
- (4) Boat or other marine sales;
- (5) Drive-in restaurant;
- (6) Electric substation or natural gas regulator station;
- (7) Gasoline service station as an accessory use to a parking garage or public storage garage;
- (8) Installation of automobile accessories;
- (9) Parcel delivery service; and
- (10) Parking lot, parking garage, or public storage garage.

1201.3

The following uses shall be permitted if approved by the Board of Zoning Adjustment in accordance with the conditions specified in § 3104 for special exceptions and this section:

- (a) In the CAP/R-4 and CAP/R-5-B Overlay Districts, any use permitted as a special exception in those underlying districts, respectively, except that the following uses shall not be permitted:
 - (1) Parking lot; provided, that a parking lot in existence on May 31, 1985 may continue subject to the special exception provisions of the underlying zone;
 - (2) Public utility pumping station
 - (3) Storage of wares and goods on an alley lot; and
 - (4) Telephone exchange.
- (b) In the CAP/SP Overlay District, any use permitted as a special exception in the SP District, except that the following uses shall not be permitted:
 - (1) Parking lot or parking garage;
 - (2) Public utility pumping station; and
 - (3) Telephone exchange.

- (c) In the CAP/C-2-A Overlay District, any use permitted as a special exception in the C-2-A District, except that the following uses shall not be permitted:
 - (1) Gasoline service station; provided, that a gasoline service station existing on May 31, 1985 may be remodeled, repaired, or replaced subject to the special exception provisions of the underlying zone;
 - (2) Motorcycle sales and repairs; and
 - (3) Public utility pumping station.

1201.4 Accessory uses and accessory buildings customarily incidental to the uses otherwise authorized by this section shall be permitted.

SOURCE: Final Rulemaking published at 32 DCR 3022, 3023 (May 31, 1985); as amended by: Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8441-42 (October 20, 2000); and Final Rulemaking published at 49 DCR 8891, 8894 (September 27, 2002).

1202 SPECIAL EXCEPTIONS

1202.1 In an application for a special exception in any CAP Overlay District, the Board of Zoning Adjustment shall consider whether the proposed development is:

- (a) Compatible with the present and proposed development of the neighborhood;
- (b) Consistent with the goals and mandates of the United States Congress in title V of the Legislative Branch Appropriation Act, 1976 (Master Plan for Future Development of the Capitol Grounds and Related Areas), approved July 25, 1975 (Pub. L. No. 94-59, 89 Stat. 288); and
- (c) In accordance with the plan promulgated under the Act.

1202.2 Upon receipt of the application, the Board shall submit the application to the D.C. Office of Planning for coordination, review, report, and impact assessment along with reviews in writing of all relevant District departments and agencies including the Departments of Transportation, Housing and Community Development, and, if a historic district or historic landmark is involved, the State Historic Preservation Officer.

1202.3 Upon receipt of the application, the Board shall submit the application to the Architect of the Capitol for review and report.

1202.4 The Board may require special treatment and impose reasonable conditions as it deems necessary to mitigate any adverse impacts identified in the consideration of the application.

SOURCE: Final Rulemaking published at 32 DCR 3022, 3026 (May 31, 1985); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8442-43 (October 20, 2000).

1203 HEIGHT, AREA, AND BULK REGULATIONS

1203.1 Except as specified in § 1203.2 and in chapters 20 through 25 of this title, the height of buildings or structures in the CAP Overlay District shall not exceed forty feet (40 ft.) or three (3) stories in height.

1203.2 The height of buildings or structures as specified in § 1203.1 may be exceeded in the following instances:

- (a) A spire, tower, dome, minaret, pinnacle, or penthouse may be erected to a height in excess of that authorized in § 1203.1; and
- (b) If erected or enlarged, a penthouse may be erected to a height in excess of that authorized in the zone district in which located; provided that:
 - (1) It meets the requirements of § 411; and
 - (2) It does not exceed ten feet (10 ft.) or one (1) story in height above the roof upon which it is located.

1203.3 Except as specified in chapters 20 through 25 of this title, the maximum permitted floor area ratio of a building or structure in the CAP Overlay District shall not exceed one and eight-tenths (1.8).

1203.4 [REPEALED]

SOURCE: Final Rulemaking published at 32 DCR 3022, 3026 (May 31, 1985); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8443 (October 20, 2000); as amended by Final Rulemaking and Order No. 14-13 published at 63 DCR 390 (January 8, 2016).

1204 INCLUSIONARY ZONING

1204.1 Notwithstanding the requirements of §1203.1 and §1203.3, developments that are subject to the requirements of Chapter 26 Inclusionary Zoning may use the following modifications to the CAP Overlay’s height, lot occupancy and FAR:

- (a) In the CAP/R-5-B, CAP/C-2-A, and CAP/SP-1 Overlay Districts:

- (1) The floor area ratio for new construction shall not exceed 2.16 FAR
 - (2) The maximum building height shall not exceed forty (40) feet
- (b) In the CAP/R-5-B, and CAP/C-2-A Overlay Districts:
- (1) The lot occupancy shall not exceed seventy-five percent (75%);
- (c) In the CAP/R-4 base zone:
- (1) The minimum lot size shall be 1,500 square feet; and
 - (2) The minimum lot width shall be fifteen (15) feet.

SOURCE: Final Rulemaking published at 55 DCR 2609 (March 14, 2008); 57 DCR 000126 (2010).

TITLE 11 - ZONING

CHAPTER 13 NEIGHBORHOOD COMMERCIAL OVERLAY DISTRICT

Secs.

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1300 PREAMBLE (NC)

1300.1 The Neighborhood Commercial (NC) Overlay District is established to preserve and enhance neighborhood shopping areas, by providing the scale of development and range of uses that are appropriate for neighborhood shopping and services.

1300.2 The NC Overlay District includes a number of individual overlay zone districts that may be established and mapped from time to time, consistent with the general provisions of this chapter.

1300.3 The purposes of the NC Overlay District are to:

- (a) Encourage a scale of development, a mixture of building uses, and other attributes, such as safe and efficient conditions for pedestrian and vehicular movement, all of which will be as generally required by the Comprehensive Plan;
- (b) Encourage retention and establishment of a variety of retail, entertainment, and personal service establishments, predominantly in a continuous pattern at ground level, so as to meet the needs of the surrounding area's residents, workers, and visitors; and
- (c) Limit the maximum permitted height of new buildings so as to encourage a general compatibility in scale between new and older buildings.

1300.4 The provisions of this chapter that apply to the discrete NC Overlay Districts shall reflect the character, scale, and needs of the particular district.

AUTHORITY: Unless otherwise noted, the authority for this chapter is the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code §§ 6-641.01 to 6-641.15 (formerly codified at D.C. Code §§ 5-413 to 5-432 (1994 Repl. & 1999 Supp.))).

SOURCE: Final Rulemaking published at 36 DCR 7616 (November 3, 1989); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference

the text of Proposed Rulemaking published at 47 DCR 8335, 8443 (October 20, 2000); 57 DCR 000126 (2010).

1301 GENERAL PROVISIONS (NC)

- 1301.1 The NC Overlay District is mapped in combination with the underlying Commercial District and not instead of the underlying district.
- 1301.2 Except as provided in § 1301.3 and in other provisions of this chapter, all uses, buildings, and structures permitted in accordance with this chapter and the appropriate regulations of the underlying district with which the mapped NC Overlay District is combined shall be permitted in the combined district.
- 1301.3 Where there is a conflict between this chapter and the underlying zoning, the more restrictive provisions of this title shall govern.

SOURCE: Final Rulemaking published at 36 DCR 7616, 7617 (November 3, 1989); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8443-44 (October 20, 2000); 57 DCR 000126 (2010).

1302 DESIGNATED AND RESTRICTED USES (NC)

- 1302.1 Any building that occupies or is constructed on a lot in a designated use area within an NC Overlay District shall provide designated retail and service establishments on the ground level according to the requirements of this section and any additional requirements of the particular overlay district.
- 1302.2 The designated uses for purposes of this section are the following:
- (a) Any use that is permitted as a matter of right in the C-1 District pursuant to §§ 701.1 or 701.4;
 - (b) Antique store or shop;
 - (c) Auction house;
 - (d) Blueprinting or similar reproduction service;
 - (e) Department store;
 - (f) Display stand or store for mail order sales;
 - (g) Dry goods store;
 - (h) Film exchange;
 - (i) Furniture store;

- (j) Home furnishings sales;
- (k) Interior decorating shop;
- (l) Laundry, self service;
- (m) Leather goods store;
- (n) Library (other than public library);
- (o) Musical instruments and accessories sales;
- (p) Office supplies and equipment sales;
- (q) Optical goods store;
- (r) Pet shop;
- (s) Photographic studio;
- (t) Picture framing studio or shop;
- (u) Precision instrument sales;
- (v) Tailor shop or valet shop;
- (w) Telegraph office; and
- (x) Theater, including motion picture theater.

1302.3 If the underlying zone district is C-1, the designated uses shall include only those uses that are referenced in paragraphs (a) and (n) of § 1302.2.

1302.4 The designated uses listed in § 1302.2 shall occupy no less than fifty percent (50%) of the gross floor area of the ground level of the building, subject to the following requirements:

- (a) No more than twenty percent (20%) of the ground level floor area shall be devoted to banks, loan offices or other financial institutions, travel agencies, or other ticket offices;
- (b) The ground level floor shall be the floor that is nearest in grade elevation to the sidewalk; and
- (c) In those parts of the affected building or lot other than as delineated in this section, the use provisions of the underlying zone district shall apply.

1302.5 Restaurants, fast food establishments, and prepared food shops shall be subject to the following limitations:

- (a) These uses shall occupy no more than twenty-five percent (25%) of the linear street frontage within a particular NC Overlay District, as measured along the lots that face designated roadways in the particular district; and
- (b) Except for a fast food restaurant, such uses may be applied to fulfill the requirements of § 1302.4; provided, that when such uses are so applied, they shall remain subject to the provisions of paragraph (a) of this subsection.

SOURCE: Final Rulemaking published at 36 DCR 7616, 7617 (November 3, 1989); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8444 (October 20, 2000); as amended by Final Rulemaking published at 50 DCR 10822 (December 19, 2003); as amended by Final Rulemaking published at 54 DCR 9393 (September 28, 2007); 57 DCR 000126 (2010).

1303 LIMITATIONS ON DRIVEWAYS AND CURB CUTS (NC)

1303.1 No drive-through accessory to any use shall be permitted in the NC Overlay District.

1303.2 Within the area of the NC Overlay District, notwithstanding the provisions of § 2117.8(c), no driveway providing access from any designated roadway to required parking spaces or loading berths shall be permitted.

SOURCE: Final Rulemaking published at 36 DCR 7616, 7619 (November 3, 1989); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8444 (October 20, 2000); 57 DCR 000126 (2010).

1304 SPECIAL EXCEPTIONS (NC)

1304.1 Exceptions from the requirements of this chapter shall be permitted only as a special exception, if approved by the Board of Zoning Adjustment after public hearing, in accordance with § 3104, and subject to the following requirements:

- (a) The excepted use, building, or feature at the size, intensity, and location proposed will substantially advance the stated purposes of the NC Overlay District and the particular NC Overlay District, and will not adversely affect neighboring property, nor be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity;

- (b) Exceptional circumstances exist, pertaining to the property itself or to economic or physical conditions in the immediate area, that justify the exception or waiver;
- (c) Vehicular access and egress are located and designed so as to minimize conflict with principal pedestrian ways, to function efficiently, and to create no dangerous or otherwise objectionable traffic conditions; and
- (d) The Board may impose requirements pertaining to design, appearance, signs, size, landscaping, and other such requirements as it deems necessary to protect neighboring property and to achieve the purposes of the NC Overlay District and the particular overlay district.

1304.2 This section shall not operate to allow any exception to the height or floor area ratio limits of any NC Overlay District.

SOURCE: Final Rulemaking published at 36 DCR 7616, 7619 (November 3, 1989); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8444 (October 20, 2000); 57 DCR 000126 (2010).

1305 PLANNED UNIT DEVELOPMENT GUIDELINES (NC)

1305.1 In the NC Overlay District, the matter-of-right height, penthouse, and floor area ratio limits shall serve as the guidelines for planned unit developments.

SOURCE: Final Rulemaking published at 36 DCR 7616, 7620 (November 3, 1989); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8444 (October 20, 2000); 57 DCR 000126 (2010); as amended by Final Rulemaking and Order No. 14-13 published at 63 DCR 390 (January 8, 2016).

1306 CLEVELAND PARK NEIGHBORHOOD COMMERCIAL OVERLAY DISTRICT (CP)

1306.1 The Cleveland Park Neighborhood Commercial (CP) Overlay District is applied to a compact geographic area surrounding the Cleveland Park Metrorail Station and within the Cleveland Park Historic District, comprising those lots zoned C-2-A in Squares 2218, 2219, 2222, 2068, 2069, and 2082.

1306.2 In addition to the purposes in § 1300, the purposes of the CP Overlay District are to:

- (a) Provide for safe and efficient pedestrian movement by reducing conflicts between pedestrian and vehicular traffic so as to improve access to retail services, the Metrorail station, and other uses in the area;

- (b) Encourage compatibility of development with the purposes of the Historic Landmark and Historic District Protection Act of 1978, effective March 3, 1979 (D.C. Law 2-144, as amended; D.C. Code §§ 6-1101 to 6-1115 (formerly codified at D.C. Code §§ 5-1001 to 5-1015 (1994 Repl. & 1999 Supp.))); and
- (c) Provide for retention of existing housing within the CP Overlay District so as to help meet the need for affordable housing and to enhance pedestrian activity, safety, and consumer support for businesses in the commercial area.

1306.3 For purposes of § 1302, the designated use area shall include any lot within the CP Overlay District that fronts on Connecticut Avenue or Macomb, Newark, Ordway, or Porter Streets.

1306.4 For purposes of § 1303.2, the designated roadway within the CP Overlay District shall be Connecticut Avenue.

1306.5 In the CP Overlay District, no dwelling unit or rooming unit in existence as of October 1, 1987, shall be converted to any nonresidential use or to a transient use as hotel or inn; provided, that this restriction shall not apply to the ground floor of the building; that is, that floor that is nearest in grade elevation to the sidewalk.

1306.6 The maximum permitted height for any building or structure in the CP Overlay District shall be forty feet (40 ft.).

1306.7 The matter-of-right floor area ratio in the CP Overlay District shall be 2.0, not more than 1.0 of which may be occupied by nonresidential uses.

1306.8 Notwithstanding the requirements of §§ 1306.6 and 1306.7, developments that are subject to the requirements of Chapter 26 Inclusionary Zoning may use the following modifications to the CP Overlay’s height, lot occupancy, and floor area ratio restrictions:

- (a) The maximum building height shall not exceed forty-five (45) feet;
- (b) The lot occupancy shall not exceed seventy-five percent (75%); and
- (c) The floor area ratio shall not exceed 2.4 FAR.

SOURCE: Final Rulemaking published at 36 DCR 7616, 7620 (November 3, 1989); as amended by Final Rulemaking published at 55 DCR 2609 (March 14, 2008); 57 DCR 000126 (2010).

1307 WOODLEY PARK NEIGHBORHOOD COMMERCIAL OVERLAY DISTRICT (WP)

- 1307.1 The Woodley Park Neighborhood Commercial (WP) Overlay District is applied to a compact geographic area surrounding the Woodley Park/Zoo Metrorail station, comprising those lots zoned C-2-A in Squares 2202 and 2203 and those lots zoned C-2-B in Square 2204.
- 1307.2 In addition to the purposes in § 1300, the purposes of the WP Overlay District are to provide for safe and efficient pedestrian movement by reducing conflicts between pedestrian and vehicular traffic so as to improve access to retail services, the Metrorail station, and other uses in the area.
- 1307.3 For purposes of § 1302, the designated use area shall include any lot within the WP Overlay District that fronts on Connecticut Avenue, Calvert Street, or 24th Street.
- 1307.4 For purposes of § 1303.2, the designated roadway within the WP Overlay District shall be Connecticut Avenue.
- 1307.5 No hotel, inn, or fast food establishment shall be permitted in the WP Overlay District.
- 1307.6 The maximum permitted height of any building or structure in the WP Overlay District shall be:
- (a) Forty feet (40 ft.) in the WP/C-2-A Overlay District; and
 - (b) Fifty feet (50 ft.) in the WP/C-2-B Overlay District.
- 1307.7 A penthouse within the WP/C-2-A or WP/C-2-B Overlay Districts may be erected to a height in excess of that authorized in the zone district in which located; provided that:
- (a) The maximum permitted height shall be twelve feet (12 ft.) above the roof upon which it is located, except that the maximum permitted height for penthouse mechanical space shall be fifteen feet (15 ft.); and
 - (b) The maximum permitted number of stories within the penthouse shall be one (1) except that a second story for mechanical equipment only shall be permitted.
- 1307.8 The matter-of-right floor area ratio in the WP Overlay District shall be:
- (a) In the WP/C-2-A Overlay District, the matter of right floor area ratio shall be 2.5, not more than 1.0 of which may be occupied by nonresidential uses; and

- (b) In the WP/C-2-B Overlay District, the matter of right floor, area ratio shall be 3.0, not more than 1.0 of which shall be occupied by nonresidential uses.

1307.9 Notwithstanding the requirements of §§1307.6 and 1306.8, developments that are subject to the requirements of Chapter 26 Inclusionary Zoning may use the following modifications to the WP Overlay’s height, lot occupancy, and floor area ratio restriction:

- (a) In the WP/C-2-A Overlay District:
 - (1) The maximum building height shall not exceed fifty (50) feet;
 - (2) The lot occupancy shall not exceed seventy-five percent (75%); and
 - (3) The floor area ratio shall not exceed 3.0 FAR.
- (b) In the WP/C-2-B Overlay District:
 - (1) The maximum building height shall not exceed fifty- five (55) feet;
 - (2) The lot occupancy shall not exceed eighty percent (80%); and
 - (3) The floor area ratio shall not exceed 3.6 FAR.

SOURCE: Final Rulemaking published at 36 DCR 7616, 7621 (November 3, 1989); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8445-46 (October 20, 2000); as amended by Final Rulemaking published at 54 DCR 9393 (September 28, 2007); as amended by Final Rulemaking published at 55 DCR 2610 (March 14, 2008); 57 DCR 000126 (2010); as amended by Final Rulemaking and Order No. 14-13 published at 63 DCR 390 (January 8, 2016).

1308 MACOMB-WISCONSIN NEIGHBORHOOD COMMERCIAL OVERLAY DISTRICT (MW)

1308.1 The Macomb-Wisconsin Neighborhood Commercial (MW) Overlay District applies to the neighborhood commercial area near and extending from the intersection of Macomb Street and Wisconsin Avenue, N.W., comprising those lots zoned C-1 in Squares 1920 and 1920N.

1308.2 In addition to the purposes set forth in § 1300, the purpose of the MW Overlay District is to provide for public review of large developments as to their proposed uses, vehicular access, and the scale and massing of proposed buildings so as to ensure compatibility with and enhancement of the primary neighborhood retail function of the commercial area and to advance the other purposes of this overlay district.

1308.3 Within the MW Overlay District, on a lot that has ten thousand square feet (10,000 ft.²) or more in land area, construction of a new building or enlargement of the gross floor area of an existing building by fifty percent (50%) or more, shall be permitted, subject to review and approval as a special exception by the Board of Zoning Adjustment, pursuant to the standards and criteria in § 3104.

1308.4 For purposes of § 1302, the designated use area shall include any lot that fronts on Wisconsin Avenue or Macomb or Newark Streets within the WP Overlay District.

1308.5 For purposes of § 1303.2, the designated roadways within the MW Overlay District shall be Wisconsin Avenue and Macomb Street.

SOURCE: Final Rulemaking published at 36 DCR 7616, 7622 (November 3, 1989); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8446 (October 20, 2000); 57 DCR 000126 (2010).

1309 EIGHTH STREET SOUTHEAST NEIGHBORHOOD COMMERCIAL OVERLAY DISTRICT (ES)

1309.1 The Eighth Street Southeast Neighborhood Commercial (ES) Overlay District is applied to a compact geographic area along Eighth Street, S.E., near the entrance to the Navy Yard, comprising those properties zoned C-3-A in Squares 906, 907, 929, and 930.

1309.2 In addition to the purposes set forth in § 1300, the purposes of the ES Overlay District are to:

- (a) Encourage and allow new business and office development in close proximity to the Navy Yard, with emphasis on firms that will conduct business with the Navy, as well as neighborhood-serving retail and service businesses;
- (b) Allow and encourage medium density commercial development, in the interest of securing economic development, while restricting building heights to a low level so as to respect the historic scale of buildings and the entrance to the adjacent Navy Yard; and
- (c) Provide for safe and efficient pedestrian movement by reducing conflicts between pedestrian and vehicular traffic, so as to improve access to retail and other businesses in the area.

1309.3 For the purposes of § 1302, the designated area shall include any lot within the ES Overlay District that fronts on Eighth Street, L Street, M Street, or Potomac Avenue, S.E.

- 1309.4 For purposes of § 1302.5, restaurants, fast food establishments, and prepared food shops, shall be subject to the following limitations: these uses shall occupy no more than fifty percent (50%) of the linear street frontage within the ES Overlay District, as measured along the lots that face designated roadways in the ES Overlay District of which up to half (1/2) of the fifty percent (50%) of the linear street frontage shall only be occupied by fast food establishments.
- 1309.5 For purposes of § 1303.2, the designated roadways within the ES Overlay District shall be Eighth Street, M Street, and Potomac Avenue.
- 1309.6 The maximum permitted height for any building or structure in the ES Overlay District shall be forty-five feet (45 ft.).
- 1309.7 The maximum permitted gross floor area for permitted commercial and residential uses in the ES Overlay District shall be 3.0 FAR.
- 1309.8 A penthouse within the ES Overlay District may be erected to a height in excess of that authorized in the zone district in which located; provided, that:
- (a) The maximum permitted height shall be twelve feet (12 ft.) above the roof upon which it is located, except that the maximum permitted height for penthouse mechanical space shall be fifteen feet (15 ft.); and
 - (b) The maximum permitted number of stories within the penthouse shall be one (1).

SOURCE: Final Rulemaking published at 46 DCR 8290-91 (October 15, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8446-47 (October 20, 2000); as amended by Final Rulemaking published at 54 DCR 9393 (September 28, 2007); 57 DCR 000126 (2010); as amended by Final Rulemaking and Order No. 14-13 published at 63 DCR 390 (January 8, 2016).

1310 TAKOMA NEIGHBORHOOD COMMERCIAL OVERLAY DISTRICT (TK)

- 1310.1 The Takoma Neighborhood Commercial Overlay District (TK) applies to Squares 3188 and 3278 in their entirety, and certain lots and portions of lots zoned C-2-A on:
- (a) Square 3187 along the frontages of Blair Road and Cedar Street, N.W.;
 - (b) Squares 3275 and 3276 along the frontage of 4th Street, N.W.;
 - (c) Squares 3352, 3353, 3354, 3356, and 3357 along the frontages of Cedar Street and Carroll Street, N.W.; and

- (d) Square 3280 along the frontages of Blair Road, Butternut Street, and 4th Street, N.W.
- 1310.2 The Overlay begins at the street right-of-way lines abutting the Squares named in § 1310.1, and extends to a depth of one hundred feet (100 ft).
- 1310.3 In addition to the purposes in § 1300, the purposes of the Takoma Overlay District are to:
- (a) Reserve sufficient open space to provide adequate light and air to encourage retail and service uses, and pedestrian circulation in the vicinity of the Takoma Metro station;
 - (b) Require a minimum clear floor-to-ceiling height on the ground floor sufficient to accommodate the needs of neighborhood-serving retail, service and office uses; and
 - (c) Allow and encourage residential development to help meet the need for housing, enhance safety, and provide sufficient resident population to support neighborhood-serving retail, service, and office uses.
- 1310.4 For the purposes of § 1302, the designated use area within the Takoma Overlay District shall coincide with the boundaries of this District, as set forth in §§ 1310.1 and 1310.2.
- 1310.5 For the purposes of §§ 1302.5 and 1303.2, the designated roadways within the Takoma Overlay District shall be portions of 4th Street, N.W., Blair Road, N.W., Carroll Street, N.W., and Cedar Street, N.W. to the intersection with Carroll Street, N.W., that abut any property zoned C-2-A on the Squares named in § 1310.1.
- 1310.6 The street wall of each new building fronting on Blair Road, N.W., Cedar Street, N.W., and Carroll Street, N.W., or any addition to an existing building frontage on any of these streets, shall set back for its entire height and frontage not less than thirteen feet (13 ft.), measured from the adjacent curblines.
- 1310.7 Except as provided in § 1310.9, the ground floor level of each new building or building addition shall have a minimum clear floor-to-ceiling height of fourteen feet (14 ft.).
- 1310.8 Those portions of buildings with a minimum clear floor-to-ceiling height of fourteen feet (14 ft.) on the ground floor level shall be permitted a total building height of fifty-five feet (55 ft.).
- 1310.9 Buildings occupying or constructed on lots along the Blair Road frontage of Square 3187 and Cedar Street frontage of Squares 3352 and 3353 within the

Takoma Overlay District, do not have to provide the designated retail and service establishments on the ground floor level required by § 1302.1, nor comply with the ground floor level floor-to-ceiling height requirement of § 1310.7, if the ground floor level is devoted exclusively to residential uses.

1310.10 If ground floor residential uses are established pursuant to § 1310.9, no certificate of occupancy for a permitted non-residential use on the ground floor level may be issued, unless the ground floor level of the subject building complies with the floor-to-ceiling height requirement of § 1310.7.

1310.11 Developments properties subject to the requirements of Chapter 26 may use the following modifications to height and lot occupancy in order to achieve the bonus density:

- (a) The floor area ratio for new construction shall not exceed 3.0 FAR;
- (b) The lot occupancy shall not exceed seventy-five percent (75%); and
- (c) The maximum building height shall not exceed fifty-five (55) feet.

SOURCE: Final Rulemaking published at 52 DCR 9384, 9389 (October 21, 2005); as amended by Final Rulemaking published at 55 DCR 2610 (March 14, 2008); 57 DCR 000126 (2010).

1320 H STREET NORTHEAST NEIGHBORHOOD COMMERCIAL OVERLAY DISTRICT (HS)

1320.1 The H Street Northeast Neighborhood Commercial Overlay District (HS) applies to all lots fronting onto H Street, N.E. from 2nd Street to 15th Street, N.E. and zoned C-2-A, C-2-B, C-2-C, C-3-A, or C-3-B, as well as: Square 1026, Lots 65, 66, 100, 101, 102, 103, 173, 177, 835, and 836; lots within Squares 1027 and 1049 fronting onto Maryland Avenue, N.E. or 14th Street, N.E.; Reservations 15P, 15Q, 15R, and 213; and all of Square 1050. The Overlay is divided into three (3) sub-districts affecting the following squares:

- (a) H Street Northeast Overlay Housing Sub-district (HS-H) encompasses properties fronting on H Street, N.E. in Squares 751, 752, 776, 777, 808, 809, 832, 833, 858, and 859 from 2nd to 7th Streets, N.E.;
- (b) H Street Northeast Overlay Retail Sub-district (HS-R) encompasses properties fronting on H Street, N.E. in Squares 889, 890, 911, 912, 933, 958, 959, 981, and 982 from 7th to 12th Streets, N.E.; and
- (c) H Street Northeast Overlay Arts Sub-district (HS-A) encompasses properties fronting on H Street, N.E. in Squares 1003, 1004, 1026, 1027, 1049N, and 1049 from 12th to 15th Streets, N.E., as well as: Square 1026 lots 65, 66, 100, 101, 102, 103, 173, 177, 835, and 836; lots within Squares 1027 and 1049 fronting onto Maryland Avenue, N.E. or 14th

Street, N.E.; Reservations 15P, 15Q, 15R, and 213; and all of Square 1050.

1320.2 In addition to the purposes in § 1300, the purposes of the HS Overlay District are to:

- (a) Implement the policies and goals of the Comprehensive Plan and the H Street, N.E. Strategic Development Plan as approved by the Council of the District of Columbia on February 17, 2004 (R15-460);
- (b) Encourage residential uses along the H Street, N.E. corridor, particularly provisions of affordable units and reuse of upper floors;
- (c) Encourage the clustering of uses into unique destination districts along the corridor, specifically a housing district from 2nd Street to 7th Street, N.E.; a neighborhood-serving retail shopping district from 7th Street to 12th Street, N.E.; and an arts and entertainment district from 12th Street to 15th Street, N.E.;
- (d) Establish design guidelines for new and rehabilitated buildings that are consistent with the historic character and scale of the Overlay District;
- (e) Encourage the reuse of existing buildings along the corridor; and
- (f) Encourage residential uses, the reuse of existing buildings, and the redevelopment of those portions of Squares 1026, 1027, 1049, and 1050 within the Overlay but not fronting H Street.

1320.3 For purposes of § 1302, the designated use area shall include any lot within the HS Overlay District that fronts on H Street, N.E. In addition to the ground floor uses designated by § 1302.2, the following uses are also designated in each Sub-district:

- (a) HS-H Sub-district: Residential Uses;
- (b) HS-R Sub-district:
 - (1) Candy store;
 - (2) Computer store;
 - (3) Delicatessen;
 - (4) Fabric store;
 - (5) Health or exercise studio;

- (6) Ice cream parlor;
 - (7) Plant store or nursery;
 - (8) Secondhand or consignment store;
 - (9) Shoe store;
 - (10) Video rental and sales; and
 - (11) Other similar personal/consumer service establishment or retail use; and
- (c) HS-A Sub-district: Any use listed in §1323.2.

1320.4

The following buildings, structures, and uses are permitted only by special exception if approved by the Board of Zoning Adjustment, in accordance with the standards specified in §§ 3104 and 1325 of this Title.

- (a) Any use requiring a special exception in the underlying zone, except a new gasoline service station;
- (b) Accessory parking spaces located off-site from the principal use;
- (c) Fast food establishment or food delivery service provided:
 - (1) No part of the lot on which the use is located shall be within twenty-five feet (25 ft.) of a Residence District, unless separated therefrom by a street or alley;
 - (2) If any lot line of the lot abuts an alley containing a zone district boundary line for a Residence District, a continuous brick wall at least six feet (6 ft.) high and twelve inches (12 in.) thick shall be constructed and maintained on the lot along the length of that lot line;
 - (3) Any refuse dumpsters shall be housed in a three (3) sided brick enclosure equal in height to the dumpster or six feet (6 ft.) high, whichever is greater. The entrance to the enclosure shall include an opaque gate and shall not face a Residence District; and
 - (4) This use shall occupy no more than twenty-five percent (25%) of the linear street frontage within the HS Overlay District as measured along the lots that face the designated roadway;
- (d) Funeral, mortuary, or undertaking establishment;

- (e) Parking garage; and
- (f) Construction of a new building or enlargement of the gross floor area of an existing building by fifty percent (50%) or more, if located on a lot that has six thousand square feet (6,000 sq. ft.) or more of land area.

1320.5 The following uses are prohibited:

- (a) Automobile and truck sales;
- (b) Automobile laundry;
- (c) Boat or marine sales;
- (d) Gasoline service station;
- (e) Outdoor storage of any materials; and
- (f) Parking lot.

1320.6 The provisions of § 1302.5 shall not apply to the HS Overlay District.

1320.7 For purposes of §1303.2, the designated roadway within the HS Overlay Districts shall be H Street, N.E.

SOURCE: Final Rulemaking published at 53 DCR 1708, 1711 (March 10, 2006); as amended by Final Rulemaking published at 54 DCR 9393 (September 28, 2007); as amended by Final Rulemaking and Order No. 10-19 published at 58 DCR 10348 (12/09/11).

1321 HS OVERLAY HOUSING SUB-DISTRICT (HS-H)

1321.1 The purpose of the housing sub-district is to encourage housing.

1321.2 The floor area ratio for new construction in the HS-H Sub-district may not exceed 0.5 FAR for non-residential uses, except as provided in § 1321.3.

1321.3 New construction that preserves an existing façade constructed before 1958 is permitted to use an additional 1.0 FAR, for up to a maximum non-residential density of 1.5 FAR, for office uses or neighborhood-serving retail uses as permitted in §§ 701.1 and 701.4.

1321.4 In the event that a grocery store is constructed on Square 776, a maximum non-residential density of 1.5 FAR shall be permitted on that Square.

SOURCE: Final Rulemaking published at 53 DCR 1708, 1714 (March 10, 2006).

1322 HS OVERLAY RETAIL SUB-DISTRICT (HS-R)

- 1322.1 The HS Overlay Retail Sub-district is intended to encourage retail uses.
- 1322.2 For the purposes of §§ 1322.3 and 1326.1(a), preferred uses in the HS-R Sub-district are:
- (a) Antique store;
 - (b) Apparel and accessories shop;
 - (c) Appliance sales or repair;
 - (d) Bakery;
 - (e) Banking or financial institution (excluding check cashing services);
 - (f) Bicycle shop;
 - (g) Bookstore;
 - (h) Café, delicatessen, or lunch counter (excluding fast food);
 - (i) Candy store;
 - (j) Camera/photo sales;
 - (k) Catering establishments;
 - (l) Cobbler or shoe repair;
 - (m) Collection center for dry cleaning;
 - (n) Computer store;
 - (o) Cosmetics or toiletries sale;
 - (p) Department store;
 - (q) Dressmaker or tailor;
 - (r) Drug store;
 - (s) Dry goods store;
 - (t) Electronic sales;
 - (u) Fabric store;

- (v) Film exchange or development;
- (w) Florist;
- (x) Gift or card shop;
- (y) Grocery store;
- (z) Gym or exercise studio;
- (aa) Hardware store;
- (bb) Hobby shop;
- (cc) Home furnishing sales;
- (dd) Ice cream parlor;
- (ee) Interior decorating shop;
- (ff) Jewelry shop;
- (gg) Office supplies or services store;
- (hh) Music or instrument sales;
- (ii) Pet shop;
- (jj) Pharmacy;
- (kk) Plant store or nursery;
- (ll) Professional services or office not on the ground floor;
- (mm) Restaurant (excluding fast food);
- (nn) Secondhand or consignment store;
- (oo) Shoe store;
- (pp) Sporting goods; and
- (qq) Video rental and sales.

1322.3 New construction that preserves an existing façade constructed before 1958 is permitted 0.5 FAR in addition to the non-residential density permitted in the underlying zone for non-residential preferred uses listed in § 1322.2.

SOURCE: Final Rulemaking published at 53 DCR 1708, 1715 (March 10, 2006).

1323 HS OVERLAY ARTS SUB-DISTRICT (HS-A)

1323.1 The HS Overlay Arts Sub-district is intended to encourage arts and entertainment uses.

1323.2 For the purposes of §§ 1320.3(c), 1323.4 and 1326.1(a), preferred uses are:

- (a) Art center;
- (b) Art gallery;
- (c) Art or performing arts school;
- (d) Artist housing;
- (e) Artist studio;
- (f) Artists' supply store;
- (g) Arts services, including set design and restoration of artworks;
- (h) Bar, nightclub, or cocktail lounge;
- (i) Book store;
- (j) Cabaret;
- (k) Coffee shop, café, or delicatessen;
- (l) Concert hall or other performing arts space;
- (m) Library;
- (n) Movie theater;
- (o) Museum;
- (p) Musical instruments store;
- (q) Performing arts ticket office or booking agency;
- (r) Photographic studio;
- (s) Picture framing shop;

- (t) Printing, lithographing, or photoengraving establishment, in each case not exceeding twenty-five hundred square feet (2,500 ft.²) of gross floor area;
- (u) Record store;
- (v) Recording studio;
- (w) Restaurant; and
- (x) Theater.

1323.3 The floor area ratio in the HS-A Sub-district for new construction may not exceed 1.0 FAR for non-residential uses except as provided in § 1323.4.

1323.4 New construction that preserves an existing façade constructed before 1958 is permitted 0.5 FAR in addition to the non-residential FAR permitted in the underlying zone for non-residential preferred uses listed in § 1323.2.

SOURCE: Final Rulemaking published at 53 DCR 1708, 1717 (March 10, 2006).

1324 DESIGN REQUIREMENTS (HS)

1324.1 The design requirements of §§ 1324.2 through 1324.16 shall apply to any lot in the HS Overlay District for which a building permit was applied after October 25, 2004.

1324.2 Buildings shall be designed and built so that not less than seventy-five percent (75%) of the streetwall(s) to a height of not less than twenty-five feet (25 ft.) shall be constructed to the property line abutting the street right-of-way. Buildings on corner lots shall be constructed to both property lines abutting public streets.

1324.3 New construction that preserves an existing façade constructed before 1958 is permitted to use, for residential uses, an additional 0.5 FAR above the total density permitted in the underlying zone district for residential uses.

1324.4 In C-2 Districts within the HS Overlay District, a seventy percent (70%) residential lot occupancy shall be permitted.

1324.5 For the purposes of this Section, the percentage of lot occupancy may be calculated on a horizontal plane located at the lowest level where residential uses begin.

1324.6 For the purposes of § 1324.5, "residential uses" includes single-family dwellings, flats, multiple dwellings, rooming and boarding houses, and community-based residential facilities.

- 1324.7 Parking structures with frontage on H Street, N.E., Florida Avenue, N.E., Maryland Avenue, N.E., 13th Street, N.E., 14th Street N.E., or 15th Street, N.E. shall provide not less than sixty-five percent (65%) of the ground level frontage as commercial space.
- 1324.8 Each commercial use with frontage on H Street, N.E., Florida Avenue, N.E., Maryland Avenue, N.E., 13th Street, N.E., 14th Street, N.E., or 15th Street, N.E. shall devote not less than fifty percent (50%) of the surface area of the streetwall(s) at the ground level of each building to display windows having clear or clear/low-emissivity glass, except for decorative or architectural accent, and to entrances to commercial uses or to the building.
- 1324.9 Security grilles shall have no less than seventy percent (70%) transparency.
- 1324.10 Each commercial use with frontage on H Street, N.E., Florida Avenue, N.E., Maryland Avenue, N.E., 13th Street N.E., 14th Street, N.E., or 15th Street, N.E. shall have an individual public entrance directly accessible from the public sidewalk. Multiple-dwellings shall have at least one (1) primary entrance on H Street directly accessible from the sidewalk.
- 1324.11 Buildings shall be designed so as not to preclude an entrance every forty feet (40 ft.) on average, for the linear frontage of the building, excluding vehicular entrances, but including entrances to ground floor uses and the main lobby.
- 1324.12 The ground floor level of each new building or building addition shall have a uniform minimum clear floor-to-ceiling height of fourteen feet (14 ft.) if the building:
- (a) Fronts H Street, N.E.; or
 - (b) Fronts Florida Avenue, N.E., Maryland Avenue, N.E., 13th Street, N.E., 14th Street, N.E., or 15th Street, N.E. and would have ground floor space occupied by one (1) or more service, retail, or office uses permitted as a matter of right in the underlying zone.
- 1324.13 Buildings subject to § 1324.12 shall be permitted an additional 5 feet (5 ft.) of building height over that permitted in the underlying zone.
- 1324.14 Projection signs shall have a minimum clearance of eight feet (8 ft.) above a sidewalk and fourteen feet (14 ft.) above a driveway, project no more than three feet, six inches (3 ft., 6 in.) from the face of the building, and end a minimum of one foot (1 ft.) behind the curblineline or extension of the curblineline.
- 1324.15 Façade panel signs shall not be placed so as to interrupt windows or doors and shall project no more than twelve inches (12 in.) from the face of the building.

1324.16 Roof signs are prohibited.

SOURCE: Final Rulemaking published at 53 DCR 1708, 1718 (March 10, 2006); 57 DCR 000126 (2010); as amended by Final Rulemaking and Order No. 10-19 published at 58 DCR 10348 (12/09/11).

1325 SPECIAL EXCEPTION REQUIREMENTS (HS)

1325.1 The buildings, structures, and uses listed in § 1320.4 and exceptions from the requirements of the H Street Overlay District shall be permitted as a special exception if approved by the Board of Zoning Adjustment after public hearing, based on § 3104, provided the following criteria and the requirements of § 1304 are met:

- (a) The project is consistent with the design intent of the design requirements of § 1324 and the design guidelines of the H Street N.E. Strategic Development Plan;
- (b) The architectural design of the project shall enhance the urban design features of the immediate vicinity in which it is located; and, if a historic district or historic landmark is involved, the Office of Planning report to the Board shall include review by the State Historic Preservation Officer and a status of the project's review by the Historic Preservation Review Board;
- (c) Vehicular access and egress shall be located and designed so as to encourage safe and efficient pedestrian movement, minimize conflict with principal pedestrian ways, function efficiently, and create no dangerous or otherwise objectionable traffic conditions;
- (d) Parking and traffic conditions associated with the operation of a proposed use shall not adversely affect adjacent or nearby residences;
- (e) Noise associated with the operation of a proposed use shall not adversely affect adjacent or nearby residences; and
- (f) The size, type, scale, and location of signs shall be compatible with the surrounding corridor and consistent the design guidelines of the H Street N.E. Strategic Development Plan.

1325.2 An applicant may demonstrate compliance with § 1325.1(f) by demonstrating that the signage will be exclusively located on upper facades, awnings, and transom windows, constructed of durable materials, and sensitively designed; and will not affect more than twenty percent (20%) of display windows, consist of backlit box signs or neon product advertisements, block visibility into a store, or be overly obtrusive.

1325.3 The Board may impose requirements pertaining to design, appearance, signs, massing, landscaping, and other such requirements as it deems necessary to protect neighboring property and to achieve the purposes of the H Street Overlay District.

1325.4 Applicants shall demonstrate that projects requiring a special exception shall be consistent with the design intent of the design requirements, of § 1324 and the design guidelines of the H Street N.E. Strategic Development Plan.

SOURCE: Final Rulemaking published at 53 DCR 1708, 1714 (March 10, 2006).

1326 PLANNED UNIT DEVELOPMENT AND INCLUSIONARY ZONING PROVISIONS (HS)

1326.1 A planned unit development (PUD) in the HS Overlay District shall be subject to the following provisions in addition to those of Chapter 24 of this Title:

- (a) The additional height and floor area above that permitted as a matter-of-right shall be used only for housing or the preferred uses listed in §§ 1322.2 and 1323.2 and
- (b) The PUD process shall not be used to reduce requirements in this Chapter for designated uses, specifically retail, service, entertainment, and arts uses.

1326.2 The minimum area included within the proposed PUD, including the area of public streets or alleys proposed to be closed, shall be ten thousand square feet (10,000 ft.²).

1326.3 Developments properties subject to the set-aside requirements of Chapter 26 Inclusionary Zoning may use the Height and Lot Occupancy and Bonus to Base Zone FAR in the following table: as the basis of calculating the set-aside requirements of § 2603:

Base Zone	IZ Bonus		
	Bonus FAR	Lot Occupancy	Maximum Height
H Street			
C-2-A	0.5	75%	50
C-2-B	0.7	80%	70
C-2-C	1.2	80%	100

1326.4 The use of bonus density by a property also eligible to use the bonus provided for in § 1324.3 shall be deemed to first utilize the bonus authorized in § 1326.3.

1326.5 Use of the bonus authorized in § 1324.3 shall not count towards the set-aside requirements of § 2603. Bonus density achieved through § 1324.3 of the HS Overlay that is in addition to the above table shall not count toward the set-aside requirements of § 2603.

SOURCE: Final Rulemaking published at 53 DCR 1708, 1714 (March 10, 2006); as amended by Final Rulemaking published at 55 DCR 2611 (March 14, 2008).

1327 GEORGIA AVENUE COMMERCIAL OVERLAY DISTRICT (GA)

1327.1 The Georgia Avenue Commercial (GA) Overlay District applies to all properties zoned C-2-A and/or C-3-A along both sides of Georgia Avenue, N.W., from the north side of the intersection of Georgia Avenue and Kenyon Street to the south side of the intersection of Georgia Avenue and Varnum Street.

1327.2 The provisions of the GA Overlay shall not apply to public schools.

1327.3 In addition to the purposes in § 1300, the purposes of the GA Overlay District are to:

- (a) Implement the objectives of the Georgia Avenue - Petworth Metro Station Area and Corridor Plan, approved by the Council of the District of Columbia on July 7, 2006 (Res. 16-686; 53 DCR 5444);
- (b) Implement the goals of the Great Streets Framework Plan for 7th Street - Georgia Avenue, published by the District Department of Transportation and dated 2006;
- (c) Encourage additional residential uses along the Georgia Avenue corridor;
- (d) Encourage improved commercial uses;
- (e) Provide uniform building design standards;
- (f) Set guidelines for development review through PUD and special exception proceedings; and
- (g) Encourage vertically-mixed uses (ground floor commercial and residential above) within a quarter mile of the Georgia Avenue - Petworth Metrorail Station along Georgia Avenue, from Park Road to Shepherd Street.

SOURCE: Final Rulemaking published at 55 DCR 0747, 0751 (January 25, 2008); 57 DCR 000126 (2010).

1328 DESIGN REQUIREMENTS (GA)

- 1328.1 The design requirements of §§ 1328.2 through 1328.11 shall apply to any lot in the GA Overlay District for which a building permit was applied for after December 11, 2006.
- 1328.2 Buildings shall be designed and built so that not less than seventy-five percent (75%) of the street wall at the street level shall be constructed to the property line abutting the street right-of-way. Buildings on corner lots shall be constructed to all property lines abutting public streets.
- 1328.3 In the GA/C-2-A Zone District, seventy percent (70%) lot occupancy shall be permitted for mixed use buildings that include residential use.
- 1328.4 On-grade parking structures with frontage on Georgia Avenue, N.W. shall provide not less than sixty-five percent (65%) of the ground level frontage as commercial space.
- 1328.5 Each building on a lot that fronts on Georgia Avenue, N.W. shall devote not less than fifty percent (50%) of the surface area of the street wall at the ground level to entrances to commercial uses or to the building's main lobby, and to display windows having clear or clear/low emissivity glass. Decorative or architectural accents do not count toward the fifty percent (50%) requirement.
- 1328.6 Security grilles over windows or doors shall have no less than seventy percent (70%) transparency.
- 1328.7 Each commercial use with frontage on Georgia Avenue, N.W. shall have an individual public entrance directly accessible from the public sidewalk.
- 1328.8 Buildings shall be designed so as not to preclude an entrance every forty feet (40 ft.) on average for the linear frontage of the building, excluding vehicular entrances, but including entrances to ground floor uses and the main lobby.
- 1328.9 The ground floor level of each building or building addition shall have a uniform minimum clear floor-to-ceiling height of fourteen feet (14 ft.).
- 1328.10 Buildings subject to § 1328.9 shall be permitted an additional five feet (5 ft.) of building height over that permitted as a matter-of-right in the underlying zone.
- 1328.11 Notwithstanding 11 DCMR § 2116.2, off-street surface parking shall be permitted in rear yards only.

SOURCE: Final Rulemaking published at 55 DCR 0747, 0752 (January 25, 2008).

1329 USE PROVISIONS (GA)

- 1329.1 The following uses are prohibited within the GA Overlay District:

- (a) Automobile and truck sales;
- (b) Automobile laundry;
- (c) Boat or marine sales;
- (d) Any use that includes a Drive-through;
- (e) Gasoline service station;
- (f) Liquor store;
- (g) Pawn shop;
- (h) Repair garage;
- (i) Storage facilities; and
- (j) Surface parking lot.

SOURCE: Final Rulemaking published at 55 DCR 0747, 0753 (January 25, 2008).

1330 SPECIAL EXCEPTION (GA)

1330.1 The following uses are permitted by special exception within the GA Overlay District regardless of whether the use is permitted as a matter of right in the underlying zone, pursuant to §§ 3104 and 1304:

- (a) Fast food establishments including any within twenty-five feet (25 ft.) of a Residence District, subject to the additional criteria contained in § 733;
- (b) Construction of a building on a lot that has twelve thousand square feet (12,000 ft.²) or more in land area; and
- (c) Enlargement, by fifty percent (50%) or more, of the gross floor area of a building located on a lot that has twelve thousand square feet (12,000 ft.²) or more of land area.

1330.2 Exceptions from the design requirements of the Georgia Avenue Commercial Overlay District, as set forth in § 1328, shall be permitted as a special exception if approved by the Board of Zoning Adjustment in accordance §§ 1304 and 3104 and subject to the criteria below.

- (a) The architectural design of the project shall enhance the urban design features of the immediate vicinity in which it is located;

- (b) Vehicular access and egress shall be located and designed so as to encourage safe and efficient pedestrian movement, minimize conflict with principal pedestrian ways, function efficiently, and create no dangerous or otherwise objectionable traffic conditions;
- (c) Parking and traffic conditions associated with the operation of a proposed use shall not significantly affect adjacent or nearby residences; and
- (d) Noise associated with the operation of a proposed use shall not significantly affect adjacent or nearby residences.

1330.3 The Board may impose requirements pertaining to design, appearance, massing, landscaping, and other such factors as it deems necessary to protect neighboring property and to achieve the purposes of the Georgia Avenue Overlay District.

SOURCE: Final Rulemaking published at 55 DCR 0747, 0753 (January 25, 2008).

1331 PLANNED UNIT DEVELOPMENT PROVISIONS (GA)

1331.1 A planned unit development (PUD) in the GA Overlay District shall be subject to the following provisions in addition to those of Chapter 24 of this Title:

- (a) Any additional height and floor area above that permitted as a matter-of-right in the underlying zone shall be for residential use only; and
- (b) The minimum area included within the proposed PUD, including the area of public streets or alleys proposed to be closed, shall be a total of ten thousand square feet (10,000 ft.²).

SOURCE: Final Rulemaking published at 55 DCR 0747, 0755 (January 25, 2008).

TITLE 11 - ZONING

CHAPTER 14 REED-COOKE OVERLAY DISTRICT

Secs.

1400 GENERAL PROVISIONS (RC)

1401 USE PROVISIONS (RC)

1402 HEIGHT AND BULK PROVISIONS (RC)

1403 SPECIAL EXCEPTIONS (RC)

1400 GENERAL PROVISIONS (RC)

1400.1 The Reed-Cooke (RC) Overlay District shall be applied to the portions of Squares 150, 2557, 2558, 2560, 2562, 2563, 2566, 2567, and 2572 in the Reed-Cooke Special Treatment Area, as defined in the Comprehensive Plan, 10 DCMR § 1127, that are zoned nonresidentially as of January 1, 1989.

1400.2 The purposes of the RC Overlay District shall be to:

- (a) Implement the objectives of the Reed-Cooke Special Treatment Area, which are to:
 - (1) Protect current housing in the area and provide for the development of new housing;
 - (2) Maintain heights and densities at appropriate levels; and
 - (3) Encourage small-scale business development that will not adversely affect the residential community;
- (b) Ensure that new nonresidential uses serve the local community by providing retail goods, personal services, and other activities that contribute to the satisfaction of unmet social, service, and employment needs in the Reed-Cooke and Adams-Morgan community; and
- (c) Protect adjacent and nearby residences from damaging traffic, parking, environmental, social, and aesthetic impacts.
- (d) Ensure the preservation and adaptive reuse of the First Church of Christ Scientist building located on Lot 872 of Square 2560, through a planned unit development process.

- 1400.3 The RC Overlay District and the underlying commercial and residential zone districts shall together constitute the zoning regulations for the geographic area identified in § 1400.1.
- 1400.4 Where there are conflicts between this chapter and the underlying zone district, the more restrictive regulations shall govern.
- 1400.5 In addition to other applicable provisions of this title, the requirements of this chapter shall apply to:
- (a) All new construction;
 - (b) All additions, alterations, or repairs that, within any eighteen (18) month period, exceed in cost fifty percent (50%) of the assessed value of the structure as set forth in the records of the Office of Tax and Revenue on the date of the application for a building permit;
 - (c) Any use that requires a change in the use listed on the owner's or lessee's certificate of occupancy; and
 - (d) Any existing use that requires a new permit from the Alcoholic Beverage Control Board.
- 1400.6 If there is a dispute between the property owner and the Zoning Administrator about the cost pursuant to § 1400.5(b), the cost shall be determined by the average of the estimates furnished by three (3) independent qualified contractors selected in the following manner:
- (a) The first shall be selected by the owner;
 - (b) The second shall be selected by the Zoning Administrator; and
 - (c) The third shall be selected by the first two (2) contractors.
- 1400.7 The estimates provided for by § 1400.6 shall be prepared and submitted according to a standard procedure and format established by the Zoning Administrator.
- 1400.8 The cost of estimates shall be at the expense of the property owner.

AUTHORITY: Unless otherwise noted, the authority for this chapter is the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code §§ 6-641.01 to 6-641.15 (formerly codified at D.C. Code §§ 5-413 to 5-432 (1994 Repl. & 1999 Supp.))).

SOURCE: Final Rulemaking published at 38 DCR 2386 (April 26, 1991); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8447-48 (October 20, 2000); 57 DCR 000126 (2010); as amended by Final Rulemaking & Order No. 12-17 published at .

1401 USE PROVISIONS (RC)

1401.1 The following uses shall be prohibited in the RC Overlay District:

- (a) Antenna tower in excess of twenty feet (20 ft.) in height;
- (b) Any use prohibited in the CR District by § 602.1, except a parking lot as permitted by § 1403.2;
- (c) Assembly hall, auditorium, or public hall;
- (d) Automobile laundry;
- (e) Automobile or truck sales;
- (f) Automobile rental agency that stores or services automobiles within the RC Overlay District;
- (g) Bar or cocktail lounge;
- (h) Billiard parlor or pool hall;
- (i) Boat or other marine sales;
- (j) Bowling alley;
- (k) Bus passenger depot;
- (l) Drive-through;
- (m) Funeral mortuary or other similar establishment;
- (n) Gasoline service station or repair garage;
- (o) Hotel or inn;
- (p) Motorcycle sales or repair;
- (q) Movie theater;
- (r) Off-premises alcoholic beverage sales;
- (s) On-premises dry cleaning establishment;

- (t) Parcel delivery service establishment other than one exclusively dedicated to serving a sound stage or a movie, video, or television production facility that existed on April 26, 1991;
- (u) Restaurant or fast food establishment;
- (v) Satellite reception dish greater than fifteen feet (15 ft.) in diameter;
- (w) Transient accommodations that are not home occupations;
- (x) Veterinary hospital; and
- (y) Video game parlor.

1401.2 Except as provided in §1401.3, if any of the principal uses prohibited by § 1401.1 would be permitted as an accessory use in the underlying zone district, that accessory use is also prohibited in the RC Overlay District.

1401.3 Notwithstanding § 1401.2, the off-premises beer and wine sales accessory use in the grocery store located in Square 2572, Lot 36 may continue as a matter of right provided that it shall not occupy more than 2,078 square feet of the store's gross floor area.

1401.4 Notwithstanding § 1401.1, the Zoning Commission may approve a planned unit development that permits a hotel use integrating the First Church Christ Scientist building on a new lot created by combining Lots 872, 875, and 127 of Square 2560, and within such hotel, but only within the First Church Christ Scientist building, permit a restaurant and bar use; provided that the Zoning Commission may also permit food and alcohol to be served in the enclosed pool, the meeting rooms, the guestrooms, and the rooftop area located in the proposed addition to the First Church Christ Scientist building/or so long as such addition and the First Church Christ Scientist building are being operated together as a hotel.

SOURCE: Final Rulemaking published at 38 DCR 2384, 2386 (April 26, 1991); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8448 (October 20, 2000); as amended by Final Rulemaking published at 54 DCR 9393,9399 (September 28, 2007); as amended by Final Rulemaking and Order No. 08-17 published at 57 DCR 2304 (March 19, 2010); as amended by Final Rulemaking and Order No. 12-17 published at 60 DCR 3635 (March 15, 2013).

1402 HEIGHT AND BULK PROVISIONS (RC)

1402.1 The maximum height permitted in the RC Overlay District shall not exceed forty feet (40 ft.) plus roof structure as defined in this title; provided, that in the RC/C-2-B Overlay District, a maximum height of fifty feet (50 ft.), plus roof structures, shall be permitted to provide for the on-site construction of low and moderate income household units, as those households are defined by the Inclusionary

Zoning Regulations of Chapter 26 for a total gross floor area equal to fifty percent (50%) of the additional gross floor area made possible by the height bonus.

- 1402.2 For the purpose of this chapter, no planned unit development shall exceed the matter-of-right building height, bulk, and area requirements or penthouse provisions of the underlying zone district.
- 1402.3 Notwithstanding § 1402.2, the Zoning Commission, as part of a planned unit development permitting a hotel integrating the First Church Christ Scientist building on a new lot created by combining Lots 872, 875, and 127 of Square 2560, may permit a building height on former Lots 875 and 127 not to exceed 72 feet measured from Euclid Street, and an overall building density not to exceed 3.99 FAR.
- 1402.4 If erected or enlarged as provided in § 411, a penthouse within the RC/C-2-A or RC/R-5-B Overlay Districts may be erected to a height in excess of that authorized in the zone district in which located; provided, that:
- (a) The maximum permitted height shall be twelve feet (12 ft.) above the roof upon which it is located, except that the maximum permitted height for penthouse mechanical space shall be fifteen feet (15 ft.);
 - (b) The maximum permitted number of stories within the penthouse shall be one (1); and
 - (c) It shall contain no form of habitable space, other than ancillary space associated with a rooftop deck, to a maximum area of twenty percent (20%) of the building roof area dedicated to rooftop deck, terrace, or recreation space.
- 1402.5 A penthouse within the RC/C-2-B Overlay District may be erected to a height in excess of that authorized in the zone district in which located; provided, that:
- (a) The maximum permitted height shall be twelve feet (12 ft.) above the roof upon which it is located, except that the maximum permitted height for penthouse mechanical space shall be fifteen feet (15 ft.); and
 - (b) The maximum permitted number of stories within the penthouse shall be one (1), except that a second story for mechanical equipment only shall be permitted.

SOURCE: Final Rulemaking published at 38 DCR 2384, 2387 (April 26, 1991); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8448 (October 20, 2000); as amended by 54 DCR 6943, 6948 (July 20, 2007); 57 DCR 000126 (2010); as amended by Final Rulemaking and Order No. 12-17 published at 60 DCR 3635 (March 15, 2013); as amended by Final Rulemaking and Order No. 14-13 published at 63 DCR 390 (January 8, 2016).

1403 SPECIAL EXCEPTIONS (RC)

1403.1 An exception from the requirements of this chapter shall be permitted only if granted by the Board of Zoning Adjustment as a special exception pursuant to § 3104 after a public hearing, and subject to the following criteria:

- (a) The use, building, or feature at the size, intensity, and location proposed will substantially advance the stated purposes of the RC Overlay District;
- (b) Vehicular access and egress shall be designed and located so as to minimize conflict with pedestrian ways, to function efficiently, and to create no dangerous or otherwise objectionable traffic condition;
- (c) Adequate off-street parking shall be provided for employees and for trucks and other service vehicles;
- (d) If located within a C-2-B District, the use shall not be within twenty-five feet (25 ft.) of a Residence District, unless separated there from by a street or alley;
- (e) Noise associated with the operation of a proposed use will not adversely affect adjacent or nearby residences;
- (f) No outdoor storage of materials, nor outdoor processing, fabricating, or repair shall be permitted; and
- (g) The use, building, or feature at the size, intensity, and location proposed will not adversely affect adjacent and nearby property or be detrimental to the health, safety, convenience, or general welfare of persons living, working, or visiting in the area.

1403.2 A parking lot or garage shall be permitted if approved by the Board of Zoning Adjustment as a special exception pursuant to § 3104, subject to the following:

- (a) The parking lot or garage shall meet the conditions specified in §§ 214.4 through 214.8;
- (b) The parking lot or garage shall meet the conditions in § 1403.1; and
- (c) The Board may require that all or a portion of the parking spaces be reserved for the following:
 - (1) Residential parking;
 - (2) Unrestricted commercial parking;
 - (3) Accessory parking for uses within eight hundred feet (800 ft.); and

- (4) Shared parking for different uses by time of day.

SOURCE: Final Rulemaking published at 38 DCR 2384, 2387 (April 26, 1991); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8448-49 (October 20, 2000); 57 DCR 000126 (2010).

TITLE 11 - ZONING

CHAPTER 15 MISCELLANEOUS OVERLAY DISTRICTS

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1500 PREAMBLE

- 1500.1 Miscellaneous Overlay Districts are created to implement the Comprehensive Plan and other public policy goals and objectives.
- 1500.2 The Miscellaneous Overlay Districts include, but are not limited to, those overlay districts that are applied to a specific small area or neighborhood that requires special treatment in controlling land uses.
- 1500.3 The Miscellaneous Overlay Districts may provide development incentives, restrictions, or a combination thereof.

AUTHORITY: Unless otherwise noted, the authority for this chapter is the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code §§ 6-641.01 to 6-641.15 (2001)(formerly codified at D.C. Code §§ 5-413 to 5-432 (1994 Repl. & 1999 Supp.)).

SOURCE: Final Rulemaking published at 39 DCR 495 (January 24, 1992); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8449-51 (October 20, 2000).

1501 DUPONT CIRCLE OVERLAY DISTRICT (DC)

- 1501.1 The Dupont Circle area is a unique resource to the District of Columbia that must be preserved and enhanced. Strong protections are needed to retain its low scale, predominately residential character, independent small retail businesses, human scale streetscapes, and historic character, given the high-density development pressures caused by the proximity of the Central Employment Area and Dupont Circle Metrorail Station.
- 1501.2 Repealed

1501.3 The DC Overlay District includes the following squares: 23, 35, 48, 49, 65, 66, 67, 68, 69, 70, 90, 91, 92, 93, 94, 95, 96, 97, 98, N99, 109, 110, 111, 112, 113, 114, 115, 116, 131, 132, 133, 134, 135, 136, 137, N137, 138, 139, 153, S153, 154, 155, 156, 157, 158, 159, 160, 178, 179, 180, 181, S181, 182, N182, 192, 193, 194, 195, S195, 196, and N196. The DC Overlay District also includes the following lots: Square 176, Lots 43-45, 64-73, 2076-2128; Square 177, Lots 2, 36-40, 87-92, 104, 108, 118-123, 126, 127, 801, 802, 2009-2019, 2020-2025, Square N177, Lots 4-9, 17, 23-25, 26, 27, 87-92, 801-804, 807, 810-811, 2001-2009, 2010-2012, 2013, 2022; Square 190, Lots 22-42, 51-62, 88-99, 101-116, 119-120, 123, 129, 809, 2001-2018, 2019-2028, 2029-2049, 2050-2056; Square 191, Lots 3-6, 8-16, 40-49, 51-59, 63-65, 66-69, 71-76, 79-87, 90-92, 93-95, 96-98, 99, 100, 104, 107-108, 800, 801, 803-804, 812, 814, 816, 817, 2001-2012, 2014-2027, 2028-2031, 2032, 2034-2058, 2059-2067, 2068-2077, Square 206, Lots 17-25, 62-65, 113-122, 128-133, 138-162, 166-176, 177-198, 219, 220, 800-805, 807, 809, 811, 812, 813, 814, 2001-2013; and Square 207, Lots 48-65, 94-95, 810.

1501.4 The purpose of the DC Overlay District is to:

- (a) Require a scale of development consistent with the nature and character of the Dupont Circle area in height and bulk; and to ensure a general compatibility in the scale of new buildings with older, low scale buildings by restricting the maximum permitted height and floor area ratio of new buildings to that of the underlying zone;
- (b) Protect the integrity of "contributing buildings", as that term is defined by the Historic Landmark and Historic District Protection Act of 1978, effective March 3, 1979 (D.C. Law 2-144, as amended; D.C. Official Code §§ 6-1101 to 6-1115 (2001)(formerly codified at D.C. Code §§ 5-1001 to 5-1015 (1994 and 1999 Supp.))), in the various historic districts within the overlay district; to require compatibility of development with the purposes of D.C. Law 2-144; and to preclude demolitions or partial demolitions that would lead to an increase in height and floor area ratio inappropriate to the area;
- (c) Enhance the residential character of the area by maintaining existing residential uses and controlling the scale, location, and density of commercial and residential development;
- (d) Ensure compatibility of development with the Comprehensive Plan;
- (e) Preserve areas planned as open gardens and backyards and protect the light, air, and privacy that they provide;
- (f) Enhance the streetscape by maintaining the public space in front of buildings as landscaped green spaces and limited curb cuts on Connecticut Avenue; and

- (g) Encourage greater use of public transportation and the free circulation of vehicles through public streets and alleys.

SOURCE: Final Rulemaking published at 39 DCR 495 (January 24, 1992), as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8451-53 (October 20, 2000); as amended by Final Rulemaking published at 55 DCR 12909, 12912 (December 26, 2008).

1502 GENERAL PROVISIONS (DC)

1502.1 The DC Overlay District is mapped in combination with the underlying Commercial, Special Purpose, Mixed Use, and Residence Districts and not instead of the underlying zone districts.

1502.2 Except as specifically provided in § 1502.3 and in other provisions of this chapter, all matter-of-right uses, buildings, and structures permitted in accordance with this chapter and the appropriate regulations of the underlying district with which the mapped DC Overlay District is combined, shall be permitted in the combined district.

1502.3 Where there is a conflict between this chapter and the underlying zoning, the more restrictive provisions of this title shall govern. Where other chapters provide for additional requirements for planned unit developments, those additional requirements continue to apply.

SOURCE: Final Rulemaking published at 39 DCR 495, 497 (January 24, 1992); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8453 (October 20, 2000).

1503 PLANNED UNIT DEVELOPMENT (DC)

1503.1 In the DC Overlay District, the matter-of-right building height, penthouse height, and floor area ratio limits shall serve as the maximum permitted building height, penthouse height, and floor area ratio for a planned unit development.

1503.2 In the DC Overlay District, the minimum area included within the proposed development shall be one (1) acre in any Residence, Special Purpose, and Mixed Use District, and one-half (1/2) acre in any other zone district. No waiver shall exceed five percent (5%) of the minimum area requirements. If a waiver of the minimum area is granted, the Zoning Commission must find, after public hearing, that the development is of exceptional merit and is in the best interests of the District of Columbia or the country.

1503.3 In the DC Overlay District, all land within the planned unit development must be contiguous and must neither be separated by a street or alley nor bridge a street or alley.

SOURCE: Final Rulemaking published at 39 DCR 495, 497 (January 24, 1992); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8453 (October 20, 2000); as amended by Final Rulemaking and Order No. 14-13 published at 63 DCR 390 (January 8, 2016).

1504 PLANNED UNIT DEVELOPMENT EVALUATION STANDARDS (DC)

1504.1 Planned unit development applications for sites within the DC Overlay District shall be evaluated and approved, disapproved, or modified according to the standards in this section. These standards are inclusive, but not exhaustive in nature; it is not expected that an application will exemplify all the standards or achieve all of them in a superior fashion.

1504.2 To the extent an application proposes benefits beyond the requirements of this chapter, the relative value of the public benefits offered, the degree of flexibility or other development incentives requested, and the potential adverse impacts, if any, to be accepted or mitigated, shall all be judged, balanced, and reconciled according to the specific circumstances of each case.

1504.3 The applicant shall have the burden of proof to justify the granting of the application according to these standards.

1504.4 The Zoning Commission shall approve planned unit development applications only if found not inconsistent with the Comprehensive Plan and generally compatible with any other directly applicable city-wide and neighborhood plans.

1504.5 The site plan and design of the project shall provide present and future occupants with a living or working environment and amenities superior to those that can be achieved by applying the other provisions of the Zoning Regulations. Flexibility in the siting, design, type, and location of buildings is encouraged. Superior planning and design include, but are not limited to:

- (a) Provision of open space, which should preserve original gardens and backyard open spaces and provide light, air, and privacy to adjacent buildings;
- (b) Effective and safe vehicular and pedestrian circulation with:
 - (1) Full use of the alleys as a service area for vehicles;
 - (2) Streets unimpeded by service stops; and

- (3) Sidewalks and public space inviting to pedestrians and free of vehicular parking;
- (c) Superior architectural design in the subject building or complex considered in and of itself and in relationship to the surrounding buildings and environment within six hundred feet (600 ft.) within the DC Overlay District;
- (d) Retention of the entire fabric and scale of historic buildings, to the extent the proposed planned unit development directly affects historic landmarks or contributing historic buildings in the local historic district;
- (e) Retention of housing, the conversion of residential use of nonresidential uses in Special Purpose and Mixed Use Districts, and the provision of low and moderate income housing;
- (f) Superior landscaping;
- (g) Other project amenities that are demonstrated to contribute to the quality of life in the planned unit development or in the surrounding neighborhood; and
- (h) Project amenities shall be located on the site of the planned unit development or in the surrounding neighborhood. In some instances, additional amenities may be located in the adjacent or nearby public space; provided, that the public agency responsible for the space concurs with the proposed amenity and has executed a development agreement with the applicant regarding construction and maintenance of the amenity. For the purpose of this overlay district, "surrounding neighborhood" shall be defined as the subject square or the adjoining square within the DC Overlay District.

SOURCE: Final Rulemaking published at 39 DCR 495, 497 (January 24, 1992); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8454 (October 20, 2000).

1505 LIMITATIONS ON DRIVEWAYS AND CURB CUTS (DC)

- 1505.1 No drive-through accessory to any use shall be permitted in the DC Overlay District.
- 1505.2 Within the area of the DC Overlay District, no driveway providing access from any designated roadway to required parking spaces or loading berths shall be permitted along Connecticut Avenue from N Street, N.W., to Florida Avenue, N.W.

SOURCE: Final Rulemaking published at 39 DCR 495, 499 (January 24, 1992); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8454 (October 20, 2000).

1506-1510 [RESERVED]

1511 TREE AND SLOPE PROTECTION OVERLAY DISTRICT (TSP)

1511.1 The Tree and Slope Protection (TSP) Overlay District is established to preserve and enhance the park-like setting of designated neighborhoods adjacent to streams or parks by regulating alteration or disturbance of terrain, destruction of trees, and ground coverage of permitted buildings and other impervious surfaces.

1511.2 The TSP Overlay District shall include a number of individual overlay zone districts that may be established and mapped from time to time, consistent with the general provisions of this chapter.

1511.3 The purposes of the TSP Overlay District is to:

- (a) Preserve the natural topography and mature trees to the maximum extent feasible in a residential neighborhood;
- (b) Prevent significant adverse impact on adjacent open space, parkland, stream beds, or other environmentally sensitive natural areas; and
- (c) Limit permitted ground coverage of new and expanded buildings and other construction, so as to encourage a general compatibility between the siting of new buildings and the existing neighborhood.

1511.4 The TSP Overlay District is designed for residential neighborhoods that are located at the edge of stream beds or public open spaces and that have a significant quantity of steep slopes, stands of mature trees, and undeveloped lots and parcels subject to potential terrain alteration and tree removal. It is not suitable for mapping in neighborhoods where nearly all lots are already developed on a rectangular grid system and the existing mature trees are either yard trees or street trees.

SOURCE: Final Rulemaking published at 39 DCR 1900 (March 20, 1992); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8454-55 (October 20, 2000).

1512 GENERAL PROVISIONS (TSP)

1512.1 The TSP Overlay District is mapped in combination with the underlying Residence District and not instead of the underlying zone district.

1512.2 Where there is a conflict between this chapter and the underlying zoning, the more restrictive provisions of this title shall govern.

SOURCE: Final Rulemaking published at 39 DCR 1900, 1901 (March 20, 1992); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8455 (October 20, 2000).

1513 GROUND COVERAGE RESTRICTIONS (TSP)

1513.1 The principal building and any accessory building on the lot shall not exceed a total lot occupancy of thirty percent (30%).

1513.2 The maximum impervious surface coverage on a lot shall be fifty percent (50 %); provided this subsection shall not:

- (a) Preclude enlargement of a principal building in existence as of March 20, 1992; or
- (b) Create nonconformity of a structure as regulated by chapter 20 of this title.

SOURCE: Final Rulemaking published at 39 DCR 1900, 1901 (March 20, 1992); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8455 (October 20, 2000); 57 DCR 000126 (2010).

1514 TREE REMOVAL LIMITATIONS (TSP)

1514.1 Construction of a building, accessory building, or an addition to a building or the creation of any impervious surface area shall only be permitted as a matter of right subject to the following tree removal limitations:

- (a) The restrictions of this section against removing, cutting down, or fatally damaging trees apply only to trees having a circumference of twelve inches (12 in.) or greater at a height of four and one-half feet (4 1/2 ft.) above ground;
- (b) The prohibitions of this section do not apply to the removal of any dead or unhealthy tree or a tree that creates an unsafe condition. The need for removal of any tree shall be certified by an arborist or other tree care professional;
- (c) No tree that has a circumference of seventy-five inches (75 in.) or more at a height of four and one-half feet (4 1/2 ft.) above ground may be removed or cut down;
- (d) No more than three (3) trees that each have a circumference of more than thirty-eight inches (38 in.) at a height of four and one-half feet (4 1/2 ft.)

above ground may be removed, and none of these may be located within twenty-five feet (25 ft.) of any building restriction line or lot line abutting a public street;

- (e) The total circumference inches of all trees removed or cut down on a lot shall not exceed twenty-five percent (25%) of the total circumference inches of all trees on the lot having a circumference of twelve inches (12 in.) or greater at a height of four and one-half feet (4 1/2 ft.) above ground; provided that this restriction does not abrogate the right to remove up to three (3) trees as provided in paragraph (d) of this subsection; and
- (f) Where removal or cutting of trees has occurred that would have been prohibited by this section if an application for a building permit had been contemporaneously filed, no building permit shall be issued for a period of seven (7) years from such removal or cutting unless the Board of Zoning Adjustment grants a special exception pursuant to § 1515.

SOURCE: Final Rulemaking published at 39 DCR 1900, 1901 (March 20, 1992); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8456 (October 20, 2000).

1515 SPECIAL EXCEPTIONS (TSP)

1515.1 Any exception from the requirements of this chapter shall be permitted only as a special exception, if approved by the Board of Zoning Adjustment after public hearing, in accordance with § 3104, and subject to the following requirements:

- (a) Tree removal, grading, and topographical change shall be limited to the maximum extent consistent with construction of a building permitted by the standards of this chapter;
- (b) The applicant shall demonstrate that there are specific physical characteristics of the lot that justify the exception;
- (c) The excepted building and overall site plan of the lot shall be generally consistent with the purposes of the TSP Overlay District and not adversely affect neighboring property; and
- (d) The Board may impose requirements as to design, appearance, tree protection practices during construction, buffering, and other requirements as it deems necessary to achieve the purpose of this chapter, and may vary side and rear yard requirements in order to achieve the purposes of this chapter.

1515.2 Before taking final action on an application, the Board shall submit the application to the following agencies for review and written reports:

- (a) D.C. Office of Planning;
- (b) D.C. Department of Transportation, Tree Management Administration;
- (c) D.C. Department of Parks and Recreation;
- (d) D.C. Department of Consumer and Regulatory Affairs, Soil Erosion and Storm Management Branch; and
- (e) National Park Service, U.S. Department of the Interior.

1515.3 An applicant for a special exception shall submit at least the following materials:

- (a) A site plan for development, including computation and illustration of total lot occupancy and impervious surface ratio, and regulated trees proposed to be removed; and
- (b) A plan and statement indicating how trees to be preserved on the lot will be protected during the construction period, including reference to proposed procedures to guard against long-term damage by such factors as soil compaction.

SOURCE: Final Rulemaking published at 39 DCR 1900, 1902 (March 20, 1992); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8456-57 (October 20, 2000).

1516 FOREST HILLS TREE AND SLOPE PROTECTION OVERLAY DISTRICT (FH/TSP)

1516.1 The Forest Hills Tree and Slope Protection (FH/TSP) Overlay District is established to preserve and enhance the park-like setting of the designated neighborhoods bounded by Connecticut Avenue and Thirty-Second Street on the west, Rock Creek Park on the east, Fort Circle National Park and Nevada Avenue, N.W. on the north, and Melvin C. Hazen Park and adjacent to streams and parks on the south, by regulating alteration or disturbance of terrain, destruction of trees, and the ground coverage of permitted buildings and other impervious surfaces. It includes Soapstone Valley Park as well as Melvin C. Hazen Park.

1516.2 The purposes of the FH/TSP Overlay District are to:

- (a) Preserve the natural topography and mature trees to the maximum extent feasible in the Forest Hills neighborhoods;
- (b) Prevent significant adverse impact on adjacent open space, parkland, stream beds, or other environmentally-sensitive natural areas; and

- (c) Limit permitted ground coverage of new and expanded buildings and other construction, so as to encourage a general compatibility between the siting of new buildings or construction and the existing neighborhood.

1516.3 The FH/TSP Overlay District has a significant quantity of steep slopes, has stands of mature trees, is located at the edge of stream beds and public open spaces, and has undeveloped lots and parcels subject to potential terrain alteration and tree removal. Few lots are developed on a rectangular grid system.

1516.4 The FH/TSP Overlay District includes all lots zoned R-1-A, R-1-B, and R-2 on the effective date of the FH/TSP Overlay in Squares 2030 through 2033, 2040 through 2043, 2046, 2049 except for Lots 804 (Van Ness North), 805 (Van Ness Center), 806 (Van Ness South), all lots zoned R-1-A, R-1-B, and R-2 on the effective date of the FH/TSP Overlay in Squares 2231, 2232, 2238, 2239, 2241 through 2251, 2254 through 2256, 2258, 2262 through 2270, 2272, 2274 through 2277, and 2282.

SOURCE: Final Rulemaking published at 54 DCR 4835, 4840 (May 18, 2007); 57 DCR 000126 (2010).

1517 GENERAL PROVISIONS (FH/TSP)

1517.1 The FH/TSP Overlay District is mapped in combination with the underlying R-1, R-1-B, or R-2 District and not in lieu of the underlying district.

1517.2 Where there is a conflict between the FH/TSP Overlay District and an underlying zoning district, the more restrictive provisions of the FH/TSP shall govern.

SOURCE: Final Rulemaking published at 54 DCR 4835, 4841 (May 18, 2007).

1518 LOT OCCUPANCY, IMPERVIOUS SURFACE, AND SIDE YARD RESTRICTIONS (FH/TSP)

1518.1 The principal building and any accessory building on the lot shall not exceed total lot occupancy of thirty percent (30%).

1518.2 The maximum impervious surface coverage on a lot shall be fifty percent (50%); provided this subsection shall not:

- (a) Preclude enlargement of a principal building in existence as the effective date of the FH/TSP overlay; or
- (b) Create nonconformity of a structure as regulated by Chapter 20 of this title.

1518.3 To the extent a side yard is required in the underlying zone district, the minimum side yard requirement for all buildings, accessory buildings, or additions to

buildings shall be twenty-four (24) feet in the aggregate, with no single side yard having a width of less than eight (8) feet.

SOURCE: Final Rulemaking published at 54 DCR 4835, 4841 (May 18, 2007).

1519 TREE AND SLOPE PROTECTION AND MINIMUM LOT SIZE (FH/TSP)

1519.1 The provisions of this Section shall only apply to those lots that are subject to the overlay in Squares 2042, 2043, 2046, 2049, 2231, 2232, 2238, 2239, 2244 through 2248, 2250, 2258, 2272, and 2282.

1519.2 Constructing a building, accessory building, or an addition to a building; creating any impervious surface area; subdividing any unimproved lot; or subdividing any improved lot so as to increase the number of principal structures thereupon shall only be permitted as a matter of right subject to the following tree removal limitations:

- (a) The restrictions of this Section against removing, cutting down, or fatally damaging trees apply only to trees having a circumference of twelve inches (12 in.) or greater at a height of four and one-half feet (4½ft.) above ground;
- (b) The prohibitions of this Section do not apply to the removal or cutting down of any dead or unhealthy tree or a tree that creates an unsafe condition. The need for removal of any tree shall be certified by an arborist certified by the International Society of Arboriculture;
- (c) No tree that has a circumference of seventy-five inches (75 in.) or more at a height of four and one-half feet (4½ft.) above ground may be removed, cut down, or fatally damaged;
- (d) No more than three (3) trees that have a circumference of more than thirty-eight inches (38 in.) at a height of four and one-half feet (4½ ft.) above ground may be removed, cut down, or fatally damaged and none of these may be located within twenty-five feet (25 ft.) of any building restriction line or lot line abutting a public street;
- (e) The total circumference inches of all trees removed or cut down on a lot may not exceed twenty-five percent (25%) of the total circumference inches of all trees on the lot having a circumference greater than twelve inches (12 in.); provided, that this Section does not abrogate the right to remove or cut down up to three (3) trees as provided in paragraph (d) of this subsection; and

- (f) Where removal or cutting of trees has occurred that would be prohibited by this Section if a building permit were contemporaneously applied for, no building permit shall be issued for a period of seven (7) years from such removal or cutting unless a special exception is granted by the Board of Zoning Adjustment in accordance with the provisions of § 1520.

1519.3 The minimum lot size for homes within the FH/TSP Overlay district shall be 9,500 square feet for lots subdivided after the effective date of the FH/TSP Overlay.

1519.4 To the extent that any person seeks permission for building or terrain alteration on a lot with a slope steeper than twenty-five percent (25%) or with "highly erodible land" as defined at 7 CFR 12.2 (2005), that person shall supply to the Zoning Administrator in the Department of Consumer and Regulatory Affairs a professional certification that the plans for alteration and/or construction will follow best geo-technical, structural engineering, and arboreal practices.

SOURCE: Final Rulemaking published at 54 DCR 4835, 4841 (May 18, 2007).

1520 SPECIAL EXCEPTIONS (FH/TSP)

1520.1 Any exception from the requirements of this FH/TSP Overlay, as distinct from the requirements of the underlying zoning district, shall be permitted only as a special exception, if approved by the Board of Zoning Adjustment after public hearing, under § 3104, and subject to the following requirements:

- (a) Tree removal, grading, and topographical change shall be limited to the maximum extent possible, consistent with construction of a building permitted by the standards of the FH/TSP Overlay;
- (b) The applicant shall demonstrate that there are specific physical characteristics of the lot that justify the exception;
- (c) The excepted building and overall site plan of the lot shall be generally consistent with the purposes of the FH/TSP Overlay District and not adversely affect neighboring property; and
- (d) The Board may impose requirements as to design, appearance, tree protection practices during construction, buffering, and other requirements as it deems necessary to achieve the purposes of this Section and may vary side and rear yard requirements in order to achieve the purposes of this Section.

1520.2 Before taking action on an application, the Board shall submit the application to the following agencies for review and written reports:

- (a) D.C. Office of Planning;

- (b) District Department of Transportation, Urban Forestry Division;
- (c) D.C. Department of Parks and Recreation;
- (d) D.C. Department of the Environment; and
- (e) National Park Service, U.S. Department of the Interior.

1520.3 An applicant for a special exception shall submit at least the following materials:

- (a) A site plan for development, including computation and illustration of total lot occupancy, impervious surface ratio, and regulated trees proposed to be removed; and
- (b) A plan and statement indicating how trees to be preserved on the lot will be protected during the construction period, including reference to proposed procedures to guard against long-term damage by such factors as soil compaction.

SOURCE: Final Rulemaking published at 54 DCR 4835, 4842 (May 18, 2007).

1521 FOGGY BOTTOM OVERLAY DISTRICT (FB)

1521.1 The Foggy Bottom Historic District is a unique resource to the District of Columbia that must be preserved and enhanced. The historic district was designated and included in the National Register of Historic Places in 1986 and 1987, respectively. It is characterized by low scale residential structures forming a cohesive neighborhood of modest dwellings. Given the high density development pressures caused by the proximity of the Central Employment Area, George Washington University, medical clinics, and hotels, strong protection is needed to retain the historic district's low-scale residential character, human scale streetscape, and historic character.

1521.2 The Foggy Bottom (FB) Overlay District has the identical boundaries of the Foggy Bottom Historic District and is applied to the area, the boundaries of which begin at the intersection of K and 25th Streets, N.W., and proceed as follows: east along the center line of K Street, turning south along the eastern edge of Lot 19 in Square 28 to the northern edge of the alley; then eastward and southward along the alley to the northern boundary of Lot 92 in Square 28; then eastward to the center line of 24th Street; then south along the center line of 24th Street to New Hampshire Avenue; then southwest along the center line of New Hampshire to H Street; west along the center line of H Street to 25th Street; north along the center line of 25th Street to the southern edge of Lot 42 in Square 17; then west along the lot line to the alley in Square 17; then through the alley and then north along the western line of Lot 848 (encompassing Lots 812 through 820, 28 through 35, and 834, 848, and 849) in Square 17 to the center line of I Street; then west along

the center line of I Street to the center line of 26th Street; then north on 26th Street to the northern edge of Lot 73 in Square 16; then east along the northern edge of Lot 73 to the easternmost corner of Hughes Mews and then south along the eastern edge of Hughes Mews to the northern edge of Lots 883, 858, and 856; then east along the lots to the center line of 25th Street; then north along the center line of 25th Street to the origination point at the center line of K Street. The FB Overlay District includes the following: Square 16, excluding Lots 884, 863, 93, 17, 71, and 2009 through 2161 (The Griffin Condominium Apartment Building); Square 17, excluding Lots 2001 through 2051 (The Plaza Condominium Apartment Building); Square 28, excluding Lots 884 and 168; and Square 29 in its entirety.

1521.3 The purposes of the FB Overlay District are to:

- (a) Require a scale of development consistent with:
 - (1) The Comprehensive Plan, which provides that the land use map for the Foggy Bottom Historic District be amended from the present "medium " category to the "moderate" category; and
 - (2) The characteristics of the low scale harmony of rhythmic townhouses of a purely residential neighborhood that formed the basis on which the area was designated a historic district;
- (b) Protect the integrity of the historic district, its small scale, and open spaces; require compatibility of any development with the purposes of the Historic Landmark and Historic District Protection Act of 1978, effective March 3, 1979 (D.C. Law 2-144, as amended; D.C. Official Code §§ 6-1101 to 6-1115 (2001)(formerly codified at D.C Code §§ 5-1001 to 5-1015 (1994 Repl. & 1999 Supp.))), and preclude demolitions or partial demolitions that would lead to an increase in height and floor area ratio inappropriate to the area;
- (c) Enhance the residential character of the area by maintaining existing residential uses;
- (d) Preserve areas planned as open backyards and alleyways that provide the only access to historic alley dwellings, and protect the light, air, and privacy that they provide;
- (e) Enhance the special human scale streetscape by maintaining the public space in front of the buildings as landscaped green spaces and limiting future curb cuts; and
- (f) Encourage greater use of public transportation through use of the nearby Foggy Bottom Metrorail Station, so as to protect the narrow residential

streets and alleys from the deleterious effects of disruptive excessive traffic.

SOURCE: Final Rulemaking published at 39 DCR 2741 (April 17, 1992); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8457-59 (October 20, 2000).

1522 GENERAL PROVISIONS (FB)

1522.1 The FB Overlay District is mapped in combination with the underlying R-3 District.

1522.2 Except as specifically provided in § 1522.3 and in other provisions of this chapter, all matter-of-right uses, buildings, and structures permitted in accordance with this chapter and the appropriate regulations of the underlying zone district with which the mapped FB Overlay District is combined shall be permitted in the combined district.

1522.3 Where there is a conflict between this chapter and the underlying zoning, the more restrictive provisions of this title shall govern. Where other chapters provide for additional requirements for planned unit developments, those additional requirements shall continue to apply.

SOURCE: Final Rulemaking published at 39 DCR 2741, 2743 (April 17, 1992); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8459 (October 20, 2000).

1523 SPECIFIC PROVISIONS (FB)

1523.1 In the FB Overlay District, buildings constructed on or before April 17, 1992, and existing legitimate uses within the buildings shall be deemed conforming, except that no addition, replacement, or expansion of the building, or change in use (except to a more conforming residential use other than a dormitory) shall be permitted unless in conformance with the requirements of the underlying R-3 District.

1523.2 If any building is destroyed by fire, collapse, explosion, or act of God, it may be reconstructed or restored to its previous condition or to a more conforming residential condition other than a dormitory. Excluded from this provision are uses that are nonconforming prior to April 17, 1992, and operating without a special exception issued by the Board of Zoning Adjustment.

SOURCE: Final Rulemaking published at 39 DCR 2741, 2743 (April 17, 1992); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8459 (October 20, 2000).

1524 PLANNED UNIT DEVELOPMENT (FB)

1524.1 In the FB Overlay District, the matter-of-right building height, penthouse height, and floor area ratio limits shall serve as the maximum permitted building height, penthouse height, and floor area ratio for planned unit developments.

SOURCE: Final Rulemaking published at 39 DCR 2741, 2744 (April 17, 1992); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8459 (October 20, 2000); as amended by Final Rulemaking and Order No. 14-13 published at 63 DCR 390 (January 8, 2016).

1525-1530 [RESERVED]

1531 NAVAL OBSERVATORY PRECINCT OVERLAY DISTRICT (NO)

1531.1 The Naval Observatory Precinct (NO) Overlay District is established to promote the public health, safety, and general welfare on land adjacent to or in close proximity to the highly sensitive and historically important Naval Observatory, in keeping with the goals and policies of the Federal and District elements of the Comprehensive Plan and the adopted Master Plan for that facility.

1531.2 Public land within the NO Overlay District shall be used in a manner consistent with the historic or ceremonial importance and special missions of the Naval Observatory.

1531.3 The land use controls embodied in this title for land adjacent to the Naval Observatory reflect the importance of the Naval Observatory to the District of Columbia and the Nation.

1531.4 The NO Overlay District is intended to provide additional controls on private land, in order to protect recognized Federal interest concerns. The concerns include the critical scientific mission performed at the Naval Observatory and the security needs of the Vice-President's residence.

1531.5 The NO Overlay District shall act to further restrict the development controls permitted in existing districts to reduce or eliminate any possible harm or restrictions on the mission of the Federal establishment within the NO Overlay District.

1531.6 The NO Overlay District shall be mapped in combination with any underlying zone district and not instead of the underlying zoning.

1531.7 All uses, buildings, and structures permitted in accordance with the appropriate sections of this chapter for the respective districts with which the mapped NO Overlay District is combined shall be permitted in those districts, except as specifically modified by this chapter.

1531.8 All restrictions or prohibitions applicable to either of the districts combined pursuant to this chapter shall apply in the NO Overlay District.

SOURCE: Final Rulemaking published at 39 DCR 2745 (April 17, 1992); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8460 (October 20, 2000).

1532 USE REGULATIONS (NO)

1532.1 The uses that are permitted in the underlying zone districts within the NO Overlay District shall be permitted in the same manner in the combined district.

SOURCE: Final Rulemaking published at 39 DCR 2745, 2746 (April 17, 1992); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8441-42 (October 20, 2000).

1533 SPECIAL EXCEPTIONS (NO)

1533.1 In an application for a special exception in the NO Overlay District, the Board of Zoning Adjustment shall consider, in addition to the criteria in § 3104 and in other chapters of this title, whether the proposed development is compatible with the:

- (a) Present and proposed development within and adjacent to the NO Overlay District;
- (b) Goals, objectives, and policies pertaining to Federal facilities, as found in the Comprehensive Plan and the Master Plans for the Federal facilities within the NO Overlay District; and
- (c) Role, mission, and functions of the Federal facilities within the NO Overlay District, and the effect that the proposed development would have on such facilities.

1533.2 The Board shall refer the application upon receipt to the D.C. Office of Planning for coordination, review, report, and impact assessment, along with reviews in writing by all relevant District departments and agencies, including the Departments of Transportation and Housing and Community Development, and, if a historic district or historic landmark is involved, the State Historic Preservation Officer.

1533.3 The Board shall refer the application upon receipt to the National Capital Planning Commission for review and report.

1533.4 The Board may require special treatment and impose reasonable conditions as it deems necessary to mitigate any adverse impact identified in the consideration of the application.

SOURCE: Final Rulemaking published at 39 DCR 2745, 2746 (April 17, 1992); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8461 (October 20, 2000).

1534 HEIGHT, AREA, AND BULK REGULATIONS (NO)

1534.1 The maximum permitted building height in the NO Overlay District shall not exceed forty feet (40 ft.).

1534.2 For purposes of this chapter, the height of a building shall be measured as follows:

- (a) The height of a building shall be the vertical distance measured from the level of the curb opposite the middle of the front of the building to the highest point of the roof or parapet; and
- (b) The curb elevation opposite the middle of the front of the building shall be determined as the average elevation of the lot from its front line to its rear lot line.

1534.3 The provisions of chapter 24 of this title shall not operate to permit a planned unit development in the NO Overlay District to exceed either the limits of § 1534.1, or the area, bulk, and yard standards that apply as a matter of right in any underlying district within the NO Overlay District.

1534.4 Except as limited in § 411.5, a penthouse within the NO Overlay District may be erected to a height in excess of that authorized in the zone district in which located; provided, that:

- (a) The maximum permitted height shall be twelve feet (12 ft.) above the roof upon which it is located, except that the maximum permitted height for penthouse mechanical space shall be fifteen feet (15 ft.);
- (b) The maximum permitted number of stories within the penthouse shall be one (1); and
- (c) It shall contain no form of habitable space, other than ancillary space associated with a rooftop deck, to a maximum area of twenty percent (20%) of the building roof area dedicated to rooftop deck, terrace, or recreation space.

SOURCE: Final Rulemaking published at 39 DCR 2745, 2747 (April 17, 1992); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8461-62 (October 20, 2000); as amended by Final Rulemaking and Order No. 14-13 published at 63 DCR 390 (January 8, 2016).

1535-1540 [RESERVED]

1541 WESLEY HEIGHTS OVERLAY DISTRICT (WH)

1541.1 The Wesley Heights (WH) Overlay District is established to preserve and enhance the low density character of Wesley Heights by regulating construction and alteration of residential and other buildings in the area.

1541.2 The WH Overlay District shall apply to the area and properties contained in this subsection:

- (a) The area is generally bounded by a line which begins at the intersection of Nebraska and New Mexico Avenues and runs southeast along the center line of New Mexico Avenue, N.W., to the western boundary of Glover Archbold Park. The line then runs south and west along the west boundary of Glover Archbold Park to a point east of the southernmost point of Lot 33 of Square 1341. The line then runs west across 44th Street to the southwest boundary of Lot 33. The line then runs in a northerly direction along the rear lot lines of the properties on the west side of 44th Street, to the southern boundary of Lot 15 of Square 1341, inclusive of Lot 33. (For those lots with narrow frontages on the west side of 44th Street, the WH Overlay District boundary line shall cross those narrow lot frontages by connecting the rear lot lines of the adjacent lots across the narrow lot frontage.) The line then runs west along the southern boundary of Lot 15; then runs northwest along the west boundary of Lot 15; then runs in a westerly direction along the right-of-way of the Dexter Court cul-de-sac excluding Lots 19-21, and then runs southwest along the south boundary of Lot 18. The line then runs north along the west boundary of Lot 18 to the southern boundary of Lot 805. The line then runs west along the southern boundaries of Lots 805 and 800; then runs north along the west boundary of Lot 800; then runs west to Foxhall Road along the southern boundary of Lot 804. The line then runs south along the center line of Foxhall Road; then runs west along the northern boundary of Lot 813 of Square 1380; then runs southwest along the rear of Lots 4, 5, and 820 of Square 1380; then runs west to 49th Street along the southern boundaries of Lots 820 to 824, 826, and 6 of Square 1380. The line then runs north along the western boundary of 49th Street right-of-way; continues east along the northern boundary of Cathedral Avenue right-of-way; and turns north along the property line at the rear of the properties on the west side of Foxhall Road (including all of Square 1523 and Lots 28 and 29 of Square 1521). The line then runs east along the northern property line of Lot 28 of Square 1521 to Foxhall Road, then runs north along the west boundary of the Foxhall Road right-of-way to New Mexico Avenue. The line then runs northeast along the center line of New Mexico Avenue to the point of origin at the intersection of New Mexico and Nebraska Avenues, N.W.; and

- (b) The properties that are contained within the boundaries of the WH Overlay District, as set forth in § 1541.2(a), include all of Squares 1338 to 1340, 1380, 1381, 1406, 1408, 1521, 1523, 1524, 1603 to 1612, 1614, 1615, 1619 to 1622, 1625, 1626, 1700, and 1701; and a portion of Squares 1341, 1397, and 1601 (those portions include Lots 11, 12, 15 to 18, 24, 25, 28 to 34, 36, 37, 800, 804, 805, 807, 810, 814, 819, 821, 824, 825, and 868, and a portion of Lots 35, 857, and 869 in Square 1341; Lots 4 to 6, 814 to 816, 818, 820 to 824, and 826 in Square 1397; and Lots 804 and 805 in Square 1601).

1541.3 The purposes of the WH Overlay District are to:

- (a) Preserve in general the current density of neighborhood;
- (b) Allow reasonable opportunities for owners to expand their dwellings; and
- (c) Preserve existing trees, access to air and light, and the harmonious design and attractive appearance of the neighborhood.

SOURCE: Final Rulemaking published at 39 DCR 6827 (September 11, 1992); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8462-62 (October 20, 2000).

1542 GENERAL PROVISIONS (WH)

1542.1 The WH Overlay District is an overlay district and shall be mapped in combination with one (1) of two (2) underlying districts (R-1-A and R-1-B) and not instead of the underlying districts.

1542.2 All uses, buildings, and structures permitted in accordance with this chapter and the appropriate regulations of the underlying district with which the mapped WH Overlay District is combined, shall be permitted in the combined districts.

1542.3 All restrictions and prohibitions provided for by either of the underlying districts combined in accordance with this chapter shall also apply, except as specifically modified by this chapter. Where there is a conflict between this chapter and the underlying zoning, the more restrictive provisions of this title shall govern.

SOURCE: Final Rulemaking published at 39 DCR 6827, 6829 (September 11, 1992); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8463 (October 20, 2000).

1543 RESTRICTIONS: MAXIMUM LOT OCCUPANCY, FLOOR AREA RATIO, AND FRONT YARD SETBACK (WH)

1543.1 The restrictions under this section shall apply to both the R-1-A and the R-1-B Districts within the WH Overlay District.

1543.2 No structure, including accessory buildings, shall occupy an area in excess of thirty percent (30%) of the lot; except that:

- (a) Structures on lots of between five thousand square feet and six thousand six hundred and sixty-seven square feet (5,000 ft.² and 6,667 ft.²) may occupy up to two thousand square feet (2,000 ft.²); and
- (b) Structures on lots of less than five thousand square feet (5,000 ft.²) may occupy up to forty percent (40%) of the area of the lot.

1543.3 The gross floor area of all buildings and structures on the lot shall not exceed the sum of two thousand square feet (2,000 ft.²) plus forty percent (40%) of the area of the lot; provided, that the following modifications of gross floor area shall apply in the WH Overlay District:

- (a) The first two hundred square feet (200 ft.²) of an open porch, or total open porch space if there is more than one open porch, and the first six hundred square feet (600 ft.²) of a garage shall not count in gross floor area; and
- (b) Basement or cellar floor area shall count in gross floor area if a finished floor is provided, if the floor to ceiling height is in excess of six feet, six inches (6 ft., 6 in.), and shall count only up to a floor area equal to five (5) times the total fenestration area for the cellar or basement floor.

1543.4 All residential buildings shall have a front yard setback equal to or greater than the average setback of all structures on the same side of the street in the block where the building in question is located. The required setbacks are depicted in the map entitled, "Required Front Yard Setbacks," which is a part of this overlay district and located in the D.C. Office of Zoning and the Office of the Zoning Administrator of the Department of Consumer and Regulatory Affairs.

SOURCE: Final Rulemaking published at 39 DCR 6827, 6829 (September 11, 1992); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8463 (October 20, 2000); 57 DCR 000126 (2010).

EDITOR'S NOTE: The map entitled "Required Front Yard Setbacks," is published at 39 DCR 6827, 6831 (September 11, 1992).

1544-1550 [RESERVED]

1551 SIXTEENTH STREET HEIGHTS OVERLAY DISTRICT (SSH)

1551.1 The Sixteenth Street Heights (SSH) Overlay District is established to help accomplish several goals and policies of the Comprehensive Plan, especially those land use objectives relating to housing supply, neighborhood quality and

character, and policies relating to human services and private institutions, as applied to the 16th Street Heights neighborhood.

- 1551.2 The purposes of the SSH Overlay District are to:
- (a) Promote the conservation, enhancement, and stability of this low-density, single-family neighborhood for housing and neighborhood-related uses;
 - (b) Control the expansion of nonresidential uses, and/or further conversion of residential housing to nonresidential uses in order to maintain the housing supply and minimize the external negative impacts of new nonresidential uses that are permitted in the SSH/R-1-B District in order to preserve neighborhood quality; and
 - (c) Allow neighborhoods to continue to provide a range of health and social service facilities as well as private institutions that provide cultural and religious enrichment and economic vitality, but within the framework of improved public review and control over the external effects of nonresidential uses. The objective is to make more compatible the Comprehensive Plan's goals and policies for maintaining the quality and stability of residential neighborhoods with other policies related to the reasonable provision of human services throughout the District of Columbia.
- 1551.3 The Sixteenth Street Heights (SSH) Overlay District is comprised of the SSH-1 and the SSH-2 Districts.
- 1551.4 The SSH-1 Overlay District encompasses the geographic area in northwest Washington generally bounded by 16th Street and Rock Creek Park on the west, Military Road and Missouri Avenue on the north, and 14th Street on the east, and Colorado Avenue on the southeast. This overlay zone is applied to properties zoned R-1-B in the following squares and portions of squares: 2718, 2719, 2720, 2720W, 2721, 2721W, 2722, 2722W, 2723, 2723W, 2724, 2724W, 2725, 2741, 2742, 2796, and 2799.
- 1551.5 The provisions of the SSH-1 Overlay District shall be applied properties identified in § 1551.4 based on the following key findings:
- (a) Over a period of years, approximately one in every ten (10) houses in the SSH-1 District has been converted to a nonresidential use, a much higher ratio than has been identified for any other R-1-zoned neighborhood in the District of Columbia; the neighborhood accommodates a significant number and range of human service facilities and private institutions to an extent that new and significantly expanded nonresidential use facilities should be governed by improved public review to ameliorate adverse impacts on immediate and nearby neighbors and preserve a predominantly single-family residential character;

- (b) The SSH-1 neighborhood boundaries are well established and encompass a significant geographic area; and
- (c) The District of Columbia executive branch and councilmembers have identified the number of nonresidential uses and the conversion of houses to these uses in this neighborhood as a serious planning and enforcement problem for more than ten (10) years, as reflected in the legislative history of adopted provisions in the Comprehensive Plan in effect on July 29, 1994.

1551.6 The SSH-2 Overlay District encompasses the geographic area in northwest Washington generally bounded by 16th Street on the west, Colorado Avenue on the north, 14th Street on the east, and Decatur Street to the south. This overlay zone is applied to properties zoned R-1-B in the following squares and portions of squares: 2708, 2709, 2710, 2711, 2712, 2713, 2714, 2715, and 2716.

1551.7 The provisions of the SSH-2 Overlay District shall be applied to the properties described in 1551.6 based on the following key findings:

- (a) More than 20% of the residentially zoned land is used for nonresidential purposes;
- (b) The neighborhood boundaries are well established and encompass a significant geographic area; and
- (c) The District of Columbia Comprehensive Plan has identified the number of nonresidential uses in the neighborhood as a problem.

SOURCE: Final Rulemaking published at 41 DCR 5045 (July 29, 1994); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8464 (October 20, 2000); as amended by Final rulemaking and order no. 08-09 published at 56 DCR 3943 (May 15, 2009); 57 DCR 000126 (2010).

1552 GENERAL PROVISIONS (SSH)

1552.1 The SSH Overlay District is mapped in combination with the underlying R-1 District and not instead of the underlying district.

1552.2 Where there is a conflict between this chapter and the underlying zoning, the more restrictive provision shall govern.

SOURCE: Final Rulemaking published at 41 DCR 5045, 5047 (July 29, 1994); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8441-42 (October 20, 2000).

1553 MATTER-OF-RIGHT AND SPECIAL EXCEPTION USES (SSH)

1553.1 An existing nonresidential use with a valid Certificate of Occupancy as of July 29, 1994, shall be considered a conforming use and may expand by up to ten percent (10%) of its gross floor area as a matter of right under the provisions of the R-1-B District; provided, that the following requirements are met:

- (a) No additional land area or subdivision of lots is involved in the expansion; and
- (b) The ten percent (10%) expansion limit shall be a total limit on expansion based on the gross floor area of the building as of July 29, 1994.

1553.2 A proposed new nonresidential use or an expansion of an existing nonresidential use in excess of ten percent (10%) of gross floor area shall be permitted as a special exception, if approved by the Board of Zoning Adjustment after public hearing, in accordance with § 3104 and subject to the following requirements:

- (a) The nonresidential use is capable of being established and operated without adversely affecting the use and enjoyment of neighboring and nearby properties due to traffic, noise, design, or other objectionable conditions; and
- (b) There shall be adequate, appropriately located, and screened off-street parking sufficient to provide for the needs of the maximum number of occupants, employees, congregants, and visitors who can use the facility at one time; provided:
 - (1) The number of parking spaces provided shall be not less than the number required by chapter 21 of this title and shall be located and designed so that they have the least objectionable effects on contiguous or nearby property because of noise, traffic, or other objectionable conditions;
 - (2) Parking spaces and driveways providing access to them shall not be located in a required side yard, or on the lot between the principal building and a street right-of-way, nor in public space abutting the lot;
 - (3) If five (5) or more open parking spaces are provided, the parking spaces shall be screened from all contiguous residential property by a wood fence or a wall made of brick or stone at least twelve inches (12 in.) thick and forty-two inches (42 in.) high, or by evergreen hedges or evergreen growing trees that are thickly planted and maintained and are at least forty-two inches (42 in.) in height when planted; and

- (4) Any lighting used to illuminate open parking spaces shall be so arranged that all direct rays of lighting are confined to the surface of the paved area devoted to parking; any lighting provided shall be the minimum necessary for reasonable visibility by drivers and for security purposes.

1553.3 Any expansion, renewal of time limits, or other changes to an existing use permitted by special exception in the R-1 District provisions shall continue to be governed by the R-1 provisions rather than those of this overlay district.

SOURCE: Final Rulemaking published at 41 DCR 5045, 5047 (July 29, 1994); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8464-65 (October 20, 2000).

1554-1560 [RESERVED]

1561 FORT TOTTEN OVERLAY DISTRICT (FT)

1561.1 The Fort Totten (FT) Overlay District is established to allow existing industrial businesses to remain and expand and to propose land use control policies to further implement the Comprehensive Plan.

1561.2 The FT Overlay District is applied to the area that is immediately north and south of Fort Circle Park (also known as Fort Drive Park), and shall be mapped in combination with the C-3-A, CR, C-M-1, and M Districts.

(a) North of Fort Circle Park:

- (1) The zone district boundaries of the FT/C-3-A Overlay District shall begin at the intersection of First Place and Riggs Road, N.E., and proceed as follows:

West along the center line of Riggs Road to the north/south alley that is immediately west of and parallel to First Place; south along the center line of that alley to Ingraham Street; east along the center line of Ingraham Street to First Place; south along the center line of First Place to the north property line of Parcel 124/141; east along the north property line of Parcel 124/141 and then continue east along the north property line of Parcel 124/140 (also known as Lot 804 in Square 3700); east along an imaginary line that represents the easterly extension of the north property line of Parcel 124/140; continue east along that imaginary line until it intersects a second imaginary line that represents the westerly extension of the property line between Lots 5 and 808 of Square 3767; continue east along the second imaginary line and the property line between Lots 5 and 808 to the alley in Square 3767;

north along the center line of that alley to Kennedy Street; west, north, and then east along the perimeter of an existing R-5-A District boundary line that encompasses Parcel 137/78 (also known as Lots 3, 4, and 800 in Square 3766) to South Dakota Avenue; north along the center line of South Dakota Avenue and then northwesterly along the center line of the vehicular ramp (which connects Riggs Road and South Dakota Avenue) to Riggs Road; west along the center line of Riggs Road to the point of origin; and

- (2) The zone district boundaries of the FT/CR Overlay District shall be the boundaries of the existing C-M-1 District that is immediately north of Fort Circle Park and south of the FT/C-3-A Overlay District as described in § 1561.2(a) (1); and

(b) South of Fort Circle Park:

- (1) The zone district boundaries of the FT/M Overlay District shall be the identical boundaries of the existing M District that is immediately south of and contiguous to Fort Circle Park; and
- (2) The zone district boundaries of the FT/C-M-1 Overlay District shall be the identical boundaries of the existing C-M-1 District that is immediately south of and contiguous to Fort Circle Park.

1561.3 The purposes of the FT Overlay District are to:

- (a) Encourage a scale of development and a mixture of building and land uses as generally required by the Comprehensive Plan;
- (b) Encourage future residential and commercial development by means of the provisions of the underlying CR and C-3-A Districts while enabling existing industries that provide jobs, tax revenues, and critical support functions for development of the District of Columbia to remain in the District; and
- (c) Protect surrounding residential areas from the adverse impacts of existing industrial support uses by means of the buffering standards provided in this overlay district.

SOURCE: Final Rulemaking published at 42 DCR 2585, 2586 (May 26, 1995); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8465-66 (October 20, 2000).

1562 GENERAL PROVISIONS (FT)

- 1562.1 The FT Overlay District is mapped in combination with the underlying C-3-A, CR, C-M-1, or M Districts and not instead of the underlying districts.

1562.2 Where there is a conflict between this chapter and the underlying zoning, the more restrictive provisions of this title shall govern.

SOURCE: Final Rulemaking published at 42 DCR 2585, 2586 (May 26, 1995); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8466 (October 20, 2000).

1563 HEIGHT, BULK, AND USE PROVISIONS (FT)

1563.1 An existing commercial or industrial use in the FT Overlay District with a valid certificate of occupancy as of May 26, 1995 shall be deemed a conforming use.

1563.2 An existing business or industrial use as provided in § 1563.1 shall be permitted to expand pursuant to the height, bulk, and other area standards of the underlying zone district.

1563.3 A business or industrial use that expands pursuant to § 1563.2 shall comply with the following yard and screening standards:

- (a) If the lot line of the lot being developed coincides with the lot line of a property in a Residence District, or is separated only by a street or alley from a property in a Residence District, where the property is not owned by a business or industrial user, and the property is not being used for residential purposes, the following standards shall apply:
 - (1) A yard of twenty-five feet (25 ft.) shall be provided on the portion of the lot adjacent to the Residence District; provided, that the requirements under paragraphs (a)(1) through (a)(5) of this subsection are met;
 - (2) Where there is a street or an alley between the residential lot and the lot subject to the FT Overlay District, the required yard shall be fifteen feet (15 ft.) measured from the lot line;
 - (3) The yard shall not be used for parking, loading, or accessory uses;
 - (4) The yard shall be landscaped with evergreen trees in a healthy growing condition which shall be a minimum of six feet to eight feet (6 ft. to 8 ft.) in height when planted; and
 - (5) Planting locations and soil preparation techniques shall be shown on a landscape plan submitted with the building permit application to the D.C. Department of Consumer and Regulatory Affairs for review and approval according to standards maintained by the Department's Soil Erosion and Storm Management Branch, which

may require replacement of heavy or compacted soils with top soil and drainage mechanisms as necessary; and

- (b) A fence or wall shall be erected as a buffer between the residential lot(s) not owned by a business or industrial user that abut a lot affected by this overlay district; provided, that the fence or wall shall be no less than eight feet (8 ft.) and no more than ten feet (10 ft.) in height, and shall be either a solid, wood, board-on-board fence or a brick or stone wall.

1563.4 The maximum bulk and height of a new building for a newly established use in the underlying CR Zone District shall be 5.0 FAR and eighty feet (80 ft.) in height, inclusive of a penthouse, which shall be limited to one (1) story maximum.

1563.5 Buildings proposed to have a height in excess of sixty-five feet (65 ft.) shall provide special architectural features, roof parapet detailing, and design consideration of roof top and penthouse structures to ensure that the views and vistas from the historic fortification of Fort Totten are not degraded or obstructed. The D.C. Office of Planning shall review and provide a report with recommendation.

1563.6 Notwithstanding § 1563.4, overlay properties subject to the requirements of Chapter 26 Inclusionary Zoning may utilize, the following modifications to height lot occupancy, and FAR:

- (a) In the FT/C-3-A Overlay District:

- (1) The floor area ratio for new construction shall not exceed 4.8 FAR;
- (2) The lot occupancy shall not exceed eighty percent (80%); and
- (3) The maximum building height shall not exceed sixty-five (65) feet.

- (b) In the FT/CR Overlay District:

- (1) The floor area ratio for new construction shall not exceed 6.0 FAR;
- (2) The lot occupancy shall not exceed seventy-five percent (75%); and
- (3) The maximum building height shall not exceed ninety (90) feet.

SOURCE: Final Rulemaking published at 42 DCR 2585, 2588 (May 26, 1995); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8466-67 (October 20, 2000); as amended by Final Rulemaking published at 55 DCR 2604, 2612 (March 14, 2008); 57 DCR 000126 (2010); as amended by Final Rulemaking and Order No. 14-13 published at 63 DCR 390 (January 8, 2016).

1564 SPECIAL EXCEPTIONS (FT)

1564.1 The Board of Zoning Adjustment, after public hearing, may waive or vary the requirements of this chapter relating to building setback, landscaping, and fencing, as a special exception in accordance with § 3104; provided, that the proposed variations in standards are generally consistent with the chapter.

SOURCE: Final Rulemaking published at 42 DCR 2585, 2589 (May 26, 1995); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8467 (October 20, 2000).

1565 CHAIN BRIDGE ROAD/UNIVERSITY TERRACE OVERLAY DISTRICT (CB/UT)

1565.1 The Chain Bridge Road/University Terrace (CB/UT) Overlay District is established to preserve and enhance the park-like setting of the Chain Bridge Road/University Terrace area by regulating alteration or disturbance of terrain, destruction of trees, and ground coverage of permitted buildings and other impervious surfaces, and by providing for widely spaced residences.

1565.2 The purposes of the CB/UT Overlay District are to:

- (a) Preserve the natural topography and mature trees to the maximum extent feasible in a residential neighborhood;
- (b) Prevent significant adverse impact on adjacent open space, parkland, stream beds, or other environmentally sensitive natural areas;
- (c) Limit permitted ground coverage of new and expanded buildings and other construction, so as to encourage a general compatibility between the siting of new buildings or construction and the existing neighborhood; and
- (d) Limit the minimum size of lots so as to prevent significant adverse impact on existing infrastructure, especially on traffic and pedestrian safety and to achieve the other purposes listed in this subsection.

1565.3 The CB/UT Overlay District applies to the area bounded on the south by MacArthur Boulevard, on the east by Battery Kemble Park/Chain Bridge Road, on the north by Loughboro Road/Nebraska Avenue, and on the west by University Terrace.

1565.4 The properties contained within the boundaries of the CB/UT Overlay District include Lots 826, 829, 839-843, 845-847, 849-851, and 853-857 in Square 1409; Lots 829 and 830 in Square 1410; Lots 803, 806, 807, 829, 830, 832, 840, and 841 in Square 1411; all of Square 1425; Lots 11, 15-18, 20, 22, 831, 835, 851, 855, 859, 861, 863, 864, 898, 899, 902-905, 912, 914, 931, 937, 938, 940, and 948-958 in Square 1426; and all of Square 1427.

1565.5 The CB/UT Overlay District is a residential neighborhood, located at the edge of stream beds and public open spaces, that has steep slopes, substantial stands of mature trees, and undeveloped lots and parcels subject to potential terrain alteration and tree removal.

SOURCE: Final Rulemaking published at 46 DCR 6246-47 (July 30, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8467-68 (October 20, 2000).

1566 GENERAL PROVISIONS (CB/UT)

1566.1 The CB/UT Overlay District is mapped in combination with the underlying Residence District and not instead of the underlying district.

1566.2 Where there is a conflict between the CB/UT Overlay District and the underlying zoning, the more restrictive provisions of this title shall govern.

SOURCE: Final Rulemaking published at 46 DCR 6246, 6247-48 (July 30, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8468 (October 20, 2000).

1567 LOT OCCUPANCY AND GROUND COVERAGE RESTRICTIONS (CB/UT)

1567.1 The principal building and any accessory building on the lot shall not exceed total lot occupancy of thirty percent (30%); provided that on lots of six thousand, four hundred ninety-nine square feet (6,499 ft.²) or less, the maximum permitted lot occupancy shall be forty percent (40%); on lots of six thousand, five hundred square feet (6,500 ft.²) to eight thousand, nine hundred ninety-nine square feet (8,999 ft.²), the maximum permitted lot occupancy shall be thirty-five percent (35%), but not less than two thousand, six hundred square feet (2,600 ft.²); and on lots of nine thousand square feet (9,000 ft.²) or more, the maximum permitted lot occupancy shall be thirty percent (30%), but not less than three thousand one hundred fifty square feet (3,150 ft.²).

1567.2 The maximum impervious surface coverage on a lot shall be fifty percent (50%), provided this subsection shall not:

- (a) Preclude enlargement of a principal building in existence as of July 30, 1999; or
- (b) Create nonconformity of a structure as regulated by chapter 20 of this title.

SOURCE: Final Rulemaking published at 46 DCR 6246, 6248 (July 30, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8468-69 (October 20, 2000).

1568 LIMITATIONS (CB/UT)

1568.1 Except as provided in § 1568.2, constructing a building, accessory building, or an addition to a building, creating any impervious surface area, subdividing any unimproved lot, or subdividing any improved lot so as to increase the number of principal structures thereupon, shall only be permitted as a matter of right subject to the following tree removal limitations:

- (a) No tree that has a circumference of seventy-five inches (75 in.) or more at a height of four and one-half feet (4½ ft.) above ground may be removed, cut down, or fatally damaged;
- (b) No more than three (3) trees that have a circumference of more than thirty-eight inches (38 in.) at a height of four and a half feet (4½ ft.) above ground may be removed, cut down, or fatally damaged and none of these may be located within twenty-five feet (25 ft.) of any building restriction line or lot line abutting a public street; and
- (c) The total circumference inches of all trees removed or cut down on a lot may not exceed twenty-five percent (25%) of the total circumference inches of all trees on the lot having a circumference greater than twelve inches (12 in.); provided, that this section does not abrogate the right to remove or cut down up to three (3) trees as provided in paragraph (b) of this subsection; or any tree having a circumference of twelve inches (12 in.) or less at a height of four and one-half feet (4½ ft.) above ground.

1568.2 The prohibitions of § 1568.1 do not apply to the removal or cutting down of any dead or unhealthy tree or a tree that creates an unsafe condition. The need for removal of any tree shall be certified by a tree care professional certified by the International Society of Arboriculture.

1568.3 A special exception under § 3104 must be obtained for a building permit for a lot on which trees were removed, cut down, or fatally damaged prior to July 30, 1999, if the removal, cutting, or damage:

- (a) Would have been prohibited by § 1568.1; and
- (b) Occurred within seven years of the application date.

1568.4 The minimum lot area for dwellings within the CB/UT Overlay District shall be nine thousand, five hundred square feet (9,500 ft.²) for lots subdivided after July 30, 1999.

SOURCE Final Rulemaking published at 46 DCR 6246, 6248-49 (July 30, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8469-70 (October 20, 2000).

1569 SPECIAL EXCEPTIONS (CB/UT)

1569.1 Any exception from the requirements of this chapter shall be permitted only as a special exception, if approved by the Board of Zoning Adjustment after public hearing, in accordance with the conditions specified in § 3104, and subject to the following requirements:

- (a) Tree removal, grading, and topographical change shall be limited to the maximum extent possible, consistent with construction of a building permitted by the standards of this section;
- (b) The applicant shall demonstrate that there are specific physical characteristics of the lot that justify the exception;
- (c) The excepted building and overall site plan of the lot shall be generally consistent with the purposes of the CB/UT Overlay District and not adversely affect neighboring property; and
- (d) The Board may impose requirements as to design, appearance, tree protection practices during construction, buffering, and other requirements as it deems necessary to achieve the purposes of this section and may vary side and rear yard requirements in order to achieve the purposes of this section.

1569.2 Before taking final action on an application, the Board shall submit the application to the following agencies for review and written reports:

- (a) D.C. Office of Planning;
- (b) D.C. Department of Transportation, Tree Management Administration;
- (c) D.C. Department of Parks and Recreation;
- (d) D.C. Department of Consumer and Regulatory Affairs, Soil Erosion and Storm Management Branch; and
- (e) National Park Service, U.S. Department of the Interior.

1569.3 An applicant for a special exception shall submit at least the following materials:

- (a) A site plan for development, including computation and illustration of total lot occupancy and impervious surface ratio, and regulated trees proposed to be removed; and
- (b) A plan and statement indicating how trees to be preserved on the lot will be protected during the construction period, including reference to

proposed procedures to guard against long-term damage by such factors as soil compaction.

SOURCE: Final Rulemaking published at 46 DCR 6246, 6249-50 (July 30, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8470 (October 20, 2000).

1570 CAPITOL HILL COMMERCIAL OVERLAY DISTRICT (CHC)

1570.1 The Capitol Hill Commercial (CHC) Overlay District is established to implement the goals and policies of the Comprehensive Plan, particularly those land use objectives and policies relating to improving the physical condition of Capitol Hill through the provision of functional, efficient, and attractive commercial areas; minimizing conflicts between various land uses; locating more intensive and active land uses in areas of Capitol Hill that can accommodate and support such uses; stabilizing and improving commercial areas in portions of Capitol Hill; ensuring the integrity of the Capitol Hill Historic District; and developing and establishing special land use categories to meet the unique characteristics of the commercial areas of Capitol Hill.

1570.2 The purposes of the CHC Overlay District are to:

- (a) Implement § 1735.1(w) of the Comprehensive Plan, Title 10 DCMR;
- (b) Encourage the adaptive use and reuse of existing buildings, many of which are located in the Capitol Hill Historic District, particularly with respect to the portions of the buildings that exceed the commercial floor area ratio permitted in the underlying zone districts;
- (c) Concentrate nonresidential uses in Commercial Zone Districts in certain areas of Capitol Hill, thereby enhancing and protecting the residential character of the areas surrounding the Commercial Districts and relieving pressure to use properties zoned residential for commercial uses; and
- (d) Provide appropriate incentives for new infill construction that is compatible with the Capitol Hill Historic District and its predominance of low scale row house structures.

1570.3 The CHC Overlay District encompasses the geographic area in southeast and northeast Washington generally identified as follows:

- (a) Massachusetts Avenue, N.E./Stanton Park corridor, between 2nd Street and 6th Street, N.E.;
- (b) Pennsylvania Avenue, S.E., between 2nd Street and 4th Street, S.E.;
- (c) Pennsylvania Avenue, S.E., between 6th Street and 13th Street, S.E.;

- (d) Eighth Street, S.E., between Pennsylvania Avenue, S.E., and the Southeast Expressway; and
- (e) Seventh Street, S.E., between North Carolina Avenue and Pennsylvania Avenue, S.E.

1570.4 The CHC Overlay District shall include all of the following lots or squares zoned C-2-A and CAP/C-2-A:

- (a) Square 755: those lots that abut Massachusetts Avenue, N.E.;
- (b) Square 756: those lots that abut Massachusetts Avenue, N.E., and D Street, N.E.;
- (c) Square 762: those lots that abut Pennsylvania Avenue, S.E.;
- (d) Square 781: those lots that abut Massachusetts Avenue, N.E.;
- (e) Square 782: those lots that abut Massachusetts Avenue, N.E.;
- (f) Square 789: those lots that abut Pennsylvania Avenue, S.E.;
- (g) Square 790: those lots that abut Pennsylvania Avenue, S.E.;
- (h) Square 813: those lots that abut Stanton Park (also known as Stanton Square) and C Street, N.E.;
- (i) Square 814: those lots that abut Stanton Park (also known as Stanton Square) and C Street, N.E.;
- (j) Square 837: those lots that abut Stanton Park (also known as Stanton Square) and C Street, N.E.;
- (k) Square 838: those lots that abut Stanton Park (also known as Stanton Square) and C Street, N.E.;
- (l) Square 873;
- (m) Square 874: those lots that abut Pennsylvania Avenue, S.E.;
- (n) Square 900: those lots that abut 7th Street, S.E.;
- (o) Square 902: those lots that abut 8th Street, S.E., and D Street, S.E.;
- (p) Square 903: those lots that abut 8th Street, S.E.;

- (q) Square 904: those lots that abut 8th Street, S.E.;
- (r) Square 925: those lots that abut 8th Street, S.E.; D Street, S.E.; and Pennsylvania Avenue, S.E.;
- (s) Square 926: those lots that abut 8th Street, S.E.;
- (t) Square 928;
- (u) Square 947;
- (v) Square 948;
- (w) Square 972: those lots that abut Pennsylvania Avenue, S.E.;
- (x) Square 973: those lots that abut E Street, S.E., and Pennsylvania Avenue, S.E.;
- (y) Square 994: those lots that abut Pennsylvania Avenue, S.E.;
- (z) Square 1019: those lots that abut Pennsylvania Avenue, S.E., and 12th Street, S.E.; and
- (aa) Square S1019.

1571 GENERAL PROVISIONS (CHC)

- 1571.1 The CHC Overlay District is mapped in combination with, and not instead of, the underlying Commercial District and the Capitol Interest (CAP) Overlay District.
- 1571.2 All buildings and structures permitted under §§ 1572 and 1573 and the pertinent regulations of the underlying Commercial District and the CAP Overlay District shall be permitted in the combined district.
- 1571.3 Except as provided in §§ 1572.2 and 1572.4, where there is a conflict between §§ 1572 and 1573 and the underlying Commercial District or the CAP Overlay District, the provisions of §§ 1572 and 1573 shall govern.

1572 HEIGHT AND FLOOR AREA RATIO RESTRICTIONS (CHC)

- 1572.1 Except as provided in § 1572.2, the maximum permitted building height in the CHC Overlay District shall be the height permitted in the underlying Commercial District.

- 1572.2 If the affected property is located in both the CHC Overlay District and the CAP Overlay District, the maximum permitted building height shall be the height permitted in the CAP Overlay District.
- 1572.3 Except as provided in § 1572.4, the maximum permitted floor area ratio for a building or structure in the CHC Overlay District shall be 3.0 for all permitted uses.
- 1572.4 Notwithstanding § 1203.3, the maximum permitted floor area ratio for a building or structure located in both the CHC Overlay District and the CAP Overlay District shall be 2.5 for all permitted uses.
- 1572.5 A penthouse within the CHC Overlay District shall conform to the height and use provisions in the underlying Commercial District.

SOURCE: As amended by Final Rulemaking and Order No. 14-13 published at 63 DCR 390 (January 8, 2016).

1573 PLANNED UNIT DEVELOPMENT STANDARDS (CHC)

- 1573.1 In the CHC Overlay District, the development standards in §§ 1572.3 through 1572.4 shall serve as the maximum permitted floor area ratio for a planned unit development.

SOURCE: Final Rulemaking published at 49 DCR 9064, 9070-73 (October 4, 2002); as corrected by Final Rulemaking published at 49 DCR 10594, 10600-10603 (November 22, 2002).

1599 DEFINITIONS

- 1599.1 When used in this chapter, the following term has the meaning ascribed:

Nonresidential use - a permitted use in the R-1 District other than a one-family dwelling.

SOURCE: Final Rulemaking published at 41 DCR 5045, 5048 (July 29, 1994); 57 DCR 000126 (2010).

TITLE 11 - ZONING

CHAPTER 16 CAPITOL GATEWAY OVERLAY DISTRICT

Secs.

- 1600 PREAMBLE (CG)
- 1601 BONUS DENSITY AND HEIGHT (CG)
- 1602 COMBINED LOT DEVELOPMENT (CG)
- 1603 BUILDINGS, STRUCTURES, AND USES IN THE CG/W-2 DISTRICT
- 1604 BUILDINGS AND STRUCTURES ON M STREET, S.E. (CG)
- 1605 BUILDINGS, STRUCTURES, AND USES ON SOUTH CAPITOL STREET (CG)
- 1606 BUILDINGS, STRUCTURES, AND USES ON FIRST STREET S.E, SOUTH OF M STREET S.E. (CG)
- 1607 BUILDINGS, STRUCTURES, AND USES ON HALF STREET S.E., SOUTH OF M STREET S.E. (CG)
- 1608 STEP-BACK FOR CERTAIN BUILDINGS AND STRUCTURES ON POTOMAC AVENUE (CG)
- 1609 PRIVATE DRIVEWAYS ON P STREET S.W. (CG)
- 1610 ZONING COMMISSION REVIEW OF BUILDINGS, STRUCTURES, AND USES (CG)
- 1611 EXISTING INDUSTRIAL USES (CG)
- 1612 BALLPARK (CG)
- 1699 DEFINITIONS (CG)
- 1600 PREAMBLE (CG)**
- 1600.1 The Capitol Gateway (CG) Overlay District is applied to the Buzzard Point and Capitol Gateway areas, which are designated for mixed use development in the Comprehensive Plan for the National Capital. The following Squares and portions of Squares in the Southwest and Southeast quadrants of the District of Columbia are included in the CG Overlay District: 601, 602, 603, 605, 607, 609, 611, 612,

613, 656, 657, 658, 660, 661, 662, E662, 664, E664, 665, 666, E667, S667, ES667, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, E708, S708, 742, N743, S744, 769, 771, and 800, as well as Square 649, Lot 48; Square 651, Lots 147 and 148; and Square 653, Lots 14, 15, 52-54, 60-66, 68-70, 75, 111, 810, 811, 827, and 828; and Square 655, Lots 124-140.

1600.2 The purposes of the CG Overlay District are to:

- (a) Assure development of the area with a mixture of residential and commercial uses, and a suitable height, bulk and design of buildings, as generally indicated in the Comprehensive Plan and recommended by planning studies of the area;
- (b) Encourage a variety of support and visitor-related uses, such as retail, service, entertainment, cultural and hotel or inn uses;
- (c) Allow for continuation of existing industrial uses, which are important economic assets to the city, during the extended period projected for redevelopment;
- (d) Provide for a reduced height and bulk of buildings along the Anacostia riverfront in the interest of ensuring views over and around waterfront buildings, and provide for continuous public open space along the waterfront with frequent public access points;
- (e) Require suitable ground-level retail and service uses and adequate sidewalk width along M Street, S.E., near the Navy Yard Metrorail station;
- (f) Provide for development of Squares 702-706 and Reservation 247 as a ballpark for major league sport and entertainment and associated uses;
- (g) Provide for the establishment of South Capitol street as a monumental civic boulevard;
- (h) Provide for the development of Half Street S.E. as an active pedestrian-oriented street with active ground floor uses and appropriate setbacks from the street facade to ensure adequate light and air, and a pedestrian scale; and
- (i) Provide for the development of First Street S.E. as an active pedestrian-oriented street with active ground floor uses, connecting M Street, the Metro Station, and existing residential neighborhoods to the Ballpark site and the Anacostia Waterfront.

1600.3 The CG Overlay District and the underlying CR, W-1, W-2, W-3, and C-3-C Districts shall constitute the Zoning Regulations for the geographic area referred

to in § 1600.1. Where there are conflicts between this chapter and the underlying zoning, the provisions of the CG Overlay District shall govern.

SOURCE: Final Rulemaking published at 52 DCR 72 (January 7, 2005); as amended by Final Rulemaking published at 52 DCR 9881 (November 4, 2005); as amended by Final Rulemaking published at 54 DCR 1584 (February 16, 2007); as amended by Final Rulemaking published at 54 DCR 10292 (October 26, 2007).

1601 BONUS DENSITY AND HEIGHT (CG)

1601.1 CG Overlay developments subject to the set-aside requirements of Chapter 26 Inclusionary Zoning may use the FAR, Height and Lot Occupancy in the following table as the basis of calculating the set-aside requirements of § 2603:

Base Zone	IZ Bonus		
	FAR	Lot Occupancy	Maximum Height
Capitol Gateway			
C-2-C	7.2	80%	110
C-3-C	7.8	100%	90
CR	7.2	80%	100
W-1	3.0	80%	50
W-2	4.8	75%	80
W-3	7.2	75%	100

Bonus density achieved via §§ 1601.2 or 1601.4 does not add to the set-aside requirements of § 2603.

1601.2 In the CG/CR and CG/W-3 Districts, a building or combined lot development shall be allowed a maximum density of 8.2 FAR; provided that the additional 1.0 FAR in excess of § 1601.1 FAR shall be devoted solely to residential uses, which, for the purposes of this subsection, does not include hotel uses.

1601.3 For the purpose of accommodating bonus density as authorized by § 1601.1, the maximum permitted building height shall be that permitted by the Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452; D.C. Official Code §§ 6-601.01 to 6-601.09), as amended; provided that in Squares 601, 656, and 657 those lots abutting or separated only by a street or alley from residentially zoned property shall provide a one-to-one (1:1) building setback for any part of a building that exceeds ninety (90) feet in height on the side abutting the residential zone.

1601.4 In the CG/W-1 District, a building or combined lot development shall be allowed a maximum density of 4.0 FAR and a maximum height of fifty- five (55) feet to accommodate the additional density. The additional 1.0 FAR in excess of §1601.1 shall be devoted solely to residential uses unless the building or the combined lot development includes at least 2.0 FAR of residential uses, in which case the

additional 1.0 FAR may be devoted to any permitted use in the W-1 zone. For the purposes of this subsection, the term "residential uses" does not include hotel uses.

- 1601.5 In the CG/W-2 District, the Zoning Commission may grant additional density to lots as part of the review and approval process applicable to that area, in the manner set forth in §§ 1603.3 and 1603.4.
- 1601.6 A building that qualifies as a Capitol South Receiving Zone site under § 1709.18 shall be subject to the maximum height and bulk limits of § 1709.21 of this Title.
- 1601.7 The provisions of § 411 shall apply to penthouses in the CG Overlay.

SOURCE: Final Rulemaking published at 52 DCR 72 (January 7, 2005); as amended by Final Rulemaking published at 55 DCR 2614 (March 14, 2008); 57 DCR 000126 (2010); as amended by Final Rulemaking and Order No. 14-13 published at 63 DCR 390 (January 8, 2016).

1602 COMBINED LOT DEVELOPMENT (CG)

- 1602.1 Two (2) or more lots within the Overlay District may be combined for the purpose of allocating residential and nonresidential uses regardless of the normal limitation on floor area by uses on each lot; provided, that the aggregate residential and nonresidential floor area shall not exceed the matter-of-right maximum height or density of the underlying zone district(s), except when bonus density is being constructed, subject to the following:
- (a) Within the CG/CR District, the residential and nonresidential floor area on each individual parcel shall not exceed a maximum floor area ratio of 8.0 on parcels for which a height of 110 feet is permitted or 8.5 on parcels for which a height of 130 feet is permitted by the Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452; D.C. Official Code §§ 6-601.01 to 6-601.09) as amended (the "Height Act"), including any bonus density;
 - (b) Within the CG/CR District, the amount of commercial density transferred from one parcel to another may not exceed the lesser of a density of 3.0 FAR or the amount of residential density being transferred;
 - (c) Maximum permitted height shall be that permitted for any site receiving combined lot density within the CG/CR District, but only to the extent necessary to accommodate any additional density received from another parcel;
 - (d) The combined lot provisions may not be used to transfer density to or from any property within the CG/R-5-E, CG/C-2-C, CG/C-3-C, CG/W-1, CG/W-2, or CG/W-3 Districts; and

- (e) In addition to the amount of density that may be transferred in accordance with § 1602.1(a), the Zoning Commission may, at its discretion, grant an additional transfer of density of 1.0 FAR maximum to or within Squares 700, 701, and 702, subject to the applicant addressing to the satisfaction of the Zoning Commission the objectives and guidelines of §§ 1601 and 1604-1607, as applicable.

1602.2 No allocation of gross floor area shall be effective unless an instrument, legally sufficient to effect such a transfer, is filed with the Zoning Administrator and recorded by the Recorder of Deeds in the land records against all lots included in the combined lot development.

1602.3 The instrument shall be in the form of a declaration of covenants that:

- (a) Is signed by the owners of all affected lots;
- (b) Runs with the land in perpetuity;
- (c) Burdens all lots involved in the allocation of gross floor area;
- (d) Binds the present and future owners of the lot sending nonresidential gross floor area to forgo the nonresidential development and occupation of an on-site area equal to the amount of gross floor area of nonresidential uses transferred; and
- (e) States the maximum permitted gross floor areas for all uses in all lots, the maximum allowed gross floor area for nonresidential uses in all lots, and the gross floor area of nonresidential uses allocated. The covenant shall further state that, after the transfer, the combined lots conform with the maximum gross floor area limitations for nonresidential uses on the lots before the transfer.

1602.4 The declaration of covenants shall expressly state that it may be substantively amended or terminated only with the approval of the Zoning Commission, after public hearing, and only upon a finding that the proposed amendment or termination is fully justified and consistent with the purposes of this chapter.

1602.5 The declaration of covenants shall be approved in content by the Zoning Administrator and certified for legal sufficiency by the Office of the Attorney General. The declaration shall also contain a written statement by the Director of the D.C. Office of Planning attesting to:

- (a) The lots' eligibility to allocate residential and nonresidential uses;
- (b) The accuracy of the computations with respect to the amount of residential and nonresidential uses allocated; and

- (c) Whether, after the transfer, the combined lots will conform with the maximum gross floor area limitations on nonresidential uses for the lots before any such transfer.

SOURCE: Final Rulemaking published at 52 DCR 72 (January 7, 2005); as amended by Final Rulemaking published at 54 DCR 1584 (February 16, 2007); as amended by Final Rulemaking published at 54 DCR 10292 (October 26, 2007); 57 DCR 000126 (2010).

1603 BUILDINGS, STRUCTURES, AND USES IN THE CG/W-2 DISTRICT

1603.1 The following provisions apply to new buildings, structures, or uses within the CG/W-2 District.

1603.2 No private driveway to any parking or loading berth areas in or adjacent to a building or structure constructed after January 7, 2005 shall directly face the waterfront.

1603.3 All buildings or structures constructed after January 7, 2005 on a lot that faces or abuts the Anacostia River shall be set back by no less than seventy-five (75) feet from the bulkhead, unless the Zoning Commission finds that such setback creates an undue economic hardship for the owner of the lot and in no case less than fifty (50) feet from the bulkhead.

1603.4 In the CG/W-2 District, the Zoning Commission, at its discretion, may grant bonus density for residential development in a building or a combined lot development, using a guideline of 1.0 FAR in excess of the normally-allowed maximum of 4.0 FAR and an additional ten (10) feet in excess of the normally-allowed maximum height of sixty (60) feet; provided that:

- (a) The building or combined lot development shall include at least 2.0 FAR of residential development;
- (b) The Zoning Commission, at its discretion, may allow construction of such bonus density on the property zoned CG/W-2 or may allow only for the bonus density to be transferred off-site to a lot or lots zoned CG/CR; and
- (c) The provisions of §§ 1709.6 through 1709.12 and § 1709.14 shall govern the procedures for transferring bonus density off-site if permitted by the Zoning Commission.

1603.5 The Zoning Commission, at its discretion, may also provide for additional on-site or off-site bonus density to be earned for setbacks required under this section, based on the land area of the setback and the proposed features for public open space uses; provided, that 2.0 FAR based on the land area of the open space setback shall be used as a general guideline.

SOURCE: Final Rulemaking published at 52 DCR 72 (January 7, 2005); as amended by Final Rulemaking published at 54 DCR 1585 (February 16, 2007); 57 DCR 000126 (2010).

1604 BUILDINGS AND STRUCTURES ON M STREET, S.E. (CG)

- 1604.1 The following provisions apply to new buildings, structures, or uses with frontage on M Street S.E. within the CG Overlay.
- 1604.2 No driveway may be constructed or used from M Street to required parking spaces or loading berths in or adjacent to a new building.
- 1604.3 The streetwall of each new building shall be set back for its entire height and frontage along M Street not less than fifteen (15) feet measured from the face of the adjacent curb along M Street, S.E.
- 1604.4 Each new building shall devote not less than thirty-five percent (35%) of the gross floor area of the ground floor to retail, service, entertainment, or arts uses ("preferred uses") as permitted in §§ 701.1 through 701.5 and §§ 721.1 through 721.6 of this Title; provided, that the following uses shall not be permitted: automobile, laundry, drive-through accessory to any use, gasoline service stations, and office uses (other than those accessory to the administration, maintenance, or leasing of the building). Such preferred uses shall occupy 100% of the building's street frontage along M Street, except for space devoted to building entrances or required to be devoted to fire control.
- 1604.5 For good cause shown, the Commission may authorize interim occupancy of the preferred use space required by § 1604.4 by non-preferred uses for up to a five (5) year period; provided, that the ground floor space is suitably designed for future occupancy by the preferred uses.
- 1604.6 Not less than fifty percent (50%) of the surface area of the streetwall of any new building along M Street shall be devoted to display windows having clear or low-emissivity glass except for decorative accent, and to entrances to commercial uses of the building.
- 1604.7 The minimum floor-to-ceiling clear height for portions of the ground floor level devoted to preferred uses shall be fourteen (14) feet.
- 1604.8 A building that qualifies as a Capitol South Receiving Zone site under §§ 1709.18 and for which a building permit has been applied for prior to August 31, 2001, shall not be subject to the requirements of this section.
- 1604.9 Where preferred use retail space is required under this section and provided, the requirement of 11 DCMR § 633 to provide public space at ground level shall not apply.

SOURCE: Final Rulemaking published at 52 DCR 72 (January 7, 2005); as amended by Final Rulemaking published at 54 DCR 1586 (February 16, 2007); 57 DCR 000126 (2010).

1605 BUILDINGS, STRUCTURES, AND USES ON SOUTH CAPITOL STREET (CG)

- 1605.1 The following provisions apply to new buildings, structures, or uses with frontage on South Capitol Street within the CG Overlay.
- 1605.2 Each new building or structure located on South Capitol Street shall be set back for its entire height and frontage not less than 15 feet, with the exception of a:
- (a) Buildings within Squares 649 and 651; and
 - (b) Replacement of an existing row dwelling within Squares 653 and 655; or
 - (c) Vertical addition to an existing row dwelling within Squares 653 and 655, not extending out into the South Capitol Street right-of-way and not exceeding 50% of the gross floor area of the original row dwelling.
- 1605.3 Any portion of a building or structure that exceeds 110 feet in height shall provide an additional one-to-one (1:1) step-back from the building line along South Capitol Street.
- 1605.4 No private driveway may be constructed or used from South Capitol Street to any parking or loading berth areas in or adjacent to a building or structure constructed after February 16, 2007.
- 1605.5 For each new building or structure located on South Capitol Street, a minimum of 60% of the street-wall shall be constructed on the setback line, with the exception of:
- (a) Buildings within Squares 649 and 651 where a minimum of 60% of the street-wall shall be constructed to the South Capitol Street property line; and
 - (b) Replacement of or an addition to an existing row dwelling within Squares 653 or 655 in accordance with § 1605.2.

SOURCE: Final Rulemaking published at 54 DCR 1587-1592 (February 16, 2007); as amended by Final Rulemaking published at 54 DCR 10292 (October 26, 2007); 57 DCR 000126 (2010).

1606 BUILDINGS, STRUCTURES, AND USES ON FIRST STREET S.E, SOUTH OF M STREET S.E. (CG)

- 1606.1 The following provisions apply to new buildings, structures, or uses with frontage on First Street S.E. south of M Street S.E., within the CG Overlay.

- 1606.2 Each new building shall devote not less than seventy-five percent (75%) of the gross floor area of the ground floor to retail, service, entertainment, or arts uses ("preferred uses") as permitted in §§ 701.1 through 701.5 and §§ 721.1 through 721.6 of this Title; provided, that the following uses shall not be permitted: automobile, laundry, drive-through accessory to any use, gasoline service stations, and office uses (other than those accessory to the administration, maintenance, or leasing of the building).
- 1606.3 Preferred uses shall occupy 100% of the building's street frontage along First Street S.E., except for space devoted to building entrances or required to be devoted to fire control.
- 1606.4 The minimum floor-to-ceiling clear height for portions of the ground floor level devoted to preferred uses shall be fourteen (14) feet.
- 1606.5 For good cause shown, the Zoning Commission may authorize interim occupancy of the preferred use space required by § 1606.2 by non-preferred uses for up to a five (5) year period; provided, that the ground floor space is suitably designed for future occupancy by the preferred uses.
- 1606.6 Where preferred use retail space is required under this section and provided, the requirement of 11 DCMR § 633 to provide public space at ground level shall not apply.

SOURCE: Final Rulemaking published at 54 DCR 1587-1592 (February 16, 2007); 57 DCR 000126 (2010).

1607 BUILDINGS, STRUCTURES, AND USES ON HALF STREET S.E., SOUTH OF M STREET S.E. (CG)

- 1607.1 The following provisions apply to new buildings, structures, or uses with frontage on Half S.E. south of M Street S.E., within the CG Overlay.
- 1607.2 Any portion of a building or structure that exceeds sixty-five (65) feet in height shall provide a minimum step-back of twenty (20) feet in depth from the building line along Half Street S.E. Pursuant to § 3104, the Zoning Commission may grant relief from this requirement, to a maximum of fifteen (15) feet in height and eight (8) feet in depth, for the provision of reasonable development footprints.
- 1607.3 Each new building shall devote not less than seventy-five percent (75%) of the gross floor area of the ground floor to retail, service, entertainment, or arts uses ("preferred uses") as permitted in §§ 701.1 through 701.5 and §§ 721.1 through 721.6 of this Title; provided, that the following uses shall not be permitted: automobile, laundry, drive-through accessory to any use, gasoline service stations, and office uses (other than those accessory to the administration, maintenance, or leasing of the building).

- 1607.4 Preferred uses shall occupy 100% of the building's street frontage along Half Street S.E., except for space devoted to building entrances or required to be devoted to fire control.
- 1607.5 The minimum floor-to-ceiling clear height for portions of the ground floor level devoted to preferred uses shall be fourteen (14) feet.
- 1607.6 For good cause shown, the Zoning Commission may authorize interim occupancy of the preferred use space required by § 1607.2 by non-preferred uses for up to a five (5) year period; provided, that the ground floor space is suitably designed for future occupancy by the preferred uses.
- 1607.7 No private driveway may be constructed or used from Half Street S.E. to any parking or loading berth areas in or adjacent to a building or structure constructed after February 16, 2007.
- 1607.8 Where preferred use retail space is required under this section and provided, the provisions of DCMR 11 § 633 shall not apply.

SOURCE: Final Rulemaking published at 54 DCR 1587-1592 (February 16, 2007); 57 DCR 000126 (2010).

1608 STEP-BACK FOR CERTAIN BUILDINGS AND STRUCTURES ON POTOMAC AVENUE (CG)

- 1608.1 The following provisions apply to new buildings, structures, or uses with frontage on Potomac Avenue within the CG Overlay.
- 1608.2 Any portion of a building or structure that exceeds 110 feet in height shall provide an additional one-to-one (1:1) step-back from the building line along Potomac Avenue.

SOURCE: Final Rulemaking published at 54 DCR 1587-1592 (February 16, 2007); 57 DCR 000126 (2010).

1609 PRIVATE DRIVEWAYS ON P STREET S.W. (CG)

- 1609.1 No private driveway may be constructed or used from P Street S.W. to any parking or loading berth areas in or adjacent to a building or structure subject to the provisions of this chapter that is constructed after February 16, 2007.

SOURCE: Final Rulemaking published at 54 DCR 1587-1592 (February 16, 2007); 57 DCR 000126 (2010).

1610 ZONING COMMISSION REVIEW OF BUILDINGS, STRUCTURES, AND USES (CG)

1610.1 The following provisions apply to properties located:

- (a) Within the CG/W-2 District;
- (b) On a lot that abuts M Street S.E.;
- (c) On a lot located within Squares 700 or 701, north of the Ballpark site;
- (d) On a lot that abuts South Capitol Street, other than renovation or replacement of an existing row dwelling within Squares 653 or 655; or for a minor addition not exceeding 50% of the gross floor area of the original row dwelling structure;
- (e) On a lot within Squares 601, 656, or 657; or
- (f) Any lot that is the recipient of density through the combined lot provisions of § 1602.

1610.2 With respect to those properties described in § 1610.1, all proposed uses, buildings, and structures, or any proposed exterior renovation to any existing buildings or structures that would result in an alteration of the exterior design, shall be subject to review and approval by the Zoning Commission in accordance with the following provisions.

1610.3 In addition to proving that the proposed use, building, or structure meets the standards set forth in § 3104, an applicant requesting approval under this section must prove that the proposed building or structure, including the sitting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will:

- (a) Help achieve the objectives of the CG Overlay District as set forth in § 1600.2;
- (b) Help achieve the desired mix of uses in the CG Overlay District as set forth in §§ 1600.2(a) and (b), with the identified preferred uses specifically being residential, hotel or inn, cultural, entertainment, retail, or service uses;
- (c) Be in context with the surrounding neighborhood and street patterns;
- (d) Minimize conflict between vehicles and pedestrians;
- (e) Minimize unarticulated blank walls adjacent to public spaces through facade articulation; and

- (f) Minimize impact on the environment, as demonstrated through the provision of an evaluation of the proposal against LEED certification standards.

1610.4 With respect to a building or structure to be constructed on a lot within the CG/W-2 District:

- (a) The building or structure shall provide suitably designed public open space along the waterfront;
- (b) A plan shall be included in the application for suitable open space treatment of the setback area for such uses as walkway and bikeway, passive or active recreational use, and including provisions assuring private maintenance of the space, convenient and permanent public access to the space, and suitable connections to adjacent public space along the waterfront; and
- (c) The application shall include a view analysis that assesses openness of waterfront views and vistas, and views and vistas toward the Capitol Dome, other federal monumental buildings, existing neighborhoods, South Capitol Street, and the Frederick Douglass Bridge.

1610.5 With respect to a building or structure which has frontage on Half Street S.E. south of M Street S.E. or Front Street S.E. south of M Street S.E.:

- (a) The building or structure shall provide for safe and active streetscapes through building articulation, landscaping, and the provision of active ground level uses including retail, entertainment, cultural, and pedestrian concourse space;
- (b) The building or structure shall provide for safe and convenient movement to and through the site, including to public transit, the Ballpark, and to the Anacostia River; and
- (c) The application shall include a view analysis that assesses openness of views and vistas around, including views toward the Capitol Dome, other federal monumental buildings, the Ballpark, and the waterfront.

1610.6 With respect to a building or structure which has frontage on South Capitol Street S.E.:

- (a) The building or structure shall incorporate massing, materials, and buildings and streetscape landscaping to further the design and development of properties in a manner that is sensitive to the establishment of South Capitol Street as a monumental civic boulevard;

- (b) The building or structure shall incorporate massing, location of access to parking and loading, and location of service areas to recognize the proximate residential neighborhood use and context, as applicable; and
- (c) The application shall include a view analysis that assesses openness of views and vistas around, including views toward the Capitol Dome, other federal monumental buildings, the Ballpark, and the waterfront.

1610.7 The Commission may hear and decide any additional requests for special exception or variance relief needed for the subject property. Such requests shall be advertised, heard, and decided together with the application for Zoning Commission review and approval.

1610.8 At the time of filing an application with the Zoning Commission, the applicant shall pay the filing fee specified in § 3180.1(b) (16), plus such fees as apply to any additional zoning relief requested. The provisions of § 3181 relating to the administration of fees shall apply, except that the applicant may appeal any decision of the Director regarding the fee schedule to the Zoning Commission, which shall decide the appeal as a preliminary matter to hearing the application.

1610.9 A building that qualifies as a Capitol South Receiving Zone site under §1709.18, and for which a building permit has been applied for prior to August 31, 2001, shall not be subject to the requirements of this section.

SOURCE: Final Rulemaking published at 54 DCR 1587-1592 (February 16, 2007); as amended by Final Rulemaking published at 54 DCR 10293 (October 26, 2007); 57 DCR 000126 (2010).

1611 EXISTING INDUSTRIAL USES (CG)

1611.1 A commercial or industrial use that is first permitted in the CM or M Zone Districts and that is in existence with a valid Certificate of Occupancy as of the date the provisions of this Chapter first became effective shall be deemed a conforming use, but shall not be entitled to expand.

SOURCE: Final Rulemaking published at 52 DCR 72 (January 7, 2005); as amended by Final Rulemaking published at 54 DCR 1587 (February 16, 2007); 57 DCR 000126 (2010).

1612 BALLPARK (CG)

1612.1 A Ballpark may be constructed and operated within Squares 702, 703, 704, 705, and 706 and Reservation 247 (the "Ballpark Site").

1612.2 For the purposes of this section, the term "Ballpark" means a stadium or arena, including accessory buildings or structures (including, but not limited to office and transportation facilities) that has as its primary purpose the hosting of professional athletic team events.

- 1612.3 The Ballpark may also be used to host events customarily held in such facilities including, but not limited to performances, amateur sporting events, municipal functions, and public or private ceremonies.
- 1612.4 Notwithstanding § 631.1 of this Title, no portion of the FAR need be used for residential purposes within the Ballpark Site.
- 1612.5 The Ballpark's maximum permitted height shall be that permitted by the Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452; D.C. Official Code §§ 6-601.01 to 6-601.09), as amended. For the purposes of determining height for a Ballpark, height shall mean the vertical distance measured from the level of the curb opposite the middle of the front of the building to the highest point of the building including a scoreboard, roof, cantilevered sunscreen, or parapet, with the exception of elements noted in § 630.3.
- 1612.6 In addition to the streetwall setbacks of § 1612.15, any portion of the Ballpark that exceeds 110 feet in height shall provide an additional one-to-one (1:1) step back from the building line along South Capitol Street.
- 1612.7 All parking spaces within the Ballpark Site shall be provided underground. At or above grade parking spaces shall be permitted if approved by the Zoning Commission pursuant to § 1612.18; subject to the applicant demonstrating:
- (a) Practical difficulty with the provision of underground parking; and
 - (b) Compliance with the provisions of §§ 1612.19 and 1612.20.
- 1612.8 A maximum of 1,225 vehicular parking spaces shall be provided for the Ballpark use within the Ballpark Site, in addition to bus parking requirements of § 1612.10. Of this number, a minimum of 125 shall be designated handicapped parking spaces. Any parking spaces in addition to the 1,225 amount shall be permitted if approved by the Zoning Commission pursuant to § 1612.18; subject to the applicant demonstrating:
- (a) That the parking spaces are needed to satisfy parking demand generated by the Ballpark not met by existing or approved but not yet constructed parking facilities; and
 - (b) Compliance with the provisions of §§ 1612.19 and 1612.20.
- 1612.9 In considering whether to approve additional ballpark-related at or above-ground parking spaces under §1612.8, the Zoning Commission shall judge, balance, and reconcile the need for additional on-site parking against any adverse impacts the presence of the parking will have on traffic, and the aesthetics and development of the surrounding neighborhood.

- 1612.10 Any on-site bus parking shall be located internal to a building, with doors and entranceways designed to complement the building facade, and shall permit safe and convenient vehicular and pedestrian movement.
- 1612.11 The Zoning Commission may grant relief from the requirements of § 1612.10 pursuant to § 1612.18 if necessary to the economic viability of the Ballpark and if consistent with the purposes of the CG Overlay as stated in §1600.2 and the provisions of §§ 1612.19 and 1612.20.
- 1612.12 Loading platforms and berths for the Ballpark shall be located internal to a building, with doors and entranceways designed to complement the building facade, and shall permit safe and convenient vehicular and pedestrian movement.
- 1612.13 A minimum of one pedestrian entrance gate to the Ballpark shall be provided on each street frontage.
- 1612.14 Not less than twenty percent (20%) of the Ballpark building's exterior perimeter frontage, not including any detached accessory building, shall be devoted to retail, service, entertainment, or arts uses ("preferred uses") as permitted in § 1807.2 of this Title, with the addition of "museum", in accordance with the following provisions:
- (a) Preferred uses shall have a street orientation;
 - (b) Preferred uses shall provide direct exterior access at ground level;
 - (c) Not less than fifty percent (50%) of area devoted to preferred uses shall be devoted to display windows having clear or low-emissivity;
 - (d) The minimum floor to ceiling height of area devoted to preferred uses shall be fourteen (14) feet clear; and
 - (e) The average depth from the exterior facade in towards the center of the building for space devoted to preferred retail shall be fifty (50) feet minimum.
- 1612.15 The Zoning Commission may grant relief to a maximum of fifty percent (50%) of the amount of space required by § 1612.14 if necessary for the economic viability of the Ballpark and if consistent with the purposes of the CG Overlay as stated in § 1600.2 and the provisions of §§ 1612.19 and 1612.20.
- 1612.16 Each building or structure located on the portion of South Capitol Street that lies within the Ballpark Site shall be set back for its entire height and frontage not less than fifteen (15) feet, provided that a minimum of sixty percent (60%) of the street-wall shall be constructed on the setback line

- 1612.17 No private driveway may be constructed or used from South Capitol Street to any parking or loading berth areas in or adjacent to a building or structure constructed after November 4, 2005.
- 1612.18 The Ballpark and all other proposed buildings or structures within the Ballpark Site shall be subject to the approval of the Zoning Commission in accordance with the provisions of §§ 1612.19 and 1612.20.
- 1612.19 An applicant requesting approval under this section must prove that the proposed building or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will minimize potential impacts to the neighborhood and the United States Capitol by:
- (a) Minimizing associated noise, particularly into adjacent residential neighborhoods;
 - (b) Minimizing light spill, particularly into adjacent residential neighborhoods;
 - (c) Minimizing parking and traffic conflict between Ballpark patrons and neighborhood residents;
 - (d) Encouraging the use of bicycles through the provision of safe, secure and convenient bike storage, as well as other forms of alternative transportation to the site;
 - (e) Minimizing conflict between vehicles and pedestrians;
 - (f) Encouraging the design and development of properties in a manner that is sensitive to the establishment of South Capitol Street as a monumental civic boulevard while recognizing the proximate residential neighborhood use and context;
 - (g) Being in context with the surrounding neighborhood and street patterns;
 - (h) Providing view analysis which assesses openness of views and vistas around the Ballpark, including views toward the Capitol Dome, other federal monumental buildings, and the waterfront, from the surrounding neighborhood and neighborhoods east of the Anacostia River, South Capitol Street, the Frederick Douglas Bridge, and the waterfront;
 - (i) Providing for safe and convenient movement to and through the site, including to public transit and to the Anacostia River; and
 - (j) Ensuring that signage on the exterior of building or internal to the ballpark structure but visible from the outside, including the scoreboard, will not have such intensity or brilliance as to cause glare or impair the vision of

any driver, or otherwise interfere with the driver's operation of a motor vehicle; adversely impact an owner's enjoyment of residential property located proximate to the ballpark; or impact the character and integrity of the ballpark site.

1612.20 In addition to the required provisions of § 1612.19, an applicant requesting approval under this section shall also demonstrate that the proposed building or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation will:

- (a) Help achieve the objectives of the CG Overlay District as set forth in § 1600.2;
- (b) Be of a superior quality;
- (c) Encourage safe and active streetscapes through building articulation, landscaping, and the provision of active ground level uses including retail, entertainment, cultural, and pedestrian concourse space;
- (d) Minimize unarticulated blank walls adjacent to public spaces through facade articulation; and
- (e) Promote the use of best practice environmental design, including minimizing potential impacts on the Anacostia River through stormwater management and recycling practices.

1612.21 The Zoning Commission may impose requirements pertaining to building or structure design, appearance, landscaping, signage, lighting, and other such requirements, as it deems necessary to protect neighboring property and to achieve the purposes of the Capitol Gateway Overlay District.

1612.22 The Zoning Commission may hear and decide any additional requests for relief from Zoning Regulations for the subject site. Such requests may be advertised, heard, and decided together with the application for Zoning Commission review and approval.

1612.23 At the time of filing an application with the Zoning Commission, the applicant shall pay the filing fee specified in § 3180.1(b)(16), plus such fees as apply to any additional zoning relief requested. The provisions of § 3181 relating to the administration of fees shall apply, except that the applicant may appeal any decision of the Director regarding the fee schedule to the Zoning Commission, which shall decide the appeal as a preliminary matter to hearing the application."

1612.24 At any time after the application is filed, but no later than 30 days prior to the hearing date, at the request of one or more Zoning Commission member(s), the Zoning Commission may, at a regular or special public meeting, offer preliminary comment on the design presented. Written notice of the Zoning Commission's

intent to offer preliminary comment shall be provided to the Applicant, ANC 6D, and the Office of Planning. The Office Planning may participate at the meeting only through responding to the Zoning Commission's questions and offering solutions to any concerns expressed.

SOURCE: Final Rulemaking published at 52 DCR 9885 (November 4, 2005); as amended by Final Rulemaking published at 54 DCR 1587 (February 16, 2007).

1699 DEFINITIONS (CG)

1699.1 When used in this chapter, the term "residential uses" shall have the same meaning as the term "residential purposes" as set forth in § 631.2, except as otherwise qualified. See § 1601.3 for example.

SOURCE: Final Rulemaking published at 52 DCR 72 (January 7, 2005).

TITLE 11 - ZONING

**CHAPTER 17 DOWNTOWN DEVELOPMENT OVERLAY
DISTRICT**

Secs.

- 1700 GENERAL PROVISIONS (DD)
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- 1799 DEFINITIONS

1700 GENERAL PROVISIONS (DD)

- 1700.1 The Downtown Development (DD) Overlay District is applied to the core of the Downtown area, including subareas identified in the Comprehensive Plan as the Downtown Shopping District (Retail Core), the Arts District, Gallery Place, Chinatown, Pennsylvania Quarter, Convention Center, and Mount Vernon Square, and areas designated for historic preservation and housing mixed use, which areas overlap geographically with the subareas. All street locations in this overlay district are in Northwest Washington.
- 1700.2 The purpose of the DD Overlay District is to help accomplish the land use and development policies of the Comprehensive Plan relating to the affected Downtown sectors. The adopted planning policies for this area are primarily contained in 10 DCMR, chapter 9, entitled "Downtown Plan Element," and 10 DCMR, chapter 11, entitled "Land Use Element," as amended.
- 1700.3 The most important general purposes include the following:
 - (a) To create a balanced mixture of uses by means of incentives and requirements for critically important land uses identified in the Comprehensive Plan, including retail, hotel, residential, entertainment, arts, and cultural uses;
 - (b) To guide and regulate office development, which is generally favored by market forces over the other desired uses, so as to further the land use

objectives for retail, hotel, residential, entertainment, arts, and cultural uses;

- (c) To protect historic buildings and places while permitting sensitive and compatible new development subject to the historic preservation review process of the Historic Landmark and Historic District Protection Act of 1978, effective March 3, 1979 (D.C. Law 2-144, as amended; D.C. Official Code, §§ 6-1101 to 6-1115 (2001) (formerly codified at D.C. Code §§ 5-1001 to 5-1015 (1994 Repl. & 1999 Supp.)));
- (d) To substantially achieve the specific land use and development policies for the following Downtown subareas: Retail Core, Gallery Place, Convention Center, Chinatown, Pennsylvania Avenue West, Pennsylvania Quarter, Mount Vernon Square, and Judiciary Square;
- (e) To guide the design of buildings to be generally consistent with the urban design, street orientation and design, and historic preservation policies of the Downtown Plan Element of the Comprehensive Plan;
- (f) To foster growth opportunities for and retention of small and minority businesses; and
- (g) To provide adequate and visually acceptable short-term parking and consolidated loading facilities having access primarily from streets other than F, G, and 7th Streets.

1700.4 The DD Overlay District and the underlying zoning together constitute the zoning regulations for the geographic area referred to in § 1700.1. Wherever there are conflicts between this chapter and the underlying zoning, the provisions of the DD Overlay District shall govern.

1700.5 The requirements and incentives of this chapter apply to all new buildings and to all other buildings where any additions, alterations, or repairs within any twelve-month (12) period exceed one hundred percent (100%) of the assessed value of the building as set forth in the records of the Office of Tax and Revenue as of the date of the building permit application; provided:

- (a) The cost basis for alterations or additions to an existing building shall be the amount indicated by the applicant on the application for a building permit;
- (b) The assessed value of the building shall be the value set forth in records of the Office of Tax and Revenue as of the date of the building permit application; and
- (c) In the case of an addition, the requirements and incentives of this chapter apply only to the addition.

1700.6 An applicant for a building permit or a certificate of occupancy involving ten thousand square feet (10,000 ft.²) or more of gross floor area within the DD Overlay District shall provide a copy of the application, or of those portions of the application affected by the DD Overlay District provisions to the Director of the D.C. Office of Planning, at the time of filing with the Zoning Administrator; the Director shall, within ten (10) days of the filing, provide the Zoning Administrator with a memorandum setting forth the Director's interpretation of DD Overlay District requirements, incentives, and other effects.

1700.7 A Planned Unit Development (PUD) in the DD Overlay District shall be subject to the following provisions in addition to those of chapter 24 of this title:

- (a) The PUD shall only be granted for projects that are superior in achieving the purposes of this chapter and the adopted objectives and policies of the Downtown Plan Element of the Comprehensive Plan;
- (b) The PUD process shall not be used to reduce requirements in this chapter for housing or preferred uses, specifically retail, service, entertainment, arts, and residential uses;
- (c) Except as provided in § 1706.7, the guideline floor area ratio (FAR) for a PUD may be granted only after the applicant has demonstrated to the Zoning Commission that transferable development rights have been purchased to the maximum feasible extent prior to the request for additional density in excess of that amount; and
- (d) Notwithstanding paragraphs (b) and (c) of this subsection, if a PUD is proposed to govern the following, the PUD shall be guided by the applicable policies of the Comprehensive Plan pertaining to the development of:
 - 1) The University of the District of Columbia campus and other uses in Squares 401, 402, 425, and 426, and
 - 2) A convention center headquarters hotel on square 370.

AUTHORITY: Unless otherwise noted, the authority for this chapter is the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code §§ 6-641.01 to 6-641.15 (2001) (formerly codified at D.C. Code §§ 5-413 to 5-432 (1994 Repl. & 1999 Supp.)).

SOURCE: Final Rulemaking published at 38 DCR 612 (January 18, 1991); as amended by Final Rulemaking published at 46 DCR 1016, 1017 (February 5, 1999); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8471-72 (October 20, 2000); as amended by Final Rulemaking and Order No. 08-05 published at 56 DCR 3120 (April 24, 2009); 57 DCR 000126 (2010); as amended by Final Rulemaking and Order No. 13-01 published at 60 DCR 4203 (March 22, 2013).

1701 AREA-WIDE DESIGN STANDARDS (DD)

- 1701.1 The floor area ratio credit for open arcades as provided in § 2515 is not applicable in the DD Overlay District.
- 1701.2 Any open arcade in the DD Overlay District shall extend the length of an entire block frontage, or shall connect with an open arcade in an abutting building in such fashion as to provide a continuous walkway.
- 1701.3 Not less than seventy-five percent (75%) of each streetwall of new construction to a height of not less than fifteen feet (15 ft.) shall be constructed to, or within four feet (4 ft.) of, the property line between the subject lot and each abutting street right-of-way.
- 1701.4 Along the following street frontages, the provisions of § 2117.8(c)(1) are modified so as to prohibit the construction or use of a driveway providing access from the adjacent public street to required parking spaces or loading berths on the subject lot:
- (a) F Street, N.W., from 7th to 15th Streets;
 - (b) G Street, N.W., from 7th to 15th Streets;
 - (c) 10th Street, N.W., from E to F Streets;
 - (d) 7th Street, N.W., from Pennsylvania Avenue to Mount Vernon Square;
 - (e) H Street, N.W., from 5th to 8th Streets;
 - (f) Pennsylvania Avenue, N.W., from 6th to 15th Streets; and
 - (g) Indiana Avenue, N.W., from 6th to 7th Streets.
- 1701.5 Along the street frontages listed in § 1701.4, and those listed in paragraph (c) of this subsection, not less than fifty percent (50%) of the surface area of any streetwall at the ground floor level of each building shall be devoted to display windows and to entrances to commercial uses or to the building; provided:
- (a) The windows shall use clear or low emissivity glass, except for decorative or architectural accent;
 - (b) Entrances to the building, excluding vehicular entrances, shall be separated by not more than fifty feet (50 ft.) on average for the linear frontage of the building; and

- (c) The additional applicable street frontages shall be E Street, N.W., from 6th to 14th Streets; 10th through 13th Streets, N.W., from E to H Streets; 9th Street, N.W., from E to I Streets; 14th and 15th Streets, N.W., from Pennsylvania Avenue to New York Avenue; I Street, N.W., from 5th to 7th Streets; and 8th Street, from Pennsylvania Avenue to Mount Vernon Square.

1701.6 The requirements of §§ 1701.1 through 1701.5 shall not apply to a department store, theater, hotel, apartment house, or church or other place of worship.

1701.7 Except in the underlying R-5-B, R-5-E, C-2-A, and C-3-A Districts, the maximum permitted building height shall be that permitted by the Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452, as amended; D.C. Official Code §§ 6-601.01 to 6.601.09 (2001) (formerly codified at D.C. Code §§ 5-401 to 5-409 (1994 Repl. and 1999 Supp.))), provided, that a building that fronts on Massachusetts Avenue or on Mount Vernon Square shall be designed and built so that no part of the building shall project above a plane drawn at a forty-five degree (45°) angle from a line located one hundred ten feet (110 ft.) above the property line abutting Massachusetts Avenue or Mount Vernon Square.

SOURCE: Final Rulemaking published at 38 DCR 612, 615 (January 18, 1991); as amended by Final Rulemaking published at 39 DCR 8305, 8309 (November 13, 1992); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8472-73 (October 20, 2000); 57 DCR 000126 (2010).

1702 AREA-WIDE USE PROVISIONS (DD)

1702.1 Each building that faces or abuts a street segment identified in §§ 1701.4 or 1701.5 shall devote not less than fifty percent (50%) of the gross floor area of the ground floor to permitted retail, service, arts, and arts-related uses listed in §§ 1710.1 and 1711.1; provided:

- (a) Not more than twenty percent (20%) of the required gross floor area of the ground floor shall be occupied by banks, loan offices, other financial institutions, travel agencies, or other transportation ticket offices;
- (b) The uses specified in paragraph (a) shall account for no more than thirty percent (30%) of the total gross floor area requirement for commercial preferred uses in a building, as provided in §§ 1703 through 1705; and
- (c) This ground floor use requirement shall not apply to a building that is entirely devoted to hotel or apartment house use, or to a church or other place of worship.

1702.2 Each building shall provide on-site or account for off-site, gross floor area equivalent devoted to preferred uses; provided:

- (a) Preferred uses shall be provided and located according to the Downtown subarea guidelines in §§ 1703 through 1706;
- (b) For the purposes of this chapter, the gross floor area of a cellar devoted to preferred uses other than residential uses shall count towards the minimum requirement without affecting the permitted maximum bulk of the building;
- (c) The net leasable area occupied by the required preferred uses shall be no less than eighty percent (80%) of the gross floor area allocated to these uses; and
- (d) The uses listed in § 1712.1 are deemed office uses in the DD Overlay District for purposes of FAR computations.

1702.3 A child development center or a child development home shall count at one-and-one-half (1½) times its actual gross floor area towards the residential preferred use requirement of any subarea; provided, that the child development center will be open and operating during normal business hours at least five (5) days each week and fifty (50) weeks each calendar year, excluding public holidays.

1702.4 An existing theater, hotel, or apartment house shall not be converted in whole or in part to another use, nor be replaced by other uses occupying a new building on the same lot, unless such conversion or replacement has been reviewed and approved by the Board of Zoning Adjustment as a variance pursuant to § 3103.2.

1702.5 A department store in existence as of March 13, 1989, shall not be converted in whole or in part to another use, nor be replaced by other uses occupying a new building on the same lot, unless such conversion or replacement has been reviewed and approved by the Board of Zoning Adjustment as a variance pursuant to § 3103.2; provided, that:

- (a) The entirety of the gross floor area may be converted as a matter of right to any combination of preferred retail, service, arts, and arts-related uses listed in §§ 1710 and 1711, provided that any conversion on Square 346 may also include residential use, as defined in this chapter;
- (b) The gross floor area of the department store space after conversion may include a reduction or rearrangement in floor area to accommodate a new atrium or light well, or different configuration of the new use or uses; and
- (c) A department store that existed as of the adoption of the SHOP District on March 13, 1989, but that was no longer in existence and operating as of the adoption of the DD Overlay District on January 18, 1991, may be converted to any uses permitted in the underlying zone district; provided, that retail, service, arts, and arts-related uses listed in §§ 1710 and 1711

shall occupy no less than 2.0 FAR equivalent in the converted or restructured building.

1702.6 If a church or other place of worship that is in use on January 18, 1991 is later included in a redevelopment, the portion that continues as a church or place of worship shall be exempt from the requirements of this section.

1702.7 A parking lot, parking garage, or parking spaces at or above grade in a building shall be permitted as follows:

- (a) The parking facility shall be permitted as a matter of right if it provides only short-term parking and all of the parking spaces are leased to merchants or a park-and-shop organization;
- (b) The parking facility shall be permitted as a matter of right if it provides parking only for residents; and
- (c) The parking facility shall require Board of Zoning Adjustment approval as a variance pursuant to § 3103.2 if it provides all-day, commuter parking.

1702.8 A building in Square 404, excluding Lot 813, or in Square 405 north of a line extending the midpoint of G Place eastward from 9th to 8th Street, which properties are outside the subarea boundaries provided in §§ 1703 through 1706, shall provide preferred uses according to one of the following provisions, at the election of the property owner:

- (a) Preferred uses may be provided according to the requirements and incentives of any one of the following sections: §§ 1703, 1704, 1705, or 1706;
- (b) As an alternative to paragraph (a), the property owner may develop not less than 1.5 FAR of bonus office density received from another lot or lots within the DD Overlay District, pursuant to § 1709; and
- (c) If bonus density is developed pursuant to paragraph (a) or transferable development rights are developed pursuant to paragraph (b), the maximum permitted FAR shall be 9.5 in Square 405 and 8.5 in Square 404.

SOURCE: Final Rulemaking published at 38 DCR 612, 616-619 (January 18, 1991); as amended by: Final Rulemaking published at 44 DCR 4527, 4528 (August 8, 1997); Final Rulemaking published at 46 DCR 8180, 8182 (October 8, 1999); Final Rulemaking published at 47 DCR 1900, 1901 (March 17, 2000); and Final Rulemaking published at 47 DCR 974143 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8473-74 (October 20, 2000); 57 DCR 000126 (2010).

**1703 DOWNTOWN SHOPPING DISTRICT (RETAIL CORE)
(DD/SHOP)**

1703.1 The principal policies and objectives for the Downtown Shopping (SHOP) District, or Retail Core, derived from the Comprehensive Plan, are to:

- (a) Create the most concentrated area of retail, service, arts, and arts-related uses in Downtown, in excess of one floor of these uses, with the greatest retail concentration oriented to F and G Streets, N.W.; and
- (b) Strengthen the character and identity of the Downtown Shopping District by means of physical design standards that ensure the following:
 - (1) New buildings constructed to the property line and primarily oriented to the street rather than to internal spaces;
 - (2) Continuous retail, service, and entertainment uses on the ground level of buildings, with ample display windows and frequent store entrances to the outdoor pedestrian circulation system; and
 - (3) A pedestrian environment with ample sidewalks interrupted by a minimum of vehicular driveways, especially along F and G Streets.

1703.2 The provisions of this section apply to the general area identified in the Comprehensive Plan as the Downtown Shopping District or Retail Core, comprising Squares 223, 224, 225, 252, 253, 254, 288, 289, 290, 319, 320, 321, 345, 346, 347, 375, 376, and 377. This area is bounded by H Street and New York Avenue, N.W., on the north; E Street and Pennsylvania Avenue on the south; 9th Street on the east; and 15th Street on the west.

1703.3 Each new or altered building that faces or abuts a public street shall devote all of the ground floor leasable space to the retail and service uses listed in § 1710 or the arts and arts-related uses listed in § 1711; provided:

- (a) The gross floor area devoted to the retail, service, arts and arts-related uses listed in §§ 1710 and 1711 shall be no less than 0.5 FAR on the ground floor;
- (b) Not more than twenty percent (20%) of the required gross floor area on the ground floor shall be occupied by banks, loan offices, other financial institutions, travel agencies, or other transportation ticket offices, prepared food shops, fast food establishments, printing or fast copy services, newsstands, dry cleaners, or any combination thereof except that on Lot 127 in Square 375, fast food establishments with no drive-through and prepared food shops shall not be subject to the twenty percent (20%) limit;

- (c) This ground floor use requirement shall not apply to a building that is devoted entirely to hotel or apartment house use or to a church or other place of worship; and
- (d) In the applicable sector of the Downtown Arts District, that is, Squares 254, 290, 321, 347, 377, 376, and 375 (south of G Place), uses that are listed in § 1711 shall comprise not less than fifty percent (50%) of the gross floor area required to be devoted to preferred uses.

1703.4

A building that provides gross floor area for preferred uses as required by § 1703.3 and that includes any of the bonus uses indicated in this subsection, may count the gross floor area devoted to such use or uses at the bonus ratio indicated for the purpose of earning bonus density:

	<u>Gross floor area devoted to the bonus use</u>		<u>Proportionate number of square feet of additional gross floor area earned for on-site or off-site development</u>
(a) Department Store;	1	to	3
(b) Anchor store having 60,000 sq. ft. or more of gross leasable area. A complex of two (2) or more anchor stores in a single building that accommodates a total of at least 90,000 sq. ft. of gross leasable area devoted to anchor stores and, if present, legitimate theater;	1	to	2
(c) Anchor store having 25,000 sq. ft. to 59,999 sq. ft. of gross leasable area; and	1	to	1.5
(d) Movie theater; performing arts space; small, minority, or displaced business; and other uses listed in §§ 1710 and 1711 in excess of the 0.5 FAR equivalent required by § 1704.3, not to be counted in addition to other bonus floor area earned from this subsection, and not applicable to department store sites regulated by § 1702.5	1	to	1

1703.5 In the ARTS District sector of the SHOP Subarea, as identified geographically in § 1703.3(d), and in Square 346, a building shall be eligible for the bonuses specified in paragraphs (a), (b), and (c) of § 1704.6.

1703.6 If a building in the SHOP District uses bonus density, the maximum permitted FAR shall be 10.5 for a building permitted a height of one hundred thirty feet (130 ft.) and 9.5 for a building permitted a lesser height.

SOURCE: Final Rulemaking published at 38 DCR 612, 619 (January 18, 1991); as amended by: Final Rulemaking published at 43 DCR 597 (February 9, 1996); Final Rulemaking published at 44 DCR 4527, 4529-30 (August 8, 1997); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8474-75 (October 20, 2000); as amended by Final Rulemaking published at 54 DCR 9393, 9399 (September 28, 2007); 57 DCR 000126 (2010); as amended by Final Rulemaking and Order No. 10-18 published at 57 DCR 12243 (December 24, 2010); as amended by Final Rulemaking & Corrected Order No. 10-18 published at 57 DCR 12610 (December 31, 2010).

1704 DOWNTOWN ARTS DISTRICT (DD)

1704.1 The policies and objectives for the Downtown Arts District, as defined in the Comprehensive Plan, including the Gallery Place subarea of Downtown and portions of the Downtown Shopping (SHOP) District (Retail Core), Pennsylvania Quarter, Convention Center, and Chinatown subareas are to:

- (a) Retain, expand, and support a concentration of spaces and activities for the arts and artists, including the performing and visual arts, cultural facilities, entertainment, and arts-related retail uses;
- (b) Create two (2) strong arts-entertainment corridors within the following areas:
 - (1) A spine of theaters, movie theaters, restaurants, nightclubs, and arts-related retail uses along E Street from 6th to 14th Street, N.W.; and
 - (2) A pedestrian-oriented concentration of museums, art galleries, other performing or visual arts uses, and festive retail-entertainment uses along 7th Street from Pennsylvania Avenue to north of G Street; and
- (c) Encourage the general development pattern indicated in the Comprehensive Plan for the Arts District east of the SHOP District (Retail Core), specifically a mixture of residential, office, and hotel development on upper floors of buildings, with arts, specialty retail, and entertainment uses predominating on the lower levels of the buildings.

- 1704.2 This section applies to properties in the following squares and portions of squares: 291, 322, 348, 406, 407, 408, 431, 432, 455, 456, 457, 458, 459, 460, and those portions of squares 405, 429, and 454 that are south of a line extending the midpoint of G Place eastward from 9th Street to 6th Street.
- 1704.3 Each new or altered building shall devote not less than 1.0 FAR equivalent to retail and service uses listed in § 1710 and arts and arts-related uses listed in § 1711; provided:
- (a) Not less than 0.25 FAR equivalent of the required gross floor area shall be devoted to one or more of the following uses: art center, art exhibition area, art gallery, art school, artist live-work space, artist studio, performing arts space, cabaret, dance hall, dinner theater, legitimate theater, movie theater, museum, or television and radio broadcast studio;
 - (b) A building may comply with the requirements of this subsection by devoting 0.5 FAR equivalent to the uses listed in paragraph (a), in which case the 1.0 FAR equivalent of total preferred uses is not required, and bonus density is earned in excess of the 0.5 FAR equivalent devoted to the uses listed in paragraph (a);
 - (c) A building that provides 1.5 FAR or more of residential uses shall have a reduced requirement of 0.5 FAR equivalent of preferred uses listed in §§ 1710 and 1711, of which no less than fifty percent (50%) shall be § 1711 uses;
 - (d) Squares located in both the Downtown Arts District as delineated in the Comprehensive Plan and the SHOP District shall be subject to the arts and retail provisions of § 1703, as specifically provided in § 1703.3(d); and
 - (e) A building located on a lot of five thousand square feet (5,000 ft.²) or less and having a height of six (6) floors or less at and above grade shall have a preferred use requirement of not less than 0.75 FAR equivalent of the uses listed in §§ 1710 and 1711 combined, and shall not have a residential use requirement as provided in § 1706.
- 1704.4 An unenclosed sidewalk cafe shall count towards the preferred use requirement of § 1704.3, exclusive of paragraph (a); provided:
- (a) The countable sidewalk or atrium area for this purpose shall not exceed one thousand square feet (1,000 ft.²); and
 - (b) The sidewalk or atrium area on the lot or on adjacent public space is countable as a restaurant use provided that the sidewalk cafe is operated from a restaurant located on the subject lot.

1704.5 An art exhibition area shall count towards the preferred use requirement of § 1704.3 exclusive of paragraph (a); provided:

- (a) The countable area for this purpose shall be not more than twenty percent (20%) of the total requirement for the preferred uses specified in § 1704.3;
- (b) The area shall be open to the public during normal business hours at least five (5) days per week and fifty (50) weeks per year;
- (c) The art exhibitions shall be curated by an art gallery or professional curator;
- (d) The exhibitions shall change at least four (4) times per year with the exception that up to twenty percent (20%) of the art works may be a permanent exhibition; and
- (e) At least two (2) of the exhibits, or a majority of the total art works displayed on an annual basis, shall be offered for sale to the public.

1704.6 A building that provides the required 1.0 FAR equivalent for preferred uses specified in § 1704.3, and that includes any of the bonus uses in this subsection, may count the gross floor area equivalent devoted to such use or uses at the bonus ratio indicated for the purpose of earning bonus density:

	<u>Gross floor area devoted to the bonus use</u>		Proportionate number of square feet of additional gross floor area earned for on-site or off- site development
(a) Art center, art school, performing arts space, legitimate theater, or museum, in excess in each case of 40,000 sq. ft. of gross floor area as provided in § 1704.8;	1	to	3
(b) Art Gallery or museum located on 7th or G Street, legitimate theater, artist studio, artist live-work space, art center, art school, or performing arts and rehearsal space;	1	to	2
(c) Uses listed in § 1704.3(a); small, minority, or displaced business; and	1	to	1
(d) Other uses listed in	1	to	0.5

§§ 1710 and 1711 in excess of the 1.0 FAR equivalent required by § 1704.3, not to be counted in addition to bonus floor area from paragraphs (a) through (c) of this subsection.

- 1704.7 An art center or art school may qualify for this bonus despite being located in more than one (1) building; provided:
- (a) The buildings are located within a radius of two thousand feet (2,000 ft.) of the centermost building; and
 - (b) The art school or art center shall be operated under centralized management as a single institution.
- 1704.8 Bonus density from arts uses not to exceed 0.5 FAR may be used to develop office space in place of residential space as required in § 1706.
- 1704.9 A nonprofit arts use shall be entitled to twenty-five percent (25%) of density bonus in excess of the bonus ratio indicated in § 1704.6.
- 1704.10 Floor area devoted to an arts use listed § 1704.3(a) that has a ceiling height greater than twelve feet (12 ft.) shall count towards the minimum required square footage at a rate of one-and-one-half (1 1/2) times the actual floor area devoted to the use.

SOURCE: Final Rulemaking published at 38 DCR 612, 621 (January 18, 1991); as amended by Final Rulemaking published at 46 DCR 1016 (February 5, 1999); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8475-77 (October 20, 2000); 57 DCR 000126 (2010).

1705 CHINATOWN (DD)

- 1705.1 The principal policies and objectives from the Comprehensive Plan for the Chinatown area are to:
- (a) Protect and enhance Chinatown as Downtown's only ethnic cultural area;
 - (b) Maintain and expand the existing concentration of retail uses emphasizing Chinese and Asian merchandise and related wholesale operations serving residents, visitors, tourists, and business travelers;

- (c) Reinforce the area's economic viability by encouraging mixed use development, including substantial housing, cultural and community facilities, offices, retail and wholesale businesses, and hotels; and
- (d) Protect existing housing and the most important historic buildings with suitable preservation controls, residential and commercial zones, and economic incentives.

1705.2 This section applies to properties in the following squares: 428, 452, 453, 485, and 486, and those portions of squares 429 and 454 that are north of a line extending the midpoint of G Place eastward from 9th Street to 6th Street.

1705.3 Each building that fronts on H Street from 5th to 8th Street, on 7th Street for a distance of one-half (1/2) block north and south of H Street, or on 6th Street for a distance of one-half (1/2) block south of H Street, shall devote not less than 1.0 FAR equivalent to retail, service, arts, and arts-related uses listed in §§ 1710 and 1711 and wholesaling accessory to those uses; provided, that this requirement shall be 0.5 FAR equivalent for a building that fronts on any other street segment in Chinatown or for a building that provides on-site or off-site, a residential component as required by § 1706.

1705.4 In Square 485, a residential building that is brought up to building code and covenanted to continue in residential use for twenty (20) years or longer shall be eligible for transferable development rights equal to the floor area maintained in residential use.

1705.5 A building that provides the required 1.0 FAR equivalent for preferred uses specified in § 1705.3, and that includes any of the bonus uses indicated in this subsection, may count the gross floor area equivalent devoted to such use or uses at the bonus ratio indicated for the purpose of earning bonus density:

	Gross floor area devoted to the bonus use	to	Proportionate number of square feet of additional gross floor area earned for on-site or off-site development
(a) Uses listed in §§ 1710 and 1711, in excess of the 1.0 FAR equivalent required by § 1705.3; and	1	to	1
(b) Small, minority, or displaced business	1	to	1

SOURCE: Final Rulemaking published at 38 DCR 612, 625 (January 18, 1991); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8477-78 (October 20, 2000).

1706 RESIDENTIAL AND MIXED USE DEVELOPMENT (DD)

1706.1 The policies and objectives for residential use and development in and near Downtown as specified in the Comprehensive Plan are to:

- (a) Encourage construction of new housing and retention of existing housing so that a sizeable residential component is created that will help accomplish the balanced mixture of uses essential to a "Living Downtown";
- (b) Create the greatest concentration of housing in the Mount Vernon Square area;
- (c) Encourage residential and mixed-use development along Massachusetts Avenue;
- (d) Promote mixed use development including residential use south of Massachusetts Avenue, extending to the south through Judiciary Square north, Chinatown, and Gallery Place; and
- (e) Support the significant residential development in the Pennsylvania Quarter subarea in the 7th Street and Pennsylvania Avenue area.

1706.2 The housing requirements and incentives of this section shall be applicable only in the Housing Priority Area that is depicted in Map B included as information supplemental to the Office of Planning memorandum dated July 3, 2008 filed in Zoning Commission Case No. 08-23, which may be viewed in the Office of Zoning, and that is described by squares in § 1706.8, provided that the transferable development rights provisions of § 1706.3 shall be applicable throughout the DD Overlay District. Map B is incorporated by reference.

1706.3 Each lot in the Housing Priority Area shall provide on-site or account for off-site by combined lot development residential use and development as required in this section; provided further, that a building or a combined lot development that provides new residential uses on-site shall generate bonus density or transferable development rights as follows:

- (a) Residential development north of Massachusetts Avenue shall generate one (1) square foot of bonus density or transferable development rights for each square foot of residential use developed;
- (b) Residential development south of Massachusetts Avenue shall generate two (2) square feet of bonus density or transferable development rights for each square foot of residential use developed;

- (c) Residential development that qualifies as affordable dwelling units as defined in § 1799.1 shall generate two (2) square feet of bonus density or transferable development rights for each square foot of affordable housing developed; and
- (d) The bonus density provided by § 1706.7 shall not be used to generate transferable development rights.

1706.4 In the DD/C-2-C Overlay District, the following residential and mixed-use provisions apply:

- (a) The maximum FAR shall be 8.0 as a matter of right, which FAR may be devoted to all residential use or include commercial or residential uses as provided in this subsection;
- (b) Each lot shall provide on-site or account for off-site in a combined lot development no less than 4.5 FAR of residential use;
- (c) On a lot that is south of Massachusetts Avenue, up to 1.8 FAR of this residential requirement may be met by constructing or financially assisting affordable housing as defined in this chapter and as governed further by this section;
- (d) On a lot that is north of Massachusetts Avenue, up to 1.35 FAR of this residential requirement may be met by constructing or financially assisting affordable housing as defined in this chapter and as governed further by this section; and
- (e) If such affordable housing is provided off-site, commercial or residential FAR may be substituted on-site or in a combined lot development by the same amount of gross floor area as the affordable housing up to the maximum limit of 1.8 FAR south of Massachusetts Avenue or 1.35 FAR north of Massachusetts Avenue.

1706.5 In the DD/C-3-C Overlay District, the following residential and mixed-use provisions apply:

- (a) The maximum FAR shall be 9.5 as a matter of right, which FAR may be devoted to all residential use or may include commercial or residential uses as provided in this subsection;
- (b) Each lot shall provide on-site or account for off-site in a combined lot development no less than 3.5 FAR of residential use;
- (c) On a lot that is south of Massachusetts Avenue, up to 1.4 FAR of the residential requirement may be met by constructing or financially assisting

affordable housing as defined in this chapter and as governed further by this section;

- (d) On a lot that is north of Massachusetts Avenue, up to 1.05 FAR of the residential requirement may be met by constructing or financially assisting affordable housing as defined in this chapter and as governed further by this section; and
- (e) If affordable housing is provided off-site pursuant to paragraph (c) or (d) of this subsection, commercial or residential FAR may be substituted on-site, or in a combined lot development, by the same amount of gross floor area as the affordable housing, up to the maximum limit of 1.4 FAR south of Massachusetts Avenue or 1.05 FAR north of Massachusetts Avenue.

1706.6 In the DD/C-4 Overlay District, the following residential and mixed-use provisions apply:

- (a) The maximum FAR shall be 10.0 as a matter of right, which FAR may be devoted to all residential use or may include commercial or residential uses as provided in this subsection;
- (b) Each building shall provide on-site or account for off-site in a combined lot development no less than 2.0 FAR of residential use;
- (c) Up to 0.8 FAR of this residential requirement may be met by constructing or financially assisting affordable housing as defined in this chapter and as governed further by this section; and
- (d) If such affordable housing is provided off-site, commercial or residential FAR may be substituted on-site or in a combined lot development by the same amount of gross floor area as the affordable housing up to the maximum limit of 0.8 FAR.

1706.7 To assist the development of residential and preferred uses, the following density bonuses may be used:

- (a) The maximum gross floor area permitted under §§ 1706.4, 1706.5, and 1706.6 may be increased by 0.5 FAR up to a maximum of 8.5 FAR in the DD/C-2-C Overlay District, 10.0 FAR in the DD/C-3-C Overlay District, and 10.5 FAR in the DD/C-4 Overlay District; provided the increase in gross floor area is achieved by:
 - (1) Receiving transferable development rights as provided in § 1709, which gross floor area may be devoted to any permitted use on the receiving lot;

- (2) Constructing or assisting affordable housing as defined in this chapter and as further governed by this section; or
 - (3) Generating retail bonus density as provided in § 1706.16.
- (b) Except for historic landmarks and properties listed in § 1707.4 in the Downtown Historic District, the maximum FAR limitations in §§ 1706.4, 1706.5, and 1706.6 shall not apply to any lot that devotes the increase in gross floor area entirely to residential use on-site; provided:
- (1) The increase in gross floor area shall not be used to meet the minimum residential requirements of §§ 1706.4, 1706.5, or 1706.6;
 - (2) The maximum residential FAR that may be accepted through combined lot development is listed in the following table:

ZONE DISTRICT OF THE LOT RECEIVING HOUSING	MAXIMUM ALLOWABLE COMBINED LOT TRANSFER (FAR)
DD/C-2-C	3.5
DD/C-3-C	6.0
DD/C-4	8.0

- (3) The relief from maximum FAR limitations provided by this paragraph does not alter or modify the obligation to comply with all applicable Zoning Regulations affecting the lot, nor does it alter or modify an applicant's burden of proof when seeking zoning relief.

1706.8 For the purposes of permitting and governing combined lot developments as provided by § 1708, the Housing Priority Area is divided into three (3) subareas as follows:

- (a) Housing Priority Area A, the Mount Vernon Square North area, is located north of Massachusetts Avenue and comprises the DD/C-2-C and DD/C-3-C zoned squares and parts of squares numbered 369, 370, 401, 402, 425, 426, 450, 451, 483, 484, W484, 514, 515, N515, 516, S516, 525, 526, 527, 528, 556, and 558;
- (b) Housing Priority Area B, the Mount Vernon Square South area, comprises the DD/C-2-C and DD/C-3-C zoned properties that are located south of Massachusetts Avenue, including squares and parts of squares numbered 247, 283, 284, 316, 317, 342, 343, 371, 372, 374, 427, 428, 452, 453, 485, 486, 517, and 529, National Park Service Reservation 174, and the commercial and underdeveloped properties in square 247 with an approved plan unit development on or before January 18, 1991, for so long as the planned unit development approval remains valid; and

- (c) Housing Priority Area C, the Downtown Core area, comprises the following DD/C-4 zoned properties located south of H Street: Squares and parts of squares numbered 377 (Lots 36, 37, 42, 806, 828, 829, 847, and 848), 406, 407, 408, 431, 432, 454, 455, 456, 457, 458, 459, 460, and 491.

1706.9 Combined lot development as authorized by § 1708 may be used by two (2) or more properties within any one of the three (3) identified Housing Priority Areas, but not by properties in different Housing Priority Areas.

1706.10 A residential building in existence as of January 18, 1991, shall be eligible to count its gross floor area towards the residential use requirements of this section; provided:

- (a) The building shall be continued in residential use or, if vacant, brought up to building code and covenanted to continue in residential use for twenty (20) years or longer;
- (b) If the residential gross floor area of the building is less than the residential use requirement of the lot, there shall be no additional residential requirement for that lot; and
- (c) If the residential gross floor area of the building exceeds the required amount of residential use for the lot, the excess gross floor area may be used in a combined lot, development to help meet the residential requirement of another lot or lots.

1706.11 No minimum residential use requirement shall apply in to the following:

- (a) Square 485;
- (b) Any lot or lots in Square 455 or the southern part of Square 454 improved with a sports arena; and
- (c) Any portion of Square 370 improved with a convention center headquarters hotel.

1706.12 Bonus density derived from arts uses in the Downtown Arts District pursuant to § 1704.6 and bonus density derived from the bonus provisions of § 1705.5 pertaining to the Chinatown subarea may be used to substitute office space for up to 0.5 FAR of residential use as required by this section.

1706.13 If a development project includes both nonresidential uses and required residential uses, whether on the same lot or in a combined lot development, no certificate of occupancy shall be issued for the nonresidential space until either:

- (a) A certificate of occupancy has been issued for the residential space; or
- (b) An escrow account has been established and funded in a combined lot development pursuant to § 1708.2.

This provision shall not apply to nonresidential gross floor area resulting from a combined lot development that allocated an equivalent amount of the property's required residential uses to one or more lots then owned by the District government.

- 1706.14 In the Housing Priority Area, the maximum height of building shall be as provided in §§ 1701.7 and 1706.15.
- 1706.15 A building constructed on a lot fronting on M Street shall be limited to a maximum height of sixty feet (60 ft.) to a depth of forty feet (40 ft.) from the lot line on M Street.
- 1706.16 In Housing Priority Area A, for each square foot of gross floor area devoted to one of the preferred uses listed in this subsection, the project shall earn one square foot (1 ft.²) of bonus gross floor area:
 - (a) Child development center;
 - (b) Drug store;
 - (c) Dry cleaner or laundry;
 - (d) Grocery store;
 - (e) Hardware store; and
 - (f) Variety store.
- 1706.17 In Housing Priority Areas B and C, each square foot of grocery store use shall earn two square feet (2 ft.²) of bonus floor area.
- 1706.18 Renovation of a nonresidential building in existence as of January 18, 1991, and having a height of six (6) floors or less at and above grade shall not trigger a housing requirement as provided in this section.
- 1706.19 A hotel or inn established pursuant to special exception approval in an SP District shall be deemed a conforming use in a DD/R-5 Overlay District. The hotel or inn shall continue to be governed by the conditions of the Board of Zoning Adjustment Order granting the use. Enlargement or other changes shall be governed by the variance provisions of § 3103.2.

- 1706.20 The residential requirements shall not apply to any lot restricted to a maximum development of 6.0 FAR pursuant to § 1707.4.
- 1706.21 A reduced residential requirement shall apply to property that was formerly in a highway right-of-way; provided:
- (a) The housing that is built shall include affordable dwelling units as defined in this chapter;
 - (b) The gross floor area of the affordable dwelling units shall constitute not less than sixty percent (60%) of the total FAR of the project;
 - (c) The remainder of the project shall consist substantially of other residentially related development, such as child development, senior or elder care, community center, and other neighborhood-serving social services that are offered by a nonprofit, religious, or charitable organization, but may also include Commercial District ground floor commercial uses; and
 - (d) Where an improved right-of-way divides a project, the entire project shall be considered as if on one lot for the purposes of determining compliance with this section.
- 1706.22 The Department of Employment Services (DOES) building site in Square 491 shall not be eligible to send any of the required minimum 2.0 FAR of residential use off-site though the combined lot development provisions of § 1708 or the affordable housing provisions of § 1706.23.
- 1706.23 If the affordable housing referenced in §§ 1706.4 through 1706.6 is provided by direct construction, the following conditions shall apply:
- (a) The owner or developer of the development site in the DD Overlay District that generates the affordable housing component may construct the affordable dwelling units or may joint venture with either a nonprofit housing sponsor or a for-profit builder-developer;
 - (b) Construction of the affordable dwelling units may be either construction of a new building or buildings or rehabilitation of an existing building or buildings;
 - (c) The total project cost, including acquisition, rehabilitation, and long-term subsidy, shall be not less than the amount that the project would be obligated to contribute if the financial contribution option specified in §§ 1706.25 through 1706.28 had been pursued;

- (d) If construction or rehabilitation of the required square footage of affordable housing does not reach the required financial threshold specified in paragraph (c), the remaining housing requirement may be met by financial contribution to a housing trust fund or by construction or rehabilitation of additional units of housing;
- (e) If the affordable dwelling units are provided by rehabilitation, the building(s) shall have been previously in nonresidential use, or if previously in residential use, shall either have been vacant for not less than three (3) years prior to rehabilitation or, if occupied, shall be a tenant-sponsored purchase of the building;
- (f) The Director of the Department of Housing and Community Development or the administrator of the D.C. Housing Production Trust Fund shall certify to the Zoning Administrator that:
 - (1) Suitable legal and financial arrangements have been made to assure that the housing qualifies and will be continued as affordable dwelling units for not less than twenty (20) years;
 - (2) The expenditure of funds per dwelling unit and the use of the funds in combination with other financial leverage is an effective means of assisting in the production of affordable housing; and
 - (3) All conditions of §§ 1706.23 through 1706.28 have been met; and
- (g) No certificate of occupancy shall be issued for the nonresidential development within the DD Overlay District until a certificate of occupancy has been issued for the affordable dwelling units, unless the affordable dwelling units are being constructed on property owned by the District of Columbia.

1706.24 If the affordable dwelling units are supplied by a contribution to a trust fund, the conditions specified in §§ 1706.25 through 1706.27 shall apply.

1706.25 The amount of the financial contribution shall be determined by the formula: $C = \text{GFA} (AV/LA)/\text{FAR} \times 90\%$, where:

- (a) C = The contribution;
- (b) GFA = The amount of additional commercial space that is built on-site, measured in square feet;
- (c) AV = The assessed value of the land and improvements on the July 1st preceding the date on which the application for a building permit is filed;

- (d) LA = The number of square feet of land included in the property;
- (e) FAR = The commercial FAR used by the tax assessor to determine the assessed value; and
- (f) 90% = The proportion of assessed commercial value that has been determined to be appropriate for this contribution.

1706.26 The contribution shall be made to the D.C. Housing Production Trust Fund or to both the D.C. Housing Production Trust Fund and a nonprofit housing trust fund as defined in this title; provided, that not more than fifty percent (50%) of any contribution shall go to a nonprofit housing trust fund.

1706.27 The payment of the housing contribution shall occur before the issuance of a building permit for the development in the DD Overlay District that generates the housing contribution.

1706.28 Beginning July 1, 1992, and on or before that date on each even numbered year thereafter, the Director of the D.C. Department of Housing and Community Development, or the administrator of the D.C. Housing Production Trust Fund, shall report to the Zoning Commission regarding affordable dwelling units subsidized or constructed pursuant to these provisions and, if appropriate, shall recommend any modifications needed to the affordable housing mechanisms of this chapter.

1706.29 The hostel existing as of April 7, 2006, on the land area currently comprising Lot 810 in Square 342 may be expanded or rebuilt to the maximum permitted density of 9.5 FAR, and the housing requirement specified in § 1706.5 (b) shall not apply to such expansion or rebuilding for so long as the hostel use continues.

SOURCE: Final Rulemaking published at 38 DCR 612, 627 (January 18, 1991); as amended by: Final Rulemaking published at 39 DCR 4947 (July 3, 1992); Final Rulemaking published at 40 DCR 1956 (March 19, 1993); Final Rulemaking published at 42 DCR 6612 (December 1, 1995); Final Rulemaking published at 44 DCR 3224 (June 6, 1997); Final Rulemaking published at 46 DCR 1016-1017 (February 5, 1999); Final Rulemaking published at 46 DCR 8180, 8182-83 (October 8, 1999); Final Rulemaking published at 47 DCR 1900 (February 28, 2000); Final Rulemaking published at 47 DCR 1900, 1901 (March 17, 2000); Final Rulemaking published at 47 DCR 2791 (April 21, 2000); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8478-81 (October 20, 2000); Final Rulemaking published at 47 DCR 2595 (March 23, 2001); Final Rulemaking published at 47 DCR 7225, 7229-32 (August 3, 2001); Final Rulemaking published at 48 DCR 7741 (August 17, 2001); Final Rulemaking published at 48 DCR 10054 (November 2, 2001); Final Rulemaking published at 48 DCR 11561, 11563-64 (December 21, 2001); and Final Rulemaking published at 49 DCR 881, 883 (February 1, 2002); as amended by Final Rulemaking published at 53 DCR 2671, 2676 (April 7, 2006); as amended by Final Rulemaking published at 53 DCR 9213, 9216 (November 10, 2006); as amended by Final Rulemaking published at 54 DCR 3064, 3069 (April 6, 2007); as amended by Final Rulemaking published at 54 DCR 9682, 9684 (October 12, 2007); as amended by Final Rulemaking published at 54 DCR 10310, 10312 (October 26, 2007); as

amended by Final Rulemaking and Order No. 08-05 published at 56 DCR 3120 (April 24, 2009); as amended by Final Rulemaking and Order No. 08-23 published at 56 DCR 3129 (April 24, 2009); 57 DCR 000126 (2010).

1707 HISTORIC PRESERVATION (DD)

1707.1 The most directly applicable policies and objectives from the Comprehensive Plan and other adopted policies for Downtown may be summarized as follows:

- (a) Preserve the unique character and fabric of historic buildings, the Downtown Historic District, and the Pennsylvania Avenue Historic Site;
- (b) Encourage restoration and adaptive reuse of historic landmarks and contributing buildings in historic districts, together with compatible alterations and compatible new construction;
- (c) Restrict permitted building bulk on critical historic frontages and lots with historic buildings so as to encourage preservation of historic buildings and assure a suitable scale of new construction in historic districts, especially in projects combining new development with preservation;
- (d) Permit flexibility as to building height, rear yard, and court requirements so as to allow maximum design flexibility for the massing and sculpting of the restricted building mass in relationship to the scale and character of affected historic buildings on the lot and nearby subject to the exterior design review and controls exercised by the Historic Preservation Review Board;
- (e) Provide appropriate economic incentives to encourage preservation, including suitable on-site density and transferable development rights; and
- (f) Encourage occupancy of historic buildings by active uses such as arts, cultural, entertainment, retail, and small business uses, in keeping with the potential of historic buildings to make multiple contributions to the character of a "Living Downtown."

1707.2 This section applies to historic landmarks and to specified properties within the Downtown Historic District and Pennsylvania Avenue Historic Site.

1707.3 Uses within buildings in the historic districts and landmark sites within the DD Overlay District are governed by the underlying zone districts and the special use requirements and incentives provided in §§ 1703 through 1706.

1707.4 The permitted on-site FAR for any permitted use shall be 6.0 on each of the following lots and squares listed in this subsection; provided, that in a multi-lot development or combined lot development within a single square, the permitted 6.0 FAR may be averaged with the permitted FARs of other lots that are part of

the development, including any lots not subject to the 6.0 FAR maximum, so as to achieve a composite FAR for the entire development:

- (a) Square 320, lots 17, 800, 801, 808, 809, and 810;
- (b) Square 346;
- (c) Square 347, lots 18, 19, 800 through 803, and 818 through 826;
- (d) Square 376, lots 36 through 46, 48, 63, 64, 70, 801, 802, and 803;
- (e) Square 377, lots 35, 819 through 821, 823 through 827, and 846;
- (f) Square 406, lots 11, 15, 807, 808, 809, and 814;
- (g) Square 428, lots 16, 17, 801 through 804, and 808 through 815;
- (h) Square 429;
- (i) Square 452, lots 26 through 29, 800, 802 through 806, and 817 through 824;
- (j) Square 453, lots 24 through 31, 40, 50, 811, 812, 813, 815 through 819, 821, 831 through 835, 839, and 48;
- (k) Square 454, lots 827 through 835;
- (l) Square 518, lots 845 through 855;
- (m) Square 405, lot 839;
- (n) All of Square 429 1/2;
- (o) All of Square 430;
- (p) Square 431, lots 23, 815, and 816;
- (q) Square 458, lots 816, 818, and 823;
- (r) Square 459, Lot 809;
- (s) Square 460, lots 802 through 805 and 818;
- (t) All of Square 485;
- (u) Square 517, lots 20, 46, 834, and 835;

- (v) Square 457, lots 36, 826, and 871; and
- (w) Square 456, lots 34, 37, 857, and 868.

1707.5

A project in the Downtown Historic District or the Pennsylvania Avenue Historic Site, or an individual historic landmark shall not be eligible to construct bonus density or transferable development rights on-site, but may transfer bonus density or unused development rights to other lots in the DD Overlay District or to lots in a receiving zone as delineated in § 1709; provided:

- (a) The historic building or part of the historic building shall be a historic landmark or a building within the Downtown Historic District or the Pennsylvania Avenue Historic Site that has been preserved in whole or in part pursuant to the Historic Landmark and Historic District Protection Act of 1978, effective March 3, 1979 (D.C. Law 2-144, as amended; D.C. Official Code §§ 6-1101 to 6-1115 (formerly codified at D.C. Code §§ 5-1001 to 5-1015 (1994 Repl. & 1999 Supp.))), and this chapter;
- (b) The property shall be one of those properties identified in § 1707.4 and accordingly restricted in on-site density to 6.0 FAR or an historic landmark that has an FAR of 6.0 or less including any existing or proposed additions;
- (c) A historic building that has previously been restored pursuant to approval of the Historic Preservation Review Board within a ten-year (10-year) period prior to January 18, 1991, shall not be eligible to earn transferable development rights;
- (d) Undeveloped gross floor area of up to 4.0 FAR may be transferred from the historic sending lot to a lot or lots elsewhere in the DD Overlay District or in a receiving zone; provided:
 - (1) Each one square-foot (1 ft.²) of unused density less than the matter-of-right commercial density of the underlying zone district shall earn one square-foot (1 ft.²) of transferable development rights; and
 - (2) The matter-of-right densities of the applicable underlying zone districts are deemed to be 10.0 or 8.5 FAR in the DD/C-4 Overlay District pursuant to §§ 771.2 and 771.5, 6.5 FAR in the DD/C-3-C Overlay District and, for the purpose of this section only, 6.0 FAR in the DD/C-2-C Overlay District;
- (e) In order to qualify for the transfer of development rights provided in this section, the property owner shall execute an instrument of transfer as provided in § 1709 that:

- (1) Effects a binding reduction in the unused development rights under the Zoning Regulations otherwise available to the sending lot, to the extent of the rights transferred; and
 - (2) Requires completion of restoration of the historic building, buildings, or parts thereof pursuant to plans approved by the Historic Preservation Review Board or the Mayor's Agent for Historic Preservation as required by D.C. Law 2-144, D.C. Official Code §§ 6-1101 to 6-1115 (2001) (formerly codified at D.C. Code §§ 5-1001 to 5-1015 (1994 Repl.));
- (f) For the purposes of administering § 1707.5(e)(2), the Historic Preservation Division, Office of Planning, shall certify in writing to the Zoning Administrator that restoration has been completed pursuant to plans approved as consistent with D.C. Law 2-144, D.C. Official Code §§ 6-1101 to 6-1115 (2001) (formerly codified at D.C. Code §§ 5-1001 to 5-1015 (1994 Repl.));
- (g) Prior to the completion of restoration as certified in § 1707.5(f), one or more transfers of development rights as provided for in § 1709 may be executed following issuance of a building permit for the sending lot, but a certificate of occupancy for the transferred development rights on the receiving lot shall not be issued until the restoration on the sending lot has been certified, as provided in § 1707.5(f);
- (h) After the completion of restoration has been certified as provided in § 1707.5(f), any transferred development rights shall vest in the receiving lot without any relationship to the status of the historic sending lot;
- (i) Notwithstanding the requirements of §§ 1707.5(g) and (h), up to twenty-five percent (25%) of the transferable development rights that the sending lot is eligible for may be transferred to and fully vest in a receiving lot under the following conditions:
- (1) The owner of the sending lot shall receive final approval of restoration plans from the Historic Preservation Review Board pursuant to D.C. Law 2-144, D.C. Official Code §§ 6-1101 to 6-1115 (2001)(formerly codified at D.C. Code §§ 5-1001 to 5-1015 1994 Repl.);
 - (2) The instrument of transfer as required by § 1707.5(e) shall include a requirement that the monetary proceeds of the transfer of development rights shall be utilized by the owner of the sending lot exclusively for the cost of design and restoration, or restoration and new construction, of the historic building on the sending lot;

- (3) If the financial proceeds of the transfer exceed the total cost of design and construction on the sending lot, the instrument of transfer shall provide that full funding of design and construction shall be reserved, together with a draw schedule and timetable for the construction work, prior to any other use of the funds in excess of that required for design and construction; and
- (4) If § 1707.5(i)(3) is applicable to a project, the transferable development rights shall not vest in the receiving lot or lots until the Director of the D.C. Office of Planning has certified to the Zoning Administrator that the allocation of funds and draw schedule provided pursuant to § 1707.5(i)(3) are sufficient to allow the completion of the project; and
- (j) Bonus density, if any, generated by bonus uses on the sending lot may be transferred in addition to the transferable development rights provided in this subsection for restricted density on the historic lot, as provided in § 1709.

1707.6 The rear and side yard requirements of the underlying zone district shall not apply in the Downtown Historic District or Pennsylvania Avenue Historic Site.

1707.7 A historic landmark or a contributing building in a historic district that has a gross floor area in excess of the 6.00 FAR limit specified in § 1707.4 shall be permitted to occupy all floors of the building for permitted uses.

SOURCE: Final Rulemaking published at 38 DCR 612, 632 (January 18, 1991); as amended by: Final Rulemaking published at 39 DCR 8312, 8313 (November 13, 1992); Final Rulemaking published at 43 DCR 599 (February 9, 1996); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8481-82 (October 20, 2000); and Final Rulemaking published at 48 DCR 10053, 10054 (November 2, 2001); 57 DCR 000126 (2010).

1708 COMBINED LOT DEVELOPMENT (DD)

1708.1 Two (2) or more lots may be combined for the purpose of achieving the required FAR equivalent for preferred uses as follows:

- (a) The lots may be located in the same square or in different squares;
- (b) A combined lot development shall be eligible for the density and area allowances permitted in §§ 1703, 1704, 1705, and 1706;
- (c) The combined lot development shall be limited to lots located within the same subarea as defined in §§ 1703, 1704, 1705, and 1706, except as provided in § 1708.1(d);

- (d) Notwithstanding the requirements of paragraph (c) of this subsection and of § 1706.9, a historic property that is identified and governed by § 1707.4 is eligible to serve as the location of required residential uses within a combined lot development, even if the historic properties are located outside the Housing Priority Area established in § 1706.2;
- (e) The required gross floor area to be devoted to preferred uses may be transferred from the sending lot to a receiving lot, on which the required gross floor area for preferred uses shall be incorporated into the building design and occupied; provided, that any applicable ground level uses required on any affected lot shall not be transferred, but shall be provided on each sending lot and receiving lot;
- (f) In a combined lot development that does not include the allocation of required residential uses, the certificate of occupancy for a lot sending FAR for required preferred uses to a receiving lot may be revoked if:
 - (1) No building permit for the receiving lot has been issued within three (3) years after the issuance of the certificate of occupancy for the sending lot; or
 - (2) No certificate of occupancy for the receiving lot has been issued within five (5) years after the issuance of the certificate of occupancy for the sending lot;
- (g) The maximum permitted gross floor area for all uses, the minimum required gross floor area for preferred uses, and bonus density, if applicable, shall each be calculated as if the combined lots were one lot, and the total project shall conform with the maximum and minimum gross floor area requirements;
- (h) A building constructed as of January 18, 1991 or that was under construction on that date is not eligible to utilize the combined lot development provisions;
- (i) No allocation of gross floor area for required uses shall be effective unless an instrument, legally sufficient to effect such a transfer, is filed with the Zoning Administrator and recorded in the land records of the District of Columbia against all lots included in the combined lot development;
- (j) The instrument shall be in the form of a declaration of covenants that:
 - (1) Is signed by the owners of all affected lots;
 - (2) Runs with the land in perpetuity;

- (3) Burdens all lots involved in the allocation of gross floor area for required preferred uses;
 - (4) Binds the present and future owners of the lot receiving FAR to reserve, design, construct, cause to be occupied, and maintain in perpetuity an area on-site equal to the gross floor area of required preferred uses received; and
 - (5) States the maximum permitted gross floor areas for all uses on all lots, the minimum required gross floor areas for preferred uses on all lots, and the gross floor area allocated. The covenant shall further state that, after the transfer, the combined lots conform to the maximum and minimum gross floor area requirements on the lots;
- (k) If an escrow is to be funded pursuant to § 1708.2, the covenant shall include the attachments required by § 1708.2(c) and an acknowledgment by the owner of the receiving lot, on behalf of itself and its successors and assigns that:
- (1) It has voluntarily established or consented to the establishment of an escrow account;
 - (2) The Government of the District of Columbia will be acting in reliance upon the establishment and funding of the escrow if a certificate of occupancy is issued for nonresidential uses on the sending lot prior to the issuance of a certificate of occupancy for residential uses on the receiving lot;
 - (3) The attached escrow agreement requires the release of the escrow funds and any accrued interest thereon to the D.C. Housing Production Trust Fund, or other entity as directed by the Zoning Commission, under the circumstances stated in § 1708.5 (b); and
 - (4) Such a release neither negates the present or future owners' obligations under the covenant and this chapter to reserve, design, construct, cause to be occupied, and maintain in perpetuity an area on the receiving lot equal to the gross floor area of required preferred uses received nor constitutes such an extraordinary or exceptional circumstance or condition as to justify the grant of a variance from the strict application of the requirements of this chapter;
- (l) The declaration of covenants shall require the owner of the receiving lot to reimburse the Government of the District of Columbia for such reasonable expenses as the District incurred to successfully enforce its rights under the declaration;

- (m) The declaration of covenants shall expressly state that it may be amended or terminated only with the approval of the Zoning Commission, after public hearing and only upon a finding that the proposed modification or termination is fully justified and consistent with the purposes of this chapter; and
- (n) The declaration of covenants shall be approved in content by the Zoning Administrator and certified for legal sufficiency by the Office of the Attorney General. The declaration shall also contain a written statement by the Director of the D.C. Office of Planning attesting to:
 - (1) The lots' eligibility to allocate residential and nonresidential uses;
 - (2) The accuracy of the computations with respect to the amount of required preferred uses allocated; and
 - (3) Whether, after the transfer, the combined lots will conform to the maximum and minimum gross floor area requirements on the lots before any such transfer.

1708.2 In accordance with 11 DCMR § 1706.13(b), a certificate of occupancy may be issued for nonresidential uses on a sending lot or lots that allocated required residential uses to a receiving lot, without regard to the status of the receiving lot, if:

- (a) An escrow account is established with a financial institution, including a title insurance company, that is recognized to be in good standing by the District of Columbia or other jurisdiction in which it conducts business;
- (b) The escrow account is funded in accordance with § 1708.3; and
- (c) The following are attached to the combined lot development covenant recorded and filed in accordance with § 1708.1 (i):
 - (1) A certification by the financial institution of the amount of funds received;
 - (2) An acknowledgment by the financial institution that the funds will be disbursed only in accordance with the mandatory escrow terms in § 1708.5; and
 - (3) A copy of the agreement governing the escrow account.

1708.3 The escrowed funds shall be equal to the amount computed according to either the formula $E = GFA (AV / LA) / NRFAR \times 50\%$, or the formula $E = GFA \times \$15$, whichever is less. The values in these formulae shall have the following meaning:

- (a) E = The amount deposited into escrow;
- (b) GFA = The gross floor area of additional nonresidential uses that will be achieved on the sending lot as a result of the combined lot transfer, above that to which the sending lot would have been permitted as a matter of right, as measured in square feet;
- (c) AV = The assessed value of the sending lot's land and improvements, as of thirty (30) days prior to the escrow funding date, as that value is indicated on the records of the Office of Tax and Revenue;
- (d) LA = The number of square feet of land included in the sending lot;
- (e) NRFAR = The permitted nonresidential FAR before the transfer; and
- (f) 50% = The proportion of commercial value that has been determined to be appropriate for the escrow.

Illustration: A sending lot zoned DD/C-2-C wishes to transfer its entire residential requirement. The lot is 20,000 square feet in size. As a consequence of its DD/C-2-C zoning, the lot's permitted density is 8.0 FAR, of which at least 4.5 FAR (that is, 90,000 square feet of gross floor area) must be devoted to residential uses. The lot's assessed value, as of 30 days prior to escrow funding, was \$ 700,000.

Based upon this scenario, the following formula values apply: GFA = 90,000 sq. ft.; AV = \$ 700,000; LA = 20,000 sq. ft.; and NRFAR = 3.5 (8.0 - 4.5 = 3.5 of permitted nonresidential FAR).

The escrow funding would be calculated under the formula $E = GFA (AV / LA) / NRFAR \times 50\%$ as follows: $90,000 \text{ sq. ft.} \times (\$ 700,000 / 20,000 \text{ sq. ft.}) / 3.5 \times 50\% = \$ 450,000$. Under the $E = GFA \times \$ 15$ formula, the escrow would be calculated as follows: $90,000 \text{ sq. ft.} \times \$ 15 = \$ 1,350,000$. Since the result of the first formula (\$ 450,000) is less than result of the second formula (\$ 1,350,000), the minimum escrow funding would be \$ 450,000.

1708.4 Escrowed funds shall be invested in investment grade securities.

1708.5 The escrow account agreement shall include terms providing that:

- (a) Upon certification by the project architect to both the financial institution holding the funds and the Zoning Administrator that construction of all the residential uses required for the combined lot are at least 50% complete on the receiving lot, the funds held in the escrow account shall be disbursed in accordance with the applicable terms of the escrow agreement.

- (b) If the above certification is not made within five (5) years after the filing date of the combined lot development covenant, or such further period of time as may have been permitted by the Zoning Commission pursuant to § 1708.6, escrowed funds and any accrued interest shall be released to the District of Columbia Housing Production Trust Fund and designated for the financing of housing in the DD Overlay District in the same Housing Priority Area as the receiving lot. The escrow agent shall advise the Zoning Commission if the funds cannot be released in accordance with this provision and, in that event, shall release the funds as the Commission may thereafter direct, consistent with the purposes of this chapter.

1708.6 The owner of the receiving lot may request the Zoning Commission to allow an additional period, up to a maximum of three (3) years, to make the certification set forth in § 1708.5(a). The request shall identify why the certification could not be made within the five-year (5-year) period provided and be accompanied by a timetable for construction and occupancy of the residential uses required for the combined lot. The Commission may grant the request upon a showing that the owner has proceeded with due diligence and in good faith in constructing the required residential uses.

SOURCE: Final Rulemaking published at 38 DCR 612, 635 (January 18, 1991); as amended by: Final Rulemaking published at 39 DCR 8312, 8316 (November 13, 1992); Final Rulemaking published at 40 DCR 3749 (June 11, 1993); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8482-83 (October 20, 2000) and Final Rulemaking published at 49 DCR 881, 883-89 (February 1, 2002); 57 DCR 000126 (2010).

1709 TRANSFERABLE DEVELOPMENT RIGHTS (DD)

1709.1 This section shall authorize the transfer of development rights from a project within the DD Overlay District to a receiving lot or lots located elsewhere in the DD Overlay District or in the Downtown East, New Downtown, or other receiving zones or sites pursuant to this section.

1709.2 Transferable development rights shall be generated either by historic preservation as provided in § 1707, bonus uses pursuant to the subarea provisions of §§ 1703 through 1705, or the residential development provisions of § 1706.3. Transferable development rights shall also be generated pursuant to the downtown historic properties residential rehabilitation incentive provisions of § 755.

1709.3 No transfer of development rights from historic properties pursuant to §§ 755 and 1707, nor of bonus density derived from bonus uses, shall be effective under this section unless an instrument, approved by the Office of the Attorney General to be legally sufficient to effect such a transfer and approved in content by the Zoning Administrator and the Director of the D.C. Office of Planning, has been entered into among all of the parties concerned, including the District of Columbia.

1709.4 In the case of transferable development rights derived from historic preservation pursuant to § 1707, the instrument shall effect the requirements of § 1707.5 as well as the applicable requirements of this section.

1709.5 In the case of bonus density derived from bonus uses, the following provisions shall apply:

- (a) The property owner shall obtain a building permit indicating in appropriate plans the floor area designed and reserved for the designated bonus uses;
- (b) The instrument of transfer shall indicate the size of the applicable bonus uses in square feet of floor area and the location of bonus uses by reference to the plans required by paragraph (a);
- (c) The indicated floor area shall be occupied by the designated bonus uses, or held as vacant;
- (d) The instrument of transfer may be executed to transfer development rights to receiving lots after the building permit has been issued; provided, that no certificate of occupancy for the transferred floor area shall be issued for the receiving lot until the conditions specified in paragraphs (e) or (f) of this subsection, as applicable, have been met;
- (e) If the project on the sending lot generates transferable development rights from bonus uses of less than fifteen thousand square feet (15,000 ft.²) of gross floor area, any transferred development rights shall vest in the receiving lot without regard for the status of the development on the sending lot, after the certificate of occupancy for the bonus uses on the sending lot has been issued;
- (f) If the project on the sending lot generates transferable development rights from bonus uses of fifteen thousand square feet (15,000 ft.²) or more of gross floor area, any transferred development rights shall vest in the receiving lot without regard for the status of development on the sending lot, after applicant provides evidence of a lease agreement with a complying user/occupant of the bonus gross floor area; provided:
 - (1) The applicant shall provide the Zoning Administrator and the Director of the D.C. Office of Planning with evidence of the lease agreement with the operator of the bonus use; and
 - (2) The Zoning Administrator, with the concurrence of the Director of the Office of Planning, will certify in writing that the requirements of this paragraph have been satisfied; and

- (g) Following the execution and recordation of an instrument transferring development rights to a receiving lot, any modification of provisions of the instrument that relates to the type, size, or discontinuance of a bonus use in the sending lot shall require the approval of the Zoning Commission, after public hearing and with the concurrence of the Office of Planning; provided, that the Commission shall find that the proposed modification is fully justified and consistent with the purposes of this chapter.
- 1709.6 The instrument of transfer shall increase the development rights under the Zoning Regulations otherwise available to the receiving lot, to the extent of the rights transferred.
- 1709.7 If more than one transfer of development rights is made from a sending lot, the second transfer and all subsequent transfers shall be numbered "two" and sequentially, and the instrument of transfer shall include the names of the transferors and transferees involved in all previous transfers, including the amount of gross floor area transferred and the dates of recordation of each transfer.
- 1709.8 Transferable development rights may be re-transferred from the original receiving lot to another eligible receiving lot; provided, that there is compliance with the procedures specified in § 1709.7 and other applicable provisions.
- 1709.9 Nothing in this chapter shall prohibit the purchase of transferable development rights by an entity or individual who intends to resell the transferable development rights at a future date for use on a receiving lot, so long as there is compliance with this section and chapter.
- 1709.10 A certified copy of the instrument of transfer shall be filed with the Zoning Administrator prior to approval by the Department of Consumer and Regulatory Affairs of any building permit application affected by the transfer.
- 1709.11 The instrument shall be recorded in the Office of the Recorder of Deeds, serving as a notice both to the receiving lot and to the sending lot by virtue of this agreement for transfer of required gross floor area or bonus floor area.
- 1709.12 The notice of restrictions and transfer shall run with the title and deed to each affected lot.
- 1709.13 A building that has been constructed or that is under construction as of January 18, 1991, shall not be eligible to earn bonus density or transferable development rights, nor to utilize the combined lot development provisions.
- 1709.14 The instrument of transfer shall be processed in the government as follows:

- (a) The applicant shall submit the instrument of transfer to the Zoning Administrator, with a copy provided to the Director of the Office of Planning;
- (b) The Zoning Administrator and the Office of Planning shall review the instrument to determine whether its contents are complete and accurate as to the applicable provisions of the DD Overlay District;
- (c) If the Zoning Administrator and the Director of the Office of Planning find that the instrument is complete and accurate in content, the Zoning Administrator shall transmit the instrument to the Office of the Attorney General, together with a written statement that the content complies with the provisions of the DD Overlay District;
- (d) The Office of the Attorney General shall determine whether the instrument is legally sufficient to effect the transfer of development rights;
- (e) If the Office of the Attorney General finds the instrument to be legally sufficient, the Office of the Attorney General shall forward it to the Mayor after notifying the Zoning Administrator of the finding;
- (f) After signature by the Mayor or by the Secretary of the District of Columbia for the Mayor, the covenant or instrument of transfer shall be returned to the Zoning Administrator;
- (g) The applicant, upon notification by the Zoning Administrator that the instrument has been signed by the Mayor, shall take the covenant to the Recorder of Deeds, who shall record the covenant with the applicable sending and receiving lots, and provide the applicant with two (2) certified copies of the covenant and of title certificates for all affected properties; and
- (h) The applicant shall provide one (1) certified copy to the Zoning Administrator and one (1) to the Office of Planning.

1709.15 The Downtown East receiving zone consists of the C-3-C and HR/C-3-C zoned portions of Squares numbered 565, 567, 569 through 574, 625, 626, 627, and 628 through 631.

1709.16 The New Downtown receiving zone consists of the C-3-C zoned portions of Squares numbered 72 through 73, 74, 76, 78, 85, 86, 99, 100, and 116 through 118.

1709.17 The North Capitol receiving zone consists of Squares 668 through 677, 709 through 713, and 715, each zoned C-3-C.

- 1709.18 The Capitol South receiving zone consists of those portions of Squares 695 through 697, N697, 698, 699, N699, 737 through 742, N743, and 766, each zoned C-3-C.
- 1709.19 The Southwest receiving zone consists of Squares 268, 270, 299, 300, 327, 386, 387, 463 through 466, 493 through 495, and 536 through 538, and Lot 61 in Square 435, each zoned C-3-C.
- 1709.20 If the height of a receiving building exceeds the height that the provisions of this title allow as a matter of right for a building located on an abutting lot, including a lot that is separated from the receiving lot by an alley, no part of the receiving building shall project above a plane at a forty-five degree (45°) angle from a line that is as follows:
- (a) Directly above the zone district boundary line between such abutting lot and the receiving lot; and
 - (b) Above such boundary line by the distance of the matter-of-right height that this title allows for such abutting lot.
- 1709.21 Except as provided in the second sentence, the maximum permitted building height in the New Downtown, North Capitol, Capitol South, and Southwest receiving zones, the maximum permitted building height shall be that permitted by the Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452, as amended; D.C. Official Code §§ 6-601.01 to 6-601.09), and the maximum permitted FAR shall be 10.0 for buildings permitted a height of one hundred thirty feet (130 ft.), and 9.0 for buildings permitted a lesser height. A building on Square 766 may exceed a height of ninety (90) feet if the Zoning Commission, after hearing, finds that the additional height:
- (a) Will be sufficiently setback from the eastern building face to avoid shadowing the lower buildings in Square 797 to the east; and
 - (b) Will provide a suitable northern focal point for the Canal Blocks Park.
- 1709.22 In the New Downtown receiving zone, the height of a receiving building may not be measured from a point that fronts on New Hampshire Avenue.
- 1709.23 In the Downtown East receiving zone, the maximum permitted FAR for any permitted uses shall be 9.0 and the maximum permitted building height shall be one hundred ten feet (110 ft.)
- 1709.24 In addition to the matter-of-right transfers authorized by this section, a lot that is approved and developed as a Planned Unit Development pursuant to chapter 24 of this title may serve as a receiving lot for transferable development rights; provided:

- (a) The Planned Unit Development shall be located in a receiving zone or in a DD/C-2-C, DD/C-3-C, or DD/C-4 Overlay District;
- (b) The maximum permitted building height shall be that permitted by the Act to Regulate the Height of Buildings in the District of Columbia, D.C. Official Code §§ 6-601.01 to 6-601.09 (2001)(formerly codified at D.C. Code §§ 5-401 to 5-409 (1994 Repl.)); and the maximum permitted FAR shall be 10.5 for buildings permitted a height of one hundred thirty feet (130 ft.) and 9.5 for buildings permitted a lesser height; and
- (c) Development rights may not be transferred to a lot that is within the site of a Planned Unit Development approved prior to October 1, 1989, nor to a historic landmark or a lot in a historic district.

SOURCE: Final Rulemaking published at 38 DCR 612, 635 (January 18, 1991); as amended and renumbered by: Final Rulemaking published at 39 DCR 8312, 8318 (November 13, 1992); and Final Rulemaking published at 46 DCR 1016, 1018 (February 5, 1999); as amended by Final Rulemaking published at 47 DCR 5871, 5874 (July 21, 2000); Final Rulemaking published at 47 DCR 6230, 6232 (August 4, 2000); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8483-86 (October 20, 2000); as amended by Final Rulemaking and Order No. 06-23 published at 54 DCR 9393 (September 28,2007) 57 DCR 000126 (2010).

1710 RETAIL AND SERVICE USES (DD)

1710.1 For the purposes of this chapter, the following uses are preferred retail and personal/consumer service uses:

- (a) Anchor Store;
- (b) Antique Store;
- (c) Apparel and Accessories Store;
- (d) Appliance Store;
- (e) Auction House;
- (f) Auto and Home Supply Stores, excluding installations;
- (g) Bakery, limited to baking of food sold on premises;
- (h) Bank Loan Office, Savings & Loan, Credit Union, or Other Financial Institution;
- (i) Barber or Beauty Shop;

- (j) Bicycle Shop;
- (k) Camera Store;
- (l) Candy Store;
- (m) Child Development Center;
- (n) Computer Store;
- (o) Cosmetic Store;
- (p) Delicatessen;
- (q) Department Store;
- (r) Dressmaking or Tailor Shop;
- (s) Drug Store;
- (t) Dry Cleaners;
- (u) Fabric Store;
- (v) Fast Food Establishment, excluding drive-through;
- (w) Florist and Plant Stores;
- (x) Furniture Store;
- (y) Gift, Novelty, and Souvenir Shop;
- (z) Grocery Store;
- (aa) Hardware Store;
- (bb) Health or Exercise Studio;
- (cc) Hobby, Toys, and Game Shop;
- (dd) Home Furnishings Store;
- (ee) Jewelry Store;
- (ff) Liquor Store;

- (gg) Luggage and Leather Goods Store;
- (hh) Newsstand;
- (ii) Office Supplies and Equipment Store;
- (jj) Optician;
- (kk) Paint Store;
- (ll) Pet Store;
- (mm) Printing, Fast Copy Service;
- (nn) Radio, Television, and Consumer Electronics Store;
- (oo) Secondhand Store;
- (pp) Shoe Repair and Shoeshine Parlor;
- (qq) Shoe Store;
- (rr) Specialty Food Store;
- (ss) Sporting Goods Store;
- (tt) Telegraph Store;
- (uu) Tobacco Store;
- (vv) Travel Agency, Ticket Office;
- (ww) Variety Store;
- (xx) Video Tape Rental; and
- (yy) Other similar personal/consumer service establishment or retail uses, including assemblage and repair clearly incidental to the principal use.

SOURCE: Final Rulemaking published at 38 DCR 612, 640 (January 18, 1991); as amended by Final Rulemaking published at 54 DCR 9393, 9400 (September 28, 2007); 57 DCR 000126 (2010).

1711 ARTS USES AND ARTS-RELATED USES (DD)

1711.1 For the purpose of this chapter, the following uses are preferred arts uses and arts-related retail and support uses:

- (a) Art Center;
- (b) Art Exhibition Area;
- (c) Art Gallery;
- (d) Art School, including school of dance, photography, filmmaking, music, writing, painting, sculpturing, or printmaking;
- (e) Artist Live-Work Space;
- (f) Artist Studio;
- (g) Artists' Supply Store;
- (h) Arts Organizations, Administrative Offices of;
- (i) Arts Services, including set design, and restoration of art works;
- (j) Assembly Hall, Auditorium, Public Hall, or Other Performing Arts Space, including rehearsal/pre-production space or concert hall;
- (k) Book Store;
- (l) Cabaret;
- (m) Dance Hall, Discotheque, or Ballroom;
- (n) Dinner Theater;
- (o) Drinking Place, including bar, nightclub, or cocktail lounge;
- (p) Fast Food Establishment (excluding drive-through), only on Lot 127 in Square 375;
- (q) Legitimate Theater;
- (r) Movie Theater;
- (s) Museum;
- (t) Performing Arts Ticket Office or Booking Agency;
- (u) Photographic Studio;
- (v) Picture Framing Shop;

- (w) Prepared food shops, only on Lot 127 in Square 375;
- (x) Record Store, Musical Instruments Store;
- (y) Restaurant; and
- (z) Television and Radio Broadcast Studio.

SOURCE: Final Rulemaking published at 38 DCR 612, 641 (January 18, 1991); 57 DCR 000126 (2010); as amended by Final Rulemaking and Order No. 10-18 published at 57 DCR 12243 (December 24, 2010); as amended by Final Rulemaking and Order No. 10-18 published at 57 DCR 12610 (December 31, 2010).

1712 OFFICE SPACE USES (DD)

1712.1 For the purposes of this chapter, the following uses are office space uses and not preferred uses:

- (a) Accountant;
- (b) Architect;
- (c) Attorney;
- (d) Bail Bondsman;
- (e) Counseling Service;
- (f) Consultant - General;
- (g) Dentist, Doctor, or Medical Office;
- (h) Employment Agency;
- (i) Escrow Agent;
- (j) Government;
- (k) Health Clinic;
- (l) Insurance Broker;
- (m) Laboratory;
- (n) Landscape Architect;

- (o) Mortgage Broker;
- (p) Real Estate Agent, Appraiser, Broker, Developer;
- (q) Stockbroker;
- (r) Tax Preparer;
- (s) Title Company;
- (t) Trust Company; and
- (u) Utility Company, Offices of.

SOURCE: Final Rulemaking published at 38 DCR 612, 642 (January 18, 1991).

1720 MOUNT VERNON TRIANGLE DISTRICT: OBJECTIVES AND BOUNDARIES (DD/MVT)

- 1720.1 The principal objectives for the Mount Vernon Triangle District (MVT District) are to:
- (a) Promote the development of ground floor level street frontages that will be active and pedestrian-friendly, particularly along the sections of K and 5th Streets, that are within the MVT District boundaries, as defined in § 1720.2; and
 - (b) Promote a lively, mixed-use and high-density Mount Vernon Triangle neighborhood with neighborhood amenities and retail development that serves the MVT as well as nearby neighborhoods, the Convention Center, and the downtown.
- 1720.2 The provisions of the MVT District, as stated in §§ 1720 through 1734, apply to Squares 451, 483, 484, 484W, 515, and 516.
- 1720.3 Any reference in the provisions of the MVT District to the Mount Vernon Triangle Area shall mean the area comprising squares 451, 483, 484, 484W, 515, 515N, 516, 516S, 525, 526, 527, 528, 556, 558, 560, 561, 562, 563, and 563S.
- 1720.4 All street locations in the MVT District are in Northwest Washington and therefore all future reference to these streets will omit the identification of the Northwest quadrant.
- 1720.5 All provisions of this Chapter shall apply unless otherwise noted.
- 1720.6 Unless specifically exempted, the requirement of the MVT District shall apply to all new buildings and to all other buildings where any additions, alterations, or

repairs within any twelve-month (12) period exceed one hundred percent (100%) of the assessed value of the building as set forth in the records of the Office of Tax and Revenue as of the date of the building permit application; provided:

- (a) The cost basis for alterations or additions to an existing building shall be the amount indicated by the applicant on the application for a building permit;
- (b) The assessed value of the building shall be the value set forth in records of the Office of Tax and Revenue as of the date of the building permit application; and
- (c) In the case of an addition, the requirements and incentives of this Chapter apply only to the addition.

SOURCE: Final Rulemaking published at 53 DCR 7860 (September 29, 2006).

1721 OFFICE OF PLANNING REVIEW (DD/MVT)

1721.1 The provisions of § 1700.6 shall apply only to building permits for new construction within the MVT District or for additions, alterations, or repairs that would first subject a building to the provisions of the MVT District pursuant to § 1720.6.

1721.2 The Zoning Administrator shall take no action on a building permit application to which § 1721.1 refers for seventy-five (75) days from the date of filing, or for fifteen (15) days after receipt of the Office of Planning report, whichever time period is less.

SOURCE: Final Rulemaking published at 53 DCR 7860 (September 29, 2006).

1722 STREETWALL DESIGN REQUIREMENTS (DD/MVT)

1722.1 Except for a building located in the Principal Intersection Area, as described in § 1723.1, or a building located on Lot 158 in Square 515 for which a building permit has been received within nine (9) months prior to or after [the effective date of this section], or any portions of a building that existed on the [effective date of this section] that is subsequently designated a historic landmark or is included within a historic district, this Section together with § 1701.3, shall apply to each building with frontage on:

- (a) K Street in Squares 451, 483, 484, 484W, 515, or 516;
- (b) 5th Street in Squares 483, 484, 515 or 516;
- (c) 6th Street in Squares 484 or 484W, if that frontage is within thirty-six feet (36 ft.) of the right-of way of K Street; and

- (d) 4th Street in Square 515 or 516, if that frontage is within thirty-six feet (36 ft.) of the right-of way of K Street.

- 1722.2 Each building shall devote not less than fifty percent (50%) of the surface area of the streetwall(s) at the ground level of each building to display windows with clear or clear and/or low-emissivity glass, except for decorative or architectural accent, and to entrances to commercial uses or to the building.
- 1722.3 Each building shall devote not less than fifty percent (50%) of the surface area of the streetwall between twelve (12) feet and fourteen (14) feet above grade to clear or clear and/or low-emissivity glass.
- 1722.4 Each building shall be designed so as not to preclude an entrance every forty (40) feet on average for the linear frontage of the building; excluding vehicular entrances, but including entrance to ground floor uses and any main lobby.
- 1722.5 The ground floor level of each new building or building addition shall have a minimum clear floor-to-ceiling height of fourteen (14) feet for a distance of at least thirty-six (36) feet perpendicular to the ground floor's front building line.

SOURCE: Final Rulemaking published at 53 DCR 7860 (September 29, 2006).

1723 PRINCIPAL INTERSECTION AREA (PIA): LOCATIONS INCLUDED (DD/MVT)

- 1723.1 With the exception of a building located on Lot 158 in Square 515 for which a building permit has been received within nine (9) months prior to or after [the effective date of this section], or any portion of a building that existed on the effective date of this section] that is subsequently designated a historic landmark or is included within a historic district, the provisions of §§ 1723 through 1727 shall apply to those portions of buildings in Squares 483, 484, 515, or 516 that:
 - (a) Front on K Street or 5th Street; and
 - (b) Fall within any of four (4) seventy-two-foot-square (72 ft. by 72 ft.) areas as measured from the point of tangency of the rights of way lines of K Street and 5th Street in the relevant quadrant described by the intersection of these streets.
- 1723.2 The area described in § 1723.1 shall hereafter be referred to as the Principal Intersection Area (PIA).
- 1723.3 As illustrated in the following table, each of the four corners within the PIA has four (4) thirty-six-foot by thirty-six-foot (36 ft. by 36 ft.) modules.

Square 483	Square 483		5th Street	Square 515		Square 515
	D	B		B	D	
	C	A (NW)		A (NE)	C	
K Street			Intersection 5 th & K Streets	K Street		
Square 484	C	(SW) A	5th Street	(SE) A	C	Square 516
	D	B		B	D	
	Square 484			Square 516		

1723.4 In the table, "K Street" defines the east and west directions; "5th Street" defines the north and south directions. The northwest corner is Square 483; the northeast corner is Square 515; the southwest corner is Square 484; the southeast corner is Square 516.

1723.5 At each corner there are four modules labeled A, B, C and D. Each block in the chart labeled A, B, C, or D represents a thirty-six-foot by thirty-six-foot (36 ft. by 36 ft.) area within the respective seventy-two-foot by seventy-two-foot (72 ft. by 72 ft.) PIA corner.

1723.6 The "A" modules are the thirty-six-foot by thirty-six-foot (36 ft. by 36 ft.) modules nearest to the intersections. The "B" modules are the thirty-six-foot by thirty-six-foot (36 ft. by 36 ft.) modules fronting on 5th Street that are between thirty-six (36) feet and seventy-two (72) feet north and south of K Street. The "C" modules are the thirty-six-foot by thirty-six-foot (36 ft. by 36 ft.) modules fronting on K Street that are between thirty-six (36) feet and seventy-two (72) feet east and west of 5th Street. The "D" modules are the thirty-six-foot by thirty-six-foot (36 ft. by 36 ft.) interior modules that have frontage on neither K Street nor 5th Street.

SOURCE: Final Rulemaking published at 53 DCR 7860 (September 29, 2006).

1724 PIA: MAXIMUM BUILDING HEIGHT (DD/MVT)

1724.1 Except for buildings in Square 515, the portion of a building within an "A" module shall be no higher than fifty (50) feet above grade.

1724.2 No more than fifty percent (50%) of the portions of a building within each of the "B" and "C" modules shall be more than fifty (50) feet above grade.

SOURCE: Final Rulemaking published at 53 DCR 7860 (September 29, 2006).

1725 PIA: MINIMUM GROUND FLOOR HEIGHT (DD/MVT)

1725.1 The following minimum ground floor height requirements apply to each building located within the PIA:

Module	Minimum clear floor-to-ceiling height
A	22 Feet
B & C	22 Feet for at least 50% of its ground floor
D	14 Feet

SOURCE: Final Rulemaking published at 53 DCR 7860 (September 29, 2006).

1726 PIA: STREETWALL DESIGN (DD/MVT)

1726.1 Each building shall devote not less than sixty-five percent (65%) of the surface area of the streetwall(s) at the ground level, to a height of at least twenty-two (22) feet, to display windows with clear and/or low-emissivity glass, except for decorative or architectural accent and entrances to commercial uses or to the building.

1726.2 Each building shall devote not less than sixty-five percent (65%) of the surface area of the streetwall between eighteen (18) feet and twenty-two (22) feet above grade to clear and/or low-emissivity glass.

SOURCE: Final Rulemaking published at 53 DCR 7860 (September 29, 2006).

1727 PIA: MISCELLANEOUS PROVISIONS (DD/MVT)

1727.1 There shall be no direct entrances to lobbies serving residential or office uses.

1727.2 Roof terraces, whether open to the sky or covered with awnings or canopies, that are atop the portions of a building within the "A," "B," or "C" modules, as defined in § 1723, shall not be included in the maximum floor area ratio calculations as set forth in § 771.2.

SOURCE: Final Rulemaking published at 53 DCR 7860 (September 29, 2006).

1728 REDUCTION OF REAR YARDS AND SIDE YARDS OF BUILDINGS ABUTTING ALLEYS (DD/MVT)

1728.1 In the event that the Council of the District of Columbia accepts a dedication of land for public alley purposes within DD/MVT that would have been required to be a rear yard pursuant to § 774.7, and the land dedicated is adjacent to a public alley and extends the entire length of the lot, the rear yard requirements for the portion of the structure above the horizontal plane described in § 774.7(a) shall be reduced by five (5) feet for every ten (10) foot depth of land dedicated.

1728.2 For the purposes of § 1728.1, the depth of the land dedicated shall be measured perpendicular to the alignment of the adjacent public alley.

1728.3 In the event that the Council of the District of Columbia accepts a dedication of land for public alley purposes within DD/MVT that would have been required to be a side yard pursuant to §§775.4 and 775.5, and the land dedicated is at least eight (8) feet deep, is adjacent to a public alley, and extends the entire length of the lot, the side yard requirement shall be eliminated for that portion of the structure below a horizontal plane twenty (20) feet above the mean finished grade measured at the middle of the side of the structure.

SOURCE: Final Rulemaking published at 53 DCR 7860 (September 29, 2006).

1729 GROUND FLOOR PARKING AND LOADING PROVISIONS (DD/MVT)

1729.1 Where a court is provided in accordance with § 776, and the bottom of the court begins at or between the first floor and second floor above the ground floor, the gross floor area beneath the bottom of the court shall not be included when calculating the floor area ratio of the building, provided:

- (a) The area immediately beneath the court provides:
 - (1) Vehicular access from a public or private alley for the purposes of providing loading berths, loading platforms, or service/delivery loading spaces required by § 2201.1;
 - (2) Parking or access to parking required by § 2101.1; or
 - (3) Parking permitted by § 1702.7(a) or (b); and
- (b) At least sixty five percent (65%) of the court's surface is covered by vegetative material that reduces the rate of flow of stormwater run-off or contributes less to ambient heat build-up than a conventional roof.

SOURCE: Final Rulemaking published at 53 DCR 7860 (September 29, 2006); 57 DCR 000126 (2010).

1730 DRIVEWAYS ON PREFERRED USE STREET FRONTAGES (DD/MVT)

1730.1 The provisions of this Section govern the construction of driveways that:

- (a) Provide access from the adjacent public street to parking spaces or loading berths;
- (b) Serve delivery loading spaces on the same lot as the driveway; or
- (c) Serve parking spaces, loading berths, or service/delivery loading spaces not required by the Zoning Regulations.

1730.2 No driveway may be constructed on the north or south side of K Street between 5th Street and 7th Street.

1730.3 There shall be no more than one driveway constructed in the following areas:

- (a) The north side of K Street between 4th Street and 5th Street;
- (b) The south side of K Street between 4th Street and an alley [existing on the effective date of this section] located approximately three hundred and seventy-five (375) feet west of 4th Street;
- (c) The east side of 5th Street between I Street and K Street; and
- (d) The east side of 5th Street between K Street and L Street.

1730.4 There shall be no more than two driveways constructed in the following areas:

- (a) The west side of 5th Street between I Street and K Street; and
- (b) The west side of 5th Street between K Street and L Street.

1730.5 Exceptions from the prohibitions and limitations of this Section shall be permitted if granted by the Board of Zoning Adjustment under § 3104, provided the applicant demonstrates that:

- (a) There is no practical alternative means of serving the parking, loading, or drop-off needs of the building to be served by the proposed driveway, such as signage approved by the District Department of Transportation (DDOT), that would direct vehicles to an alternative entrance point within the same Square;

- (b) The driveway will not impede the flow of pedestrian traffic on the street frontages listed in §§ 1730.2 through 1730.4; and
- (c) The proposed driveway is not inconsistent with the DDOT landscape plans for the public rights of way in the Mount Vernon Triangle Area, to the extent that such plans exist at the time of the special exception application.

SOURCE: Final Rulemaking published at 53 DCR 7860 (September 29, 2006).

1731 DRIVEWAYS: OTHER STREET FRONTAGES (DD/MVT)

- 1731.1 The provisions of this Section apply to street frontages in DD/MVT not listed in §1730.
- 1731.2 The provisions of this Section apply to driveways that provide access from the adjacent public street to parking spaces or loading berths within a Square, whether or not those spaces or berths are required by the Zoning Regulations.
- 1731.3 No more than one driveway may be constructed within the length of an individual building, unless the building extends the entire length of the block, in which case § 1731.4 shall apply.
- 1731.4 No more than two driveways may be constructed per side of a Square.
- 1731.5 Each driveway shall be separated by no less than sixty (60) feet, unless lesser distances between curb cuts are required by the District Department of Transportation (DDOT).
- 1731.6 Exceptions from the requirements of this Section shall be permitted only if granted by the Board of Zoning Adjustment under § 3104, provided that the applicant demonstrates that:
 - (a) There is no practical alternative means of serving the parking, loading, or drop-off needs of the building to be served by the proposed driveway, such as signage approved by the District Department of Transportation (DDOT), that would direct vehicles to an alternative entrance point within the same Square;
 - (b) The driveway will not impede the flow of pedestrian traffic on the street frontages listed in §§ 1730.2 through 1730.4; and
 - (c) The proposed driveway is not inconsistent with the DDOT landscape plans for the public rights of way in the Mount Vernon Triangle Area, to the extent that such plans exist at the time of the special exception application.

SOURCE: Final Rulemaking published at 53 DCR 7860 (September 29, 2006).

1732 PERMITTED GROUND FLOOR USES (DD/MVT)

1732.1 For the purposes of identifying the location of permitted ground floor uses, the Mount Vernon Triangle District is divided into the following three Areas:

- (a) The Principal Intersection Area as defined in § 1723.1;
- (b) The Secondary Use Area, which comprises the areas with frontage along the portions of Squares 515 and 516 between the centerpoint of 4th Street and the centerpoint of the public alley in Square 515 existing on [the effective date of this section] that is approximately three hundred sixty (360) feet west of 4th Street; and
- (c) The Primary Use Area, which comprises all areas not defined in § 1732.1 (a) or (b) with frontages along K Street in Squares 451, 483, 484, 484W, 515, or Square 516; or with frontages on 5th Street in Squares 483, 484, 515, or 516.

1732.2 The following uses may be established on the ground floor of any building located in the Primary or Secondary Use Area:

- (a) Antique store;
- (b) Artist live-work space or artist studio, with sales;
- (c) Apparel and accessories store;
- (d) Art center;
- (e) Art gallery;
- (f) Art school, including school of dance, photography, filmmaking, music, writing, painting, sculpturing, or printmaking;
- (g) Arts services, including set design and restoration of artworks;
- (h) Assembly hall, auditorium, public hall or other performing arts space, including rehearsal/pre-production space or concert hall;
- (i) Auction house;
- (j) Bakery, limited to baking of food sold on premises;
- (k) Bicycle shop;
- (l) Barber or beauty shop;

- (m) Blueprinting, printing or copy service;
- (n) Book store;
- (o) Cabaret;
- (p) Candy store;
- (q) Clinic;
- (r) Computer store;
- (s) Concert hall or other performing arts space;
- (t) Cosmetic store;
- (u) Camera store;
- (v) Craftsman or artisan studio, with sales;
- (w) Dance hall, discotheque, or ballroom;
- (x) Department store;
- (y) Dinner theater;
- (z) Dressmaking or tailor shop;
- (aa) Drinking place, including bar, nightclub or cocktail lounge;
- (bb) Drug store;
- (cc) Dry cleaner;
- (dd) Fabric store;
- (ee) Fast food establishment, excluding drive-through;
- (ff) Film exchange;
- (gg) Florist and plant store;
- (hh) Furniture store;
- (ii) Gift, novelty, and souvenir shop;

- (jj) Grocery store;
- (kk) Hardware store;
- (ll) Health or exercise studio;
- (mm) Hobby, toys and game shop;
- (nn) Home furnishing store;
- (oo) Home supply and decorating store;
- (pp) Jewelry store;
- (qq) Liquor store;
- (rr) Leather goods and luggage store;
- (ss) Legitimate theater;
- (tt) Library, public;
- (uu) Lobbies for apartment, condominium or other residential uses;
- (vv) Theater, including motion picture theater;
- (ww) Museum;
- (xx) Musical instruments and accessories sales;
- (yy) Newsstand;
- (zz) Office supplies and equipment sales;
- (aaa) Optical goods store;
- (bbb) Paint store;
- (ccc) Pet store;
- (ddd) Picture framing studio or shop;
- (eee) Printing, fast copy service;
- (fff) Radio, television, and consumer electronics store;

- (ggg) Restaurant;
- (hhh) Secondhand store or consignment shop;
- (iii) Shoe repair and shoeshine parlor;
- (jjj) Shoe store;
- (kkk) Specialty food store;
- (lll) Sporting goods store;
- (mmm) Telegraph office;
- (nnn) Television and radio broadcast studio;
- (ooo) Tobacco store;
- (ppp) Travel agency, ticket office;
- (qqq) Variety store;
- (rrr) Video tape rental; and
- (sss) Other similar personal/consumer service establishment or retail use including assemblage and repair clearly incidental to the principal use.

1732.3 The following uses may be established on the ground floor of any building located in the Secondary Use Areas defined in § 1732.1:

- (a) Accountant;
- (b) Apartment or condominium entered directly from street;
- (c) Architect;
- (d) Attorney;
- (e) Bail bondsman;
- (f) Bank, loan office, or financial institution;
- (g) Counseling service;
- (h) Consultant - general;
- (i) Dentist, doctor, or medical office;

- (j) Employment agency;
- (k) Escrow agent;
- (l) Government;
- (m) General office uses;
- (n) Health clinic;
- (o) Insurance broker;
- (p) Laboratory;
- (q) Landscape architect;
- (r) Mortgage broker;
- (s) Public agency office;
- (t) Real estate agent, appraiser, broker, developer;
- (u) Social service agency office;
- (v) Stockbroker;
- (w) Tax preparer;
- (x) Title company;
- (y) Trust company; and
- (z) Utility company, Offices of.

1732.4 The following uses may be established on the ground floor of any building located in any of the three Areas defined in § 1732.1:

- (a) Book store including restaurant;
- (b) Cabaret;
- (c) Drinking place, including bar, nightclub or cocktail lounge;
- (d) Restaurant; and

- (e) Other uses permitted in the Primary Area, provided that within such uses there exists accessory restaurant or drinking place uses (including, but not limited to, bar, nightclub, or cocktail lounge uses), that occupy at least fifty percent (50%) of the gross floor area of the permitted principal use(s) and at least forty percent (40%) of the permitted principal use(s) linear frontage on the public right of way.

SOURCE: Final Rulemaking published at 53 DCR 7860 (September 29, 2006); as amended by Final Rulemaking published at 54 DCR 9393, 9400 (September 28, 2007).

1733 GROUND FLOOR AREAS REQUIRED TO BE DEVOTED TO PREFERRED USES (DD/MVT)

1733.1 The provisions of this Section shall apply to each building with frontage on K Street in Squares 451, 483, 484, 484W, 515, or 516; and to each building with frontage on 5th Street in Squares 483, 484, 515, or 516.

1733.2 Each building that faces or abuts a street segment identified in § 1732.1 shall devote not less than fifty percent (50%) of the gross floor area of the ground floor ("dedicated space") to uses listed in §§ 1732.2, 1732.3, or 1732.4, if permitted by those subsections at its location, except that the cumulative gross floor area of bank, loan office, financial institution or general office uses, shall occupy no more than thirty percent (30%) of the gross floor area of the dedicated space.

SOURCE: Final Rulemaking published at 53 DCR 7860 (September 29, 2006).

1799 DEFINITIONS

1799.1 When used in this chapter, the following terms and phrases shall have the meaning ascribed:

Additional commercial space - the extra gross floor area permitted for commercial or office use on a lot in the DD Overlay District in exchange for providing or financially subsidizing affordable housing in other neighborhoods of the District of Columbia. (40 DCR 1959)

Affordable dwelling unit - a dwelling unit that is sold or rented to a household of low or moderate income. (40 DCR 1958)

Anchor store - a single retail store, having twenty-five thousand square feet (25,000 sq.ft.) or more of gross leasable area, and that is operated under single management and usually a single Certificate of Occupancy. An anchor store may include entertainment, recreation, or arts functions that are accessory to the principal retail use, or that have a separate Certificate of Occupancy for a portion of the total floor area. The subordinate uses may include eating and drinking, performance or visual art, limited recreational areas, children's play areas, audio

and video displays, and interactive electronic and similar functions. (45 DCR 4529)

Art center - a multi-functional arts use that:

- (a) Comprises two (2) or more distinct arts uses integrated under single management and a single Certificate of Occupancy;
- (b) Includes but is not limited to uses such as art gallery, artist studio, art school, performing arts space, administrative offices of arts organizations, movie theater, artist live-work space; and
- (c) Occupies part or all of a single building or a group of buildings that are within a radius of two thousand feet (2,000 ft.) of the centermost building.

Art exhibition area - a building lobby or part of a lobby, or another publicly accessible room on the basement or first or second floors of a building, which space is designed and used for the public display and sale of works of art.

Assessed value - the fair market value of property, as determined by the property tax assessment records of the District of Columbia Office of Tax and Revenue, as of the July 1st preceding the date on which the building permit application is filed. (40 DCR 1959)

Department store - a single retail store, in excess of ninety thousand square feet (90,000 ft.²) of gross leasable area, that is:

- (a) Involved in the sale of, among other things, apparel and furnishing;
- (b) Organized into departments or sections that are integrated under single management; and
- (c) Operated under a single certificate of occupancy.

Displaced downtown business - a business that occupies a building on or after the date on which a demolition permit has been issued for that building, or that occupied a building that was demolished after January 1, 1986.

Gross leasable area - the sum of the floor area occupied by the business or use, as measured from the exterior faces of the walls encompassing the space, and including any stairways, elevator shafts, escalators, or mechanical areas inside the perimeter walls of the business use. In a building occupied by multiple tenants or multiple uses, the central elevator core or cores, associated lobbies, stairways, and mechanical areas shall be excluded from gross leasable area, if they serve the building as a whole.

Housing Production Trust Fund - the trust fund established within the Department of Housing and Community Development by the Housing Production Trust Fund Act of 1988, effective March 16, 1989 (D.C. Law 7-202; D.C. Official Code § 42-2802 (2001) (formerly codified at D.C. Code § 45-3102 (1996 Repl.))), the purpose of which is to stimulate production of housing for low and moderate income families and individuals. (40 DCR 1959)

Low income household - a household of one or more individuals with a total income equal to less than fifty percent (50%) of the Standard Metropolitan Statistical Area median as certified by the Department of Housing and Community Development. (40 DCR 1959)

Minority business - a Certified Minority Business as designated by the District of Columbia Minority Business Opportunity Commission.

Moderate income household - household of one or more individuals with a total income equal to between fifty percent (50%) and eighty percent (80%) of the Standard Metropolitan Statistical Area median as certified by the Department of Housing and Community Development. (40 DCR 1959)

Net leasable area - the sum of the floor area occupied by the business or use, as measured from the interior faces of the walls encompassing the space, and excluding any portion of the space devoted to mechanical equipment, lobby area, stairways, or elevators, if that portion of space serves the building as a whole.

Nonprofit housing sponsor - an organization that qualifies as a nonprofit organization under § 501(c)(3) of the Internal Revenue Code of 1986, approved October 22, 1986 (68A Stat. 163; 26 U.S.C. § 501(c)(3)) and that specializes in assisting or building affordable dwelling units. (40 DCR 1959)

Nonprofit housing trust fund - an organization that qualifies as a nonprofit organization under § 501(c)(3) of the Internal Revenue Code of 1986, approved October 22, 1986 (68A Stat. 163; 26 U.S.C. § 501(c)(3)), and also meets the following requirements:

- (a) Exists primarily for the purpose of assisting in the production of affordable dwelling units;
- (b) Operates a trust fund that disburses money for affordable housing development;
- (c) Receives applications for funds directly from developers of affordable housing;
- (d) Has adopted criteria for selection of projects and allocation of funds among various types of affordable housing developments; and

- (e) Has been certified by the Director of the Department of Housing and Community Development as a qualifying nonprofit organization that also complies with paragraphs (a) through (d). (40 DCR 1959)

Performing arts center - one or more facilities that provide space for the performing arts, including but not limited to concert halls and legitimate theaters.

Residential uses - those uses defined in § 199.1 as apartments, apartment houses, bachelor apartments, rooming houses, and boarding houses.

Small business - a business that occupies two thousand square feet (2,000 ft.²) or less of net leasable area and that provides evidence of not being franchise-operated.

SOURCE: Final Rulemaking published at 38 DCR 612, 642 (January 18, 1991); as amended by: Final Rulemaking published at 40 DCR 1956, 1958-59 (March 19, 1993); Final Rulemaking published at 44 DCR 4527, 4529 (August 8, 1997); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8466-67 (October 20, 2000).

TITLE 11 - ZONING

CHAPTER 18 SOUTHEAST FEDERAL CENTER OVERLAY DISTRICT

Secs.

- 1800 PREAMBLE (SEFC)
- 1801 SEFC OVERLAY DISTRICT STATEMENT OF INTENT
- 1802 SEFC OVERLAY DISTRICT OBJECTIVES
- 1803 SEFC/CR ZONING DISTRICT
- 1804 SEFC/R-5-D AND R-5-E ZONING DISTRICTS
- 1805 SEFC/W-0 ZONING DISTRICT
- 1806 PLANNED UNIT DEVELOPMENT (SEFC)
- 1807 PREFERRED USES (SEFC)
- 1808 ZONING COMMISSION REVIEW STANDARDS (SEFC)
- 1809 ZONING COMMISSION REVIEW PROCEDURES (SEFC)
- 1810 COMBINED LOT DEVELOPMENT PROCEDURES (SEFC)
- 1811 PENTHOUSES (SEFC)
- 1800 PREAMBLE (SEFC)**

1800.1 The Southeast Federal Center (SEFC) Overlay District is applied to an approximately 42-acre portion of the SEFC site that is designated for "federal use" and "parks, recreation, and open space" in the Comprehensive Plan for the National Capital. The following squares and portions of squares in the southeast quadrant of the District of Columbia are included in the SEFC Overlay District: Squares 743, 744, 771, 802, 826, 853, portions of Squares 770 and 801, and a portion of land south of 771 and 802 bounded by the District of Columbia Water and Sewer Authority ("WASA") facility to the west, the Washington Navy Yard to the east, and the Anacostia River to the south. The site is bounded generally by M Street S.E. to the north; the Anacostia River to the south; 1st Street, S.E. and WASA to the west; and the Washington Navy Yard to the east. Where there are any inconsistencies between the above description of the Overlay and the descriptions set out in the metes and bounds descriptions attached to the Notice of

Final Rulemaking published in the D.C. Register on JUL-9 2004, the latter shall govern.

- 1800.2 The SEFC Overlay District and the underlying CR, R-5-E, R-5-D, and W-0 Zoning Districts shall constitute the Zoning Regulations for the geographical areas referred to in § 1800.1. Where there are conflicts between this Chapter and the underlying zoning, the provisions of the SEFC Overlay District shall govern.

SOURCE: Final Rulemaking published at 51 DCR 6850 (July 9, 2004); 57 DCR 000126 (2010).

1801 SEFC OVERLAY DISTRICT STATEMENT OF INTENT

- 1801.1 The SEFC Overlay District is intended to provide for the development of a vibrant, urban, mixed-use, waterfront neighborhood, offering a combination of uses that will attract residents, office workers, and visitors from across the District and beyond.

SOURCE: Final Rulemaking published at 51 DCR 6850 (July 9, 2004).

1802 SEFC OVERLAY DISTRICT OBJECTIVES

- 1802.1 The following subsections set forth the objectives of the Southeast Federal Center Overlay District.
- 1802.2 Assure development of the area with a mixture of residential and commercial uses and a suitable height, bulk, and design of buildings, as generally identified in the Comprehensive Plan and in recognition of the objectives of the Anacostia Waterfront Initiative and the Near Southeast Urban Design Framework Plan.
- 1802.3 Encourage high-density residential development with a pedestrian-oriented streetscape through flexible zoning parameters.
- 1802.4 Encourage a variety of support and visitor-related uses, such as retail, service, entertainment, cultural, and hotel or inn uses.
- 1802.5 Provide for a reduced height and bulk of buildings along the Anacostia riverfront in the interest of ensuring views over and around waterfront buildings, and provide for continuous publicly-accessible open space along the waterfront.
- 1802.6 Require suitable ground-floor level retail and service uses near the Navy Yard Metrorail station; along M Street S.E.; near the SEFC/W-0 District; and at other key pedestrian locations.
- 1802.7 Encourage the design and development of properties in a manner that is sensitive to the adjacent Navy Yard and the historically significant buildings within the SEFC.

1802.8 Establish zoning incentives and restrictions to provide for the development of a publicly-accessible park along the Anacostia River and encourage uses in that park as permitted in the W-0 District.

SOURCE: Final Rulemaking published at 51 DCR 6850 (July 9, 2004).

1803 SEFC/CR ZONING DISTRICT

1803.1 Uses subject to special exception review in the underlying CR zone district that are not listed in § 1803.2 as being subject to Zoning Commission review and approval, are not permitted within the SEFC/CR District.

1803.2 Within the SEFC/CR District, the following buildings, structures, and uses are permitted only if reviewed and approved by the Zoning Commission, in accordance with the standards specified in § 1808 and procedures specified in § 1809 of this Title:

- (a) All buildings and structures that have frontage along M Street, S.E.;
- (b) Automobile rental agency, provided the use has no exterior automobile storage area;
- (c) Automobile, truck, or motorcycle accessory sales, including installation;
- (d) College or university, subject also to the regulations of § 615. For the purposes of the determination of FAR, floor area for all non-dormitory uses directly associated with "university or college" shall be considered non-residential, and not part of the retail required under § 1803.3;
- (e) Dental lab;
- (f) Department store;
- (g) Gas station;
- (h) Hotel/inn;
- (i) International organization;
- (j) Library;
- (k) Museum;
- (l) Place of worship, which may include a parsonage, vicarage, rectory, or Sunday school building, as well as any related programs associated with the place of worship in accordance with § 216;

- (m) School, private, public, or trade;
- (n) Solid, freestanding wall and/or security gate exceeding a height of four (4) feet, including structural supports; and
- (o) Temporary parking lot or garage, for a maximum approval period of five (5) years, which may be renewed by the Zoning Commission, as a principal use located at or above grade.

1803.3 Within the SEFC/CR District, "preferred uses" listed in § 1807.2 of this Title shall be permitted in accordance with the following:

- (a) Any building or structure with frontage on M Street, S.E. or N Street, S.E. shall provide preferred uses comprising a minimum of seventy-five percent (75%) of the frontage on M Street, S.E. or N Street, S.E. and a minimum of seventy-five percent (75%) of that portion of the gross floor area of the ground floor within a depth of fifty (50) feet from the exterior facade of the front of building, not including parking, parking access, mechanical and fire control rooms, and other non-public spaces. This requirement shall not apply to (i) buildings directly south of the historic wall along M Street, S.E. between 4th Street, S.E. and the Washington Navy Yard, for so long as the wall remains or (ii) any addition to a building with frontage on M Street, S.E. or N Street, S.E. if the addition to such building has no frontage on such streets but, as allowed pursuant to § 1803.3(b) below, preferred uses may be provided on the ground floor level of such buildings;
- (b) In addition to the locations in which preferred uses are required pursuant to §1803.3(a), preferred uses may be provided on the ground floor level of buildings in other areas within the SEFC/CR District, but are not required. If provided, such preferred use area shall not be required to conform to the requirements of §§ 1803.3(a), (e), (f), and (g);
- (c) In addition to the preferred uses listed in § 1807.2, the preferred use space requirement of § 1803.3(a) may also be met by any use listed in § 1803.2, other than those listed in § 1803.2 (c), (g), or (o), if reviewed and approved by the Zoning Commission in accordance with the standards specified in § 1808 and procedures specified in § 1809 of this Title;
- (d) For good cause shown, the Commission may authorize interim occupancy of the preferred use space required under § 1803.3(a) by other uses permitted in the SEFC Overlay District for up to a five (5) year period; provided that the ground-floor space is suitably designed for future occupancy by preferred uses;

- (e) Not less than fifty percent (50%) of the surface area of the street wall, including building frontages, of those building frontages described in subsections 1803.3(a), shall be devoted to doors or display windows having clear or low emissivity glass;
- (f) Preferred uses shall provide direct, exterior access to the ground level;
- (g) The minimum floor-to-ceiling height for portions of the ground floor level devoted to preferred uses shall be fourteen (14) feet; and
- (h) Ground floor area required for preferred uses may not be transferred to any other lot through Combined Lot Development.
- (i) Changes to the type, amount, and location of preferred uses required under § 1803.3(a) shall be permitted if reviewed and approved by the Commission in accordance with the standards specified in § 1808 and procedures specified in § 1809.

1803.4 In accordance with the procedures outlined in § 1810, two or more lots, whether contiguous or non-contiguous and whether located in the same square or other squares, within the SEFC/CR District may be combined for the purpose of allocating residential and non-residential uses regardless of the normal limitation on floor area by uses on each lot, provided that the aggregate residential and non-residential floor area shall not exceed the matter-of-right maximum height or density of the underlying zone districts, as may have been modified by the Overlay.

1803.5 The maximum building height in the SEFC/CR District shall not exceed one hundred ten feet (110 ft.), except as set forth below:

- (a) For sites with frontage on any portion of New Jersey Avenue, S.E. that is south of and within three hundred twenty-two feet (322 ft.) of M Street, S.E., a maximum height of one hundred thirty feet (130 ft.) is permitted; and
- (b) For sites within Parcels A, F, G, or H utilizing the bonus density permitted pursuant to § 1803.7(b), the maximum permitted building height shall be that permitted by the Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910.

1803.6 Notwithstanding § 1803.5, a height of greater than 90 feet and no more than 110 feet shall be permitted for sites fronting on M Street, S.E. east of 4th Street, S.E. if reviewed and approved by the Zoning Commission pursuant to the procedures set forth in § 1809 herein. The Commission shall consider the relationship of the new building to the Navy Yard to the east and may require graduated height and/or design features because of the building's proximity to the Navy Yard.

1803.7 In the SEFC/CR District, the maximum permitted density shall be 6.0 FAR overall, not more than 3.0 FAR of which may be used for other than residential purposes, except as set forth below:

- (a) A site that is permitted a height of one hundred thirty feet (130 ft.) pursuant to § 1803.5(a) is permitted a maximum non-residential density of 6.5 FAR through combined lot development, in accordance with the provisions outlined in § 1810; and
- (b) A building within Parcels A, F, G, H, and I shall be permitted a maximum density of 7.0 FAR, provided that the additional 1.0 FAR is devoted solely to residential uses, which for purposes of this subsection does not include a hotel.

1803.8 Any proposed building that has frontage along M Street, S.E. or utilizes additional height and density pursuant to §§ 1803.5(b) and 1803.7(b) shall be subject to review and approval by the Commission. An applicant requesting approval under this section must prove that the architectural design, site plan, landscaping, and sidewalk treatment of the proposed building:

- (a) Accommodates the design of a public entrance to the Navy Yard Metrorail Station on Parcel A. The applicant shall demonstrate proactive engagement with the Washington Metrorail Area Transit Authority (WMATA) in the planning and design of Parcel A as a part of the above design review as set forth below:
 - (i) If the applicant moves forward with the design of Parcel A before WMATA is ready to construct the third entrance, the applicant shall demonstrate that it has coordinated with WMATA to determine how to ensure that the design of Parcel A accommodates the planned entrance; and
 - (ii) If WMATA moves forward with the construction of the third entrance before the applicant is ready to develop Parcel A, the applicant shall demonstrate that it has coordinated with WMATA to integrate the entrance into the design of Parcel A;
- (b) Ensures the provision of 1½ Street, S.E. and N Street, S.E. as open and uncovered multimodal circulation routes;
- (c) Are of superior quality, pursuant to the standards set forth in § 1808 and procedures set forth in § 1809; and
- (d) Devotes a minimum of eight percent (8%) of the additional density gained pursuant to § 1803.7(b) to three (3)-bedroom units, provided that such

units may be located anywhere within the residential building. The reduction or elimination of this requirement may be permitted by the Commission upon a showing by the applicant that exceptional circumstances affecting the property make compliance with this requirement difficult or impossible.

- 1803.9 The streetwall of each new building along M Street, S.E. shall be set back for its entire height and frontage along M Street, S.E. not less than fifteen (15) feet measured from the face of the adjacent curb along M Street, S.E.
- 1803.10 The streetwall of each new building along the east side of 4th Street, S.E. shall be set back for its entire height and frontage along 4th Street, S.E. not less than twenty (20) feet measured from the face of the adjacent curb along 4th Street, S.E.
- 1803.11 No driveway may be constructed or used from M Street, S.E. to required parking spaces or loading berths in or adjacent to a new building.
- 1803.12 [DELETED]
- 1803.13 In the SEFC/CR District, a building containing residential uses which includes preferred uses in compliance with the requirements of § 1803.3(a), (e), (f), and (g), shall be permitted 100% lot occupancy for only the ground and second floors.
- 1803.14 A record lot may be created with respect to the parcel on which Building 167 is located, notwithstanding other requirements of this title. Any enlargements or additions to Building 167 shall comply with all requirements of this title.
- 1803.15 In the SEFC/CR District, the public space requirements of § 633 shall not be applicable.
- 1803.16 Notwithstanding §§ 602.1(r) and 618, veterinary boarding hospital and veterinary hospital uses are permitted in the SEFC/CR Zone District, subject to the conditions below, which apply to both uses unless stated otherwise:
- (a) No more than fifty percent (50%) of the gross floor area of a veterinary boarding hospital may be devoted to the boarding of animals;
 - (b) A veterinary boarding hospital may board any animal permitted to be lawfully sold in the District of Columbia, pursuant to § 9(b) (1) of the Animal Control Act of 1979, effective October 18, 1979 (D.C. Law 3-30; D.C. Official Code § 8-1808 (h) (1));
 - (c) A veterinary hospital may include the boarding of animals as necessary for convalescence;

- (d) Animal boarding at a veterinary boarding hospital shall take place entirely within an enclosed and soundproof building so that no noise or odor emanates onto neighboring properties;
- (e) Animal and animal waste odor shall be controlled by means of an air filtration system or an equivalently effective odor control system;
- (f) External yards or other exterior facilities for the keeping of animals shall not be permitted;
- (g) All animal waste shall be placed in closed waste disposal containers and shall be collected and disposed of at least once a week by a qualified waste disposal company; and
- (h) Pet grooming and the sale of pet supplies are permitted only as accessory uses (i.e., not as an independent line of business).

SOURCE: Final Rulemaking published at 51 DCR 6850 (July 9, 2004); as amended by Final Rulemaking published at 54 DCR 3069 (April 6, 2007); as amended by Final Rulemaking published at 55 DCR 5729 (May 16, 2008); 57 DCR 000126 (2010) as amended by Final Rulemaking and Order No. 13-15 published at 61 DCR 3834 (April 11, 2014); as amended by Final Rulemaking and Order No. 14-05 published at 62 DCR 5181 (April 24, 2015).

1804 SEFC/R-5-D AND R-5-E ZONING DISTRICTS

1804.1 Within the SEFC/R-5-D and R-5-E Districts, the following buildings, structures, and uses are not permitted:

- (a) One-family dwelling or flat;
- (b) Parking lot or garage as a principal use located on or above grade, except as a temporary use as permitted by special exception in § 1804.2;
- (c) Sanitarium; and
- (d) Uses subject to special exception review in the underlying R-5-D or R-5-E zone districts that are not listed in § 1804.2 as being subject to Zoning Commission review and approval.

1804.2 Within the SEFC/R-5-D and R-5-E Districts, the following buildings, structures, and uses are permitted only if reviewed and approved by the Zoning Commission, in accordance with the standards specified in § 1808 and procedures specified in § 1809 of this Title:

- (a) All buildings and structures that abut the Open Space Area, as described in § 1805.4, whether or not a street intervenes but excluding buildings and

structures that abut the Development Area, including existing Building 160 and any additions thereto and any building or structure to be constructed immediately to the east of Building 160 (i.e., north of Water Street, S.E., west of 4th Street, S.E. east of Third St., S.E., and south of Tingey Street, S.E.);

- (b) Arts, cultural, or hotel use, subject to an overall cap of 1.0 FAR;
- (c) Hospital;
- (d) Place of worship, which may include parsonage, vicarage, rectory, and Sunday school building, as well as any programs associated with the place of worship in accordance with § 216;
- (e) Private club, lodge, fraternity house, sorority house, or dormitory;
- (f) School, private, public, or trade; except as provided in § 1804.7;
- (g) Solid, freestanding wall and/or security gate exceeding a height of four (4) feet;
- (h) Temporary parking lot or garage, for a maximum approval period of five (5) years, which may be renewed by the Zoning Commission, as a principal use, located at or above grade; and
- (i) University or college, subject also to the regulations of § 210.

1804.3

Within the SEFC/R-5-D and R-5-E Districts, "preferred uses" listed in § 1807.2 are permitted in accordance with the following:

- (a) Preferred uses shall be provided in any building or structure facing:
 - (1) Tingey Street, S.E., west of 4th Street, S.E., and east of 4th Street, S.E., but in the latter case, and only along the southern side of Tingey Street, S.E., for a length of fifty (50) feet minimum as measured from the west exterior facade of any building or structure constructed on the southeast corner of Tingey St., S.E. and 4th Street, S.E., or
 - (2) the SEFC/WO District.

Where required, preferred uses shall comprise a minimum of seventy-five (75%) of the frontage facing Tingey Street, S.E., or the SEFC/W-O District, and a minimum of seventy-five percent (75%) of the applicable portion of the gross floor area of the ground floor within a depth of fifty (50) feet from the exterior

facade of the front of the building, not including parking, parking access, mechanical and fire control rooms, and other non-public spaces.

The requirement to provide preferred uses shall not apply to any addition to a building facing onto Tingey Street, S.E. or the SEFC/W-O District if the addition to the building has no frontage facing onto Tingey Street, S.E. or the SEFC/W-O District, but, as allowed pursuant to § 1804.3(b) below, preferred uses may be provided on the ground floor level of such addition.

For Building 160, notwithstanding the requirements noted above, the total amount of preferred use space shall be a minimum of 3,000 square feet of space facing Tingey Street, S.E. and a minimum of 6,000 square feet of space facing Water Street, S.E., for a total of at least 9,000 square feet.

- (b) In addition to the locations in which preferred uses are required pursuant to § 1804.3(a), preferred uses may be provided on the ground floor level of buildings or structures in other areas within the SEFC/R-5-D and SEFC/R-5-E Districts, but are not required. If provided, such preferred use area shall not be required to conform to the requirements of § 1804.3(a), (e), (f), and (g). If the bonus density authorized pursuant to § 1804.3(c) is used to provide non-required preferred uses, the preferred use area must be dedicated to preferred uses for the life of the building;
- (c) The density associated with preferred uses shall be in addition to otherwise permitted FAR, and shall not exceed 0.5 FAR;
- (d) For good cause shown, the Commission may authorize interim occupancy of the preferred use space required under § 1804.3(a) by other uses permitted in the SEFC/R-5-D and R-5-E Districts for up to a five (5) year period; provided that the ground floor space is suitably designed for future occupancy by preferred uses;
- (e) Not less than fifty percent (50%) of the surface area of the street wall, including building entrances, of those building frontages dedicated to preferred uses described in § 1804.3(a) shall be devoted to doors or display windows having clear or low emissivity glass;
- (f) Preferred uses shall provide direct, exterior access to the ground level; and
- (g) The minimum floor-to-ceiling height for portions of the ground floor level devoted to preferred uses shall be fourteen (14) feet.

1804.4 The maximum permitted height in the SEFC/R-5-E District shall be 110 feet and in the SEFC/R-5-D District it shall be 90 feet.

- 1804.5 For the purposes of § 2511 of this Title and for the purpose of achieving the height permitted in § 1804.4, the SEFC/R-5-D and R-5-E Districts are considered "Mixed-Use" Districts.
- 1804.6 In the SEFC/R-5-D and SEFC/R-5-E Districts, a building which includes preferred uses in compliance with the requirements of §1804.3(a) shall be permitted 100% lot occupancy for only the ground and second floors.
- 1804.7 Notwithstanding § 1804.2 (f), a trapeze school and aerial performing arts center may be established and continued as a matter of right in Parcel O until December 31, 2014, during which time no parking shall be required.
- 1804.8 The continuation of the trapeze school and aerial performing arts center use after December 31, 2014 shall require special exception approval by the Zoning Commission in accordance with the standards specified in § 1808 and procedures specified in § 1809 of this Title, and shall include a determination as to whether and what amount of parking should be required.

SOURCE: Final Rulemaking published at 51 DCR 6850 (July 9, 2004); as amended by Final Rulemaking published at 55 DCR5731 (May 16, 2008); as amended by Final Rulemaking and Order No. 09-09 published at 56 DCR 8849 (November 13, 2009); 57 DCR 000126 (2010).

1805 SEFC/W-0 ZONING DISTRICT

- 1805.1 The purpose of the SEFC/W-0 District is to:
- (a) Encourage open space;
 - (b) Promote a lively, interactive waterfront environment;
 - (c) Discourage parking;
 - (d) Provide a Development Area for retail and cultural uses;
 - (e) Provide an Open Space Area, intended to be the site of open space recreation use as well as limited uses that are directly waterfront dependent; and
 - (f) Allow for a continuous publicly-accessible pedestrian and bicycle trail along and adjacent to the waterfront as part of the Anacostia Waterfront Trail system.
- 1805.2 The SEFC/W-0 District is divided into two geographic areas to be known as the Development Area and the Open Space Area.
- 1805.3 The SEFC/W-0 Development Area consists of the northeastern portion of the SEFC/W-0 District, specifically the existing Building 173 and that portion of the

SEFC/W-0 District located directly to the east of Building 173, north of a line extending east from the southern facade of Building 173.

- 1805.4 The SEFC/W-0 Open Space Area consists of all property within the SEFC/W-0 District that is located outside of the Development Area.
- 1805.5 Within the SEFC/W-0 Open Space Area, only the buildings, structures, and uses indicated in § 901.5 of this title are permitted. Any use not described in § 901.5, or that is not made subject to Zoning Commission review pursuant to § 1805.6, is not permitted within the SEFC/W-0 District.
- 1805.6 Within the SEFC/W-0 Open Space Area, only the following buildings, structures, and uses are permitted if reviewed and approved by the Zoning Commission, in accordance with the standards specified in § 927 and procedures specified in § 928 of this title, and the standards specified in § 1808 and procedures specified in § 1809 of this title:
- (a) Boat launching facility, dock, wharf, or pier for use by the general public;
 - (b) Boat rental facility for non-motorized water vessels;
 - (c) Cruise line operation, including necessary associated dock and land facilities;
 - (d) Marina, not including floating homes;
 - (e) Public food concession stand(s) / kiosk(s) to a maximum of 3,000 gross square feet;
 - (f) Solid, freestanding wall and/or security gate exceeding a height of four (4) feet, not including structural supports;
 - (g) Water taxi information / ticket booth and passenger shelter; and
 - (h) Other publicly-accessible maritime uses normally requiring direct access to the water.
- 1805.7 In accordance with the procedures outlined in § 1810, two or more lots, whether contiguous or non-contiguous, within the SEFC/W-0 District may be combined for the purposes of allocating density as provided and limited by § 1805.8.
- 1805.8 A lot or lots in the Development Area may receive and use density allocated from a lot or lots in the Open Space Area, subject to all other applicable area restrictions. If a single lot is included within both geographic areas, the portion of the lot in the Development Area may use the unused density from the portion of the lot in the Open Space Area.

- 1805.9 The gross floor area of existing Building 173 shall not count toward any FAR computation. The second story of Building 173 may be used for general office purposes on an interim basis of not more than twenty (20) years from the date of the initial Certificate of Occupancy for this use; provided that any such office space is suitably designed for future occupancy by retail uses and to not adversely impact ground floor retail uses.
- 1805.10 The minimum floor-to-ceiling height for the ground floor level of buildings in the SEFC/W-0 District shall be fourteen (14) feet.
- 1805.11 All proposed structures in the SEFC/W-0 District, or any proposed exterior renovation to any existing buildings or structures in the SEFC/W-0 District that would result in an alteration of the exterior design, shall be subject to review and approval by the Zoning Commission, in accordance with the standards specified in § 927 and procedures specified in § 928 of this title, and the standards set forth in § 1808 and procedures set forth in § 1809.
- 1805.12 Notwithstanding the requirements of §2517.1, two or more principal buildings or structures may be erected as a matter of right on a single subdivided lot within the SEFC/W-0 District provided that such principal buildings or structures comply with all other requirements of § 2517.

SOURCE: Final Rulemaking published at 51 DCR 6850 (July 9, 2004); as amended by Final Rulemaking published at 55 DCR 5733 (May 16, 2008); 57 DCR 000126 (2010); as amended by Final Rulemaking and Order No. 11-05 published at 58 DCR 8379 (09/30/11).

1806 PLANNED UNIT DEVELOPMENT (SEFC)

- 1806.1 The matter-of-right height, penthouse height, and floor area ratio limits shall serve as the maximums of permitted building height, penthouse height, and floor area ratio for a planned unit development (PUD) in the SEFC Overlay District.

SOURCE: Final Rulemaking published at 51 DCR 6850 (July 9, 2004); 57 DCR 000126 (2010); as amended by Final Rulemaking and Order No. 14-13 published at 63 DCR 390 (January 8, 2016).

1807 PREFERRED USES (SEFC)

- 1807.1 Preferred uses (ground-floor street-oriented retail, service, entertainment, or arts uses) are permitted or required in accordance with §§ 1803.3 and 1804.3.
- 1807.2 Preferred uses are the following:
- (a) Antique store;
 - (b) Apparel and accessories shop;

- (c) Art gallery;
- (d) Art supply store;
- (e) Artist's studio;
- (f) Auction house;
- (g) Bakery;
- (h) Bank/financial institution, provided that the use is not located at the intersection of two streets;
- (i) Bar/cocktail lounge;
- (j) Barber/beauty shop;
- (k) Bicycle rental or repair;
- (l) Bicycle shop;
- (m) Boat/marine sales;
- (n) Book store;
- (o) Bowling alley;
- (p) Cabaret;
- (q) Camera/photo sales;
- (r) Candy store;
- (s) Catering establishment;
- (t) Cobbler/shoe repair;
- (u) Cosmetic/toiletries sales;
- (v) Drug store;
- (w) Dry cleaning or laundry;
- (x) Dry goods;
- (y) Electric appliance sales;

- (z) Fabric store;
- (aa) Film exchange;
- (bb) Fishmonger;
- (cc) Flower stand or florist shop;
- (dd) Food or grocery store;
- (ee) Furniture store;
- (ff) Gift shop;
- (gg) Hardware store;
- (hh) Hobby shop;
- (ii) Home furnishings store;
- (jj) Interior decorating shop;
- (kk) Jewelry store;
- (ll) Leather goods store;
- (mm) Legitimate theatre;
- (nn) Locksmith;
- (oo) Music store;
- (pp) Musical instruments store;
- (qq) Newsstand;
- (rr) Notions/novelty store;
- (ss) Office supplies and equipment sales;
- (tt) Off-premises alcohol sales;
- (uu) Optical goods store;
- (vv) Optical lab;

- (ww) Optician and optometrist;
- (xx) Paint store;
- (yy) Pet care establishment, including sale of pet supplies, grooming, trimming, and commercial pet walking, but not the overnight boarding of dogs;
- (zz) Pet shop;
- (aaa) Photo studio;
- (bbb) Physician or dentist office;
- (ccc) Picture framing studio/shop;
- (ddd) Pool hall;
- (eee) Precision instruments sales;
- (fff) Restaurant;
- (ggg) Second-hand store or consignment shop;
- (hhh) Shoe store;
- (iii) Sporting goods store;
- (jjj) Stationery store;
- (kkk) Tailor/dressmaker;
- (lll) Ticket office;
- (mmm) Tobacco products store;
- (nnn) Toy store;
- (ooo) Travel agency;
- (ppp) Variety store;
- (qqq) Video or DVD sales/rental for general public and family; and
- (rrr) Other similar retail or service uses.

SOURCE: Final Rulemaking published at 51 DCR 6850 (July 9, 2004); as amended by Final Rulemaking published at 54 DCR 9400 (September 28, 2007); 57 DCR 000126 (2010).

1808 ZONING COMMISSION REVIEW STANDARDS (SEFC)

1808.1 In addition to proving that the proposed uses, buildings, or structures meet the standards set forth in § 3104.1, the applicant for Zoning Commission approval of a use or structure within the SEFC Overlay District shall further demonstrate conformance to the following standards:

- (a) The use, building, or structure will help achieve the objectives of the SEFC Overlay District as set forth in § 1802;
- (b) The proposed building or structure shall be designed with a height, bulk, and siting that provide for openness of view and vistas to and from the waterfront and, where feasible, shall maintain views of federal monumental buildings, particularly along the New Jersey Avenue, S.E. corridor; and
- (c) On or above-grade parking adjacent to, or visible from, the street shall be limited. Where parking cannot be placed underground, other uses such as retail or residential shall separate parking areas from the street, or where this is not possible, green landscaping or architectural treatment of facades shall adequately screen parking from the street and adjacent development.

1808.2 In evaluating the application, the Commission also may consider:

- (a) Compatibility with buildings in the surrounding area through overall massing, siting, details, and landscaping;
- (b) Use of high standards of environmental design that promote the achievement of sustainable development goals;
- (c) Facade articulation that minimizes or eliminates the visibility of unarticulated blank walls from public spaces;
- (d) Landscaping which complements the building;
- (e) For buildings that include preferred uses in accordance with §§ 1803.3 or 1804.3, the Commission may consider the balance and location of preferred uses;
- (f) In connection with its review pursuant to § 1804.2, the Commission may consider the effect of the proposed use on the predominantly residential character of the R-5-D and/or R-5-E portion of the SEFC; and

- (g) For development within or adjacent to the SEFC/W-0 District, the Commission may consider whether the project is consistent with the following goals:
 - (1) Providing a wide variety of active and passive recreational uses;
 - (2) Encouraging uses that open to, overlook, and benefit the waterfront park;
 - (3) Utilizing siting and design of buildings and uses to improve the natural ecology, to illustrate the importance of natural systems, and/or to interpret the historically important maritime context of the site.

SOURCE: Final Rulemaking published at 51 DCR 6850 (July 9, 2004); 57 DCR 000126 (2010).

1809 ZONING COMMISSION REVIEW PROCEDURES (SEFC)

1809.1 At the time the Commission is considering an application for Zoning Commission approval authorized by this Chapter, it may hear and decide any additional requests for zoning relief needed for the subject property.

1809.2 At the time of filing an application with the Commission, the applicant shall pay the filing fee specified in § 3180.1(b)(16) plus such fees as apply to any additional zoning relief requested. The provisions of § 3181 relating to the administration of fees shall apply, except that the applicant may appeal any decision of the Director regarding the fee schedule to the Commission, which shall decide the appeal at a meeting or hearing as a preliminary matter to hearing the application.

SOURCE: Final Rulemaking published at 51 DCR 6850 (July 9, 2004); 57 DCR 000126 (2010).

1810 COMBINED LOT DEVELOPMENT PROCEDURES (SEFC)

1810.1 Combined lot development is permitted within the SEFC/CR District, in accordance with §§ 1803.3(h) and 1803.7, and in the SEFC/W-0 District in accordance with §§ 1805.7 and 1805.8.

1810.2 No allocation of gross floor area shall be effective unless an instrument, legally sufficient to effect such a transfer, is filed with the Zoning Administrator in accordance with this Section.

1810.3 The instrument shall bind the present and future owners of the respective SEFC/CR lots so as to permanently devote residential and non-residential gross floor area on site equal to that square footage transferred or received, and shall specify the allocation of residential and non-residential uses among the lots.

- 1810.4 The instrument shall bind the present and future owners of the SEFC/W-0 lots that are situated within the Open Space Area, as described in § 1805.4, to permanently forego the development of such square footage as was transferred to a lot in the Development Area and shall specify the amount of square footage transferred.
- 1810.5 The Office of the Attorney General shall certify the instrument for legal sufficiency. The instrument shall also contain a certification by the Office of Planning attesting to:
- (a) The lots' eligibility to send and receive allocated residential and non-residential uses; and
 - (b) The accuracy of the computations with respect to the amount of residential and non-residential uses or density reallocated or transferred.
- 1810.6 The District of Columbia need not be made a party to the instrument if the instrument provides that it shall neither be modified nor terminated without the express permission of the Zoning Commission of the District of Columbia.
- 1810.7 The instrument shall be recorded for all affected lots in the Office of Recorder of Deeds, so that the notice of restrictions and transfer shall run with the title and deed to each affected lot and so that each land record accurately reflects the amount and type of density associated with the lots.
- 1810.8 A certified copy of the recorded instrument shall be filed with the Zoning Administrator before approval of any building permit application that is affected by such allocation of uses or density.

SOURCE: Final Rulemaking published at 51 DCR 6850 (July 9, 2004); 57 DCR 000126 (2010).

1811 PENTHOUSES (SEFC)

- 1811.1 The provisions of § 411 shall apply to penthouses in the SEFC Overlay, except that the provisions of § 411.16, governing the application of Chapter 26 of this title, shall not apply to residential rental buildings.

SOURCE: Final Rulemaking and Order No. 14-13 published at 63 DCR 390 (January 8, 2016).

TITLE 11 - ZONING

CHAPTER 19 UPTOWN ARTS-MIXED USE (ARTS) OVERLAY DISTRICT

Secs.

- 1900 GENERAL PROVISIONS (ARTS)
- 1901 USE PROVISIONS (ARTS)
- 1902 HEIGHT AND BULK (ARTS)
- 1903 STREET FRONTAGE DESIGN REQUIREMENTS (ARTS)
- 1904 BONUS DENSITY (ARTS)
- 1905 COMBINED LOT DEVELOPMENT (ARTS)
- 1906 SPECIAL EXCEPTIONS (ARTS)
- 1907 RETAIL AND SERVICE USES (ARTS)
- 1908 ARTS USES AND ARTS-RELATED USES (ARTS)
- 1909 INCLUSIONARY ZONING (ARTS)
- 1999 DEFINITIONS

1900 GENERAL PROVISIONS (ARTS)

1900.1 The Uptown Arts-Mixed Use (ARTS) Overlay District is applied to the Commercial and Mixed Use Districts in the following squares and portions of squares in the 14th and U Streets, N.W., area: 202 through 211, 234 through 242, N242, 272, 273, 274, 303, 304, 305, 331, 332, 333, 358 through 361, 393, 416, 440, 441, and the portions of squares 2875 and 2877 that are south of V Street.

1900.2 The purposes of the ARTS Overlay District are to:

- (a) Encourage a scale of development, a mixture of building uses, and other attributes such as safe and efficient conditions for pedestrian and vehicular movement, all of which will be as generally required by the Comprehensive Plan;
- (b) Require uses that encourage pedestrian activity, especially retail, entertainment, and residential uses;

- (c) Provide for an increased presence and integration of the arts and related cultural and arts-related support uses;
- (d) Expand the area's housing supply in a variety of rent and price ranges;
- (e) Expand business and job opportunities, and encourage development of residential and commercial buildings;
- (f) Strengthen the design character and identity of the area by means of physical design standards;
- (g) Encourage adaptive reuse of older buildings in the area and an attractive combination of new and old buildings; and
- (h) Foster eighteen (18) hour activity and increased public safety.

1900.3 The ARTS Overlay District and the underlying zoning shall constitute the Zoning Regulations for the geographic area identified in § 1900.1. Where there are conflicts between this chapter and the underlying zoning, the more restrictive regulations shall govern.

1900.4 The requirements of this chapter shall apply to all new construction and to any addition, alteration, or repair that within any twenty-four (24) month period exceeds seventy-five percent (75%) of the assessed value of the building; provided:

- (a) The cost basis for alterations or additions to an existing building shall be the amount indicated by the applicant on the application for a building permit; and
- (b) The assessed value of the building shall be the value in the records of the Office of Tax and Revenue as of the date of the building permit application.

AUTHORITY: Unless otherwise noted, the authority for this chapter is the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code §§ 6-641.01 to 641.15 (2001)(formerly codified at D.C. Code §§ 5-413 to 5-432 (1994 Repl. & 1999 Supp.))).

SOURCE: Final Rulemaking published at 37 DCR 1392, 1395 (February 23, 1990); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8490-91 (October 20, 2000).

1901 USE PROVISIONS (ARTS)

1901.1 Retail and service uses listed in § 1907 and arts and arts-related uses listed in § 1908 shall occupy no less than fifty percent (50%) of the ground level of each

building on a lot that fronts on 14th Street, U Street, or 7th Street; or on Florida Avenue between 7th and 9th Streets; provided, this requirement shall not apply to a building located on a lot less than fifty feet (50 ft.) in width, measured along the property line that abuts the public street, if the building is used as an apartment house, multiple dwelling, or hotel.

1901.2 A hotel shall be a permitted use; provided, no other hotel is located within five hundred feet (500 ft.).

1901.3 No drive-through accessory to any use shall be permitted.

1901.4 A use that exists on the February 23, 1990, having a certificate of occupancy for a use first permitted in a C-M District, shall be permitted to expand if approved by the Board of Zoning Adjustment as a special exception, subject to the requirements of § 3104 and the following conditions:

- (a) There shall be no outdoor storage of materials, nor any outdoor processing, fabricating, or repairs;
- (b) There shall be adequate off-street parking for trucks and other service vehicles;
- (c) The use shall not create objectionable effects on the character of the neighborhood because of its operations, traffic, or other conditions; and
- (d) The Board may impose requirements that apply to the design, appearance, or screening of the site or any other requirement that it deems necessary to protect neighboring or adjacent property.

1901.5 Required parking spaces may be shared by time of day with other uses specified in this subsection to meet all or a portion of the parking requirement for the uses on a lot; provided:

- (a) The eligible evening uses shall be restaurant, legitimate theater, movie theater, dinner theater, or cabaret;
- (b) The eligible daytime uses shall be office use and the arts uses and arts-related uses listed in § 1908, with the exception of the evening uses listed in paragraph (a) of this subsection; and
- (c) The respective property owners shall execute an agreement that identifies the designated parking spaces and provides that use of the spaces for permitted daytime uses shall cease at no later than 6:00 p.m., Monday through Saturday, and shall be available for parking by the specified evening uses as agreed to by the parties involved. This agreement shall be filed with the Zoning Administrator to be maintained as part of the certificate of occupancy file on each affected property.

1901.6

Eating establishments, drinking establishments, or eating and drinking establishments (“eating/drinking establishments”) shall be subject to the following limitations:

- (a) No portion of an eating/drinking establishment located on the ground floor is permitted to occupy more than fifty percent (50%) of the linear frontage of each individual square, as set forth below:

14 th Street, N.W.		U Street, N.W.	
Square	Frontage (feet)	Square	Frontage (feet)
202	222.5	204	305.3
203	310.0	205	618.0
204	320.0	236	523.4
205	430.6	237	538.5
206	399.8	273	225.3
207	450.1	274	340.9
208	400.0	304	192.2
209	380.0	305	186.0
210	203.5	332	189.7
211	304.2	333	187.7
234	253.1	359	96.8
235	310.0	360	230.4
236	320.0	361	251.7
237	380.0		
238	450.0		
239	200.0		
240	391.0		
241	450.0		
242	363.1		
242N	154.5		

- (b) An eating/drinking establishment not located on the ground (street) level of a building shall not count towards the fifty percent (50%) limit; and
- (c) An entrance to an eating/drinking establishment that is not located on the ground (street) level shall not count towards the fifty percent (50%) limit.

1901.7 A building permit granted for a use as an eating/drinking establishment issued in accordance with § 3202 authorizes the subsequent issuance of a certificate of occupancy for the specified eating/drinking establishment; provided that the Zoning Administrator has determined that the use complies with § 1901.6 at the time the building permit is issued and that construction has been completed in accordance with the subject building permit.

SOURCE: Final Rulemaking published at 37 DCR 1392, 1396 (February 23, 1990); as amended by Final Rulemaking published at 39 DCR 8323, 8324 (November 13, 1992); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8492 (October 20, 2000); Final Rulemaking and Order No. 10-07 published at 57 DCR 7679 (August 20, 2010).

1902 HEIGHT AND BULK (ARTS)

1902.1 In the underlying C-3-A District, a building may be constructed in excess of the height limit of sixty-five feet (65 ft.), up to a maximum height of seventy-five feet (75 ft.); provided:

- (a) No penthouse permitted by this title shall exceed a height of eighty-three and one-half feet (83.5 ft.) above the measuring point used for the building, or exceed one (1) story; and
- (b) If the lot abuts either a Residence District or an alley that serves as the zone district boundary line of an adjacent Residence District, no part of the building shall project above a plane drawn at a forty-five degree (45°) angle from a line located fifty feet (50 ft.) directly above the property line that abuts the Residence District or the alley.

1902.2 In the underlying CR District, if a building is located on a lot that abuts a street, an alley, or a zone district boundary with a Residence District, no part of the building shall project above a plane drawn at a forty-five degree (45°) angle from a line located sixty-five feet (65 ft.) directly above the property line on each such street, alley, or zone district boundary line.

1902.3 In the underlying CR District, development of a lot or lots in a combined lot development pursuant to § 1905 shall provide not less than 2.5 floor area ratio (FAR) of residential or hotel development subject to the spacing requirement of § 1901.2, concurrent with any commercial development on the lot or combined lots; provided:

- (a) This requirement shall not apply to:
 - (1) A lot or a combined lot having less than seven thousand five hundred square feet (7,500 ft.²) of land area;
 - (2) A conversion of a building constructed before 1958 to nonresidential uses; or

(3) A building that contributes to a historic district or is designated a landmark, and that has at least 0.5 FAR occupied by or reserved for one or more of the uses set forth in § 1908.1, other than 1908.1(m) and 1908.1(u), and at least 0.25 FAR of the space so occupied or reserved has a minimum floor-to-ceiling clear height of twenty (20) feet; or

(b) In developments in which residential development is required by this subsection, a certificate of occupancy for commercial or nonresidential uses shall not be issued prior to the issuance of a certificate of occupancy for a residential or hotel component.

1902.4 In the ARTS Overlay District, the bonus density and height permitted with bonus uses shall also serve as the guidelines for planned unit developments.

SOURCE: Final Rulemaking published at 37 DCR 1392, 1397 (February 23, 1990); as amended by Final Rulemaking published at 39 DCR 8323, 8324 (November 13, 1992); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8492 (October 20, 2000); as amended by Final Rulemaking and Order No. 08-29 published at 57 DCR 2308 (March 19, 2010); 57 DCR 000126 (2010); as amended by Final Rulemaking and Order No. 14-13 published at 63 DCR 390 (January 8, 2016).

1903 STREET FRONTAGE DESIGN REQUIREMENTS (ARTS)

1903.1 The design requirements of §§ 1903.2 through 1903.4 shall apply to any lot that fronts on one or more of the following streets, hereafter referred to in this section as "pedestrian streets":

- (a) Fourteenth Street;
- (b) U Street;
- (c) Seventh Street; and
- (d) Florida Avenue between 7th and 9th Streets.

1903.2 Notwithstanding the provisions of § 2117.8(c)(1), no driveway that provides access from a pedestrian street to required parking spaces or loading berths shall be permitted.

1903.3 Each new building on a lot that fronts on a pedestrian street shall be designed and built so that not less than seventy-five percent (75%) of the streetwall(s) to a height of not less than fifteen feet (15 ft.) shall be constructed to the property line between the subject lot and the abutting street right-of-way.

1903.4 Not less than fifty percent (50%) of the surface area of the streetwall(s) at the ground level of each building on a lot that fronts on a pedestrian street shall be devoted to display windows and to entrances to commercial uses or to the building; provided:

- (a) The windows shall use clear or low-emissivity glass, except for decorative or architectural accent; and
- (b) Entrances to the building, including entrances to shops and the main lobby, shall be separated by not more than forty feet (40 ft.) on average for the linear frontage of the building.

SOURCE: Final Rulemaking published at 37 DCR 1392, 1397 (February 23, 1990); as amended by Final Rulemaking published at 39 DCR 8323, 8325 (November 13, 1992); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8492 (October 20, 2000); 57 DCR 000126 (2010).

1904 BONUS DENSITY (ARTS)

1904.1 A project shall be eligible for bonus gross floor area for space devoted to one of the preferred uses listed in § 1904.2; provided:

- (a) Bonus density may be used either to increase the gross floor area of the building for any permitted use up to the maximum floor area ratio (FAR) specified in paragraph (b) of this subsection, or to provide nonresidential uses or development in excess of the otherwise applicable limitation on the gross floor area of nonresidential uses in the underlying zone district; and
- (b) No building that uses bonus density shall achieve a maximum FAR in excess of 6.0 in the underlying CR District, 4.5 in the underlying C-3-A and C-2-B Districts, or 3.0 in the underlying C-2-A District; and
- (c) No property subject to Chapter 26, Inclusionary Zoning, shall be eligible for bonus gross floor area unless it has met the set-aside requirements of § 2603 and used all the bonus density of available through § 2604.

1904.2 The following preferred uses shall be eligible for bonus floor area at the ratio indicated:

	<u>Gross floor area devoted to the bonus use</u>		<u>Proportionate number of square feet of additional gross floor area earned for on-site or off-site development</u>
(a)	Legitimate theater;	1	to 3

- (b) Department store, drugstore, dry cleaner, laundry, grocery store, hardware store, variety store, and any use listed in § 1908 other than legitimate theater or drinking places; 1 to 2
- (c) Any use listed in §§1907 and 1908, in excess of the required 0.5 FAR at ground level; not to be counted in addition to bonus floor area from paragraph (b) or (c) of this subsection; and 1 to 1.5
- (d) Space in a building constructed before 1958 and occupied by one of the uses listed in paragraphs (a) through (d); provided, that this bonus shall count in addition to any applicable use bonus. 1 to 1

1904.3 A building that includes 3.0 or more FAR devoted to residential use is entitled to a bonus of 0.5 FAR.

1904.4 A preferred use, in existence and with a valid certificate of occupancy as of February 23, 1990, shall be eligible to earn a bonus as indicated in § 1904.2.

1904.5 An existing legitimate theater shall be eligible for the bonus indicated; provided, if the theater company goes out of business or leaves the area governed by this chapter, the owner-developer shall make every good faith effort to transfer the agreement to another theater company to occupy the same or different premises of similar size;-failing which, the owner-developer shall apply to the Board of Zoning Adjustment for a special exception pursuant to §§ 1906 and 3104, at which proceeding the Board and the applicant shall give first preference to substituting another bonus use from § 1904 in place of the prior theater use.

1904.6 If a surface parking lot devoted to transient parking is the basis for developing bonus floor area on another lot, the covenant required by § 1905.1(f) shall require the transient parking lot to continue in existence for at least ten (10) years from the date of issuance of the building permit for the lot where the bonus floor area will be built; provided, that operation of the parking lot may be suspended for not more than twenty-four (24) months to permit the construction of a parking structure that will replace the surface lot and be subject to the same covenant.

SOURCE: Final Rulemaking published at 37 DCR 1392, 1398 (February 23, 1990); as amended by Final Rulemaking published at 39 DCR 8323, 8325 (November 13, 1992); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the

text of Proposed Rulemaking published at 47 DCR 8335, 8493 (October 20, 2000); as amended by Final Rulemaking published at 54 DCR 6943 (July 20, 2007); as amended by Final Rulemaking published at 55 DCR 2604 (March 14, 2008); 57 DCR 000126 (2010).

1905 COMBINED LOT DEVELOPMENT (ARTS)

1905.1 Two (2) or more lots may be combined for the purposes of transferring bonus density and allocating the permitted mixture of uses among development sites; provided:

- (a) The lots may be located in the same square or in different squares within the ARTS Overlay District;
- (b) The maximum permitted floor area for all uses and the maximum floor area for nonresidential uses shall be calculated as if the lots were one lot, and the total project shall conform with both limitations;
- (c) Bonus floor area earned by the provisions of § 1904 may be developed on any lot or combination of lots governed by the covenant required by paragraph (f) of this subsection; provided, no development on any lot shall exceed the maximum height and bulk standards in §§ 1902 and 1904.1(b), unless otherwise permitted by §1909; and provided further, the ground level uses required by § 1901.1 shall not be transferred, but shall be provided on each lot;
- (d) In the underlying CR District, the provisions of this section shall apply in lieu of §§ 631.3 and 631.4;
- (e) If a combined lot development involves the transfer of bonus density or allocates residential development rights from one lot to another, the Certificate of Occupancy for the bonus floor area for the nonresidential building shall not be issued until a building permit has been issued for the building that will provide the residential or other preferred uses;
- (f) No transfer of floor area for preferred uses or of bonus floor area shall be effective under this section unless an instrument, legally sufficient in both form and content to effect such a transfer, in a form approved by the Office of the Attorney General, has been entered into among all of the parties concerned, including the District of Columbia;
- (g) A certified copy of the instrument of transfer shall be filed with the Zoning Administrator before approval by the Department of Consumer and Regulatory Affairs of any building permit application affected by such transfer;

- (h) The document shall be recorded in the Office of the Recorder of Deeds, serving as a notice both to the receiving lot and sending lot of the transfer of floor area for preferred uses or of bonus floor areas; and
- (i) The notice of restrictions and transfer shall run with the title and deed to each affected lot.

SOURCE: Final Rulemaking published at 37 DCR 1392, 1400 (February 23, 1990); as amended by Final Rulemaking published at 39 DCR 8323, 8326 (November 13, 1992); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8493-94 (October 20, 2000); as amended by Final Rulemaking published at 55 DCR 2604 (March 14, 2008); 57 DCR 000126 (2010).

1906 SPECIAL EXCEPTIONS (ARTS)

1906.1 Exceptions from the requirements of the ARTS District shall only be permitted if granted by the Board of Zoning Adjustment in accordance with § 3104 after public hearing, based upon the following criteria; except that the Board shall apply criteria (c) and (d) only if relevant to the relief sought:

- (a) The uses, buildings, or features at the size, intensity, and locations proposed, will substantially advance the purposes of the ARTS Overlay District and will not adversely affect neighboring property or be detrimental to the health, safety, convenience, or general welfare of persons living, working, or visiting in the area;
- (b) Exceptional circumstances affecting the property make compliance with the requirements of this chapter difficult or impossible, or the development provides alternative public benefits in lieu of the excepted uses or features that are of comparable value to the public in achieving the purposes of this chapter and of the Comprehensive Plan;
- (c) The architectural design concept of the project will enhance the urban design features of the immediate vicinity in which it is located; provided, if a historic district or historic landmark is involved, the Board shall refer the application to the State Historic Preservation Officer for review and report;
- (d) Vehicular access and egress are located and designed so as to minimize conflict with principal pedestrian ways, to function efficiently, and to create no dangerous or otherwise objectionable traffic conditions; and
- (e) The Board may impose requirements pertaining to design, appearance, signs, size, landscaping, and other such requirements as it deems necessary to protect neighboring property and to achieve the purposes of the ARTS Overlay District.

1906.2 If a telephone exchange that existed on February 23, 1990 is thereafter destroyed, it may be rebuilt without compliance with the provisions of this chapter or chapter 20 of this title.

SOURCE: Final Rulemaking published at 37 DCR 1392, 1401 (February 23, 1990); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8494 (October 20, 2000); Final Rulemaking and Order No. 10-07 published at 57 DCR 7679 (August 20, 2010).

1907 RETAIL AND SERVICE USES (ARTS)

1907.1 For the purpose of this chapter, the following uses shall be preferred retail and service uses:

- (a) Antique Store;
- (b) Apparel and Accessories Store;
- (c) Appliance Store;
- (d) Auction House;
- (e) Auto and Home Supply Store, excluding installations;
- (f) Bank, Loan Office, or Financial Institution;
- (g) Bakery, limited to baking of food sold on premises;
- (h) Bicycle Shop;
- (i) Barber or Beauty Shop;
- (j) Candy Store;
- (k) Clinic;
- (l) Computer Store;
- (m) Cosmetic Store;
- (n) Camera Store;
- (o) Repealed;
- (p) Department Store;
- (q) Dressmaking or Tailor Shop;

- (r) Drug Store;
- (s) Dry Cleaner;
- (t) Fabric Store;
- (u) Florist and Plant Store;
- (v) Furniture Store;
- (w) Gift, Novelty, and Souvenir Shop;
- (x) Grocery Store;
- (y) Hardware Store;
- (z) Health or Exercise Studio;
- (aa) Paint Store;
- (bb) Pet Store;
- (cc) Printing, Fast Copy Service;
- (dd) Public Agency Office;
- (ee) Public Library;
- (ff) Radio, Television, and Consumer Electronic Store;
- (gg) Secondhand Store;
- (hh) Shoe Repair and Shoeshine Parlor;
- (ii) Shoe Store;
- (jj) Social Service Agency Office;
- (kk) Specialty Food Store;
- (ll) Sporting Goods Store;
- (mm) Telegraph Office;
- (nn) Tobacco Store;

- (oo) Travel Agency, Ticket Office;
- (pp) Variety Store;
- (qq) Video Tape Rental; and
- (rr) Other similar personal/consumer service establishment or retail use, including assemblage and repair clearly incidental to the principal use.

SOURCE: Final Rulemaking published at 37 DCR 1392, 1402-03 (February 23, 1990); as amended by Final Rulemaking published at 54 DCR 9393, 9400 (September 28, 2007); 57 DCR 000126 (2010).

1908 ARTS USES AND ARTS-RELATED USES (ARTS)

1908.1 For the purposes of this chapter, the following uses shall be preferred arts uses and arts-related uses:

- (a) Art Center;
- (b) Art Gallery;
- (c) Art School, including school of dance, photography, filmmaking, music, writing, painting, sculpturing, or printmaking;
- (d) Artist Housing;
- (e) Artist Studio;
- (f) Artists' Supply Store;
- (g) Arts Services, including set design and restoration of artworks;
- (h) Concert hall or other performing arts space;
- (i) Book Store;
- (j) Cabaret;
- (k) Craftsman or artisan;
- (l) Dinner Theater;
- (m) Drinking Places, including bar, nightclub, or cocktail lounge;
- (n) Legitimate Theater;

- (o) Movie Theater;
- (p) Museum;
- (q) Performing Arts Ticket Office or Booking Agency;
- (r) Photographic Studio;
- (s) Picture Framing Shop;
- (t) Record Store, Musical Instruments Store;
- (u) Restaurant; and
- (v) Television and Radio Broadcast Studio;

SOURCE: Final Rulemaking published at 37 DCR 1392, 1403-04 (February 23, 1990); 57 DCR 000126 (2010).

1909 INCLUSIONARY ZONING (ARTS)

1909.1 ARTS Overlay developments subject to the affordability requirements of Chapter 26 Inclusionary Zoning may use the following modifications to height and lot occupancy in order to achieve the bonus density permitted by § 2604.1:

- (a) In the ARTS/C-2-A Overlay District:
 - (1) The floor area ratio shall not exceed 3.0 FAR;
 - (2) The residential lot occupancy shall not exceed seventy-five percent (75%); and
 - (3) The building height shall not exceed fifty (50) feet;
- (b) In the ARTS/C-2-B Overlay District:
 - (1) The floor area ratio shall not exceed 4.2 FAR;
 - (2) The residential lot occupancy shall not exceed eighty percent (80%); and
 - (e) The building height shall not exceed seventy (70) feet;
- (c) In the ARTS/C-3-A Overlay District:
 - (1) The floor area ratio shall not exceed 4.8 FAR;

(2) The residential lot occupancy shall not exceed eighty percent (80%); and

(3) The maximum building height shall not exceed seventy-five (75) feet and shall be subject to the setback requirements of § 1902.1 (b); and

(d) In the ARTS/CR Overlay District:

(1) The floor area ratio for new construction shall not exceed 7.2 FAR;

(2) The residential lot occupancy shall not exceed eighty percent (80%); and

(3) The maximum building height shall not exceed one hundred (100) feet and shall be subject to the setback requirements of § 1902.2.

1909.2 Bonus density achieved via § 1904.2 does not add to the set-aside requirement of § 2603.

SOURCE: Final Rulemaking published at 55 DCR 2604 (March 14, 2008); 57 DCR 000126 (2010).

1999 DEFINITIONS

1999.1 The provisions of § 199 of chapter 1 of this title, and the definitions set forth in that section shall be incorporated by reference in this chapter.

1999.2 When used in this chapter, the following terms and phrases shall have the meaning ascribed:

Department store - a single retail store, in excess of fifty thousand square feet (50,000 ft.²) of gross leasable area, that is:

(a) Involved in the sale of, among other things, apparel and furnishing;

(b) Organized into departments or sections that are integrated under single management; and

(c) Operated under a single certificate of occupancy.

Gross leasable area - the sum of the floor area occupied by the business or use, as measured from the exterior faces of the walls encompassing the space, and including any stairways, elevator shafts, escalators, or mechanical areas inside the perimeter walls occupied by multiple tenants or multiple uses; the central elevator

core or cores, associated lobbies, stairways, and mechanical areas shall be excluded from gross leasable area if they serve the building as a whole.

Transient parking - parking spaces provided for short-term parking in a parking garage or parking lot. The applicant shall submit to the Zoning Administrator a plan for ensuring that the spaces will be used for transient parking consistent with the purposes of this chapter. The Zoning Administrator shall send a copy of the application to the D.C. Department of Transportation and to the Office of Planning for review and report within fifteen (15) days of the referral.

SOURCE: Final Rulemaking published at 37 DCR 1392, 1403 (February 23, 1990); as amended by Final Rulemaking published at 39 DCR 8323, 8326 (November 13, 1992); as amended by Final Rulemaking published at 54 DCR 6943, 6950 (July 20, 2007).

TITLE 11 - ZONING

CHAPTER 20 NONCONFORMING USES AND STRUCTURES

Secs.

- 2000 GENERAL PROVISIONS
- 2001 NONCONFORMING STRUCTURES DEVOTED TO CONFORMING USES
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- 2003 CHANGING USES WITHIN STRUCTURES
- 2004 DESTRUCTION OF STRUCTURE DEVOTED TO NONCONFORMING USE
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2000 GENERAL PROVISIONS

- 2000.1 The provisions of this title shall establish separate districts, each of which is an appropriate area for the location of uses and structures permitted in that district.
- 2000.2 Within the districts established by this title, or in amendments that may later be adopted, there exist structures, uses of land, and uses of structures that were lawful before this title was adopted or amended, but that would be prohibited, regulated, or restricted under the terms of this title or future amendments to this title. It is the intent of this title that nonconformities may not be enlarged upon, expanded, or extended, nor may they be used as a basis for adding other structures or uses prohibited elsewhere in the same district.
- 2000.3 It is necessary and consistent with the establishment of the separate districts under this title that all uses and structures incompatible with permitted uses or structures shall be regulated strictly and permitted only under rigid controls, to the extent permitted by the Zoning Act of 1938, approved June 20, 1938 (52 Stat, 797, as amended; D.C. Official Code §§ 6-641.01 to 641.15 (2001)(formerly codified at D.C. Code §§ 5-413 to 5-432 (1994 Repl. & 1999 Supp.))).
- 2000.4 Any nonconforming use of a structure or of land, or any nonconforming structure lawfully existing on May 12, 1958, that remains nonconforming, and any use or structure lawfully existing that became nonconforming on May 12, 1958, may be continued, operated, occupied, or maintained, subject to the provisions of this chapter.
- 2000.5 Nonconformities shall be regulated in the following categories:

- (a) Nonconforming use of land, including land use with a structure incidental to the use of the land;
- (b) Nonconforming structure devoted to conforming use; and
- (c) Nonconforming use within a structure, whether the structure is conforming or nonconforming.

2000.6 A nonconforming use of land or of land with structures incidental to the use of the land shall neither be extended in land area nor changed to any use except a use permitted in the district in which the property is located.

AUTHORITY: Unless otherwise noted, the authority for this chapter is the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code §§ 6-641.01 to 641.15 (2001) (formerly codified at D.C. Code §§ 5-413 to 5-432 (1994 Repl. & 1999 Supp.))).

SOURCE: §§ 7101.1 and 7102.1 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 30 DCR 3922 (August 5, 1983); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8495 (October 20, 2000).

2001 NONCONFORMING STRUCTURES DEVOTED TO CONFORMING USES

2001.1 The restrictions set forth in this section shall apply to a nonconforming structure devoted to a conforming use.

2001.2 Except as provided in §§ 2001.11 and 2001.12, ordinary repairs, alterations, and modernizations to the structure, including structural alterations, shall be permitted.

2001.3 Enlargements or additions may be made to the structure; provided:

- (a) The structure shall conform to percentage of lot occupancy requirements, except as provided in § 2001.13; and
- (b) The addition or enlargement itself shall:
 - (1) Conform to use and structure requirements; and
 - (2) Neither increase or extend any existing, nonconforming aspect of the structure; nor create any new nonconformity of structure and addition combined.

2001.4 If a nonconforming structure is destroyed by fire, collapse, explosion, or act of God to an extent of more than seventy-five percent (75%) of the cost of reconstructing the entire structure, the nonconforming structure shall not be restored or reconstructed except in conformity with all provisions of this title, except as provided otherwise in §§ 2001.5 through 2001.10.

- 2001.5 If a casualty or act of God results in damage to an extent of more than seventy-five percent (75%), and if the structure is nonconforming only with respect to percentage of lot occupancy, lot area, or width of lot, the structure may be reconstructed or restored to its previous condition or to a more conforming condition, even if that condition does not comply with the applicable percentage of lot occupancy, lot area, or width of lot requirements.
- 2001.6 If a casualty or act of God results in damage to an extent of seventy-five percent (75%) or less of the cost of reconstructing the entire structure, the structure may be restored or reconstructed to its previous condition or to a more conforming condition; provided, that the reconstruction or restoration shall be started within twenty-four (24) months of the date of the destruction and continued diligently to completion.
- 2001.7 If there is a dispute between the property owner and the Zoning Administrator as to whether the structure has been destroyed to the extent of seventy-five percent (75%) of reconstruction cost, the costs of restoration and of reconstruction shall be determined by the average of the estimates furnished by three (3) independent qualified contractors. One (1) contractor shall be selected by the owner, one (1) by the Zoning Administrator, and one (1) by the first two (2) mentioned contractors.
- 2001.8 The estimates required by § 2001.7 shall be prepared and submitted according to a standard procedure and format established by the Zoning Administrator, and the cost of estimates shall be at the expense of the property owner.
- 2001.9 Notwithstanding the restrictions of § 2001.4, a nonconforming structure that is a historic landmark or certified by the State Historic Preservation Officer to be a structure that contributes to the character of the historic district within which it is located, may be restored or reconstructed regardless of the extent of destruction of the structure, subject to the provisions of the Historic Landmark and Historic District Protection Act of 1978, effective March 3, 1979, D.C. Law 2-144, as amended; D.C. Official Code §§ 6-1101 to 6-1115 (2001)(formerly codified at D.C. Code §§ 5-1001 to 5-1015 (1994 Repl. & 1999 Supp.)), and all other municipal laws and regulations.
- 2001.10 The twenty-four (24) month period provided in § 2001.6 may be extended for as long as it takes to apply for and receive any governmental approvals necessary to accomplish the reconstruction or restoration, including but not limited to, approvals from the Board of Zoning Adjustment, the Historic Preservation Review Board, and the Mayor's agent for the Historic Landmark and Historic District Protection Act.
- 2001.11 [DELETED]

- 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 (1) year after the nonconforming antenna stops functioning;
 - (c) Within three (3) months after the nonconforming antenna stops functioning, the owner or occupant of the land or structure on which the antenna is installed shall apply to the Board of Zoning Adjustment for a special exception under § 3104 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 as a basis for approval of a special exception to install a longer term replacement.
- 2001.13 A public recreation and community center in existence as of November 28, 2003 may enlarge or make an addition that causes the structure to exceed lot occupancy requirements if approved by the Board of Zoning Adjustment in accordance with the provisions of § 3104.1.

SOURCE: Final Rulemaking published at 30 DCR 3922, 3924 (August 5, 1983); as amended by Final Rulemaking published at 36 DCR 1509, 1521 (February 24, 1989); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8496 (October 20, 2000); as amended by Final Rulemaking published at 50 DCR 10137 (November 28, 2003); and as amended by Final Rulemaking published at 55 DCR 34 (January 4, 2008).

2002 NONCONFORMING USES WITHIN STRUCTURES

- 2002.1 The restrictions set forth in this section and §§ 2003 and 2004 shall apply to nonconforming uses within structures, whether the structure is conforming or nonconforming.
- 2002.2 Where the nonconforming use occupies only a portion of the structure, the restrictions in this section and §§ 2003 and 2004 shall apply only to that part of the structure devoted to the nonconforming use.
- 2002.3 A nonconforming use shall not be extended to portions of a structure not devoted to that nonconforming use at the time of enactment or amendment of this title, or to another structure.
- 2002.4 Ordinary repairs, alterations, or modernizations may be made to a structure or portion of a structure devoted to a nonconforming use. Structural alterations shall not be allowed, except those required by other municipal law or regulation;

provided, that structural alterations shall be permitted to a lawfully existing, nonconforming flat or apartment house located within a Residence District.

2002.5 A structure devoted to a nonconforming use shall not be enlarged, except if the enlargement is to be devoted to a conforming use.

2002.6 A new structure shall not be erected to house a nonconforming use.

SOURCE: § 7106.1 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 30 DCR 3922, 3925 (August 5, 1983); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8496 (October 20, 2000).

2003 CHANGING USES WITHIN STRUCTURES

2003.1 If approved by the Board of Zoning Adjustment, as authorized in §§ 3103 and 3104 for variances and special exceptions, a nonconforming use may be changed to a use that is permitted as a matter of right in the most restrictive district in which the existing nonconforming use is permitted as a matter of right, subject to the conditions set forth in this section.

2003.2 The proposed use shall not adversely affect the present character or future development of the surrounding area in accordance with this title. The surrounding area shall be deemed to encompass the existing uses and structures within at least three hundred feet (300 ft.) in all directions from the nonconforming use.

2003.3 The proposed use shall not create any deleterious external effects, including but not limited to noise, traffic, parking and loading considerations, illumination, vibration, odor, and design and siting effects.

2003.4 When an existing nonconforming use has been changed to a conforming or more restrictive use, it shall not be changed back to a nonconforming use or less restrictive use.

2003.5 In Residence Districts, the proposed use shall be either a dwelling, flat, apartment house, or a neighborhood facility.

2003.6 For the purpose of this section, the districts established by this title are listed in the following order of decreased use restriction:

- (a) W-0, R-1-A, R-1-B, R-2, R-3, R-5-A, R-4, R-5-B, R-5-C, R-5-D, and R-5-E;
- (b) SP-1 and SP-2;

- (c) C-1, C-2-A, C-2-B, C-2-B-1, C-2-C, C-3-A, C-3-B, C-3-C, C-4, and (PAD);
- (d) W-1, W-2, and W-3;
- (e) CR; and
- (f) C-M-1, C-M-2, C-M-3, and M.

2003.7 The Board may require the provision of or direct changes, modifications, or amendments to any design, plan, screening, landscaping, type of lighting, nature of any sign, pedestrian or vehicular access, parking and loading, hours of operation, or any other restriction or safeguard it deems necessary to protect the value, utilization, or enjoyment of property in the neighborhood.

SOURCE: §§ 7103.1 and 7104.2 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 30 DCR 3922, 3925-26 (August 5, 1983); Final Rulemaking published at 39 DCR 8305, 8309 (November 13, 1992); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8497 (October 20, 2000); as amended by Final Rulemaking published at 51 DCR 3440 (April 2, 2004) and 52 DCR 6358 (July 8, 2005); as amended by Final Rulemaking and Order No. 14-16 published at 62 DCR 5190 (April 24, 2015).

2004 DESTRUCTION OF STRUCTURE DEVOTED TO NONCONFORMING USE

2004.1 If a structure devoted to a nonconforming use is destroyed by fire, collapse, explosion, or act of God to an extent of more than fifty percent (50%) of the cost of reconstructing the entire structure, it shall not be restored or reconstructed except in conformity with all provisions of this title, except as provided otherwise in this section.

2004.2 If the casualty or act of God results in damage to an extent of fifty percent (50%) or less of the cost of reconstructing the entire structure, the structure may be restored or reconstructed to its previous condition or to a more conforming condition; provided, that the reconstruction or restoration shall be started within twenty-four (24) months of the date of the destruction and diligently continued to completion.

2004.3 If there is a dispute between the property owner and the Zoning Administrator as to whether the structure has been destroyed to the extent of fifty percent (50%) of reconstruction cost, the costs of restoration and of reconstruction shall be determined by the average of the estimates furnished by three (3) independent qualified contractors. One (1) of the contractors shall be selected by the owner, one (1) by the Zoning Administrator, and one (1) by the first two (2) mentioned contractors.

- 2004.4 The estimates required by § 2004.3 shall be prepared and submitted according to a standard procedure and format established by the Zoning Administrator, and the cost of estimates shall be at the expense of the property owner.
- 2004.5 Notwithstanding the restrictions of § 2004.1, a structure devoted in whole or in part to a nonconforming use that is also a historic landmark or certified by the State Historic Preservation Officer to be a structure that contributes to the character of the historic district within which it is located may be restored or reconstructed regardless of the extent of destruction, subject to the provisions of the Historic Landmark and Historic District Protection Act of 1978, effective March 3, 1979 (D.C. Law 2-144, as amended; D.C Official Code §§ 6-1101 to 6-1115 (2001) (formerly codified at D.C. Code §§ 5-1001 to 5-1015 (1994 Repl. and 1999 Supp.))), and all other municipal laws and regulations. The nonconforming use may be resumed and continued as before.
- 2004.6 The twenty-four (24) month period provided in § 2004.2 may be extended for as long as it takes to apply for and receive any governmental approvals necessary to accomplish the reconstruction or restoration including, but not limited to, approvals from the Board of Zoning Adjustment, the Historic Preservation Review Board, and the Mayor's agent for the Historic Landmark and Historic District Protection Act.

SOURCE: §§ 7108.1, 7108.2 and 7108.3 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 30 DCR 3922, 3927 (August 5, 1983); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8497 (October 20, 2000).

2005 DISCONTINUANCE

- 2005.1 Discontinuance for any reason of a nonconforming use of a structure or of land, except where governmental action impedes access to the premises, for any period of more than three (3) years, shall be construed as prima facie evidence of no intention to resume active operation as a nonconforming use. Any subsequent use shall conform to the regulations of the district in which the use is located.
- 2005.2 This presumption may only be rebutted by objective proof of a continuing use or of affirmative steps taken to resume the use during the period of time identified by the Zoning Administrator when revoking an existing certificate of occupancy or denying an application for a replacement certificate of occupancy.

SOURCE: § 7107.1 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 30 DCR 3922, 3928 (August 5, 1983); as amended by Final Rulemaking and Order No. 10-08 published at 57 DCR 9492 (October 8, 2010).

TITLE 11 - ZONING

CHAPTER 21 OFF-STREET PARKING REQUIREMENTS

Secs.

- 2100 AUTHORITY TO REQUIRE PARKING SPACES
- 2101 SCHEDULE OF REQUIREMENTS FOR PARKING SPACES
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2119 BICYCLE PARKING SPACES

2120 PARKING FOR HISTORIC BUILDINGS

2100 AUTHORITY TO REQUIRE PARKING SPACES

2100.1 All buildings or structures erected on or after May 12, 1958 shall be provided with parking spaces to the extent specified in § 2101, except as permitted by §§ 2102 through 2108 and for structures erected on Kingman and Heritage Islands for which the construction of parking spaces shall be prohibited except for handicap spaces.

2100.2 No application for a building permit for a building or structure to be erected on or after May 12, 1958 shall be approved unless there is included with the plans for the building or structure a parking plan showing the location, dimensions, and grades of all parking spaces and approaches thereto in accordance with the provisions of this chapter.

2100.3 No certificate of occupancy shall be issued for the use of a building or structure erected on or after May 12, 1958, unless the required parking spaces have been provided in accordance with the parking plan provided for in the approved building permit.

2100.4 Except for historic resources as defined in § 2120.2, when the use of a building or structure is changed to another use that requires more parking spaces than required for the use existing immediately prior to the change or, if the building or structure is vacant, the use that existed immediately prior to the vacancy, parking spaces shall be provided for the additional requirement in the amount necessary to conform to § 2101.

2100.5 [DELETED]

2100.6 Except as provided in § 2120.3, when the intensity of use of a building or structure existing before May 12, 1958 is increased by an addition of employees, dwelling units, gross floor area, seating capacity, or other unit of measurement specified in § 2101, parking spaces shall be provided for the addition, subject to §§ 2100.7 through 2100.9.

2100.7 Parking spaces shall not be required for the addition unless the addition increases the intensity of use of the building or structure by more than twenty-five percent (25%) of the aggregate.

2100.8 Parking spaces for the addition need not exceed the amount of parking spaces that would be required for the entire structure as proposed if constructed new.

2100.9 The determination of the increase of intensity of use shall be based on the total increase in intensity of use the structure undergoes on or after May 12, 1958, whether the total increase occurs at one time or in successive stages.

2100.10 In the case of a building or structure for which the Zoning Regulations now require more parking spaces than were required when the building or structure was built, the following shall be required:

- (a) If the existing number of parking spaces now provided is less than or equal to the minimum number of parking spaces now required by this chapter, the number of parking spaces cannot be reduced; and
- (b) If the existing number of parking spaces now provided is more than the minimum number of parking spaces now required by this chapter, the number of parking spaces cannot be reduced below the minimum number of parking spaces required by this chapter.

AUTHORITY: Unless otherwise noted, the authority for this chapter is the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code §§ 6-641.01 to 6-641.15 (2001) (formerly codified at D.C. Code §§ 5-413 to 5-432 (1994 & 1999 Supp.))).

SOURCE: Final Rulemaking published at 31 DCR 6585, 6586 (December 28, 1984); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8497-98 (October 20, 2000); as amended by Final Rulemaking published at 50 DCR 8824 (October 17, 2003); as amended by Final Rulemaking published at 54 DCR 8959 (September 14, 2007); and as amended by Final Rulemaking published at 55 DCR 2623 (March 14, 2008).

2101 SCHEDULE OF REQUIREMENTS FOR PARKING SPACES

2101.1 On and after May 12, 1958, all buildings or structures shall be provided with parking spaces as specified in the following table, except for buildings and structures located in the StE or the WR zones:

USES	NUMBER OF PARKING SPACES REQUIRED
COMMERCIAL BUILDINGS	
<u>Adult Day Treatment Facility:</u>	
All Districts	1 for each employee
<u>Art Gallery:</u>	
All Districts	In excess of 3,000 ft. ² , 1 for each 300 ft. ² of gross floor area and cellar floor area
<u>Chancery:</u>	

USES	NUMBER OF PARKING SPACES REQUIRED
R-5-D	1 for each 1,200 ft. ² of gross floor area devoted to chancery use, or as determined by the Board of Zoning Adjustment
R-5-E	1 for each 1,800 ft. ² of gross floor area devoted to chancery use, or as determined by the Board of Zoning Adjustment
D	1 for each 800 ft. ² of gross floor area devoted to chancery use, or as determined by the Board of Zoning Adjustment
SP, W, CR, C, C-M, M	Same as required for general office
<u>Clinic:</u>	
R-4, R-5	1 space for each 300 ft. ² of gross floor area or cellar floor area
<u>Electronic Equipment Facility (EEF):</u>	
For EEF use in an existing structure, provide the number of parking spaces required by this title for the use that existed immediately prior to the EEF use or, if the structure is vacant, the use that existed immediately prior to the vacancy.	
For new construction, up to 50% of the number of parking spaces specified in this table may be set aside as a parking reserve and used for non-habitable uses related to the EEF use. If EEF use is discontinued, the parking reserve shall be developed to provide the number of parking spaces required by this title for the succeeding use.	
C-3, CR	In excess of 2,000 ft. ² , 1 for each additional 1,800 ft. ² of gross floor area
C-4, C-5 (PAD)	Same as required for general office use
C-M, M	1 for each 3,000 ft. ² of gross floor area
<u>Fast Food Restaurant:</u>	
C-2, C-3-A:	
In a building having a side yard	In excess of 1,500 ft. ² , 1 for each additional 100 ft. ² of gross floor area and cellar floor area
In a building having no side yard	Same as required for retail or service establishment in the district in which located
All other districts	Same as required for retail or service establishment in the district in which located
<u>Food Delivery Service:</u>	

USES	NUMBER OF PARKING SPACES REQUIRED
C-2, C-3-A, C-3-B, W, CR, and other districts in which the use is permitted	1 space for each 500 ft. ² of gross floor area or cellar floor area
<u>Hotel or Inn:</u>	
R-5-B, R-5-C, R-5-D	1 for each 2 sleeping rooms or suites
R-5-E	1 for each 4 sleeping rooms or suites
C-1, C-2, C-3-A, W	1 for each 2 rooms usable for sleeping, plus 1 for each 150 ft. ² of floor area in either the largest function room or the largest exhibit space, whichever is greater
SP, C-3-B, C-3-C, CR	1 for each 4 rooms usable for sleeping plus 1 for each 300 ft. ² of floor area in either the largest function room or the largest exhibit space, whichever is greater
C-4, C-5 (PAD)	1 for each 8 rooms usable for sleeping
C-M, M	1 for each room usable for sleeping plus 1 for each 150 ft. ² of floor area in the largest function room or the largest exhibit space, whichever is greater
<u>Office - General, including television and radio broadcast studio:</u>	
C-1, C-2-A, C-3-A	In excess of 2,000 sq. ft., 1 for each additional 600 sq. ft. of gross floor area and cellar floor area
W, C-2-B, C-2-B-1, C-2-C, C-3-B, C-3-C, SP, CR	In excess of 2,000 sq. ft., 1 for each additional 1,800 sq. ft. of gross floor area
C-4 For a building or structure built on a lot having an area of 10,000 sq. ft. or less	No requirement
For a building or structure built on a lot having an area of more than 10,000 sq. ft.	In excess of 2,000 sq. ft., 1 for each additional 1,800 sq. ft. of gross floor area
C-5 (PAD)	No requirement
C-M, M	In excess of 2,000 sq. ft., 1 for each additional 800 sq. ft. of gross floor area and cellar floor area devoted to that use
<u>Office - Medical and dental, clinic, or veterinary hospital:</u>	
C-4	Same as required for general office
C-5 (PAD)	No requirement

USES	NUMBER OF PARKING SPACES REQUIRED
<p>C-1, C-2-A, C-3-A:</p> <p>If the space devoted to medical or dental use is less than 25% of the gross floor area and cellar floor area of the entire structure</p> <p>If the space devoted to medical or dental use is 25% or more of the gross floor area and cellar floor area of the entire structure, for that portion of the structure devoted to medical and dental offices</p> <p>All other districts:</p> <p>If the space devoted to medical or dental use is less than 25% of the gross floor area of the entire structure</p>	<p>Same as required for general office for district in which located</p> <p>Twice the number of spaces required for general office for district in which located</p> <p>Same as required for general office for district in which located</p>
<p><u>Optical Transmission Nodes:</u></p>	
<p>All Districts</p>	<p>1 for each 3,000 ft.² of gross floor area</p>
<p><u>Retail or service establishment except gasoline service station and repair garage:</u></p>	
<p>C-1, C-2-A, C-3-A, C-M-1, M</p>	<p>In excess of 3,000 sq. ft., 1 for each additional 300 sq. ft. of gross floor area and cellar floor area</p>
<p>W, CR, C-2-B, C-2-B-1, C-2-C, C-3-B, C-3-C, C-M-2, C-M-3</p>	<p>In excess of 3,000 sq. ft., 1 for each additional 750 sq. ft. of gross floor area</p>
<p>C-4</p>	<p>In excess of 30,000 sq. ft., 1 for each additional 3,000 sq. ft. of gross floor area</p>
<p>C-5 (PAD)</p>	<p>No requirement</p>
<p><u>Retail or service establishment except gasoline service station and repair garage:</u></p>	
<p><u>Gasoline service station:</u></p>	
<p>All districts</p>	<p>1 for each 300 ft.² of gross floor area, excluding any pump island canopy and any kiosk adjacent to the pumps used exclusively as an attendant's shelter</p>
<p><u>Repair garage:</u></p>	
<p>All districts</p>	<p>4 plus 1 for each 200 ft.² of gross floor area</p>
<p>INSTITUTIONAL USES</p>	
<p><u>Ball fields:</u></p>	
<p>All districts</p>	<p>5 spaces</p>
<p><u>Basketball courts:</u></p>	

USES	NUMBER OF PARKING SPACES REQUIRED
All districts	5 spaces
<u>Bleachers:</u>	
All districts	1 for each 12 seats, plus 1 seat for each 20 seats above 700. If seats are not fixed, each 7 square feet usable for seating or each 18 inches of bleacher/bench space shall be considered 1 seat
<u>Driver's License Road Test Facility</u>	
C-2-A, C-3-A	4 spaces for each employee.
C-2-B, C-2-C, C-3-B, C-3-C, C-4,	4 spaces for each employee.
C-5, SP, CR, W-2, W-3 C-M, M	4 spaces for each employee.
<u>Fire Station, Fire Department Training Facility, Fire Department Administrative Facility or Fire Department Support Facility (established after October 14, 2005, not including the expansion of facilities existing as of October 14, 2005):</u>	
All R Districts, C-1, C-2-A, C-3-A	In excess of 2,000 ft. ² , 1 space for each 600 ft. ² of gross floor area and cellar floor area
All other districts	In excess of 2,000 ft. ² , 1 space for each 1,800 ft. ² of gross floor area
<u>Hospital:</u>	
C-4, C-5 (PAD)	No requirement
All other districts	1 for each bed
<u>Police Department General Facility or Local Facility (established after January 12, 2004, not including the expansion of facilities existing as of January 12, 2004):</u>	
All R Districts, C-1, C-2-A, C-3-A	In excess of 2,000 ft. ² , 1 space for each 600 ft. ² of gross floor area and cellar floor area
All other Districts	In excess of 2,000 ft. ² , 1 space for each 1,800 ft. ² of gross floor area
<u>Public Library:</u>	
Full-Service Neighborhood Public Library:	
All residence districts	For libraries constructed after December 19, 2003 and in excess of 2,000 square feet of gross floor area, 1 space for each additional 1,000 square feet of gross floor area.

USES	NUMBER OF PARKING SPACES REQUIRED
<p>All other districts</p> <p>Community Public Library: All districts</p> <p>Kiosk Public Library: All districts</p> <p><u>Public Recreation and Community Center Use:</u> All districts</p> <p><u>Tennis courts:</u> All districts</p>	<p>For libraries constructed after December 19, 2003 and in excess of 3,000 square feet of gross floor area, 1 space for each additional 1,000 square feet of gross floor area.</p> <p>For libraries constructed after December 19, 2003 in excess of 2,000 square feet of gross floor area, 1 space for each additional 1,000 square feet of gross floor area.</p> <p>No Requirement</p> <p>1 for each 2,000 ft.² gross floor area of bldg. or use</p> <p>1 space for every 2 courts</p>
MANUFACTURING, INDUSTRIAL, OR WHOLESALE ESTABLISHMENT	
<p><u>Manufacturing, Industrial, or Wholesale establishment:</u> All districts</p>	<p>1 for each 1,000ft.² of gross floor area</p>
PLACES OF PUBLIC ASSEMBLY (EXCEPT HOTELS)	
<p><u>Area, armory, assembly hall, auditorium, community center, concert hall, convention hall, dance hall, funeral parlor, ice or roller skating rink, public hall, stadium, or theater:</u> C-4, C-5(PAD) All other districts</p> <p><u>Boat club or marina:</u> All districts</p> <p><u>Marina:</u> W-0</p> <p><u>Boathouse:</u> W-0</p>	<p>No requirement</p> <p>1 for each 10 seats of occupancy capacity for the first 10,000 seats, plus 1 for each 20 seats above the first 10,000; provided, that where such seats are not fixed, each 7 ft.² usable for seating shall be considered 1 seat</p> <p>1 for each 4 berths or slips</p> <p>1 for each 4 berths or slips plus 1 for each floating home space within a marina or yacht club</p> <p>1 space for every 2,000 square feet of gross building area</p>

USES	NUMBER OF PARKING SPACES REQUIRED
<p><u>Yacht Club:</u> W-0</p> <p><u>Churches:</u> C-3-C, C-4, C-5(PAD) All districts</p> <p><u>Recreational building or use:</u> All districts</p>	<p>The greater of 1 for each 4 berths or slips or 1 for each 800 square feet of clubhouse building area.</p> <p>No requirement</p> <p>1 for each 10 seats of occupancy capacity in the main sanctuary; provided, that where the seats are not fixed, each 7 ft.² usable for seating or each 18 in. of bench if benches are provided shall be considered 1 seat</p> <p>1 for each 2,000 ft.² devoted to the building or use</p>
RESIDENTIAL USES	
<p><u>Apartment house or multiple dwelling:</u> R-5-A, C-1 R-5-B, C-2-A, C-3-A R-4, R-5-C, R-5-D, C-2-B, W, CR R-5-E, SP, C-2-C, C-3-B, C-3-C, C-4, C-5(PAD)</p> <p><u>Community-based residential facility:</u> All districts other than C-3, C-4, C-5 (PAD): 1 to 8 persons housed 9 to 15 persons housed 16 or more persons housed C-3, C-4, C-5 Districts</p> <p><u>Dormitory, sorority, or fraternity house not approved as part of a campus plan:</u> All districts</p> <p><u>Flat:</u> R-5-A All other districts</p> <p><u>One-family dwelling:</u> All districts</p> <p><u>Publicly assisted housing, reserved for the elderly and/or handicapped:</u></p>	<p>1 for each dwelling unit</p> <p>1 for each 2 dwelling units</p> <p>1 for each 3 dwelling units</p> <p>1 for each 4 dwelling units</p> <p>1</p> <p>2</p> <p>As determined by the BZA</p> <p>1 for each 10 persons housed</p> <p>1 for each 5 beds</p> <p>1 for each dwelling unit</p> <p>1 for each 2 dwelling units</p> <p>1 for each dwelling unit</p>

USES	NUMBER OF PARKING SPACES REQUIRED
<p>All districts</p> <p><u>Rooming or boarding house:</u></p> <p>All districts</p>	<p>1 for each 6 dwelling units</p> <p>1 plus 1 for each 5 rooming units</p>
SCHOOLS	
<p><u>Child/Elderly Development Center:</u></p> <p>All districts</p> <p><u>College or other institution of higher learning, business trade, or other school and accessory uses located on the campus:</u></p> <p>C-4, C-5 (PAD)</p> <p>All other districts</p> <p><u>Elementary and Junior High School:</u></p> <p>All districts</p> <p><u>High school and accessory uses:</u></p> <p>All districts</p> <p><u>Pre-elementary schools and pre-kindergarten schools or facilities:</u></p> <p>All districts:</p> <p><u>Uses in former public school buildings authorized by 11 DCMR §§ 201.1 (w) or 222</u></p> <p>R Districts</p>	<p>1 for each 4 teachers and other employees</p> <p>No requirement</p> <p>For each building: 2 for each 3 teachers; plus either 1 for each 10 classroom seats or 1 for each 12 stadium seats or 1 for each 10 auditorium seats, whichever is greater, except as provided in § 2106</p> <p>2 for each 3 teachers and other employees</p> <p>2 for each 3 teachers and other employees, plus either 1 for each 20 classroom seats or 1 for each 10 seats in the largest auditorium, gymnasium or area usable for public assembly, whichever is greater</p> <p>2 for each 3 teachers and other employees</p> <p>Parking requirements will be those that apply in the most restrictive zone district in which the use is otherwise first permitted as a matter of right.</p>
WAREHOUSE	
<p><u>Warehouse:</u></p> <p>All districts</p>	<p>1 for each 3,000 ft.² of gross floor area</p>

USES	NUMBER OF PARKING SPACES REQUIRED
ALL OTHER USES	
<u>All Other Uses:</u> All districts	1 for each 600 ft. ² of gross floor area and cellar floor area

2101.2 Nothing contained in this section shall be construed to prohibit the establishment of accessory parking spaces in an amount which exceeds that required by § 2101.1; provided, that each case complies with all other applicable provisions of this chapter and chapter 23.

2101.3 Nothing contained in this section shall be construed to prohibit the establishment of parking spaces accessory to buildings or structures for which no required parking spaces are specified in § 2101.1; provided, that each case complies with all other applicable provisions of this chapter and chapter 23.

SOURCE: Final Rulemaking published at 31 DCR 6585, 6588 (December 28, 1984); as amended by: Final Rulemaking published at 32 DCR 4374, 4378 (July 26, 1985); Final Rulemaking published at 40 DCR 3744, 3747 (June 11, 1993); Final Rulemaking published at 43 DCR 1624 (March 29, 1996); Final Rulemaking published at 46 DCR 8284, 8289 (October 15, 1999); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8497-99 (October 20, 2000); Final Rulemaking published at 48 DCR 9830, 9839 (October 26, 2001); Final Rulemaking published at 49 DCR 1655 (February 22, 2002), incorporating by reference the text of Proposed Rulemaking published at 49 DCR 11159, 11165 (December 7, 2001); Final Rulemaking published at 50 DCR 8818 (October 17, 2003); Final Rulemaking published at 50 DCR 10137 (November 28, 2003); Final Rulemaking published at 50 DCR 10822 (December 19, 2003); Final Rulemaking published at 51 DCR 3440 (April 2, 2004); Final Rulemaking published at 51 DCR 4778 (May 7, 2004); Final Rulemaking published at 52 DCR 6358 (July 8, 2005); Final Rulemaking published at 52 DCR 7259 (August 5, 2005); Final Rulemaking published at 52 DCR 9155 (October 14, 2005); Final Rulemaking published at 53 DCR 9580 (December 1, 2006); Final Rulemaking published at 53 DCR 10085 (December 22, 2006); Final Rulemaking published at 54 DCR 8943 (September 14, 2007); Final Rulemaking and Order No. 08-18 published at 56 DCR 2391 (March 27, 2009); Final Rulemaking and Order No. 09-11 published at 57 DCR 1242 (February 5, 2010); as amended by Final Rulemaking and Order No. 09-16 published at 57 DCR 2961 (April 2, 2010); as amended by Final Rulemaking and Order No. 12-08 published at 60 DCR 4834 (March 29, 2013); as amended by Final Rulemaking and Order No. 14-16 published at 62 DCR 5190 (April 24, 2015); as amended by Final Rulemaking and Order No. 14-22 published at 62 DCR 12168 (September 4, 2016).

2102 EXCEPTIONS TO THE SCHEDULE OF REQUIREMENTS: C-4 DISTRICT

2102.1 In a C-4 District, the provisions in this section shall apply.

2102.2 The parking requirements applicable to a Disposition Lot as defined in the Urban Renewal Plan for the Downtown Urban Renewal Area shall be as specified in that Plan.

2102.3 The parking spaces required pursuant to § 2101.1 for office and retail or service uses need not be limited to use by employees, occupants, guests, visitors, or customers of such uses and may be used for general public parking.

SOURCE: Final Rulemaking published at 31 DCR 6585, 6596 (December 28, 1984); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8499 (October 20, 2000).

2103 EXCEPTIONS TO THE SCHEDULE OF REQUIREMENTS: DOWNTOWN URBAN RENEWAL AREA

2103.1 Within the Downtown Urban Renewal Area, parking spaces required for all uses need not be provided if adopted, public law or municipal regulation prohibits a curb cut on the street on which the lot faces and there is no other alternative access to the lot through a street or alley.

2103.2 Within the Downtown Urban Renewal Area, the Board of Zoning Adjustment is hereby authorized in accordance with the requirements of § 3104 for special exceptions to reduce or eliminate the amount of parking spaces required for all uses and to approve parking plans for buildings or structures to provide all the required parking spaces in an off-site collective parking facility; provided, that the provisions of §§ 2103.3 through 2103.6 are satisfied.

2103.3 Parking spaces may be reduced if other adopted public law, policy, or municipal regulation requires or recommends that the street not be broken with a curb cut and there is no other alternative access to the lot through a street or alley.

2103.4 The Board shall give consideration to the:

- (a) Nature and location of the structure;
- (b) Maximum number of students, employees, guests, customers, or clients that can reasonably be expected to use the proposed building or structure at one (1) time;
- (c) Amount of traffic congestion existing or that the building or structure can reasonably be expected to create in the neighborhood;
- (d) Quantity of existing public, commercial, or private parking, other than curb parking, on the property or in the neighborhood that can reasonably be expected to be available when the building or structure is in use; and
- (e) Proximity to public transportation, particularly Metrorail stations, and quality of public transportation service in the area, or a ride-sharing program approved by the D. C. Department of Transportation.

2103.5 If the applicant relies on a ride-sharing program, the applicant shall demonstrate to the Board that the program shall continue as long as the use continues.

2103.6 Prior to taking final action on an application, the Board shall refer the application to the D.C. Departments of Transportation and Housing and Community Development for review and report.

SOURCE: Final Rulemaking published at 31 DCR 6585, 6596 (December 28, 1984); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8499 (October 20, 2000).

2104 EXCEPTIONS TO THE SCHEDULE OF REQUIREMENTS: NEAR METRORAIL STATIONS

2104.1 The number of parking spaces required for a nonresidential building or structure shall be seventy-five percent (75%) of the amount otherwise ordinarily required under § 2101.1 if the building is located within a radius of eight hundred feet (800 ft.) of a Metrorail station entrance and:

- (a) The building or structure is located in a nonresidential district and is at least eight hundred feet (800 ft.) from any R-1, R-2, R-3, or R-4 District; and
- (b) The Metrorail station is currently in operation or is one for which a construction contract has been awarded.

2104.2 [REPEALED]

SOURCE: Final Rulemaking published at 31 DCR 6585, 6597 (December 28, 1984); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8499-50 (October 20, 2000); Final Rulemaking published at 50 DCR 10822 (December 19, 2003); as amended by Final Rulemaking and Order No. 09-17A published at 57 DCR 1898 (March 5, 2010).

2105 EXCEPTIONS TO THE SCHEDULE OF REQUIREMENTS: CENTRAL EMPLOYMENT AREA

2105.1 The number of parking spaces required under § 2101.1 for a nonresidential building or structure located within the Central Employment Area may be reduced or eliminated; provided:

- (a) The building or structure has a direct connection to a Metrorail station currently in operation or for which a construction contract has been awarded; and
- (b) For a Disposition Lot, as depicted on Map No. 5 of the Urban Renewal Plan for the Downtown Urban Renewal Area, as modified by the National

Capital Planning Commission and approved by the Council of the District of Columbia through July 5, 1983, parking may not be reduced below the limit specified in that Plan.

SOURCE: Final Rulemaking published at 31 DCR 6585, 6598 (December 28, 1984).

**2106 EXCEPTIONS TO THE SCHEDULE OF REQUIREMENTS:
COLLEGES AND UNIVERSITIES**

2106.1 For a college or university use, if a campus plan has been approved by the Zoning Commission or the Board of Zoning Adjustment for the college or university, parking shall be provided as set forth in the approved campus plan.

SOURCE: Final Rulemaking published at 31 DCR 6585, 6598 (December 28, 1984); as amended by Final Rulemaking published at 47 DCR 9725, 9737 (December 8, 2000).

**2107 EXCEPTIONS TO THE SCHEDULE OF REQUIREMENTS:
OUTSIDE THE CENTRAL EMPLOYMENT AREA**

2107.1 The Board of Zoning Adjustment is hereby authorized to reduce or eliminate the amount of required parking spaces for nonresidential buildings or structures located outside the Central Employment Area in accordance with the requirements of § 3104 for special exceptions; provided, that the building or structure is provided with a direct connection to a Metrorail station currently in operation or for which a construction contract has been awarded.

2107.2 The parking spaces normally required are not necessary to serve the use located in the building or structure. In determining whether the parking spaces are necessary, the Board shall give consideration to the:

- (a) Nature and location of the building or structure and the nature and location of the connection to Metrorail;
- (b) Maximum number of students, employees, guests, customers, or clients who can reasonably be expected to use the proposed building or structure at one time;
- (c) Amount of traffic congestion existing or which the building or structure can reasonably be expected to create in the neighborhood;
- (d) Quantity of existing public, commercial, or private parking, other than on-street parking, on the property or in the neighborhood, that can reasonably be expected to be available when the building or structure is in use; and
- (e) Availability of public transportation service in the area or a ride-sharing program approved by the D.C. Department of Transportation.

2107.3 If the applicant relies on a ride-sharing program, the applicant shall demonstrate to the Board that the program shall continue as long as the use continues.

2107.4 Prior to taking final action on an application under this section, the Board shall refer the application to the D.C. Department of Transportation for review and report.

SOURCE: Final Rulemaking published at 31 DCR 6585, 6598 (December 28, 1984); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8500 (October 20, 2000).

2108 REDUCTION OF PARKING SPACES: AUTHORITY OF THE BOARD

2108.1 The Board of Zoning Adjustment is hereby authorized to reduce the amount of parking spaces required for nonresidential uses under § 2101.1 in accordance with the requirements of § 3104 for special exceptions, pursuant to the provisions of this section.

2108.2 The amount of required parking spaces for a public library may be reduced by up to 100%, but for all other uses shall not be reduced by more than twenty-five percent (25 %); provided, that for a use that is in the category of "All Other Uses" in the table in § 2101.1, the amount of required parking spaces shall not be reduced by more than fifty percent (50%).

2108.3 The Board shall give consideration to the:

- (a) Nature and location of the structure;
- (b) Maximum number of students, employees, guests, customers, or clients who can reasonably be expected to use the proposed building or structure at one time;
- (c) Amount of traffic congestion existing or that the building or structure can reasonably be expected to create in the neighborhood;
- (d) Quantity of existing public, commercial, or private parking, other than curb parking, on the property or in the neighborhood that can reasonably be expected to be available when the building or structure is in use; and
- (e) Proximity to public transportation, particularly Metrorail stations, and the availability of public transportation service in the area or a ride-sharing program approved by the D.C. Department of Transportation.

2108.4 If the applicant relies on a ride-sharing program, the applicant shall demonstrate to the Board that the program shall continue as long as the use continues.

2108.5 Prior to taking final action on an application, the Board shall refer the application to the D.C. Department of Transportation for review and report.

SOURCE: Final Rulemaking published at 31 DCR 6585, 6600 (December 28, 1984); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8500-01 (October 20, 2000); as amended by Final Rulemaking and Order No. 09-17A published at 57 DCR 1898 (March 5, 2010).

2109 APPLICABILITY OF NONRESIDENTIAL BUILDING AND STRUCTURE PROVISIONS

2109.1 For the purposes of §§ 2104, 2105, 2107, and 2108, a nonresidential building or structure includes any building or structure where eighty percent (80%) or more of the gross floor area is devoted to a use other than a dwelling, flat, multiple dwelling, rooming or boarding house, community-based residential facility, or hospital.

SOURCE: Final Rulemaking published at 31 DCR 6585, 6600 (December 28, 1984); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8501 (October 20, 2000).

2110 TEMPORARY SURFACE PARKING LOTS AND SPACES FOR THE BALLPARK

2110.1 Permitted Use - Notwithstanding §§ 602.1 and 902.1 and not subject to any otherwise applicable proximity requirement, a temporary surface parking lot accessory to the Ballpark shall be permitted as a temporary use on Squares 603, 605, 657, 658, 660, 661, 662, 662E, 664, 664E, 665, 700, 701, 707, 708, 708E, 708S, 744S, and 882; Square 658, Lot 7; and Square 767, Lots 44 - 47; Square 768, Lots 19 - 22; and Square 769, Lots 18 - 21 (“the subject squares”) in accordance with §§ 2110.3 through 2110.5 and the following provisions:

- (a) The cumulative total of all temporary surface parking spaces for which a valid Building Permit has been issued pursuant to this section shall not exceed three thousand seven hundred seventy-five (3,775) parking spaces;
- (b) Any certificate of occupancy issued pursuant to this subsection shall expire no later than April 1, 2018;
- (c) The application for a building permit for matter of right construction shall include a detailed accounting demonstrating that the circumstances described in § 2110.2 do not apply;
- (d) No certificates of occupancy for this use shall be issued until the District Department of Transportation (DDOT) has approved a traffic routing plan

for the lot, which shall include the impact of other proposed lots if required by DDOT; and

- (e) The traffic routing plan described in § 2110.1(d) shall not direct traffic through I Street, S.W., P Street, S.W., or 4th Street, S.W.

2110.2 Special Exception - If and when valid building permits issued pursuant to § 2110.1 authorize an aggregate of three thousand seven hundred seventy-five (3,775) or more parking spaces, the construction and use of additional temporary spaces on any of the subject squares shall require approval of the Board of Zoning Adjustment (BZA) pursuant to § 3104, and in accordance with §§ 2110.3 through 2110.5 and the following provisions:

- (a) Any certificate of occupancy issued pursuant to this subsection shall expire no later than April 1, 2018; and
- (b) The BZA application shall include a detailed accounting of the number and locations of temporary parking spaces provided pursuant to § 2110.1; and shall also include a traffic study assessing the impacts of the proposed additional parking spaces on local traffic patterns for referral to and comment by DDOT.

2110.3 Any parking lot authorized shall be available for exclusive use of attendees at any baseball game or other public event described in §1612.3 for a time period extending from one and a half (1.5) hours prior to the scheduled start time of the event, to 3 hours after the event. At all other times, the parking lot may be used for:

- (a) Parking on a general basis for "non-commercial motor vehicles" as that term is defined by 18 DCMR § 1312.3 (c), except vehicles equipped to serve as temporary or permanent living quarters; or
- (b) A seasonal or occasional market for produce, arts or crafts with non-permanent structures.

2110.4 No use, other than permitted in this section shall be conducted from or upon the premises, and no structure other than an attendant's shelter shall be erected or used upon the premises unless the use or structure is otherwise permitted in the District in which the parking lot is located.

2110.5 A temporary surface parking lot provided in accordance with this section shall comply with the following standards:

- (a) A full size automobile parking space shall be a minimum of nine feet (9 ft.) in width and nineteen feet (19 ft.) in length, exclusive of access drives or aisles. A compact car parking space shall be a minimum of eight feet (8 ft.) in width and sixteen feet (16 ft.) in length exclusive of access drives or

aisles, and shall be visibly marked as a "compact car" or "small car" parking space;

- (b) Parking shall be designed so that no vehicle or any part thereof shall project over any lot line or building line. All parking areas and spaces shall be designed and operated so that sufficient access and maneuvering space is available to permit the parking and removal of any vehicle without moving any other vehicle onto public space;
- (c) When parking spaces are so arranged that an aisle is required for accessibility or maneuvering space between rows of 2 or more parking spaces, or between a row of 2 or more parking spaces and the perimeter of the area devoted to parking spaces, the aisle shall have a clear width of not less than twenty feet (20 ft.) or ninety degree (90°) angle parking, and not less than seventeen feet (17 ft.) for angle parking that is sixty degrees (60°) or less as measured from the center line of the aisle;
- (d) Aisle widths serving compact car spaces -exclusively shall have a clear width of not less than twenty feet (20 ft.) for ninety degree (90°) angle parking and not less than sixteen feet (16 ft.) for angle parking that is sixty degrees (60°) or less as measured from the center line of the aisle;
- (e) Compliance with the requirements of §§ 2110.5 (c) and (d) is not required if the parking is managed during a specified twelve (12) hour peak period to be determined by the District Department of Transportation by employed attendants who park the vehicles using the parking facility; in which case a permanent sign shall be posted at each entrance in full view of the public that states: "Attendant assisted parking is required by the District of Columbia Zoning Regulations." The sign shall also state the hours during which attendant parking is required. The sign shall have a white background, with black lettering that is no less than two inches (2 in.) in height;
- (f) A driveway that provides access to required parking spaces shall:
 - (1) Have a maximum grade of not more than twelve percent (12%) with a vertical transition at the property line;
 - (2) Be not less than twenty-five feet (25 ft.) from a street intersection as measured from the intersection of the curb line extended;
 - (3) Be not less than twelve feet (12 ft.) in width if designed for one-way circulation or fourteen feet (14 ft.) if designed for two-way circulation; and
 - (4) Be not more than twenty-five feet (25 ft.) in width;

- (g) All parking spaces, including access aisles, driveways, and ramp areas shall be surfaced and maintained with an all-weather surface. In addition to traditional impervious surfaces, allowable all weather surfaces include porous (or pervious) concrete, porous asphalt, and/or mechanically-reinforced grass, excluding grass or gravel;
- (h) The parking lot shall be kept free of refuse and debris and shall be landscaped. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance. Landscaping with trees and shrubs shall cover a minimum of five percent (5%) of the total area of the parking lot, or an area as determined by the Board of Zoning Adjustment for a parking lot requiring Board approval;
- (i) Any lighting used to illuminate a parking lot or its accessory building shall be so arranged that all direct rays of lighting are confined to the surface of the paved area devoted to parking; and
- (j) A minimum of 5% of parking spaces shall be reserved for a registered and recognized, publicly accessible car/ride-share program with a significant District user base and a mandate that is not commuter-oriented, such as GoLoco. These car/ride share spaces shall be provided in premium, visible, bannered locations and will be available, for a fee, exclusively for this use until the start of the event on that day.

SOURCE: Final Rulemaking published at 54 DCR 8976 (September 14, 2007); as amended by Final Rulemaking published at 54 DCR 10300 (October 26, 2007); as amended by Final Rulemaking published at 55 DCR 7308 (July 4, 2008); 57 DCR 000126 (2010); as amended by Final Rulemaking and Order No. 07-08B published at 59 DCR 15091 (December 29, 2012).

2111 SURFACE PARKING LOTS LANDSCAPING STANDARDS

2111.1 Surface parking areas with ten (10) or more parking spaces shall conform to the landscaping, tree canopy cover, screening, and lighting requirements as set forth in this section:

- (a) A minimum of ten percent (10%) of the total area devoted to parking, including aisles and driveways shall be covered by landscaped areas planted with trees and shrubs;
- (b) The landscaping shall be maintained in a healthy, growing condition; Dead or dying landscaping shall be replaced;
- (c) All end islands of parking rows longer than nine (9) parking spaces, and all areas otherwise not used for ingress and egress, aisles, and parking spaces shall be landscaped;

- (d) Landscaping around the perimeter of the parking area may count toward the area requirement of this subsection up to a distance of six feet (6 ft.) from the pavement;
- (e) All newly planted trees shall have a minimum diameter of two and one-half inches (2.5 in.); all trees shall be planted or retained in a space that provides a minimum of five hundred (500) cubic feet of soil volume per tree; and
- (f) Trees shall be planted a minimum of four feet (4 ft.) from any protective barrier, such as curbs or wheel stops with no horizontal dimension less than four feet (4 ft.) and a minimum depth of three feet (3 ft.).

2111.2 The Board of Zoning Adjustment may grant, by special exception, a full or partial reduction in the landscape standards for parking lots required by this section if, in addition to meeting the general requirements of § 3104, the applicant demonstrates that complying with the landscape standards is impractical because of size of lot, or other conditions relating to the lot or surrounding area that would tend to make full compliance unduly restrictive, prohibitively costly, or unreasonable.

SOURCE: Final Rulemaking and Order No. 12-10 published at 60 DCR 10077 (July 13, 2013).

2112-2114 [RESERVED]

2115 SIZE OF PARKING SPACES

- 2115.1 Except as otherwise provided in this section, a required automobile parking space shall be a minimum of nine feet (9 ft.) in width and nineteen feet (19 ft.) in length, exclusive of access drives, aisles, ramps, columns, office or work areas and shall be striped according to the requirements of § 2117.3. Parking shall also be in compliance with the requirements of the D.C. Construction Code, Title 12 DCMR.
- 2115.2 Any accessory parking area or accessory garage containing twenty-five (25) or more required parking spaces may designate up to forty percent (40%) of the parking spaces for compact cars.
- 2115.3 A compact car parking space shall be a minimum of eight feet (8 ft.) in width and sixteen feet (16 ft.) in length exclusive of access drives, aisles, ramps, columns, and office and work areas and shall be striped according to the requirements of § 2117.3.
- 2115.4 Parking spaces shall be visibly marked as "compact car" or "small car" parking spaces and shall be placed in groups of at least five (5) contiguous spaces with access from the same aisle.

- 2115.5 Except as provided in §§ 2115.6 and 2115.7, all parking spaces shall have a minimum vertical clearance of six feet, six inches (6 ft., 6 in.).
- 2115.6 Where one hundred (100) or more parking spaces are provided, whether the spaces are required or not and whether the spaces are a principal use or an accessory use, at least five percent (5%) of the parking spaces shall have a minimum vertical clearance of seven feet, two inches (7 ft., 2 in.).
- 2115.7 All entrances, exits, access aisles, ramps, and driveways providing access to parking spaces shall also have the minimum vertical clearances as prescribed in §§ 2115.5 and 2115.6, respectively.
- 2115.8 All parking spaces requiring the seven foot, two inch (7 ft., 2 in.), vertical clearance shall be clearly marked for "Van Parking Only."
- 2115.9 In a commercial building or structure located in a C-3-C, C-4, C-5 (PAD), SP, W, or CR District, where at least seventy-five (75) parking spaces are required according to the schedule of parking requirements under § 2101.1 and where parking spaces are provided within a parking garage, parking may be provided as set forth in §§ 2115.10 through 2115.18.
- 2115.10 A minimum of two hundred eighty-five square feet (285 ft.²) of parking area shall be provided for each required parking space.
- 2115.11 Parking space dimensional, size, design, and striping requirements stipulated under §§ 2115.1 through 2115.4, 2117.3, 2117.5, and 2117.6 may be waived; provided, that the parking is managed during a specified twelve (12) hour peak period to be determined by the D.C. Department of Transportation by employed attendants who park the vehicles using the parking facility.
- 2115.12 A permanent sign shall be posted at each entrance in full view of the public that states: "Attendant assisted parking is required by the District of Columbia Zoning Regulations." The sign shall also state the hours during which attendant parking is required. The sign shall have a white background, with black lettering that is no less than two inches (2 in.) in height.
- 2115.13 All parking areas and spaces provided under § 2115.9 shall be designed and operated so that sufficient access and maneuvering space is available to permit the parking and removal of any vehicle without moving any other vehicle onto public space.
- 2115.14 Where aisles are provided, the aisles shall meet the design requirements stipulated in §§ 2117.5 and 2117.6.
- 2115.15 All other requirements for parking, including but not limited to minimum height clearances and landscaping requirements, shall remain applicable.

2115.16 In the event parking by attendants as required in § 2115.11 is discontinued, parking shall then be provided as otherwise required in these regulations. The applicant for a parking facility under this subsection shall submit a parking plan on a medium acceptable to the Zoning Administrator that demonstrates how parking shall be provided in the event the attendant parking is discontinued.

2115.17 No individual area shall be considered a part of the required parking area where the minimum lesser dimension is less than seven feet (7 ft.) or where the minimum greater dimension is less than fourteen feet (14 ft.) in rectangular area, exclusive of column obstructions.

2115.18 For the purpose of § 2115.9, a commercial building or structure shall include any building or structure where eighty percent (80%) or more of the gross floor area is devoted to a use other than a dwelling, flat, multiple dwelling, rooming or boarding house, community-based residential facility, or hospital.

SOURCE: Final Rulemaking published at 31 DCR 6585, 6600 (December 28, 1984); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8501-02 (October 20, 2000); and Final Rulemaking published at 49 DCR 2742, 2747 (March 22, 2002); 57 DCR 000126 (2010); as amended by Final Rulemaking and Order No. 12-10 published at 60 DCR 10077 (July 12, 2013).

2116 LOCATION OF PARKING SPACES

2116.1 Except as provided in §§ 214, 510, 708, 730, 743.2(d), 753.1(c), 761.2, 803.1, 926, 2116.5, 2116.10 and 2117.9(c), all parking spaces shall be located on the same lot with the buildings or structures they are intended to serve.

2116.2 Parking spaces, including car-sharing spaces, shall be located in one (1) of the following ways:

(a) Within a permitted garage or carport, subject to the special provisions of chapter 23 and § 2116. 12; or

(b) On an open area of the lot except as provided in § 2116.4.

2116.3 For a church, up to fifty percent (50%) of the number of parking spaces may be located elsewhere. The spaces shall be located within four hundred feet (400 ft.) of the church in a public or private parking lot or garage where the required number of spaces are made available for the use of the church through a binding agreement with the owners of the parking facility. However, at least three (3) parking spaces shall be provided on the lot where the church is located.

2116.4 Parking spaces shall not be located in the following areas:

(a) Between a building restriction line and a lot line abutting a street; or

- (b) Except in an Industrial District or a building used solely as a parking attendant shelter, between a lot line abutting a street and the more restrictive of either a building façade or a line extending from and parallel to a building façade.

2116.5 Except as provided in § 2117.9, if approved by the Board of Zoning Adjustment pursuant to § 3104 for special exceptions, open parking spaces accessory to any building or structure may be located anywhere on the lot upon which the building or structure is located, or elsewhere, except in the case of a one-family dwelling, in accordance with §§ 2116.6 through 2116.9.

2116.6 The Board shall determine that it is not practical to locate the spaces in accordance with § 2116.2 for the following reasons:

- (a) Unusual topography, grades, shape, size, or dimensions of the lot;
- (b) The lack of an alley or the lack of appropriate ingress or egress through existing or proposed alleys or streets;
- (c) Traffic hazards caused by unusual street grades; or
- (d) The location of required parking spaces elsewhere on the same lot or on another lot would result in more efficient use of land, better design or landscaping, safer ingress or egress, and less adverse impact on neighboring properties.

2116.7 When the accessory parking spaces are to be located elsewhere than on the lot upon which the building or structure they are intended to serve is located, the parking on adjacent lots or lots separated only by an alley from the lot upon which the building or structure is located, shall be preferred.

2116.8 The accessory parking spaces shall be located so as to furnish reasonable and convenient parking facilities for the occupants or guests of the building or structures that they are designed to serve.

2116.9 The Board may impose conditions on any accessory or non-accessory parking spaces as to screening, coping, setbacks, fences, the location of entrances and exits, or any other requirement it deems necessary to protect adjacent or nearby property. It may also impose other conditions it deems necessary to assure the continued provision and maintenance of the spaces.

2116.10 Notwithstanding §§ 106.7 and 2116.1, parking spaces serving the District of Columbia Correctional Facility and other uses and agencies currently on the site as of March 2, 2007 may be located anywhere within Public Reservation 13 tract.

- 2116.11 Subsection 2116.10 shall expire in seven (7) years.
- 2116.12 Except for parking in an Industrial Zone or accessory to a one-family dwelling, parking spaces provided within a structure shall be located at least twenty feet (20 ft.) from all lot lines that abut public streets, unless the ceilings of all parking levels are at or below the grade of the adjacent public sidewalk at all points along the building frontage.

SOURCE: Final Rulemaking published at 31 DCR 6585, 6603 (December 28, 1984); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8502 (October 20, 2000); as amended by Final Rulemaking published at 51 DCR 3440 (April 2, 2004); as amended by Final Rulemaking published at 52 DCR 6358 (July 8, 2005); as amended by Final Rulemaking published at 54 DCR 7764 (August 10, 2007); as amended by Final Rulemaking and Order No. 09-16 published at 57 DCR 2961 (April 2, 2010); as amended by Final Rulemaking and Order No. 11-01 published at 58 DCR 8371 (09/30/11); ; as amended by Final Rulemaking and Order No. 11-01A published at 59 DCR 275 (01/20/12).

2117 ACCESS, MAINTENANCE, AND OPERATION

- 2117.1 The parking spaces required by this chapter shall be provided and maintained so long as the structure that the parking spaces are designed to serve exists.
- 2117.2 Required parking spaces shall not be reduced in total extent after their provision except upon approval of the Board of Zoning Adjustment and then only after proof that the parking spaces provided are no longer needed by reason of a reduction of employees, seats, gross floor area, dwelling units, or any other standard applicable to the use set forth in the regulations; provided the Board may impose any condition it deems necessary to ensure the addition of parking spaces in case of a subsequent increase in employees, seats, gross floor area, dwelling units, or any other unit of measurement.
- 2117.3 All required parking spaces shall be clearly striped and lined according to the dimensions specified in § 2115. Durable materials that are all-weather shall be used. Striping shall be maintained for as long as the parking spaces requiring the striping are in existence.
- 2117.4 Except as provided in §§ 2117.15 and 2117.16, each required parking space shall be accessible at all times directly from improved alleys with a minimum width of ten feet (10 ft) or improved public streets via graded and unobstructed private driveways that form an all-weather surface.
- 2117.5 Except as provided in §§ 2115.9 through 2115.18 and 2117.6, when required parking spaces are so arranged that an aisle is required for accessibility or maneuvering space between rows of two (2) or more parking spaces, or between a row of two (2) or more parking spaces and the perimeter of the area devoted to parking spaces, the aisle shall have a clear width of not less than twenty feet (20 ft.) or ninety degree (90°) angle parking, and not less than seventeen feet (17 ft.)

for angle parking that is sixty degrees (60°) or less as measured from the center line of the aisle.

2117.6 Aisle widths as prescribed in § 2117.5 serving compact car spaces exclusively shall have a clear width of not less than twenty feet (20 ft.) for ninety degree (90°) angle parking and not less than sixteen feet (16 ft.) for angle parking that is sixty degrees (60°) or less as measured from the center line of the aisle.

2117.7 The public rights-of-way as well as private walkways and driveways shall be protected from vehicular encroachment from all parking spaces by wheel bumper guards, curbs, guard rails, or screening between the property line and the perimeter of the parking area. Parking shall be designed so that no vehicle or any part thereof shall project over any lot line or building line.

2117.8 A driveway that provides access to required parking spaces shall meet the following standards:

- (a) It shall have a maximum grade of not more than twelve percent (12%) with a vertical transition at the property line;
- (b) A driveway serving a one-family dwelling or flat or that otherwise serves only one parking space shall be not less than seven feet (7 ft.) in width;
- (c) A driveway serving any use other than a one-family dwelling or flat or serving more than one (1) parking space shall be as follows:
 - (1) Not less than twenty-five feet (25 ft.) from a street intersection as measured from the intersection of the curb line extended;
 - (2) Not less than twelve feet (12 ft.) in width if designed for one-way circulation or fourteen feet (14 ft.) if designed for two-way circulation; and
 - (3) Not more than twenty-five feet (25 ft.) in width; and
- (d) A driveway that provides access directly from a street to a row dwelling or a flat shall be a minimum of twenty-eight feet (28 ft.) from all adjacent driveways that provide access directly from a street to a row dwelling or a flat, as measured from the nearest edge of each such driveway opening.

2117.9 Driveways and parking for row dwellings shall be governed by the following special provisions:

- (a) In the case of two (2) or more row dwellings that are constructed concurrently on adjacent lots and that have direct access only from the street, each two (2) row dwellings shall provide access to the required off-

street parking spaces through adjacent driveways that share one (1) driveway opening. The width of each driveway shall not exceed seven feet (7 ft.) on each lot;

- (b) In the case of a row dwelling located on a lot where there are as many as three (3) row dwellings located on that lot or contiguous lots facing the same street, where access to the required parking space is only available directly from a street and no alternative access is available through existing or proposed alleys or private driveways, and where the driveway dimensional requirements stipulated in § 2117.8(d) cannot be met, the required parking spaces need not be provided; and
- (c) The Board of Zoning Adjustment may allow the parking spaces required for one (1) or more row dwellings to be located on a separate lot in accordance with the requirements of § 3104 for special exceptions, provided:
 - (1) There is no alternative access to on-site parking spaces through existing or proposed paved alleys or private driveways that meet the Design Standards of the D.C. Department of Transportation;
 - (2) The parking spaces are so located as to furnish reasonable and convenient parking facilities for the occupants or guests of the building or structure that they are designed to serve;
 - (3) The Board determines that the separate parking does not impose any adverse impact on the surrounding neighborhood;
 - (4) Any application for the separate parking shall be submitted to the D.C. Department of Transportation for review and report; and
 - (5) The Board may impose conditions as to screening, coping, setbacks, fences, the location of entrances or exits, or any other requirement it deems necessary to protect adjacent or nearby property. It may also impose such other conditions as it deems necessary to ensure the continued provision and maintenance of the spaces.

2117.10 All open parking spaces, including access aisles, driveways, and ramp areas shall be surfaced and maintained with an all-weather surface. In addition to traditional impervious surfaces, allowable all weather surfaces include porous (or pervious) concrete, porous asphalt, and/or mechanically-reinforced grass, excluding grass or gravel.

2117.11 Landscaping with trees and shrubs shall be provided for all open parking spaces provided on a lot where there are more than ten (10) open parking spaces

provided collectively as accessory to any building or structure. The landscaping shall cover a minimum of five percent (5%) of the total area devoted to parking, including aisles and driveways. The landscaping shall be maintained in a healthy, growing condition.

- 2117.12 The open parking spaces shall be screened from all contiguous residential property located in an R-1, R-2, R-3, R-4, R-5-A, or SP District by a solid brick or stone wall at least twelve inches (12 in.) thick and forty-two inches (42 in.) high or by evergreen hedges or evergreen growing trees that are thickly planted and maintained and that are at least forty-two inches (42 in.) in height when planted.
- 2117.13 Any lighting used to illuminate open parking spaces shall be so arranged that all direct rays of lighting are confined to the surface of the paved area devoted to parking.
- 2117.14 Detailed plans shall be submitted to the D.C. Department of Transportation for approval of all curb cuts and driveway openings, to ensure that compliance with these regulations does not conflict with the responsibility of the Department to protect safety in the public space.
- 2117.15 Required parking spaces for a gasoline service station permitted as a matter of right may be arranged so that all spaces are not accessible at all times. All parking spaces provided under this subsection shall be designed and operated so that sufficient access and maneuvering space is available to permit the parking and removal of any vehicle without moving any other vehicle onto public space.
- 2117.16 Required parking spaces for a Police Department General Facility or Police Department Local Facility may be arranged so that all spaces are not accessible at all times.

SOURCE: Final Rulemaking published at 31 DCR 6585, 6604 (December 28, 1984); as amended by Final Rulemaking published at 33 DCR 5898 (September 26, 1986); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8502-04 (October 20, 2000); as amended by Final Rulemaking published at 51 DCR 4778 (May 7, 2004); as amended by Final Rulemaking published at 53 DCR 856 (February 10, 2006); 57 DCR 000126 (2010) .

2118 RULES OF INTERPRETATION

- 2118.1 For the purpose of this chapter, the rules of interpretation set forth in this section shall apply.
- 2118.2 Where individual seats are not provided, each eighteen inches (18 in.) of benches or other similar seating shall be considered as one (1) seat.

- 2118.3 The number of teachers or employees shall be computed on the basis of the greatest number of persons to be employed at any one period during the day or night, including persons having both full-time and part-time employment.
- 2118.4 In computing the number of parking spaces required, that portion of the gross floor area or cellar area devoted to parking spaces, loading berths, loading platforms, service/delivery loading spaces, and vehicular access to parking spaces, may be excluded.
- 2118.5 In the case of mixed uses, the parking spaces required shall be the sum of the requirements for the various individual uses computed separately in accordance with § 2101. Parking spaces for one use shall not be considered as providing the required parking spaces for any other use.
- 2118.6 Whenever calculations based on the schedule set forth in § 2101 result in a fractional space, any fraction under one-half shall be disregarded and any fraction of one-half or over shall require one (1) parking space.
- 2118.7 No parking spaces are required for buildings or structures with a gross floor area and cellar floor area less than the minimum sizes specified in the schedule established by § 2101. However, for buildings or structures containing more than one (1) commercial use where the first three thousand square feet (3,000 ft.²) of gross floor area and cellar floor area do not require parking, this exemption shall apply to the combined gross floor area and cellar floor area contained in the building or structure and shall be pro-rated between the separate uses.
- 2118.8 In the case of parking reductions allowed under §§ 2102 through 2105, 2107, 2108, and 2117.9(c), no more than one (1) parking reduction shall be permitted. A reduction granted under one (1) section shall be considered a reduction for all such sections.
- 2118.9 Except where otherwise indicated, whenever the word "all" is followed by the words "parking spaces" in the same sentence, the parking requirements as specified shall apply to all parking spaces, whether or not the spaces are required by this chapter. The requirements shall also apply to both accessory parking spaces and parking spaces that are constructed as a principal use unless otherwise specified.
- 2118.10 No parking shall be provided that restricts vehicular access to and from gasoline pumps from any point of access to the gasoline service station.

SOURCE: Final Rulemaking published at 31 DCR 6585, 6608 (December 28, 1984); as amended by Final Rulemaking published at 33 DCR 2818, 2819 (May 9, 1986); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8504 (October 20, 2000).

2119 BICYCLE PARKING SPACES

- 2119.1 Bicycle parking spaces shall be provided for office and retail and service uses, except for retail and service uses in the C-3-C, C-4, and C-5 (PAD) Districts. For office uses in the C-4 and C-5 (PAD) Districts, bicycle parking spaces shall be provided as if the building or structure were located in a C-3-C District.
- 2119.2 The number of bicycle parking spaces provided shall be at least equal to five percent (5%) of the number of automobile parking spaces required under § 2101.1.
- 2119.3 Bicycle facilities shall have convenient access from the building or structure and street or other bicycle right-of-way and shall be clean, secure, well-lit, and located within a building or structure, either on the ground floor, basement, or first cellar level.
- 2119.4 All bicycle parking spaces required under § 2119.1 shall be a minimum of two feet (2 ft.) in width and six feet (6 ft.) in length.
- 2119.5 An aisle five feet (5 ft.) in width shall be provided between rows of bicycle parking spaces and the perimeter of the area devoted to bicycle parking.
- 2119.6 If a room or common locker not divided into individual spaces is used to meet these requirements, twelve square feet (12 ft.²) of floor area shall be considered the equivalent of one (1) bicycle parking space. Where manufactured metal lockers or racks are provided, each locker or stall devoted to bicycle parking shall be counted as one bicycle parking space.
- 2119.7 [DELETED]
- 2119.8 Signs shall be posted stating where bicycle parking spaces are located in each building or structure where bicycle parking spaces are required. The signs shall be located in a prominent place at each entrance to the building or structure. The sign shall have a white background, with black lettering that is no less than two inches (2 in.) in height.
- 2119.9 For a building or structure existing on March 1, 1985, one percent (1%) of the amount of required parking spaces may be converted to bicycle parking spaces of appropriate size.
- 2119.10 For a marina or yacht club within the W-0 District, one suitably designed and sited bicycle rack parking space shall be provided for each ten (10) berths or mooring spaces, in a location that is secure and convenient to the principal structure.
- 2119.11 For a boathouse within the W-0 District, one suitably designed and sited bicycle rack parking space shall be provided for each 2,000 gross square feet of gross building area, in a location that is secure and convenient to the principal structure.

SOURCE: Final Rulemaking published at 31 DCR 6585, 6609 (December 28, 1984); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8504-05 (October 20, 2000); as amended by Final Rulemaking published at 51 DCR 3440 (April 2, 2004); as amended by Final Rulemaking published at 52 DCR 6358 (July 8, 2005).

2120 PARKING FOR HISTORIC BUILDINGS

- 2120.1 This section sets forth the circumstances under which existing and new uses in historic resources and additions thereto are exempt from providing parking and shall not apply to new unattached structures constructed on the same lot as a historic resource.
- 2120.2 For the purposes of this section, a historic resource is a building or structure listed in the District of Columbia Inventory of Historic Sites or a building or structure certified in writing by the State Historic Preservation Officer as contributing to the character of the historic district in which it is located.
- 2120.3 A historic resource and any additions thereto are exempt from the requirement of § 2100.4 to provide additional parking as a result of a change of use and from the requirement of § 2100.6 to provide additional parking as a result of an increase of intensity of use, except that parking shall be required for any addition where:
- (a) The gross floor area of the historic resource is being increased by 50% or more, and
 - (b) The parking requirement attributable to the increase in gross floor area is at least four (4) spaces.
- 2120.4 Any parking provided for a historic resource in excess of that which existed at the time the historic resource was listed in the District of Columbia Inventory of Historic Sites or the historic district was created shall be exempt from § 2115, and §§ 2117.5 and 2117.6.
- 2120.5 Parking spaces provided for a historic resource shall be a minimum of eight feet (8 ft.) in width and sixteen feet (16 ft.) in length exclusive of access drives, aisles, ramps, columns, and office and work areas. All required parking spaces shall be clearly striped and lined. Durable all-weather materials shall be used. Striping shall be maintained for as long as the parking spaces requiring the striping are in existence.
- 2120.6 The Board of Zoning Adjustment may grant relief from all or part of the parking requirements of this section if the owner of the property demonstrates that, as a result of the nature or location of the historic resource, providing the required parking will result in significant architectural or structural difficulty in maintaining the historic integrity and appearance of the historic resource. The Board shall grant only the amount of relief needed to alleviate the difficulty

proved. The applicant shall also demonstrate compliance with the general special exception standard set forth in § 3104 and shall address each of the following criteria as part of its presentation to the Board:

- (a) Maximum number of students, employees, guests, customers, or clients who can reasonably be expected to use the proposed building or structure at one time;
- (b) Amount of traffic congestion existing and/or that the redevelopment of the historic resource can reasonably be expected to add to the neighborhood;
- (c) Quantity of existing public, commercial, or private parking, other than curb parking, on the property or in the neighborhood that can reasonably be expected to be available when the redevelopment is complete; and
- (d) Proximity to public transportation, particularly Metrorail stations, and availability of either public transportation service in the area, or a ride sharing program approved by the District of Columbia Department of Transportation.

2120.7 Prior to taking final action on an application, the Board shall refer the application to the D.C. Department of Transportation for review and report.

SOURCE: Final Rulemaking published at 54 DCR 8959 (September 14, 2007); as amended by Final Rulemaking and Order No. 14-16 published at 62 DCR 5190 (April 24, 2015).

TITLE 11 - ZONING

**CHAPTER 22 OFF-STREET LOADING FACILITY
REQUIREMENTS**

Secs.

2200 AUTHORITY TO REQUIRE LOADING FACILITIES

2201 SCHEDULE OF REQUIREMENTS FOR LOADING BERTHS, LOADING
PLATFORMS, AND SERVICE/DELIVERY LOADING SPACES

2202 EXCEPTIONS TO THE SCHEDULE OF REQUIREMENTS

2203 LOCATION OF LOADING BERTHS, LOADING PLATFORMS, AND
SERVICE/DELIVERY LOADING SPACES

2204 ACCESS, MAINTENANCE, AND OPERATION

2205 RULES OF INTERPRETATION

2200 AUTHORITY TO REQUIRE LOADING FACILITIES

2200.1 All buildings or structures erected on or after May 12, 1958 shall be provided with loading berths, loading platforms, and service/delivery loading spaces to the extent specified in § 2201, except as provided in § 2202 and for structures erected on Kingman and Heritage Islands for which the construction of service delivery loading spaces shall be prohibited.

2200.2 No application for a building permit for a building or structure to be erected on or after May 12, 1958 shall be approved unless there is included with the plans for the building or structure a loading plan showing the location, dimensions, and grades of all loading berths, loading platforms, and service/delivery loading spaces and approaches thereto in accordance with the provisions of this chapter.

2200.3 No certificate of occupancy shall be issued for the use of a building or structure erected on or after May 12, 1958, unless the required loading berths, loading platforms, and service/delivery loading spaces have been provided in accordance with the loading plan provided for in the approved building permit.

2200.4 Except as provided in § 2200.5, when the use of a building or structure is changed to another use that requires more loading berths, loading platforms, or service/delivery loading spaces than required for the use existing immediately prior to the change or, if the building or structure is vacant, the use that existed immediately prior to the vacancy, loading berths, loading platforms, and

service/delivery loading spaces shall be provided for the additional requirement in the amount necessary to conform to § 2201.

- 2200.5 No additional loading berths, loading platforms, or service/delivery loading spaces shall be required for a historic landmark or a building or structure located in a historic district that is certified by the State Historic Preservation Officer as contributing to the character of that historic district.
- 2200.6 When the intensity of use of a building or structure existing before May 12, 1958 is increased by an addition or additions of dwelling units, gross floor area, seating capacity, or other unit of measurement specified in § 2201, loading berths, loading platforms, and service/delivery loading spaces shall be provided for the addition or additions; provided, that the provisions of §§ 2200.7 through 2200.9 are satisfied.
- 2200.7 Loading berths, loading platforms, and service/delivery loading spaces shall not be required for the addition or additions unless the addition or additions increase the intensity of use of the building or structure by more than twenty-five percent (25%) of the aggregate.
- 2200.8 Loading berths, loading platforms, and service/delivery loading spaces for the addition of additions need not exceed the amount of loading berths, loading platforms, and service/delivery loading spaces that would be required for the entire structure as proposed if constructed new.
- 2200.9 The determination of the increase of intensity of use shall be based on the total increase in intensity of use the structure undergoes on or after May 12, 1958, and whether the total increase occurs at one time or in successive stages.

AUTHORITY: Unless otherwise noted, the authority for this chapter is the Zoning Act of 1938, approved June 20, 1938 (52 Stat.797 as amended; D.C. Official Code §§ 6-641.01 to 6-641.15 (2001) (formerly codified at D.C. Code §§ 5-413 to 5-432 (1994 Repl. & 1999 Supp.))).

SOURCE: Final Rulemaking published at 31 DCR 6585, 6611 (December 28, 1984); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8505-06 (October 20, 2000); as amended by Final Rulemaking published at 55 DCR 2623 (March 14, 2008).

2201 SCHEDULE OF REQUIREMENTS FOR LOADING BERTHS, LOADING PLATFORMS, AND SERVICE/DELIVERY LOADING SPACES

2201.1 On and after May 12, 1958, all buildings or structures shall be provided with loading berths, loading platforms, and service/delivery loading spaces as specified in the following table:

USES AND DISTRICTS	MINIMUM NUMBER	MINIMUM NUMBER	MINIMUM NUMBER AND SIZE OF
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	AND SIZE OF LOADING BERTHS REQUIRED	AND SIZE OF LOADING PLATFORMS REQUIRED	SERVICE/DELIVERY LOADING SPACES REQUIRED
<u>Office Building in W, CR, C-2-B, C-2-B-1, C-2-C, and C-M-1 Districts:</u>			
With 20,000 to 50,000 sq. ft. of gross floor area	1 @ 30 feet deep	1 @ 100 sq. ft.	1 @ 20 feet deep
With more than 50,000 to 200,000 sq. ft. of gross floor area	2 @ 30 feet deep	2 @ 100 sq. ft.	1 @ 20 feet deep
With more than 200,000 sq. ft. of gross floor area	3 @ 30 feet deep	3 @ 100 sq. ft.	1 @ 20 feet deep
<u>Office Building in C-1, C-2-A, and C-3-A Districts:</u>			
With 20,000 to 50,000 ft. ² of gross floor area and cellar floor area	1 @ 30 feet deep	1 @ 100 ft. ²	1 @ 20 feet deep
With more than 50,000 to 200,000 ft. ² of gross floor area and cellar floor area	2 @ 30 feet deep	2 @ 100 ft. ²	1 @ 20 feet deep
With more than 200,000 ft. ² of gross floor area and cellar floor area	3 @ 30 feet deep	3 @ 100 ft. ²	1 @ 20 feet deep
<u>Office Building in All Other District:</u>			
With 30,000 to 100,000 ft. ² of gross floor area	1 @ 30 feet deep	1 @ 100 ft. ²	1 @ 20 feet deep
With more than 100,000 to 200,000 ft. ² of gross floor area	2 @ 30 feet deep	2 @ 100 ft. ²	1 @ 20 feet deep
With more than 200,000 ft. ² of gross floor area	3 @ 30 feet deep	3 @ 100 ft. ²	1 @ 20 feet deep
<u>Grocery Store or Drug Store in C-1, C-2-A, and C-3-A Districts:</u>			

With 5,000 to 20,000 ft. ² of gross floor area and cellar floor area	1 @ 30 feet deep	1 @ 100 ft. ²	None
With more than 20,000 to 100,000 ft. ² of gross floor area and cellar floor area	1 @ 30 feet deep 1 @ 55 feet deep	1 @ 100 ft. ² 1 @ 200 ft. ²	1 @ 20 feet deep
With more than 100,000 ft. ² of gross floor area and cellar floor area	1 @ 30 feet deep 2 @ 55 feet deep	1 @ 100 ft. ² 2 @ 200 ft. ²	1 @ 20 feet deep
<u>Grocery Store or Drug Store in W, CR, C-2-B, C-2-B-1, C-2-C, C-M-1, and C-M-2 Districts:</u>			
With 5,000 to 20,000 sq. ft. of gross floor area	1 @ 30 feet deep	1 @ 100 sq. ft.	None
With more than 20,000 to 100,000 sq. ft. of gross floor area	1 @ 30 feet deep 1 @ 55 feet deep	1 @ 100 sq. ft. 1 @ 200 sq. ft.	1 @ 20 feet deep
With more than 100,000 sq. ft. of gross floor area	1 @ 30 feet deep 1 @ 55 feet deep	1 @ 100 sq. ft. 2 @ 200 sq. ft.	1 @ 20 feet deep
<u>Grocery Store or Drug Store in C-3-B, C-3-C, C-4, C-5, C-M-3, and M Districts:</u>			
With 8,000 to 20,000 ft. ² of gross floor area	1 @ 30 feet deep	1 @ 100 ft. ²	1 @ 20 feet deep
With more than 20,000 to 100,000 ft. ² of gross floor area	1 @ 30 feet deep 1 @ 55 feet deep	1 @ 100 ft. ² 1 @ 200 ft. ²	1 @ 20 feet deep
With more than 100,000 ft. ² of gross floor area	1 @ 30 feet deep 2 @ 55 feet deep	1 @ 100 ft. ² 2 @ 200 ft. ²	1 @ 20 feet deep
<u>Retail or Service Establishment Other than Grocery Store or Drug Store in C-1, C-2-A, and C-3-A Districts:</u>			
With 5,000 to 20,000 ft. ² of gross area and cellar floor area	1 @ 30 feet deep	1 @ 100 ft. ²	None

With more than 20,000 to 30,000 ft. ² of gross floor area and cellar floor area	2 @ 30 feet deep	2 @ 100 ft. ²	1 @ 20 feet deep
With more than 30,000 to 100,000 ft. ² of gross floor area and cellar floor area	1 @ 30 feet deep 1 @ 55 feet deep	1 @ 100 ft. ² 1 @ 200 ft. ²	1 @ 20 feet deep
With more than 100,000 ft. ² of gross floor area and cellar floor area	1 @ 30 feet deep 2 @ 55 feet deep	1 @ 100 ft. ² 2 @ 200 ft. ²	1 @ 20 feet deep
<u>Retail or Service Establishment Other than Grocery Store or Drug Store in W, CR, C-2-B, C-2-C, C-M-1, and C-M-2 Districts:</u>			
With 5,000 to 20,000 ft. ² of gross floor area	1 @ 30 feet deep	1 @ 100 ft. ²	None
With more than 20,000 to 30,000 ft. ² of gross floor area	2 @ 30 feet deep	2 @ 100 ft. ²	1 @ 20 feet deep
With more than 30,000 to 100,000 ft. ² of gross floor area	1 @ 30 feet deep 1 @ 55 feet deep	1 @ 100 ft. ² 1 @ 200 ft. ²	1 @ 20 feet deep
With more than 100,000 ft. ² of gross floor area	1 @ 30 feet deep 2 @ 55 feet deep	1 @ 100 ft. ² 2 @ 200 ft. ²	1 @ 20 feet deep
<u>Retail or Service Establishment Other than Grocery Store or Drug Store in C-3-B, C-3-C, C-4, C-5, C-M-3, and M Districts:</u>			
With 8,000 to 20,000 ft. ² of gross floor area	1 @ 30 feet deep	1 @ 100 ft. ²	1 @ 20 feet deep
With more than 20,000 to 30,000 ft. ² of gross floor area	2 @ 30 feet deep	2 @ 100 ft. ²	1 @ 20 feet deep
With more than 30,000 to 100,000 ft. ² of gross floor area	1 @ 30 feet deep 1 @ 55 feet deep	1 @ 100 ft. ² 1 @ 200 ft. ²	1 @ 20 feet deep
With more than 100,000 ft. ² of gross floor area	1 @ 30 feet deep 2 @ 55 feet deep	1 @ 100 ft. ² 2 @ 200 ft. ²	1 @ 20 feet deep

<u>Electronic Equipment Facility (EEF) in C-3, C-4, C-5, CR, C-M, and M Districts:</u>			
With 20,000 to 50,000 ft. ² of gross floor area	1 @ 30 feet deep	1 @ 100 ft. ²	1 @ 20 feet deep
With more than 50,000 to 200,000 ft. ² of gross floor area	2 @ 30 feet deep	2 @ 100 ft. ²	1 @ 20 feet deep
With more than 200,000 ft. ² of gross floor area	3 @ 30 feet deep	3 @ 100 ft. ²	1 @ 20 feet deep
<u>Wholesale Use or Warehouse or in C-1, C-2, C-3-A, C-M-1, and C-M-2 Districts:</u>			
With 2,000 to 20,000 ft. ² of gross floor area	1 @ 30 feet deep	1 @ 100 ft. ²	None
With more than 20,000 ft. ² of gross floor area	1 @ 30 feet deep	1 @ 100 ft. ² 1 @ 200 ft. ²	None
For each 200,000 ft. ² of Gross floor area more than 100,000 ft. ²	1 @ 55 feet deep 1 @ 55 feet deep	1 @ 200 ft. ²	None
<u>Wholesale Use or Warehouse in W, CR, C-3-B, C-3-C, C-4, C-5, C-M-3, and M Districts:</u>			
With 4,000 to 20,000 ft. ² of gross floor area	1 @ 30 feet deep	1 @ 100 ft. ²	None
With more than 20,000 ft. ² of gross floor area	1 @ 30 feet deep 1 @ 55 feet deep	1 @ 100 ft. ² 1 @ 200 ft. ²	None
For each 200,000 ft. ² of Gross floor area more than 100,000 ft. ²	1 @ 55 feet deep	1 @ 200 ft. ²	None
<u>Manufacturing or Industrial Establishment in All Districts:</u>			
With 5,000 to 25,000 ft. ² of gross floor area	1 @ 30 feet deep	1 @ 100 ft. ²	None

With more than 25,000 ft. ² of gross floor area	1 @ 30 feet deep	1 @ 100 ft. ² 1 @ 200 ft. ²	Non
For each 100,000 ft. ² of Gross floor area more than 50,000 ft. ²	1 @ 55 feet deep 1 @ 55 feet deep	1 @ 200 ft. ²	None
<u>Apartment House or Multiple Dwelling with 50 or More Dwelling Units in All Districts:</u>	1 @ 55 feet deep	1 @ 200 ft. ²	1 @ 20 feet deep
<u>Hotel, For Guest Room Areas, in All Districts:</u>			
With 30 to 200 rooms Usable for sleeping	1 @ 30 feet deep	1 @ 100 ft. ²	1 @ 20 feet deep
With more than 200 rooms usable for sleeping	1 @ 30 feet deep 1 @ 55 feet deep	1 @ 100 ft. ² 1 @ 200 ft. ²	1 @ 20 feet deep
<u>Hotel, for Function Rooms And Exhibit Space, in All Districts:</u>			
With a total of 10,000 ft. ² or more of floor area	1 @ 30 feet deep	1 @ 100 ft. ²	None
For each 50,000 ft. ² of Floor area more than 50,000 ft. ²	1 @ 55 feet deep	1 @ 200 ft. ²	None
<u>Inn, in All Districts:</u>			
With 30 to 200 rooms Usable for sleeping	1 @ 30 feet deep	1 @ 100 ft. ²	1 @ 20 feet deep
With more than 200 Rooms usable for Sleeping	1 @ 30 feet deep 1 @ 55 feet deep	1 @ 100 ft. ² 1 @ 200 ft. ²	1 @ 20 feet deep
<u>Theater or Group of Theaters in One Building, with More than 500 Seats in All Districts:</u>	1 @ 30 feet deep	1 @ 100 ft. ²	1 @ 20 feet deep
<u>Any Other Use in All Districts:</u>			

With 30,000 to 100,000 ft. ² of gross floor area	1 @ 30 feet deep	1 @ 100 ft. ²	1 @ 20 feet deep
With more than 100,000 ft. ² of gross floor area	1 @ 30 feet deep 1 @ 55 feet deep	1 @ 100 ft. ² 1 @ 200 ft. ²	1 @ 20 feet deep
<u>Public recreation and Community center with More than 30,000 sq. ft. gross floor area in all districts</u>			1 @ 20 feet deep
<u>Retail, service, or public assembly use in the W-0 District:</u>			
With greater than 20,000 sq. ft. of gross floor area	1 @ 30 feet deep	1 @ 100 ft. ²	1 @ 20 feet deep

- 2201.2 For any use that occupies ninety percent (90%) or more of the gross floor area and cellar floor area of a building or structure, loading berths shall be calculated based on the entire gross floor area and cellar floor area of the building or structure as if the greater use occupies the entire building or structure.
- 2201.3 No loading platform need be provided for loading berths if the required loading berth is increased in depth for the full width thereof, such that the resulting enlarged loading berth is equal in area to the combined area of a required loading berth and a required loading platform.
- 2201.4 In a C-4 District, the loading berth, loading platform, and service/delivery loading space requirements applicable to a Disposition Lot so identified in the Downtown Urban Renewal Plan shall be as specified in that Plan.
- 2201.5 All required service/delivery loading spaces shall be a minimum of ten feet (10 ft.) wide and have a minimum vertical clearance of ten feet (10 ft). Each service/delivery loading space shall be clearly marked "For Service and Delivery Vehicles Only" and used exclusively for such vehicles.
- 2201.6 All required loading berths shall be a minimum of twelve feet (12 ft.) wide and have a minimum vertical clearance of fourteen feet (14 ft.).
- 2201.7 All required loading platforms shall meet the following requirements:
- (a) A platform that is at least one hundred square feet (100 ft.²) shall have a minimum width of eight feet (8 ft.);

- (b) A platform that is at least two hundred square feet (200 ft.²) shall have a minimum width of twelve feet (12 ft.);
- (c) A loading platform shall have a minimum vertical clearance of ten feet (10 ft.); and
- (d) A loading platform floor shall consist of one (1) horizontal level.

2201.8 The dimensions specified in §§ 2201.5 and 2201.6 for service/delivery loading spaces and loading berths are exclusive of access aisles, maneuvering space, and loading platforms.

SOURCE: Final Rulemaking published at 31 DCR 6585, 6612 (December 28, 1984); as amended by: Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8506-07 (October 20, 2000); Final Rulemaking published at 48 DCR 9830, 9840 (October 26, 2001); and by Final Rulemaking published at 49 DCR 1655 (February 22, 2002), incorporating by reference the text of Proposed Rulemaking published at 48 DCR 11159, 11164 (December 7, 2001); as amended by Final Rulemaking published at 50 DCR 10137 (November 28, 2003); as amended by Final Rulemaking published at 51 DCR 3440 (April 2, 2004); as amended by Final Rulemaking published at 52 DCR 6358 (July 8, 2005); as amended by Final Rulemaking and Order No. 14-16 published at 62 DCR 5190 (April 24, 2015).

2202 EXCEPTIONS TO THE SCHEDULE OF REQUIREMENTS

2202.1 Within the Downtown Urban Renewal Area, loading berths and service/delivery loading spaces need not be provided if adopted public law or municipal regulation prohibits a curb cut on the street that the lot faces and there is no other alternative access to the lot through a street or alley.

2202.2 Within the Downtown Urban Renewal Area, the Board of Zoning Adjustment is hereby authorized in accordance with the conditions specified in § 3104 for special exceptions to reduce or eliminate the required amount of loading berths and service/delivery loading spaces and to approve the use of off-site loading facilities, including joint loading berths and service/delivery loading spaces; provided:

- (a) Other adopted public law, policy, or municipal regulation require or recommend that the street not be broken with a curb cut and there is no other alternative access to the lot through a street or alley;
- (b) The reduction, elimination, location, or consolidation would not adversely affect traffic conditions or use of other public space;
- (c) There would be no adverse effects on adjacent properties or topography;
- (d) The Board may impose conditions as to screening, lighting, coping, setbacks, fences, location of entrances and exits, widening of abutting

alleys, or any other requirement it deems necessary to protect adjacent or nearby property and promote the public health, safety and welfare; and

- (e) Before taking final action on an application, the Board shall refer the application to the D.C. Department of Transportation for review and report.

SOURCE: Final Rulemaking published at 31 DCR 6585, 6621 (December 28, 1984); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8507-08 (October 20, 2000).

2203 LOCATION OF LOADING BERTHS, LOADING PLATFORMS, AND SERVICE/DELIVERY LOADING SPACES

2203.1 Except as provided in this section, all required loading berths and service/delivery loading spaces shall be located as follows:

- (a) Within the building or structure the berths or spaces are designed to serve;
or
- (b) On an open area of the lot:
 - (1) Within a rear yard;
 - (2) Within a side yard; provided, that in a Residence or Special Purpose District, the loading berths and service/delivery loading spaces shall be at least three feet (3 ft.) from any side lot line; or
 - (3) Elsewhere on the lot, only when located in Commercial and Industrial Districts.

2203.2 All loading platforms shall be located contiguous and with unobstructed access to the loading berth and shall have unobstructed access to an entrance to the building or structure.

2203.3 All loading berths shall be designed so that no vehicle or any part thereof shall project over any lot line or building line.

2203.4 Required loading berths may be provided in facilities designed to serve jointly two (2) or more adjoining buildings or structures on lots separated only by an alley within a single square; provided:

- (a) The number of berths in the joint facilities shall not be less than that required for the total combined floor area of the buildings or structures in § 2201; and

- (b) A binding covenant that is acceptable to the Zoning Administrator, ensuring the joint use of the loading berths and entered into by all property owners concerned, shall be recorded in the land records of the District of Columbia. A certified true copy of the covenant shall be filed with the Zoning Administrator. Joint use of the loading berths by all parties involved shall continue in effect so long as the binding agreement remains in force. If the agreement becomes legally ineffective or inoperable, then loading berths shall be provided as otherwise required by § 2201.

SOURCE: Final Rulemaking published at 31 DCR 6585, 6611 (December 28, 1984); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8508 (October 20, 2000).

2204 ACCESS, MAINTENANCE, AND OPERATION

- 2204.1 All loading berths and service/delivery loading spaces including access aisles, driveways, and maneuvering areas shall be paved and maintained with bituminous, concrete, or brick materials or a combination of these materials or other materials, if approved by the D.C. Department of Transportation as structurally equivalent or better, that form an all-weather impervious surface and that are at least six inches (6 in.) in thickness.
- 2204.2 All required loading berths and service/delivery loading spaces shall be directly accessible from an improved street or alley or accessible from an improved street or alley via graded and unobstructed private driveways that form an all-weather impervious surface.
- 2204.3 An improved street or alley providing access to required loading berths and service/delivery loading spaces shall have a minimum width of ten feet (10 ft.) and be paved in compliance with the standards of the D.C. Department of Transportation.
- 2204.4 A private driveway or access aisle leading to a loading berth or service/delivery loading space shall have a minimum width of twelve feet (12 ft.), a maximum width of twenty-five feet (25 ft.), and a maximum slope of twelve percent (12%).
- 2204.5 For a building or structure having three (3) or more required loading berths in one location, the loading berths may be arranged so that access to a loading berth is across the length of one (1) other loading berth.
- 2204.6 Driveway openings leading to loading berths and service/delivery loading spaces shall meet the following requirements:
 - (a) The openings serving a loading berth or service/delivery loading space that is thirty feet (30 ft.) deep or less shall be at least forty feet (40 ft.) from the nearest street intersection measured from the intersection of the curb lines extended;

- (b) The openings serving a loading berth that is more than thirty feet (30 ft.) deep shall be at least fifty-five feet (55 ft.) from the nearest street intersection measured from the intersection of the curb lines extended; and
- (c) No curb cut providing access to a loading berth or service/delivery loading space shall be located in such a way that a vehicle entering or exiting from the loading berth blocks any street intersection.

2204.7 Detailed plans shall be submitted to the D.C. Department of Transportation for approval of all curb cuts and driveway openings to ensure that compliance with the Zoning Regulations does not conflict with the responsibility of the Department of Transportation to protect safety in the public space.

2204.8 A loading berth or service/delivery loading space, including access aisles, driveways, and maneuvering areas, shall be maintained and used as a loading berth or service/delivery loading space for as long as the use exists that the loading berth or service/delivery loading space is designed to service.

2204.9 No other use shall be conducted from or upon the loading berth or service/delivery loading space or any portion thereof.

2204.10 All parts of the loading berth or service/delivery loading space including access aisles, driveways, and maneuvering areas shall be kept free of refuse, debris, and other obstructions of any kind.

2204.11 A loading berth or service/delivery loading space shall be designed so that it is usable as a loading berth or service/delivery loading space by a vehicle that the loading berth or service/delivery loading space is designed to serve.

2204.12 Open loading berths or service/delivery loading spaces shall be screened from all contiguous residential property located in an R-1, R-2, R-3, R-4, or R-5-A District by a solid masonry wall at least twelve inches (12 in.) thick and seventy-two inches (72 in.) high unless the loading berth is separated from contiguous residential property by at least twenty-five feet (25 ft.) or by a street or alley. Any lighting used to illuminate a loading berth, loading platform, or service/delivery loading space shall be arranged so that all direct rays of lighting are confined to the surface of the berth, platform, or space.

2204.13 If approved by the Board of Zoning Adjustment in accordance with the requirements of § 3104 for special exceptions, the requirements in § 2204 may be waived or modified; provided:

- (a) Existing protective and screening walls on the lot or on adjacent residential property are adequate;

- (b) The modifications do not adversely affect traffic conditions or use of other public space;
- (c) No adverse effect would be caused by the requested waiver or modification of standards on adjacent properties or topography;
- (d) The resulting loading berths and approaches to the berths are usable by the type of vehicles they are designed to serve;
- (e) The Board may impose conditions as to screening, lighting, coping, setbacks, fences, the location of entrances and exits, widening of abutting alleys, or any other requirement it deems necessary to protect adjacent or nearby property and to promote the public health, safety, and welfare; and
- (f) Before taking final action on an application, the Board shall refer the application to the D.C. Department of Transportation for review and report.

SOURCE: Final Rulemaking published at 31 DCR 6585, 6623 (December 28, 1984); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8508-09 (October 20, 2000); 57 DCR 000126 (2010).

2205 RULES OF INTERPRETATION

- 2205.1 For the purpose of this chapter, the rules of interpretation in this section shall be applicable.
- 2205.2 In computing the number of required loading berths, that portion of the gross floor area or cellar floor area devoted to any pump island canopy and kiosk adjacent to the pumps used exclusively as an attendant's shelter of a gasoline service station, parking spaces, loading berths, service/delivery loading spaces, or loading platform area shall be excluded.
- 2205.3 Except as provided in § 2203, in the case of mixed uses, the loading berths required shall be the sum of the requirements for the various individual uses computed separately in accordance with § 2201. At least one (1) loading berth shall be provided when the sum of the gross floor area of the separate uses exceeds the minimum gross floor area requiring loading berths for any one of the separate uses. Loading berths for one use shall not be considered as providing the required loading berths for any other use except as provided in § 2203.
- 2205.4 No loading berths are required for buildings or structures with a gross floor area less than the minimum sizes specified in the schedule in § 2201.

SOURCE: Final Rulemaking published at 31 DCR 6585, 6625 (December 28, 1984); as amended by Final Rulemaking published at 33 DCR 2813, 2819 (May 9, 1986); and Final Rulemaking

published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8509-10 (October 20, 2000).

TITLE 11 - ZONING

**CHAPTER 23 GARAGES, CARPORTS, PARKING LOTS AND
GASOLINE SERVICE STATIONS**

Secs.

2300 PRIVATE GARAGES AND CARPORTS

2301 PARKING GARAGES

2302 PUBLIC STORAGE GARAGES, REPAIR GARAGES, MECHANICAL
PARKING GARAGES, AND GASOLINE SERVICE STATIONS

2303 PARKING LOTS

2304 DRIVE-THROUGH USES

2300 PRIVATE GARAGES AND CARPORTS

2300.1 A building erected, altered, converted, or reconstructed for use as a private garage shall be subject to the provisions of this section.

2300.2 A private garage that is an accessory building in a Residence District:

- (a) May be located either within a rear yard or beside the main building; provided, if the garage is located beside the main building, it shall be removed from the side lot line a distance equal to the required side yard and from all building lines a distance of not less than ten feet (10 ft.); and
- (b) Where abutting an alley, shall be set back at least twelve feet (12 ft.) from the center line of the alley upon which it opens.

2300.3 An artist studio shall be a permitted use in either a private garage that is an accessory building located in a Residence District or in a building located on an alley lot, subject to the provisions of this section and the following criteria:

- (a) Occupancy of the private garage shall be limited to one artist and one apprentice for each four hundred fifty square feet (450 ft.²) of gross floor area;
- (b) All operations and storage of materials shall occur inside the building;
- (c) Incidental sales of art work produced by the occupants of the studio shall be permitted within the studio;

- (d) The artist may teach art to one or more apprentices; and
- (e) In addition to any parking spaces that may be required by § 2101 or any other provision of this title, parking for the studio use shall be provided at the rate of one (1) parking space for each three (3) occupants of the studio.

2300.4 A private garage constructed on an alley lot shall be set back at least twelve feet (12 ft.) from the center line of the alley on which the lot abuts.

2300.5 A private garage constructed on an alley lot shall be exempt from the requirements for minimum lot dimensions, but shall be subject to the limitation on percentage of lot occupancy for the district in which it is located.

2300.6 A private garage permitted in a Residence District as a principal use on a lot other than an alley lot shall open directly onto an alley, and shall not be located within fifty feet (50 ft.) of any building line or within twelve feet (12 ft.) of the center line of the alley upon which it opens.

2300.7 The lot upon which a private garage permitted in a Residence District is located shall be exempt from the requirements for minimum lot dimensions, but shall be subject to the limitation on percentage of lot occupancy for the district in which it is located.

2300.8 A carport shall be attached to the main building and shall not be located along the side of the building that faces a building line except, if approved by the Board of Zoning Adjustment as a special exception under § 3104, a carport may be located subject to the conditions for accessory open parking spaces in §§ 2116.5 through 2116.9.

AUTHORITY: Unless otherwise noted, the authority for this chapter is the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code §§ 6-641.01 to 6-641.15 (2001) (formerly codified at D.C. Code §§ 5-413 to 5-432 (1994 Repl. and 1999 Supp.)).

SOURCE: § 7401.1 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 35 DCR 465 (January 22, 1988); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8510 (October 20, 2000).

2301 PARKING GARAGES

2301.1 A building erected, altered, converted, or reconstructed for use as a parking garage shall be subject to the provisions in this section.

2301.2 A parking garage that is an accessory use may be located as follows:

- (a) As an accessory building in any district subject to the general provisions for accessory buildings as specified in § 2500; and

- (b) Within the main building; provided:
- (1) The entrance or exit to the garage shall be accessible and, when it opens onto an alley, the entrance or exit shall be set back at least twelve feet (12 ft.) from the center line of the alley; and
 - (2) That portion of the garage beneath a side yard, rear yard, or court shall not obstruct required light and ventilation and shall be designed so that the area above it can be used for an unobstructed level open terrace.

2301.3 A parking garage erected, altered, converted, or reconstructed as a principal use shall have no vehicular entrance or exit nearer than forty feet (40 ft.) to a street intersection as measured from the intersection of the curb lines extended. The entrance or exit to the garage shall be accessible and, when it opens onto an alley, the entrance or exit shall be set back at least twelve feet (12 ft.) from the center line of the alley.

SOURCE: § 7402.1 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 31 DCR 6585, 6626 (December 28, 1984); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8511 (October 20, 2000).

2302 PUBLIC STORAGE GARAGES, REPAIR GARAGES, MECHANICAL PARKING GARAGES, AND GASOLINE SERVICE STATIONS

2302.1 A public storage garage, repair garage, mechanical parking garage, or gasoline service station established or enlarged in any district except in the C-M or M Districts shall be subject to the provisions in this section.

2302.2 No portion of the structure or premises to be used for any of the uses listed in § 2302.1 shall be located within twenty-five feet (25 ft.) of a Residence District unless separated from that Residence District by a street or alley.

2302.3 No use listed in § 2302.1 shall have a vehicular entrance or exit connected with a street at a point closer than twenty-five feet (25 ft.) to any Residence District existing at the time the use is established, unless separated from the Residence District by a street or alley.

2302.4 No driveway of any entrance or exit to any use listed in § 2302.1 shall be closer than forty feet (40 ft.) to a street intersection as measured from the intersection of the curb lines extended.

2302.5 Except in a C-M or M District, all grease pits or hoists constructed or established as part of a use listed in § 2302.1 shall be within a building.

SOURCE: § 7403.1 the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8504 (October 20, 2000).

2303 PARKING LOTS

2303.1 A parking lot in any district shall conform to the following provisions:

- (a) All areas devoted to driveways, access lanes, and parking areas shall be surfaced and maintained with an all-weather surface. In addition to traditional impervious surfaces, allowable all weather surfaces include porous (or pervious) concrete, porous asphalt, and/or mechanically-reinforced grass, excluding grass or gravel;
- (b) The parking lot shall be designed so that no vehicle or any part of a vehicle projects over any lot line or building line;
- (c) No other use shall be conducted from or upon the premises, and no structure other than an attendant's shelter shall be erected or used upon the premises unless the use or structure is otherwise permitted in the district in which the parking lot is located;
- (d) No vehicular entrance or exit shall be within forty feet (40 ft.) of a street intersection as measured from the intersection of the curb lines extended;
- (e) Any lighting used to illuminate a parking lot or its accessory buildings shall be arranged so that all direct rays of the lighting are confined to the surface of the parking lot; and
- (f) The parking lot shall be kept free of refuse and debris and shall be landscaped. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance. Landscaping with trees and shrubs shall cover a minimum of five percent (5%) of the total area of the parking lot, or an area as determined by the Board of Zoning Adjustment for a parking lot otherwise requiring Board approval.

2303.2 In addition to the requirements of § 2303.1, a parking lot located in an R-1, R-2, R-3, R-4 or R-5-A District, and a parking lot located in any other district where such parking lot is contiguous to an R-1, R-2, R-3, R-4, or R-5-A District, shall be screened from all contiguous residential property located in the R-1, R-2, R-3, R-4, or R-5-A District by a solid brick or stone wall at least twelve inches (12 in.) thick and forty-two inches (42 in.) high or by evergreen hedges or evergreen trees that are thickly planted and maintained and at least forty-two inches (42 in.) in height when planted.

- (a) The parking lot shall be screened from all contiguous residential property located in an R-1, R-2, or R-3 District by a solid masonry wall at least twelve inches (12 in.) thick and forty-two inches (42 in.) high; and
- (b) All parts of the lot not devoted to parking areas, driveways, access lanes, attendant's shelter, or required screening walls shall be kept free of refuse and debris and shall be paved or landscaped. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance.

2303.3 If approved by the Board of Zoning Adjustment as a special exception under § 3104, the conditions in § 2303.2 may be waived or modified.

2303.4 Before authorizing a waiver or modification, the Board shall consider:

- (a) The adequacy of protective and screening walls located on adjacent residential property;
- (b) Topographic and traffic conditions; and
- (c) Any adverse effect the requested waiver or modification of standards may have on adjacent residential property.

2303.5 The Board may require any special treatment of the premises that it deems necessary to protect the value of adjacent property.

SOURCE: §§ 7404.1, 7404.2, 7404.3, and 7404.4 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 31 DCR 6585, 6626 (December 28, 1984); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8511-12 (October 20, 2000); as amended by Final Rulemaking published at 53 DCR 859 (February 10, 2006).

2304 DRIVE-THROUGH USES

2304.1 A driveway serving as a vehicle queuing lane for a drive-through shall conform to the standards in this section.

2304.2 The queuing lane shall provide a minimum of five (5) queuing lane spaces before the first service location and one (1) queuing lane space after the last service location before entering public space.

2304.3 Each queuing space shall be a minimum of ten feet (10 ft.) in width by nineteen feet (19 ft.) in length and shall constitute an exclusive queuing lane.

2304.4 The queuing lane shall not be the only entry or exit lane on the premises.

2304.5 The queuing lane shall be paved and maintained with materials that form an all-weather impervious surface.

2304.6 No vehicular entrance or exit shall be within forty feet (40 ft.) of a street intersection as measured from the intersection of the curb lines extended.

2304.7 Any lighting used to illuminate the queuing lane shall be so arranged that all direct rays of that lighting are confined to the surface of the queuing lane.

SOURCE: Final Rulemaking published at 32 DCR 4374, 4378 (July 26, 1985); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8512 (October 20, 2000).

TITLE 11 - ZONING

CHAPTER 24 PLANNED UNIT DEVELOPMENT PROCEDURES

Secs.

2400 PLANNED UNIT DEVELOPMENT (PUD)

2401 AREA REQUIREMENTS

2402 TYPES OF APPLICATIONS

2403 PUD EVALUATION STANDARDS

2404 HOUSING LINKAGE

2405 PUD STANDARDS

2406 FILING REQUIREMENTS

2407 PROCESSING OF FIRST-STAGE PUD APPLICATIONS

2408 PROCESSING OF SECOND-STAGE PUD APPLICATIONS

2409 IMPLEMENTATION

2410 EFFECT ON PENDING APPLICATIONS

2499 DEFINITIONS

2400 PLANNED UNIT DEVELOPMENT (PUD)

2400.1 The planned unit development (PUD) process is designed to encourage high quality developments that provide public benefits.

2400.2 The overall goal is to permit flexibility of development and other incentives, such as increased building height and density; provided, that the project offers a commendable number or quality of public benefits and that it protects and advances the public health, safety, welfare, and convenience.

2400.3 A comprehensive public review by the Zoning Commission of the specific development proposal is required in order to evaluate the public benefits offered in proportion to the flexibility or incentives requested and in order to establish a basis for long-term public control over the specific use and development of the property.

- 2400.4 While providing for greater flexibility in planning and design than may be possible under conventional zoning procedures, the PUD process shall not be used to circumvent the intent and purposes of the Zoning Regulations, nor to result in action that is inconsistent with the Comprehensive Plan.
- 2400.5 The Commission may approve a PUD application with or without modifications. In carrying out the purposes of this chapter, the Commission may establish general standards and, in individual cases, set standards and conditions for height and bulk lesser or greater than the standards established for the affected districts in this chapter or elsewhere in this title.
- 2400.6 The Commission may also set appropriate time limits for benefits conferred under this chapter to individual applicants in order to ensure the construction of a proposed development in accordance with the conditions established.
- 2400.7 Failure of an applicant to complete a proposed development as directed within the time limits set by the Commission or the Zoning Regulations shall result in the termination of the benefits granted under the application, and reversion of the zoning controls to the pre-existing regulations and map.
- 2400.8 An Electronic Equipment Facility (EEF) may occupy more than fifty percent (50%) of the gross floor area of a building in the C-3 and C-4 Districts, if approved as part of a PUD in accordance with the requirements of this chapter and subject to the following additional criteria:
- (a) The aggregate total area to be devoted to EEF use may not exceed fifty percent (50%) of the permitted gross floor area of the entire project; and
 - (b) The EEF shall be located on a portion of the lot that does not directly front on a street so as to preclude retail, service, and office uses from being developed on the street frontage of the project.

AUTHORITY: Unless otherwise noted, the authority for this chapter is the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code §§ 6-641.01 to 6-641.15 (2001) (formerly codified at D.C. Code §§ 5-413 to 5-432 (1994 Repl. & 1999 Supp.))).

SOURCE: Final Rulemaking published at 42 DCR 6613 (December 1, 1995), effective December 8, 1995; as amended by Final Rulemaking published at 48 DCR 9830, 9840 (October 26, 2001); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8512-13 (October 20, 2000); and Final Rulemaking published at 49 DCR 1655 (February 22, 2002), incorporating by reference the text of Proposed Rulemaking published at 48 DCR 11159, 11166 (December 7, 2001).

2401 AREA REQUIREMENTS

- 2401.1 The minimum area included within the proposed development, including the area of public streets or alleys proposed to be closed, shall be as follows:

- (a) A total of two (2) acres for a development to be located in any R-1, R-2, R-3, R-4, or R-5-A District;
- (b) A total of one (1) acre for a development to be located in any W-0 or R-5-B District; or
- (c) A total of fifteen thousand square feet (15,000 ft.²) for development to be located in any other zone district.

2401.2 The Commission may waive not more than fifty percent (50%) of the minimum area requirement of this section, provided:

- (a) The Commission shall find after public hearing that the development is of exceptional merit and in the best interest of the city or country; and
- (b) The Commission shall find one of the following:
 - (1) If the development is to be located outside the Central Employment Area, at least eighty percent (80%) of the gross floor area of the development shall be used exclusively for dwelling units and uses accessory thereto; or
 - (2) If the development is to be located in a portion of the Central Employment Area which is in an HR Overlay District, the development shall contain a minimum floor area ratio of 2.0 devoted to hotel or apartment house use.

2401.3 All of the property included in a PUD shall be contiguous, except that the property may be separated only by a public street, alley, or right-of-way.

SOURCE: Final Rulemaking published at 42 DCR 6613, 6614 (December 1, 1995); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8513 (October 20, 2000); as amended by Final Rulemaking published at 51 DCR 3440(April 2, 2004); as amended by Final Rulemaking published at 52 DCR 6358 (July 8, 2005).

2402 TYPES OF APPLICATIONS

2402.1 The PUD process may be either a one-stage or a two-stage process.

2402.2 The two (2) parts of a two-stage PUD shall be as follows:

- (a) The first stage involves a general review of the site's suitability for use as a PUD; the appropriateness, character, scale, mixture of uses, and design of the uses proposed; and the compatibility of the proposed development

with city-wide, ward, and area plans of the District of Columbia, and the other goals of the PUD process; and

- (b) The second stage is a detailed site plan review to determine compliance with the intent and purposes of the PUD process, the first stage approval, and this title.

2402.3 An applicant may elect to file a single application for consolidated PUD review, consolidating the two-stage review into one proceeding.

2402.4 To initiate a consolidated review, an applicant shall file all of the material required for both the first and second stages, as specified in §§ 2406.11 and 2406.12, at the time of initial filing. The applicant shall also comply with the requirements of §§ 2406.7 through 2406.10 regarding pre-filing notices.

2402.5 The application shall be processed as if it were a preliminary application. When the Commission considers whether to set the case for a hearing, the Commission shall determine whether the application is sufficiently clear and detailed to be considered at one proceeding.

2402.6 The Commission reserves the right to direct an applicant to revise a one-stage application into a two-stage application, if in the opinion of the Commission the circumstances and issues surrounding the proposal require a two-stage review.

2402.7 The Commission may dismiss or deny the application at the conclusion of the presentation of the applicant's case or at any point thereafter.

SOURCE: Final Rulemaking published at 42 DCR 6613, 6615 (December 1, 1995); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8513-14 (October 20, 2000).

2403 PUD EVALUATION STANDARDS

2403.1 The Commission will evaluate and approve, disapprove, or modify a PUD application according to the standards in this section.

2403.2 The applicant shall have the burden of proof to justify the granting of the application according to these standards.

2403.3 The impact of the project on the surrounding area and the operation of city services and facilities shall not be found to be unacceptable, but shall instead be found to be either favorable, capable of being mitigated, or acceptable given the quality of public benefits in the project.

2403.4 The Commission shall find that the proposed PUD is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site.

2403.5 In the context of the Comprehensive Plan, the Commission shall also evaluate the specific public benefits and project amenities of the proposed development, which features may in some instances overlap.

2403.6 Public benefits are superior features of a proposed PUD that benefit the surrounding neighborhood or the public in general to a significantly greater extent than would likely result from development of the site under the matter-of-right provisions of this title. All public benefits shall meet the following criteria:

- (a) Benefits shall be tangible and quantifiable items; and
- (b) Benefits shall be measurable and able to be completed or arranged prior to issuance of a Certificate of Occupancy.

Monetary contributions shall only be permitted if made to a District government program or if the applicant agrees that no certificate of occupancy for the PUD may be issued unless the applicant provides proof to the Zoning Administrator that the items or services funded have been or are being provided.

2403.7 A project amenity is one type of public benefit, specifically a functional or aesthetic feature of the proposed development that adds to the attractiveness, convenience, or comfort of the project for occupants and immediate neighbors.

2403.8 In deciding a PUD application, the Commission shall judge, balance, and reconcile the relative value of the project amenities and public benefits offered, the degree of development incentives requested, and any potential adverse effects according to the specific circumstances of the case.

2403.9 Public benefits and project amenities of the proposed PUD may be exhibited and documented in any of the following or additional categories:

- (a) Urban design, architecture, landscaping, or creation or preservation of open spaces;
- (b) Site planning, and efficient and economical land utilization;
- (c) Effective and safe vehicular and pedestrian access, transportation management measures, connections to public transit service, and other measures to mitigate adverse traffic impacts;
- (d) Historic preservation of private or public structures, places, or parks;
- (e) Employment and training opportunities;

- (f) Housing and affordable housing; except that affordable housing provided in compliance with § 2603 shall not be considered a public benefit except to the extent it exceeds what would have been required through matter of right development under existing zoning. In determining whether this standard has been met, the Commission shall balance any net gain in gross floor area against any loss of gross floor area that would have been set-aside for “low-income households” as defined in § 2601.1.
- (h) Environmental benefits, such as:
 - (1) Storm water runoff controls in excess of those required by Stormwater Management Regulations;
 - (2) Use of natural design techniques that store, infiltrate, evaporate, treat, and detain runoff in close proximity to where the runoff is generated; and
 - (3) Preservation of open space or trees;
- (i) Uses of special value to the neighborhood or the District of Columbia as a whole; and
- (j) Other public benefits and project amenities and other ways in which the proposed PUD substantially advances the major themes and other policies and objectives of any of the elements of the Comprehensive Plan.

2403.10 A project may qualify for approval by being particularly strong in only one or a few of the categories in §2403.9, but must be acceptable in all proffered categories and superior in many.

2403.11 To assist the Commission in applying the evaluation standards of this section, the applicant shall prepare and submit to the record of the case an annotated table that shows:

- (a) The extent to which the proposed development would comply with the standards and requirements that would apply to a matter-of-right development under the zone district classification of the site at the time the application is filed;
- (b) The specific relief that the applicant requests from the matter-of-right standards and requirements; and
- (c) If the applicant requests a map amendment, the extent of compliance with, and the requested relief from, the matter-of-right standards and requirements of development under conventional zoning.

- 2403.12 The annotated table required by § 2403.11 shall also show how the public benefits offered are superior in quality and quantity to typical development of the type proposed and the duration of the operational or grant programs.
- 2403.13 Public benefits other than affordable housing, such as public facilities or public open space, may be located off-site; provided, that:
- (a) There is a clear public policy relationship between the PUD proposal and the off-site benefit; and
 - (b) The off-site benefit shall be located within one-quarter mile of the PUD site or within the boundaries of the Advisory Neighborhood Commission for the area that includes the PUD site.
- 2403.14 If the off-site public benefit is housing, it shall be provided according to the requirements of § 2404.
- 2403.15 Subsections 2403.15 through 2403.20 describe the process in which an applicant for a PUD or PUD modification is given a final opportunity to identify the public benefits of the PUD and to prove to the Commission that each such benefit will result from a grant of the application. The Commission may at the request of an applicant or in its own motion determine that the process is unnecessary, such as when it is considering a modification to an approved design or to a limited number of conditions.
- 2403.16 No later than seven (7) days after the Commission takes proposed action on any PUD application, the applicant shall file with the Office of Zoning (OZ) and serve the Office of Planning (OP), the Office of the Attorney General (OAG), and the affected ANC and any other parties, a final list of the public benefits proffered for the PUD (Proffer) and, for each proffered public benefit, provide a draft condition that is both specific and enforceable.
- 2403.17 The description of each public benefit shall be identical to the description contained in the applicant’s proposed order unless a revision is required for clarity or to reflect a revision.
- 2403.18 The information required by § 2403.16 shall be presented in the form of a chart in which each proffered public benefit is described in one column and a corresponding condition is described in a second. For example:

Proffer	Condition
42. The Applicant has agreed to contribute _____ to _____ for the purpose of _____ prior to applying for a certificate of occupancy for the PUD.	B.4. <u>Prior to applying for a certificate of occupancy for the PUD, the</u> Applicant shall contribute _____ to _____ for the purpose of _____.

- 2403.19 No later than fourteen (14) days after the Commission takes proposed action on any PUD application, OAG, OZ, and OP shall complete any dialogue they feel is needed with the applicant with respect to any deficiencies in the applicant's proposed conditions.
- 2403.20 No later than twenty-one (21) days after the Commission takes proposed action on any PUD application, the applicant shall file with OZ and serve OP, OAG, and the affected ANC and any other parties any revisions to the Proffer and conditions, or a statement that none have been made.
- 2403.21 No later than twenty-eight (28) days after the Commission takes proposed action on any PUD application, OAG, OP, and the affected ANC and any other party may file any responses each has to the Applicant's final Proffer and conditions. The responses shall be limited to whether the conditions in the final Proffer are specific and enforceable. The OAG response will be treated as a confidential attorney-client communication.
- 2403.22 The Commission will consider the PUD to contain only those public benefits described in the final Proffer.

SOURCE: Final Rulemaking published at 42 DCR 6613, 6616 (December 1, 1995), effective December 8, 1995; as amended by Final Rulemaking published at 45 DCR 695, 701 (February 6, 1998); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8514-15, 8524 (October 20, 2000), Final Rulemaking published at 53 DCR 856 (February 10, 2006); as amended by Final Rulemaking and Order No. 12-11 published at 60 DCR 8967 (June 14, 2013).

2404 HOUSING LINKAGE

- 2404.1 A PUD application that proposes an increase in gross floor area devoted to office space over and above the amount of office space permitted as a matter of right under the zoning included as part of the PUD shall comply with the housing linkage requirements of this section, as mandated by the Comprehensive Plan.
- 2404.2 The housing linkage requirements of this section shall require the applicant to produce or financially assist in the production of dwellings or multiple dwellings that are affordable to low- and moderate-income people; provided, that:
- (a) The quantity of low and moderate income housing that is required shall be based upon the requested increase in office floor area ratio (FAR); and
 - (b) No income limits shall apply to housing that is constructed on or adjacent to the site of the PUD.
- 2404.3 The applicant may either provide the required housing by means of new construction or rehabilitation as specified in § 2404.6, or may elect to make a financial contribution as provided in § 2404.7.

2404.4 The following exclusions and modifications shall apply:

- (a) Commercial floor area other than office space shall be excluded from these computations for both the proposed PUD and the existing, matter-of-right commercial density; provided, that the matter-of-right commercial density of the existing zone district shall be reduced by 0.5 FAR to allow for normal retail use;
- (b) If the proposed PUD provides an amount of housing equal to or greater than the housing that would be required under this section, no additional housing shall be required;
- (c) No housing requirement pursuant to this section shall apply to a PUD that is proposed for property located within the boundaries of the Downtown Development Overlay District provisions of chapter 17 of this title, nor to any PUD application filed by an agency of the federal government, the Washington Metropolitan Area Transit Authority (WMATA), or the Pennsylvania Avenue Development Corporation (PADC); and
- (d) An applicant may apply for a reduction or elimination of the housing required under this section as part of the PUD application; provided:
 - (1) The property is located in an area classified in the Generalized Land Use Map of the Comprehensive Plan as a Development Opportunity Area, a Production and Technical Employment Area, or a New or Upgraded Commercial Center; and
 - (2) The Commission finds, after public hearing, that the reduced or eliminated housing requirement is necessitated or justified by the PUD's provision of other public benefits that are of exceptional merit and in the best interests of the city or the country.

2404.5 Qualifying residential uses by housing linkage shall include dwellings, multiple dwellings, flats, rooming houses, and boarding houses, but shall exclude transient accommodations, all as defined in § 199.1.

2404.6 If the applicant constructs or rehabilitates the required housing, the following conditions shall apply:

- (a) The gross square footage of new or rehabilitated housing shall be based upon the gross square footage of increased office space that the PUD provides in excess of that allowed as a matter of right by the zoning included in the PUD application; provided, that the amount of housing required shall be as follows:

- (1) Not less than one-fourth (1/4) of the gross square feet of increased office space if the required housing is part of the PUD or is situated on adjacent property;
 - (2) Not less than one-third (1/3) of the gross square feet of increased office space if the location of the required housing does not comply with subparagraph (1) of this paragraph, but is nonetheless within the same Advisory Neighborhood Commission area as the PUD, or if it is located within a Housing Opportunity Area as designated in the Comprehensive Plan; and
 - (3) Not less than one-half (1/2) of the gross square feet of increased office space if the location of the required housing is other than as approved in subparagraphs (1) and (2) above;
- (b) The applicant may construct or rehabilitate the housing units, or may secure the housing production by other business arrangements, including but not limited to, joint venture, partnership, or contract construction;
 - (c) If the housing is provided as new construction, the average square feet of gross floor area per dwelling or per apartment unit shall be not less than eight hundred and fifty square feet (850 ft.²); provided, that no average size limit shall apply to rooming houses, boarding houses, or units that are deemed single-room occupancy housing;
 - (d) For purposes of this section, the word "rehabilitation" means the substantial renovation of housing for sale or rental that is not habitable for dwelling purposes because it is in substantial violation of the Housing Regulations of the District of Columbia (14 DCMR);
 - (e) In the case of rental housing, the required housing shall be maintained as affordable dwelling units for not less than twenty (20) years;
 - (f) If the required housing is provided for home ownership, the Commission shall have the authority to devise and adopt suitable provisions appropriate to each case; provided, that:
 - (1) The provisions shall be consistent with the intent of the Comprehensive Plan housing linkage legislation; and
 - (2) The Commission shall consider whether to require the applicant to legally mandate recapture of subsidy funds by the housing sponsor from the home owner if the dwelling unit is sold to a person or household that does not qualify as low or moderate income during a twenty (20) year period after the original occupancy of the

dwelling unit, so that the housing sponsor may re-use the funds for other affordable housing projects; and

- (g) No certificate of occupancy shall be issued for the office component of a PUD that is subject to the provisions of this section until a certificate of occupancy has been issued for the housing required pursuant to this section.

2404.7 As an alternative to constructing or rehabilitating the required housing as provided in § 2404.6, the applicant may contribute funds to a housing trust fund as defined in § 2499.2; provided:

- (a) The contribution shall be equal to one-half (1/2) of the assessed value of the increase in permitted gross floor area for office use;
- (b) The assessed value shall be the fair market value of the property as indicated in the property tax assessment records of the Office of Tax and Revenue as of the date of the PUD application; and
- (c) The contribution shall be determined by dividing the assessed value per square foot of land that comprises the PUD site by the maximum permitted commercial FAR and multiplying that amount times the requested increase in gross square feet proposed for office use.

2404.8 If any housing exists on the development site and is to be removed in order to allow construction of the PUD, the total assessed value of the housing removed shall be added to the financial contribution as computed in § 2404.7; provided, that this provision shall apply to any housing removed beginning one (1) year prior to the date of the PUD application.

2404.9 Not less than one-half (1/2) of the required total financial contribution shall be made prior to the issuance of a building permit for any part of the office component of the PUD, and the balance of the total financial contribution shall be made prior to the issuance of a certificate of occupancy for any part of the office component of the PUD.

2404.10 The Commission's order granting a PUD that includes housing linkage shall specify reporting, certification, and enforcement measures suitable in each case to ensure that the requirements of this section are carried out.

2404.11 A PUD that is subject to the housing requirement of this section shall not be relieved of the requirement to be found meritorious pursuant to the evaluation standards in § 2403.

2404.12 The Office of Planning shall refer each application for a PUD subject to the provisions of this section to the Department of Housing and Community

Development for an analysis of compliance with the housing requirements of this section and a recommendation.

SOURCE: Final Rulemaking published at 45 DCR 695, 696-700 (February 6, 1998); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8521-23 (October 20, 2000).

EDITOR' S NOTE: The Pennsylvania Avenue Development Corporation (PADC) referred to in paragraph (c) of § 2404.4 was abolished on April 1, 1996. See Notice of Public Interest published at 43 DCR 1648 (March 29, 1996). PADC's responsibilities were transferred to the General Services Administration, the National Capital Planning Commission, and the National Park Service.

2405 PUD STANDARDS

2405.1 Except as limited by an overlay, no building or structure shall exceed the maximum height permitted in the least restrictive zone district within the project area as indicated in the following table; and no penthouse shall exceed the maximum height permitted; provided, that the Zoning Commission may authorize minor deviations for good cause pursuant to § 2405.3:

ZONE DISTRICT	MAXIMUM HEIGHT	MAXIMUM PENTHOUSE HEIGHT
R-1-A, R-1-B, R-2, R-3, C-1, W-0	40 ft.	12 ft. /1 story
R-4, R-5-A, R-5-B,	60 ft.	15 ft./1 story; second story permitted for penthouse mechanical space
W-1, W-2, C-M-1	60 ft.	18 ft. 6 in./1 story; second story permitted for penthouse mechanical space
C-2-A	65 ft.	18 ft. 6 in./1 story; second story permitted for penthouse mechanical space
R-5-C, SP-1	75 ft.	20 ft./1 story; second story permitted for penthouse mechanical space
R-5-D, R-5-E, SP-2, C-2-B, C-2-B-1, C-2-C, C-3-A, C-3-B, W-3, C-M-2, C-M-3, M	90 ft.	20 ft. /1 story plus mezzanine; second story permitted for penthouse mechanical space
CR	110 ft.	20 ft./1 story plus mezzanine; second story permitted for penthouse mechanical space
C-3-C, C4, C-5 (PAD)	130 ft.	20 ft. /1 story plus mezzanine; second story permitted for penthouse mechanical space
C-5 (PAD) (Where permitted by the Building Height Act of 1910, D.C. Official Code § 6-601.05(b) (formerly codified at D.C. Code §5-405(b) (1994 Repl.)), along the north side of Pennsylvania Avenue)	160 ft.	20 ft./1 story plus mezzanine; second story permitted for penthouse mechanical space

2405.2 The floor area ratio of all buildings shall not exceed the aggregate of the floor area ratios as permitted in the several zone districts included within the project

area; provided, that the Zoning Commission may authorize minor deviations for good cause pursuant to § 2405.3:

FLOOR AREA RATIO (FAR)			
ZONE DISTRICT	RESIDENCE	COMMERCIAL, INCLUDING HOTELS MOTELS	TOTAL
R-1-A, R-1-B, R-2	0.4		0.4
R-3	0.6		0.6
R-4, R-5-A	1.0		1.0
R-5-B	3.0		3.0
R-5-C	4.0		4.0
R-5-D	4.5		4.5
R-5-E	6.0		6.0
SP-1	4.5	3.5	4.5
SP-2	6.5	4.5	6.5
CR	8.0	4.0	8.0
C-1	1.0	1.0	1.0
C-2-A	3.0	2.0	3.0
C-2-B, C-2-B-1	6.0	2.0	6.0
C-2-C	6.0	2.5	6.0
C-3-A	4.5	3.0	4.5
C-3-B	5.5	4.5	5.5
C-3-C	8.0	8.0	8.0
C-4	10.5	10.5	10.5
C-4 (facing a street at least 110 ft. wide)	11.0	11.0	11.0
C-5 (PAD)	12.0	12.0	12.0
W-1	3.0	1.0	3.0
W-2	4.0	2.0	4.0
W-3	6.0	5.0	6.0
C-M-1		3.0	3.0
C-M-2		4.0	4.0

C-M-3, M	6.0	6.0
W-0	0.5	0.5

2405.3 The Zoning Commission may authorize the following increases; provided, that the increase is essential to the successful functioning of the project and consistent with the purpose and evaluation standards of this chapter, or with respect to FAR, is for the purpose of a convention headquarters hotel on Square 370:

- (a) Not more than five percent (5%) in the maximum building height but not the maximum penthouse height; or
- (b) Not more than five percent (5%) in the maximum FAR.

2405.4 The percentage of lot occupancy shall be as otherwise prescribed in this title. However, the Commission shall have the option to approve a lot occupancy greater or lesser than the normal requirement, depending upon the exact circumstances of the particular project.

2405.5 Yards and courts shall be provided as otherwise prescribed in this title. However, the Commission shall have the option to approve yards or courts greater or lesser than the normal requirements, depending upon the exact circumstances of the particular project.

2405.6 Off-street parking spaces and loading berth facilities shall be provided as otherwise prescribed in this title. However, the Commission may reduce or increase the amount of such facilities depending on the uses and the location of the project.

2405.7 Notwithstanding the other prerogatives of the Commission in approving uses in PUDs, the Commission shall reserve the option to approve any use that is permitted as a special exception and that would otherwise require the approval of the Board of Zoning Adjustment.

2405.8 Approval of the Board shall not be required for any such use approved by the Commission under § 2405.7, and the Commission shall not be required to apply the special exception standards normally applied by the Board.

2405.9 Any additional density (whether residential or non-residential) or development rights granted through a PUD, including PUD-related map amendments, cannot be transferred as part of a combined lot development.

SOURCE: Final Rulemaking published at 42 DCR 6613, 6619 (December 1, 1995); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335,8515-16 (October 20, 2000); and Final Rulemaking published at 49 DCR 2742, 2747 (March 22, 2002); as amended by Final Rulemaking published at 51 DCR 3440(April 2, 2004); as amended by Final Rulemaking

published at 52 DCR 6358 (July 8, 2005); as amended by Final Rulemaking and Order No. 12-12 published at 59 DCR 15094 (December 28, 2012); as amended by Final Rulemaking and Order No. 14-16 published at 62 DCR 5190 (April 24, 2015).

2406 FILING REQUIREMENTS

- 2406.1 Each PUD application shall meet the requirements of this section before it will be accepted by the Commission for processing.
- 2406.2 A PUD application may be filed in conjunction with a change in zoning for the property involved.
- 2406.3 No PUD application shall be processed until the application is complete and all required fees are paid in accordance with the applicable fee schedule.
- 2406.4 A PUD application may include property of one or more owners. The owner or owners may be public or private persons, corporations, agencies, or other entities.
- 2406.5 The name, address, and signature of each owner of property included in the area to be developed, or of the owner's authorized agent, shall be included in the PUD application.
- 2406.6 The application shall be filed on a form as may be designated from time-to-time by the Commission.
- 2406.7 At least ten (10) calendar days prior to filing an application under this chapter, the applicant shall mail written notice of its intent to file the application to the Advisory Neighborhood Commission for the area within which the property is located and to the owners of all property within two hundred feet (200 ft.) of the perimeter of the property in question.
- 2406.8 The applicant may mail notice to any other person or organization the applicant determines appropriate to receive the notice.
- 2406.9 The notice shall describe generally the proposed development, including the name of all owners of the property involved and the use, height, bulk, and other significant aspects of the proposal. The notice shall also indicate the applicant's availability to discuss the proposed development with all interested and affected groups and individuals.
- 2406.10 At the time of filing the application, the applicant shall certify to whom and in what manner the required notice was given.
- 2406.11 An application for first-stage PUD approval shall include the following:
- (a) A completed application form;

- (b) A map showing the location of the proposed project, the existing zoning for the subject site, the zoning of adjacent properties, and any proposed change of zoning;
- (c) A statement of the purposes and objectives of the project, including the proposed form of development and a detailed statement elucidating how the application meets the PUD evaluation standards in § 2403;
- (d) A general site, landscape, and development plan indicating the proposed use, location, dimensions, number of stories, and height of each building, and the exact area of the total site; and
- (e) A tabulation of development data showing the following:
 - (1) The area and dimensions of each lot proposed for each building and the exact area of the total site;
 - (2) The percentage of lot occupancy of each building on each lot and the total percentage of lot occupancy for all buildings on the entire site;
 - (3) The gross floor area and floor area ratio for each building on each lot, including a break-down for each use, and the total gross floor area and floor area ratio for all buildings on the entire site, including a breakdown for each use;
 - (4) A circulation plan, including the location of all vehicular and pedestrian access ways and the location and number of all off-street parking spaces and loading berths, including an indication of which spaces are designated for which use;
 - (5) The existing topography of the development area; the location of all major natural features, including trees of six-inch (6 in.) caliper or greater; and the location and elevations of public or private streets, alleys, or easements bounding or traversing the site, including an indication of which of the rights-of-way or easements are to be continued, relocated, or abandoned;
 - (6) Estimated quantities of potable water required by the project, and of sanitary sewage and storm water to be generated, including the methods of calculating those quantities; and
 - (7) Any other information needed to understand the unique character and problems of developing the PUD.

2406.12 An application for second-stage PUD approval shall include the following information:

- (a) A completed application form;
- (b) A detailed statement as to the uses to be located in the project, including the location, number, size, and types of stores, offices, residential, institutional, industrial, and other uses;
- (c) A detailed site plan, showing the location and external dimensions of all buildings and structures, utilities and other easements, walkways, driveways, plazas, arcades, and any other open spaces;
- (d) A detailed landscaping and grading plan, showing all existing contour lines, including graphic illustration of grades exceeding fifteen percent (15%) in five percent (5%) increments, landscaping to be retained, grades, planting, and landscaping. The plan shall also show the proposed drainage for the site, including the location of buildings, roads, sidewalks, water and sewer lines, inlets, and basins, and connections to public water and sewer lines. Proposed erosion control measures shall also be shown;
- (e) Typical floor plans and architectural elevations for each building, sections for each building and the project as a whole, and sections and elevations of the entire square within which the project is located;
- (f) A final detailed circulation plan showing all driveways and walkways, including widths, grades, and curb cuts, as well as detailed parking and loading plans;
- (g) Any other information needed to understand the final design of the proposal, or information specifically requested by the Commission; and
- (h) A statement showing how the second-stage plans are in accordance with the intent and purposes of this title, the PUD process, and the first-stage approval.

SOURCE: Final Rulemaking published at 42 DCR 6613, 6621-25 (December 1, 1995); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8516-17 (October 20, 2000).

2407 PROCESSING OF FIRST-STAGE PUD APPLICATIONS

2407.1 The Commission shall refer a PUD application to the D.C. Office of Planning, which shall report to the Commission on whether the application is consistent with the purpose of the PUD process, and whether or not a hearing should be held.

2407.2 Following the receipt of the report from the Office of Planning, the Commission shall review the application and determine whether a public hearing shall be

granted. An application may be denied without a hearing, but no application shall be granted unless a public hearing is held.

- 2407.3 If a public hearing is granted, the Office of Planning shall coordinate review of the application and prepare an impact assessment of the project, which shall include reports in writing from relevant District departments and agencies, including, but not limited to, the Departments of Transportation and Housing and Community Development and, if a historic district or historic landmark is involved, the State Historic Preservation Officer.
- 2407.4 The Office of Planning shall report on the:
- (a) Suitability of the site for use as a PUD;
 - (b) Appropriateness, character, scale, mixture of uses, and design of the uses proposed for the proposed development, and other identifiable public benefits; and
 - (c) Compatibility of the proposed development with the Comprehensive Plan, the goals of the PUD process in § 2400, and the PUD evaluation standards in § 2403.
- 2407.5 Notice for the public hearing on a PUD application shall be given in the same manner as for amendments to the Zoning Map as contained in chapter 30 of this title. The hearing shall be conducted as a contested case in accordance with those rules.
- 2407.6 At the public hearing, the applicant shall carry the burden of justifying the proposal. Failure of groups or persons to appear in opposition shall not relieve the applicant of the responsibility of demonstrating the merits of the application.
- 2407.7 At the public hearing, the applicant shall advise the Commission of the efforts that have been made to apprise the affected Advisory Neighborhood Commission and other individuals and community groups concerning the proposed development.
- 2407.8 The Commission shall either approve, deny, or modify the application.
- 2407.9 The Commission's first-stage approval shall set forth the appropriate zoning classification to apply to the project, and shall state in detail the elements, guidelines, and conditions that shall be followed by the applicant in the second-stage application.
- 2407.10 The first-stage approval shall be valid for a period of one year, unless a longer period is specified by the Commission, or unless the Commission extends that period.

2407.11 The rights granted under such an approval are conditional, and shall be exercised within the specified time limit. Unexercised rights shall lapse at the end of the specified time periods, and the zoning shall revert to pre-existing conditions, unless a request to extend the validity of the approval is granted by the Commission in accordance with the standard and process for second-stage PUD extensions set forth in § 2408.10 through 2408.12.

2407.12 In the case of an application processed under a consolidated review, the Commission shall render a final decision on the application after the hearing process. The following shall also apply:

- (a) The applicant may file directly for a building permit without filing a subsequent application with the Commission;
- (b) The requirements for the filing of that permit application shall be the same as those following approval of the second-stage of the two-stage process; and
- (c) At the point at which a decision is made on a consolidated review application, the Commission may also determine that a second review is required, and rather than approving the application in a consolidated review, grant first-stage approval only and require that the applicant file additional plans for second-stage approval.

SOURCE: Final Rulemaking published at 42 DCR 6613, 6625 (December 1, 1995); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8517-18 (October 20, 2000); as amended by Final Rulemaking and Order No. 12-11 published at 60 DCR 8967 (June 14, 2013).

2408 PROCESSING OF SECOND-STAGE PUD APPLICATIONS

2408.1 In accordance with §§ 2406.12 and 2407.8 through 2407.11, the applicant may file an application for second-stage PUD approval.

2408.2 The application shall be filed on a form as may be designated from time-to-time by the Commission.

2408.3 The Commission shall review the application. If the Commission determines that the application complies with all of the requirements of the first-stage approval, it shall schedule a public hearing on the second-stage application. It is the intention of the Commission that any second-stage application that is substantially in accordance with the elements, guidelines, and conditions of the first-stage approval shall be granted a hearing.

2408.4 The Commission shall submit the application to the D.C. Office of Planning for coordination, review, report, and impact assessment of the final design. The assessment shall include reports in writing from all relevant District agencies and

departments, including, but not limited to, the Departments of Transportation and Housing and Community Development and, if a historic district or district landmark is involved, the State Historic Preservation Officer.

- 2408.5 Notice for the public hearing shall be given in the same manner as for amendments to the Zoning Map as contained in chapter 30 of this title. The hearing shall be conducted as a contested case in accordance with those rules.
- 2408.6 If the Commission finds the application to be in accordance with the intent and purpose of the Zoning Regulations, the PUD process, and the first-stage approval, the Commission shall grant approval to the second-stage application, including any guidelines, conditions, and standards that are necessary to carry out the Commission's decision. No order approving a PUD shall be deemed to include relief from any zoning regulation, including but not limited to the requirements of chapter 26, unless such relief was expressly requested by the applicant and expressly granted in the order
- 2408.7 In granting second-stage approval, the Commission may specify that the project be built in stages and shall specify the timing of the stages.
- 2408.8 The final PUD approved by the Commission shall be valid for a period of two (2) years, within which time application shall be filed for a building permit, as specified in § 2409.1
- 2408.9 Construction shall start within three (3) years of the date of final approval.
- 2408.10 The Commission may extend the time periods set forth in §§ 2408.8 and 2408.9 for good cause shown upon the filing of a written request by the applicant before the expiration of the approval; provided, that the Commission determines that the following requirements are met:
- (a) The extension request is served on all parties to the application by the applicant, and all parties are allowed thirty (30) days to respond;
 - (b) There is no substantial change in any of the material facts upon which the Commission based its original approval of the PUD that would undermine the Commission's justification for approving the original PUD; and
 - (c) The applicant demonstrates with substantial evidence that there is good cause for such extension, as provided in § 2408.11.
- 2408.11 For purposes of § 2408.10(c), an extension of the validity of a PUD may be granted by the Commission for good cause shown if an applicant has demonstrated with substantial evidence one or more of the following criteria:
- (a) An inability to obtain sufficient project financing for the PUD, following an applicant's diligent good faith efforts to obtain such financing, because

of changes in economic and market conditions beyond the applicant' s reasonable control;

- (b) An inability to secure all required governmental agency approvals for a PUD by the expiration date of the PUD order because of delays in the governmental agency approval process that are beyond the applicant' s reasonable control; or
- (c) The existence of pending litigation or such other condition, circumstance, or factor beyond the applicant' s reasonable control that renders the applicant unable to comply with the time limits of the PUD order.

2408.12 The Commission shall hold a public hearing on a request for an extension of the validity of a PUD only if, in the determination of the Commission, there is a material factual conflict that has been generated by the parties to the PUD proceedings concerning any of the criteria in § 2408.11. The hearing shall be limited to the specific and relevant evidentiary issues in dispute.

2408.13 In the event an appeal is filed in a court of competent jurisdiction from an order of the Commission, the time limitations of §§ 2408.8 and 2408.9 shall run from the decision date of the court' s final determination of the appeal. Unless stayed by the Commission or a court of competent jurisdiction, an applicant may proceed pursuant to the order of the Commission prior to any such final determination.

2408.14 If no application for a permit is filed, construction has not started within the period specified, or no extension is granted, the approval shall expire, the zoning shall revert to the pre-existing regulations and map, and the approval shall not be reinstated unless a new application is filed, processes, and approved in accordance with this chapter.

2408.15 A change of zoning approved in conjunction with a PUD shall not become effective until the covenant required in § 2409.3 has been recorded.

2408.16 The grant of a PUD prohibits any construction on the PUD site that is not authorized in the order approving the PUD, including development under matter of right standards, until:

- (a) The validity of the PUD order expires; or
- (b) The Commission issues an order granting the applicant' s motion to extinguish the PUD.

SOURCE: Final Rulemaking published at 42 DCR 6613, 6627, 6628 (December 1, 1995), as amended by Final Rulemaking published at 44 DCR 879, 880, 881 (February 14, 1997); Final Rulemaking published at 46 DCR 1019 (February 5, 1999); and by Final Rulemaking published at 47 DCR 9725, 9734 (December 8, 2000); as amended by Final Rulemaking and Order No. 12-11 published at 60 DCR 8967 (June 14, 2013).

2409 IMPLEMENTATION

- 2409.1 Following approval of an application by the Commission, the application may file an application for a building permit with the proper authorities of the District of Columbia.
- 2409.2 The Zoning Administrator shall not approve a permit application unless the plans conform in all respects to the plans approved by the Commission, as those plans may have been modified by any guidelines, conditions, or standards that the Commission may have applied. Nor shall the Zoning Administrator accept the establishment of an escrow account in satisfaction of any condition in the Commission's order approving the PUD unless the order expressly authorizes an escrow.
- 2409.3 The Zoning Administrator shall not approve a permit application unless the applicant has recorded a covenant in the land records of the District of Columbia between the owner or owners and the District of Columbia satisfactory to the Office of the Attorney General and the Zoning Administrator, which covenant will bind the owner and all successors in title to construct on and use the property only in accordance with the adopted orders, or amendments thereof, of the Commission.
- 2409.4 Following the recordation of the covenant, the PUD boundaries shall be designated on the Zoning Map.
- 2409.5 The orders of the Commission issued in accordance with this chapter shall have all the force of this title, and violations shall be prosecuted in accordance with the provisions of § 3201 of this title.
- 2409.6 The Zoning Administrator shall have the authority to approve minor modifications in the final plans as approved by the Commission. These modifications shall be limited to the following:
- (a) A change not to exceed two percent (2%) in the height, percentage of lot occupancy, or gross floor area of any building;
 - (b) A change not to exceed two percent (2%) in the number of residential units, hotel rooms, institutional rooms, or gross floor area to be used for commercial or accessory uses;
 - (c) A change not to exceed two percent (2%) in the number of parking or loading spaces; and
 - (d) The relocation of any building within five feet (5 ft.) of its approved location, in order to retain flexibility of design, or for reasons of unforeseen subsoil conditions or adverse topography.

2409.7 In reviewing and approving any modification requested pursuant to § 2409.6, the Zoning Administrator shall determine that the proposed modification is consistent with the intent of Commission in approving the PUD.

2409.8 Following approval of any modifications under § 2409.6, the Zoning Administrator shall report to the Commission the modification approved under this section and may issue a building permit predicated upon the modification if:

- (a) Forty-five (45) days have passed since the submittal of the report and the Commission has not make a finding that the modification exceeds the scope of § 2406.9; or
- (b) Prior to the expiration of that time period the Commission acknowledges that the modification does not exceed the scope of § 2409.6, whichever is the first to occur.

If the Commission timely decides that the modification exceeded the scope of § 2409.6, the Zoning Administrator shall not approve the building permit, but shall instruct the applicant to seek a modification pursuant to § 2409.9.

2409.9 Any modifications proposed to an approved PUD that cannot be approved by the Zoning Administrator shall be submitted to and approved by the Commission. The proposed modification shall meet the requirements for and be processed as a second- stage application, except for minor modifications and technical corrections as provided for in § 3030.

2409.10 The Zoning Administrator shall not approve an application for a certificate of occupancy for a PUD if the order approving the PUD includes a condition requiring the provision of affordable housing unless the owner has executed monitoring and enforcement documents with the District of Columbia, which will bind the owner and all successors in title to abide by such terms as the District considers necessary to ensure that the affordable housing will be constructed, marketed, sold, re-sold, rented, and occupied, so as to be affordable to the target households during the specified control period and safeguarded regarding foreclosure.

2409.11 A condition in an order approving or modifying a PUD that requires the provision of affordable housing shall automatically terminate if title to the mortgaged property is transferred following foreclosure by, or deed-in-lieu of foreclosure to, a mortgagee in the first position, or a mortgage in the first position is assigned to the Secretary of the U.S. Department of Housing and Urban Development provided the owner has executed monitoring and enforcement documents per the requirements of § 2409.10.

2409.12 Unless specifically stated otherwise, the term "Applicant" in any condition of an order approving a PUD or PUD modification shall mean the person or entity then holding title to the Subject Property. If there is more than one owner, the

obligations under the order shall be joint and several. If a person or entity no longer holds title to the PUD site, that party shall have no further obligations under the order; however, that party remains liable for any violation of any condition that occurred while an Owner.

SOURCE: Final Rulemaking published at 42 DCR 6613, 6628 (December 1, 1995); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8519-20 (October 20, 2000); as amended by Final Rulemaking and Order No. 04-33F published at 60 DCR 5144 (April 5, 2013); as amended by Final Rulemaking and Order No. 12-11 published at 60 DCR 8967 (June 14, 2013).

2410 EFFECT ON PENDING APPLICATIONS

2410.1 This chapter shall apply to all PUD applications filed after December 8, 1995.

2410.2 A PUD that has already received preliminary approval or for which an application was filed before December 8, 1995, may continue to be processed to completion in accordance with the regulations in effect at the time of filing, or may be processed in accordance with this revised chapter at the option of the applicant with the Commission's approval.

SOURCE: Final Rulemaking published at 42 DCR 6613, 6630 (December 1, 1995); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8520 (October 20, 2000).

2499 DEFINITIONS

2499.1 The provisions of § 199.1 and the definitions in that section shall be incorporated by reference in this section.

2499.2 When used in this chapter, the following terms shall have the meaning ascribed:

Affordable Housing - housing where the occupant is paying no more than thirty-five percent (35%) of gross income for gross housing costs, excluding utility costs.

Housing Trust Fund - either the fund established under § 3 of the Housing Production Trust Fund Act of 1988, effective March 16, 1989 (D.C. Law 7-202; D.C. Official Code § 42-2802 (2001)(formerly codified at D.C. Code § 45-3102 (1996 Repl.))); or an organization that qualifies as a nonprofit organization under § 501(c)(3) of the Internal Revenue Code of 1986, approved October 22, 1986 (68A Stat. 163; 26 U.S.C. § 501(c)(3)), and that also:

- (a) Exists primarily for the purpose of assisting in the production of affordable housing units;
- (b) Operates a trust fund that disburses money for affordable housing;

- (c) Receives applications for funds directly from developers of affordable housing;
- (d) Has adopted criteria for selection of projects and allocation of funds among various types of affordable housing developments; and
- (e) Has been certified by the Director of the D.C. Department of Housing and Community Development as a qualifying nonprofit organization that also complies with the requirements of (a) through (d) of this definition.

Low-income households - households whose incomes do not exceed eighty percent (80%) of the median income for the area, as determined by the U.S. Department of Housing and Urban Development (HUD), with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than eighty percent (80%) of the median for the area on the basis of HUD's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes. Note: HUD income limits are updated annually and are available from local HUD offices.

Moderate-income households - households whose incomes are between eighty-one percent (81%) and ninety-five percent (95%) of the median for the area, as determined by HUD, with adjustments for smaller or larger families, except that HUD may establish income ceilings higher or lower than ninety-five percent (95%) of the median for the area on the basis' of HUD's findings that such variations are necessary because of prevailing levels of construction costs, fair market rents, or unusually high or low family incomes.

SOURCE: Final Rulemaking published at 45 DCR 695, 700-01 (February 6, 1998); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8523-24 (October 20, 2000).

TITLE 11 - ZONING

CHAPTER 25 MISCELLANEOUS ZONING REQUIREMENTS

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2500 ACCESSORY USES AND BUILDINGS

- 2500.1 Any accessory use or accessory building shall be located on the same lot with the use or building to which it is accessory; provided, that required accessory parking space may be permitted on another lot where specifically permitted under other provisions of this title.
- 2500.2 An accessory building shall be located only in a rear yard, except as follows:
 - (a) An accessory private garage may be located in a side yard pursuant to § 2300; and
 - (b) A pump island canopy and any kiosk adjacent to the pumps used exclusively as an attendant's shelter of a gasoline service station may be located in any open area of a lot not within twenty-five feet (25 ft.) of a Residence District unless separated therefrom by a street or alley.
- 2500.3 No more than thirty percent (30%) of the area of a required rear yard on any lot shall be occupied by accessory buildings.
- 2500.4 An accessory building in any zone district shall not exceed one (1) story or fifteen feet (15 ft.) in height, except as provided in § 2500.5.
- 2500.5 In an R-1-A or R-1-B District only, an accessory private garage may have a second story used for sleeping or living quarters of domestic employees of the family occupying the main building.
- 2500.6 A two (2) story accessory building allowed *under* § 2500.5 shall not exceed twenty feet (20 ft.) in height and shall not be located within the required rear yard. It shall also be set back from all side lot lines for a distance equal to the minimum width of a required side yard in the district in which it is located.
- 2500.7 The height of an accessory building permitted by §§ 2500.4 or 2500.5 shall be measured from the finished grade at the middle of the side of the accessory

building that faces the main building to the highest point of the roof of the building.

2500.8 An accessory building or structure shall not be erected on any lot prior to the time of construction of the main building to which it is accessory.

2500.9 An accessory building shall not obstruct light and ventilation required by other regulations.

AUTHORITY: Unless otherwise noted, the authority for this chapter is the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code §§ 6-641.01 to 641.15 (2001) (formerly codified at D.C. Code §§ 5-413 to 5-432 (1994 Repl. and 1999 Supp.))).

SOURCE: §§ 7502.1 through 7502.5 of the Zoning Regulations, effective May 12, 1958 (renumbered §§ 7601.1 through 7605.5 in the April 1981 edition of the Zoning Regulations); as amended by: Final Rulemaking published at 33 DCR 2818 (May 9, 1986); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8524-25 (October 20, 2000); and Final Rulemaking published at 49 DCR 2742, 2747-48 (March 22, 2002).

2501 MECHANICAL AMUSEMENT MACHINES: ACCESSORY USE

2501.1 This section applies to accessory mechanical amusement machines.

2501.2 Where a person seeks to offer or provide more than three (3) mechanical amusement machines as an accessory use, that person shall first provide the Zoning Administrator a dimensioned drawing that is drawn to scale and certified as to accuracy by the owner of the business. The scaled drawing is intended to provide the Zoning Administrator with the data necessary to make the appropriate review as required in this section.

2501.3 The drawings required by § 2501.2 shall show the floor area of the entire establishment, including the area to be devoted to the use of the mechanical amusement machines, and the percentage of the establishment or facility to be devoted to the use of the mechanical amusement machines.

2501.4 Where mechanical amusement machines are permitted as accessory uses, the machines shall not exceed the following:

- (a) In an establishment or facility of less than two thousand square feet (2,000 ft.²), more than five percent (5%) of the floor area of the establishment or facility, or a maximum of three (3) machines;
- (b) In an establishment or facility of two thousand and one square feet (2,001 ft.²) to four thousand square feet (4,000 ft.²), more than five percent (5%) of the floor area of the establishment or facility, or a maximum of five (5) machines; and

- (c) In an establishment or facility of more than four thousand square feet (4,000 ft.²), more than five percent (5%) of the floor area of the establishment or facility, or a maximum of ten (10) machines.

2501.5 Accessory mechanical amusement machines shall not be used to display specified sexual activities or specified anatomical areas, except that in the C-3-C, C-4, and C-5 (PAD) Districts, display of specified sexual activities or specified anatomical areas in mechanical amusement machines may be permitted as a special exception if approved by the Board of Zoning Adjustment in accordance with §§ 744, 754, and 3104.

2501.6 The provisions of chapters 2 through 11 of this title and § 3203 shall not prohibit, nor be construed to prohibit, the continued use or operation of mechanical amusement machines as accessory uses in numbers and locations as have been licensed on or after October 31, 1977, by the District of Columbia government, even though those machines as accessory uses do not otherwise conform to this title; provided, that the numbers of those machines shall not exceed by more than fifty percent (50%) the maximum number of machines otherwise permitted by the requirements of § 2501.4.

SOURCE: § 7601.6 of the Zoning Regulations, adopted pursuant to Final Rulemaking published at 25 DCR 7160, 7164-65 (January 26, 1979); as amended by Final Rulemaking published at 27 DCR 226, 2228 (May 23, 1980); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8525-26 (October 20, 2000).

2502 PROJECTIONS INTO REQUIRED OPEN SPACES

2502.1 Except for the projections and encroachments specified in this section and the exceptions in § 2503, every part of a required yard or court or other required open space shall be open and unobstructed to the sky.

2502.2 Cornices and eaves may project over any required yard or court for a distance not to exceed two feet (2 ft.).

2502.3 Sills, leaders, belt courses, and similar ornamental or structural features may project over any required yard or court a distance not to exceed six inches (6 in.).

2502.4 The ordinary projection of skylights above the bottom of a yard or court shall be permitted if placed so as not to obstruct light and ventilation.

2502.5 Awnings serving a window, porch, or door may project into a required yard or open court for a distance not to exceed forty inches (40 in.).

2502.6 An open or lattice-enclosed fire balcony or fire escape may project into a required yard or an open court for a distance not to exceed four feet (4 ft.).

- 2502.7 A chimney, smokestack, or flue may project into any required rear yard, provided the horizontal section of the projection does not exceed five square feet (5 ft.²).
- 2502.8 A chimney, smokestack, or flue may project into any required side yard for a distance not to exceed two feet (2 ft.).
- 2502.9 A self-contained room air conditioner may project into any required yard or court a distance not to exceed two feet (2 ft.).

SOURCE: §§ 7503 et seq. of the Zoning Regulations, effective May 12, 1958 (renumbered §§ 7602.1 et seq. in the April 1981 edition of the Zoning Regulations); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8526 (October 20, 2000).

2503 STRUCTURES IN REQUIRED OPEN SPACES

- 2503.1 Except for the structures and exceptions specified in this section, every part of a yard required under this title shall be open and unobstructed to the sky from the ground up.
- 2503.2 A structure, not including a building no part of which is more than four feet (4 ft.) above the grade at any point, may occupy any yard required under the provisions of this title. Any railing required by the D.C. Construction Code, Title 12 DCMR, shall not be calculated in the measurement of this height.
- 2503.3 A fence or retaining wall constructed in accordance with the D.C. Construction Code may occupy any yard required under the provisions of *this title*.
- 2503.4 Stairs leading to the ground from a door located on the story in which the principal entrance of a building is located may occupy any yard required under provisions of this title. The stairs shall include any railing required by the provisions of the D.C. Construction Code.
- 2503.5 [DELETED]

SOURCE: § 7602.2 of the Zoning Regulations (April 1981); as amended by: Final Rulemaking published at 27 DCR 2226, 2228 (May 23, 1980); Final Rulemaking published at 36 DCR 1509, 1522 (February 24, 1989); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8526 (October 20, 2000); as amended by Final Rulemaking published at 55 DCR 34 (January 4, 2008).

2504 STRIPPING OF TOPSOIL

- 2504.1 No person, firm, or corporation other than the District of Columbia government or an agency acting under contract with the District government shall remove topsoil or sod in any zone district, other than an M District, except under one (1) of the following conditions:

- (a) In connection with the construction or alteration of a building for which a building permit has been previously issued, or in connection with excavation or grading incidental to the building or maintenance of the building grounds;
- (b) In connection with normal lawn preparation and maintenance on the lot from which the topsoil or sod is removed;
- (c) In connection with any accessory use incidental to a permitted use;
- (d) In connection with the construction or alteration of a street or alley; or
- (e) As incidental to a use permitted in § 2505.

SOURCE: § 7504.1 of the Zoning Regulations, effective May 12, 1958 (renumbered 7603 in the April 1981 edition of the Zoning Regulations); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8526 (October 20, 2000).

2505 EXCAVATION OF ROCK, CLAY, SAND, OR GRAVEL

- 2505.1 The excavation of rock for commercial purposes or the operation of a rock quarry shall be expressly prohibited in any district.
- 2505.2 Clay, sand, or gravel may be excavated for commercial purposes in a C-M or M District, subject to the standards of external effects for a C-M District in § 804.
- 2505.3 If approved by the Board of Zoning Adjustment as a special exception under § 3104, clay, sand, or gravel may be excavated for commercial purposes in a Residence or Commercial District; provided, that the requirements of §§ 2505.4 through 2505.12 shall be met.
- 2505.4 The applicant for Board approval under § 2505.3 shall submit with the application a site plan showing the:
 - (a) Proposed area of operation;
 - (b) Distance between any excavation operation and existing streets, alleys, and lot lines of the lot upon which the use will be located;
 - (c) All existing underground utilities;
 - (d) Proposed manner of operation, including the routing of trucking to and from the site; and
 - (e) Proposed rehabilitation or improvement of the site when operations cease.

- 2505.5 The following shall be prohibited:
- (a) Cement plants or rock crushers;
 - (b) Other crushing, grinding, or polishing machinery; and
 - (c) Other processing equipment.
- 2505.6 Dirt or dust shall not be permitted to escape or be discharged in objectionable amounts from the lot upon which the excavation is conducted.
- 2505.7 All private access roads shall be provided with a dustless surface.
- 2505.8 The lot upon which the excavation is conducted shall be enclosed by a fence of a type and to a height to be prescribed by the Board, unless expressly waived by the Board.
- 2505.9 Excavation operations shall be restricted to the hours from 7:00 a.m. to 7:00 p.m., with no operations conducted on Sundays or legal holidays.
- 2505.10 The excavation operations shall be subject to any requirements for setback, screening, or other requirement that the Board deems necessary for the protection of neighboring or adjacent property.
- 2505.11 The Board may require the execution of a bond to secure the performance of all conditions imposed on the excavation.
- 2505.12 Upon cessation of any excavation operations approved under § 2505.3, the site devoted to that use shall be rehabilitated in the following manner:
- (a) The final slope or wall of any excavation or pit shall not exceed the normal limiting angle of repose or slippage, and shall be planted to prevent erosion;
 - (b) The site shall be left in a condition so that it will not unreasonably interfere with the future development of neighboring or adjacent property, or any street or alley for which an approved line and grade have been established; and
 - (c) Any other conditions that the Board deems necessary to preserve the sightlines of the site or the requirements of safety.

SOURCE: § 7505 of the Zoning Regulations, effective May 12, 1958 (renumbered § 7604 in the April 1981 edition of the Zoning Regulations); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8526-27 (October 20, 2000).

2506 SIGNS

2506.1 Any outdoor sign or other form of exterior advertising erected in any district shall comply with the sign regulations in the D.C. Construction Code, 12 DCMR § 3107A, that govern the erection, hanging, placing, painting, display, and maintenance of outdoor display signs and other forms of exterior advertising within the District of Columbia.

SOURCE: § 7506.1 of the Zoning Regulations, effective May 12, 1958 (renumbered 7605.1 in the April 1981 edition of the Zoning Regulations); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8527 (October 20, 2000); 57 DCR 000126 (2010).

2507 BUILDINGS ON ALLEY LOTS

2507.1 Except for use as a one-family dwelling, a structure shall not be erected, constructed, converted, altered, remodeled, restored, or repaired for human habitation on an alley lot.

2507.2 A one-family dwelling shall not be erected or constructed on an alley lot unless the alley lot abuts an alley thirty feet (30 ft.) or more in width and has from the alley access to a street through an alley or alleys not less than thirty feet (30 ft.) in width.

2507.3 An existing one-family dwelling located on an alley lot that abuts an alley less than thirty feet (30 ft.) in width shall not be converted, altered, remodeled, restored, or repaired for use as a one-family dwelling if the cost of the conversion, alteration, remodeling, restoration, or repair exceeds one-half of the value of the structure immediately prior to the time of the conversion, alteration, remodeling, restoration, or repair. Nonresidential structures located on these alleys shall not be converted, altered, remodeled, restored, or repaired for human habitation, regardless of cost.

2507.4 The height of a structure erected or constructed on an alley lot shall not exceed the distance from the opposite side of the abutting alley to the outside wall of the structure nearest the alley.

2507.5 An artist studio shall be a permitted use in a building located on an alley lot, subject to the following criteria:

- (a) Occupancy of the building shall be limited to one artist and one apprentice for each (450 ft.²) of gross floor area;
- (b) All operations and storage of materials shall occur inside the building;
- (c) Incidental sales of art of the work produced by the occupants of the studio shall be permitted within the studio;

- (d) The artist may teach the art to one or more apprentices; and
- (e) In addition to any parking spaces that are required by § 2101 or any other provision of this title, parking for the studio use shall be provided at the rate of one (1) parking space for each three (3) occupants of the studio.

2507.6 When approved by the Board of Zoning Adjustment as a special exception under § 3104, an alley lot in an R-4 or R-5 District may be used for any use permitted under § 333, subject to the conditions specified in that section.

SOURCE: §§ 7507.1 through 7507.5 of the Zoning Regulations, effective May 12, 1958 (renumbered 7601.1 through 7601.5 in the April 1981 edition of the Zoning Regulations); as amended by Final Rulemaking published at 35 DCR 465, 466 (January 22, 1988); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by *reference* the text of Proposed Rulemaking published at 47 DCR 8335, 8527-28 (October 20, 2000); 57 DCR 000126 (2010).

2508 TENEMENT HOUSES

2508.1 The erection or construction of new tenement houses is expressly prohibited in any zone district.

2508.2 Conversion to a tenement house of a building or other structure erected or constructed after May 12, 1958, is expressly prohibited in any zone district.

SOURCE: §§ 7508.1 and 7508.2 of the Zoning Regulations, effective May 12, 1958 (renumbered §§ 7607.1 and 7607.2 in the April 1981 edition of the Zoning Regulations); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8528 (October 20, 2000).

2509 REFERRALS TO OTHER AGENCIES

2509.1 Where the provisions of this title provide for the referral of an application to another public agency for review and report, a period of forty (40) days from the date of the submission shall be allowed, unless a different period is stated specifically in this title.

2509.2 The period of time may be extended for an additional forty (40) days upon the mutual agreement of all agencies involved.

SOURCE: § 7509.1 of the Zoning Regulations, effective May 12, 1958 (renumbered 7608.1 in the April 1981 edition of the Zoning Regulations).

2510 CONGRESSIONAL LIMITATION ON BUILDING HEIGHTS

2510.1 In addition to any controls established in this title, all buildings or other structures shall comply with the Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452, as amended; D.C. Official Code

§§ 6-601.01 to 6-601.09 (2001) (formerly codified at D.C. Code §§ 5-401 to 5-409 (1994 Repl. and 1999 Supp.))).

SOURCE: § 7510.1 of the Zoning Regulations, effective May 12, 1958 (renumbered § 7608.1 in the April 1981 edition of the Zoning Regulations); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8528 (October 20, 2000).

2511 DESIGNATED BUSINESS STREETS

2511.1 For the purpose of administering this title, that portion of the Act referred to in § 2510.1 that designates certain streets as "business streets" shall be interpreted to mean those sides and portions of any street located in a Special Purpose, Waterfront, Mixed Use, Commercial, or Industrial District.

SOURCE: § 7511.1 of the Zoning Regulations, effective May 12, 1958 (renumbered § 7610.1 in the April 1981 edition of the Zoning Regulations); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8528 (October 20, 2000).

2512 HEIGHTS OF BUILDINGS ADJACENT TO PUBLIC BUILDINGS

2512.1 In addition to the requirements of this title, buildings or structures adjacent to public buildings shall be subject to the "Schedule of Heights of Buildings Adjacent to Public Buildings" as adopted by the Commissioners of the District of Columbia in conformity with § 5 of the Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452, 453, as amended; D.C. Official Code § 6-601.05(f)(2001) (formerly codified at D.C. Code § 5-405(f) (1994 Repl. & 1999 Supp.))), and published as Appendix G in the Zoning Regulations, effective May 12, 1958, as amended by the Schedule of Heights of Building Amendment Act of 1998, effective April 20, 1999 (D.C. Law 12-234, 46 DCR 4147 (May 7, 1999)), reprinted as amended in the appendix of this chapter.

SOURCE: § 7512.1 of the Zoning Regulations, effective May 12, 1958 (renumbered § 7611.1 in the April 1981 edition of the Zoning Regulations); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8529 (October 20, 2000).

2513 ARCHITECTURAL REVIEW BY COMMISSION OF FINE ARTS

2513.1 In addition to all provisions of this title, any building or structure erected after May 12, 1958, within the area of jurisdiction of the Shipstead-Luce Act, approved May 16, 1930 (46 Stat. 366, as amended; D.C. Official Code § 6-611.01 (2001) (formerly codified at D.C. Code § 5-410 (1994 Repl.))), or within the area of jurisdiction of the Old Georgetown Act, approved September 22, 1950 (64 Stat. 903, as amended; D.C. Official Code §§ 1201 to 1207 (formerly codified at D.C. Code §§ 5-1101 to 5-1105 (1994 Repl.))), shall be subject to the architectural

review established by those acts and administered by the Commission of Fine Arts.

SOURCE: § 7513.1 of the Zoning Regulations, effective May 12, 1958 (renumbered 7612.1 in the April 1981 edition of the Zoning Regulations); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8529 (October 20, 2000).

2514 ZONE DISTRICT BOUNDARY LINE CROSSING A LOT

2514.1 When a zone district boundary line divides a lot that was in single ownership on May 12, 1958, the permitted use and bulk of a structure located on that lot may be determined as follows:

- (a) The allowable bulk for the portion of the lot located in a lesser restrictive use zone district may be increased by the bulk permitted on the portion of the lot located in a more restrictive use zone district; provided, that no portion of any structure permitted on the lesser restricted portion of the lot shall be extended to the more restricted portion of the lot;
- (b) The calculation for determining additional bulk shall include only that portion of the lot in the more restrictive use zone district that is located within thirty-five feet (35 ft.) of the zone district boundary line;
- (c) The additional bulk authorized in this section shall not exceed the maximum bulk permitted on the portion of the lot located in the lesser restrictive use zone district;
- (d) For computation purposes, any portion of the lot located in an R-1 or R-2 District shall be deemed to be limited to a floor area ratio of four-tenths (0.4), any portion of the lot located in an R-3 District shall be deemed to be limited to a floor area ratio of six-tenths (0.6), and any portion of the lot located in an R-4 District shall be deemed to be limited to a floor area ratio of nine-tenths (0.9); and
- (e) Except for accessory open parking facilities permitted elsewhere in this title, the portion of the lot located in a more restrictive use zone district shall be devoted only to required yards or courts or other open spaces.

2514.2 If approved by the Board of Zoning Adjustment as a special exception under § 3104, the regulations applicable to that portion of a lot located in a lesser restrictive use zone district that control the use, height, and bulk of structures and the use of land may be extended to that portion of the lot in a more restrictive use zone district; provided:

- (a) The extension shall be limited to that portion of the lot in the more restrictive use zone district but not exceeding thirty-five feet (35 ft.);

- (b) In authorizing an extension, the Board shall require compliance with § 2514.1(d);
- (c) The extension shall have no adverse effect upon the present character and future development of the neighborhood; and
- (d) The Board may impose requirements pertaining to design, appearance, screening, location of structures, lighting, or any other requirements it deems necessary to protect adjacent or nearby property.

2514.3 For the purpose of interpreting this section, the zone districts established in this title are listed in the following groups of decreasing use restrictions:

- (a) W-0, R-1-A, R-1-B, R-2, and R-3 Districts;
- (b) R-4, R-5-A, R-5-B, R-5-C, R-5-D, R-5-E, and SP Districts;
- (c) C-1, C-2-A, C-2-B, C-2-B-1, C-2-C, C-3-A, C-3-B, C-3-C, C-4, and C-5 (PAD) Districts;
- (d) W-1, W-2, W-3, and CR Districts; and
- (e) C-M-1, C-M-2, C-M-3, and M Districts.

SOURCE: § 7514 of the Zoning Regulations, effective May 12, 1958 (renumbered 7613.1 and 7613.2 in the April 1981 edition of the Zoning Regulations); as amended by Final Rulemaking published at 27 DCR 2226, 2228 (May 23, 1980); Final Rulemaking published at 39 DCR 8305, 8310 (November 13, 1992); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8529-30 (October 20, 2000); as amended by Final Rulemaking published at 51 DCR 3440, 3465 (April 2, 2004); as amended by Final Rulemaking published at 52 DCR 6358, 6385 (July 8, 2005); as amended by Final Rulemaking and Order No. 14-16 published at 62 DCR 5190 (April 24, 2015).

2515 [REPEALED]

SOURCE: §§ 7614.1, 7614.2 and 7614.3 of the Zoning Regulations (April 1981); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8530 (October 20, 2000); as amended by Final Rulemaking published at 51 DCR 4785, 4790 (May 7 2004); and by Final Rulemaking and Order No. 10-16 published at 57 DCR 11221 (November 26, 2010).

2516 EXCEPTIONS TO BUILDING LOT CONTROL (RESIDENCE DISTRICTS)

2516.1 If approved by the Board of Zoning Adjustment as a special exception under § 3104, two (2) or more principal buildings or structures may be erected on a single subdivided lot, subject to the provisions of this section.

- 2516.2 This section applies to construction on a lot that is located in, or within twenty-five feet (25 ft.) of, a Residence District.
- 2516.3 In addition to other filing requirements, the applicant shall submit to the Board, with the new application, four (4) site plans for all new rights-of-way and easements, and existing and preliminary landscaping and grading plans with approximate building footprints; provided:
- (a) The applicant shall also submit, either with the original application or at a later time, final landscaping and grading plans and two (2) sets of typical floor plans and elevations; and
 - (b) If the applicant elects to submit the plans referenced in § 2516.3(a) at a later date, the Board's original approval shall be conditional, subject to a later public hearing and final decision on the project as a whole.
- 2516.4 The number of principal buildings permitted by this section shall not be limited; provided, that the applicant for a permit to build submits satisfactory evidence that all the requirements of this chapter (such as use, height, bulk, open spaces around each building, and limitations on structures on alley lots pursuant to § 2507), and §§ 3202.2 and 3202.3 are met.
- 2516.5 If a principal building has no street frontage, as determined by dividing the subdivided lot into theoretical building sites for each principal building, the following provisions shall apply:
- (a) The front of the building shall be the side upon which the principal entrance is located;
 - (b) Open space in front of the entrance shall be required that is equivalent either to the required rear yard in the zone district in which the building is located or to the distance between the building restriction line recorded on the records of the Surveyor of the District of Columbia for the subdivided lot and the public space upon which the subdivided lot fronts, whichever is greater;
 - (c) A rear yard shall be required; and
 - (d) If any part of the boundary of a theoretical lot is located in common with the rear lot line of the subdivided lot of which it is a part, the rear yard of the theoretical lot shall be along the boundary of the subdivided lot.
- 2516.6 In providing for net density pursuant to § 2516.11, the Board shall require at least the following:

- (a) The area of land that forms a covenanted means of ingress or egress shall not be included in the area of any theoretical lot, or in any yard that is required by this title;
- (b) Notwithstanding any other provision of this title, each means of vehicular ingress or egress to any principal building shall be twenty-five feet (25 ft.) in width, but need not be paved for its entire width;
- (c) If there are not at least two (2) entrances or exits from the means of ingress or egress, a turning area shall be provided with a diameter of not less than sixty feet (60 ft.); and
- (d) The requirements of paragraphs (b) and (c) of this subsection may be modified if the Board finds that a lesser width or diameter will be compatible with, and will not be likely to have an adverse effect on, the present character and future development of the neighborhood; provided, that the Board shall give specific consideration to the spacing of buildings and the availability of resident, guest, and service parking.

2516.7 Where not in conflict with the Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452, as amended; D.C. Official Code §§ 6-601.01 to 6-601.09 (2001) (formerly codified at D.C. Code §§ 5-401 to 5-409 (1994 Repl. & 1999 Supp.))), the height of a building governed by the provisions of this section, in all zone districts, shall be measured from the finished grade at the middle of the front of the building.

2516.8 [REPEALED]

2516.9 The proposed development shall comply with the substantive provisions of this title and shall not likely have an adverse effect on the present character and future development of the neighborhood.

2516.10 Before taking final action on an application under this section, the Board shall refer the application to the D.C. Office of Planning for coordination, review, and report, including:

- (a) The relationship of the proposed development to the overall purpose and intent of the Zoning Regulations, and other planning considerations for the area and the District of Columbia as a whole, including the plans, programs, and policies of other departments and agencies of the District government; provided, that the planning considerations that are addressed shall include, but not be limited to:
 - (1) Public safety relating to police and fire concerns;

- (2) The environment, relating to water supply, water pollution, soil erosion, and solid waste management;
 - (3) Public education;
 - (4) Recreation;
 - (5) Parking, loading, and traffic;
 - (6) Urban design; and
 - (7) As appropriate, historic preservation and visual impacts on adjacent parkland;
- (b) Considerations of site planning; the size, location, and bearing capacity of driveways; deliveries to be made to the site; side and rear yards; density and open space; and the location, design, and screening of structures;
 - (c) Considerations of traffic to be generated and parking spaces to be provided, and their impacts;
 - (d) The impact of the proposed development on neighboring properties; and
 - (e) The findings, considerations, and recommendations of other District government agencies.

2516.11 The Board may impose conditions with respect to the size and location of driveways; net density; height, design, screening, and location of structures; and any other matter that the Board determines to be required to protect the overall purpose and intent of the Zoning Regulations.

SOURCE: Final Rulemaking published at 36 DCR 5847 (August 11, 1989); as amended by Final Rulemaking published at 42 DCR 2494 (May 19, 1995); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8530-31 (October 20, 2000); as amended by Final Rulemaking published at 54 DCR 3072, 3074 (April 6, 2007).

2517 EXCEPTIONS TO BUILDING LOT CONTROL (OTHER THAN RESIDENCE DISTRICTS)

2517.1 This section shall permit two (2) or more principal buildings or structures to be erected as a matter of right on a single subdivided lot that is not located in, or within twenty-five feet (25 ft.) of, a Residence District.

2517.2 The number of principal buildings permitted by this section shall not be limited; provided, that the applicant for a permit to build submits satisfactory evidence

that all the requirements of this chapter (such as use, height, bulk, and open spaces around each building), as provided by §§ 3202.2 and 3202.3 are met.

2517.3 If a principal building has no street frontage, as determined by dividing the subdivided lot into theoretical building sites for each principal building:

- (a) The front of the building shall be the side upon which the principal entrance is located;
- (b) Open space in front of the entrance shall be provided that is equivalent to the required rear yard in the zone district in which the building is located; and
- (c) A rear yard shall be required.

2517.4 Where not in conflict with An Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452, as amended; D.C. Official Code §§ 6-601.01 to 6-601.09 (2001) (formerly codified at D.C. Code §§ 5-401 to 5-409 (1994 Repl. and 1999 Supp.))), the height of a building governed by the provisions of this section, in all zone districts, shall be measured from the finished grade at the middle of the front of the building.

SOURCE: § 7615 of the Zoning Regulations (April 1981); as amended by Final Rulemaking published at 36 DCR 5847, 5850-5851 (August 11, 1989); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8531-32 (October 20, 2000); 57 DCR 000126 (2010) .

2518 RELATIONSHIP OF PENNSYLVANIA AVENUE PLAN TO ZONING

2518.1 Pursuant to § 7(b) of the Pennsylvania Avenue Development Corporation Act of 1972, approved October 27, 1972 (86 Stat. 1266, 1272, as amended; 40 U.S.C. § 876(b)), all new construction, including substantial remodeling, conversion, rebuilding, enlargement, extension, or major structural improvement or demolition of an existing building within the development area identified in § 2 of the Act (86 Stat. 1266; 40 U.S.C. § 871(f)), shall receive prior approval and certification by the Corporation that the construction is consistent with the implementation of the Pennsylvania Avenue Plan 1974.

SOURCE: § 7616 of the Zoning Regulations, adopted pursuant to Final Rulemaking published at 24 DCR 10769, 10787 (June 16, 1978); as renumbered by Final Rulemaking published at 36 DCR 5847, 5851 (August 11, 1989); and amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8532 (October 20, 2000).

2519 SPACING BETWEEN COMMUNITY-BASED RESIDENTIAL FACILITIES

2519.1 The "Directory of Public and Private Community-Based Residential Facilities," prepared by the Office of Planning, updated through July 9, 1981, shall be used to determine if there are any other community-based residential facilities located in the same square or within a specified distance of a proposed community-based residential facility, whenever these regulations require that this determination be made. The Directory may be updated from time to time by the Zoning Administrator.

SOURCE: 7617 of the Zoning Regulations, adopted pursuant to Final Rulemaking published at 28 DCR 3506 (August 7, 1981); as renumbered by Final Rulemaking published at 36 DCR 5847, 5851 (August 11, 1989); and amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8532 (October 20, 2000).

2520 REGULATION OF ANTENNAS

2520.1 The purposes for the regulation of antennas as a particular type of structure shall be 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 that 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.

2520.2 If the Zoning Administrator determines that an antenna does not meet the definition of any specific class of an antenna in § 199.1, the Zoning Administrator shall determine the class of antenna to which it is closest and treat the antenna accordingly.

SOURCE: Final Rulemaking published at 36 DCR 1509, 1510 (February 24, 1989); as renumbered by Final Rulemaking published at 36 DCR 5847, 5851 (August 11, 1989); and amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating

by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8532 (October 20, 2000).

2521 SOUTHWEST URBAN RENEWAL AREA

2521.1 The following exceptions to development controls shall apply to specified properties located in the former Southwest Urban Renewal Area, an area geographically delineated and regulated for development by the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (60 Stat. 790, as amended; D.C. Official Code §§ 6-301.01 to 6-301.20 (2001) (formerly codified at D.C. Code §§ 5-801 to 5-820 (1994 Repl. and 1999 Supp.))), and the several Urban Renewal Plans adopted pursuant thereto, until the development controls expired in 1992 through 1996:

- (a) A lot in a W-1 District shall be permitted a maximum floor area ratio (FAR) of 2.0 for commercial or nonresidential uses;
- (b) A lot in a W-1, R-3, R-5, or C-3 District shall be permitted to provide all or a portion of its parking requirements on a different lot; provided, that the required parking shall be located within three hundred feet (300 ft.) of any part of the lot that generates the parking requirements;
- (c) In a W-1 District, an addition to a hotel existing as of November 20, 1998 shall be permitted a maximum height of sixty-two feet (62 ft.) D.C. datum;
- (d) In Square 536 in the C-3-C District, a building shall be permitted a maximum FAR of 8.0 and a lot occupancy of one hundred percent (100%); no rear or side yard requirement shall apply;
- (e) A building or structure that was built prior to November 20, 1998 that conformed to the height, area, and bulk provisions of the Urban Renewal Plans shall be considered a conforming structure under this title and in the event of fire, collapse, explosion, or act of God, may be built to its size as of November 20, 1998;
- (f) A building or structure that is constructed on a lot designated in the Urban Renewal Plan as P-1 through P-5 shall not exceed a height of twenty-two feet (22 ft.) above grade unless the Board of Zoning Adjustment, after public hearing, determines that the proposed height, bulk, and design are in harmony with existing uses and structures on neighboring property;
- (g) No development above grade shall be permitted on Lot 844 in Square 473 (the property designated P-6 in the Urban Renewal Plan for the Southwest Urban Renewal Area Project C). However, the density permitted on the property as a matter of right may be constructed elsewhere as transferable development rights (TDRs). These TDRs may be developed on property in the C-3-C District within TDR receiving zones; and

- (h) If part of the Waterside Mall property, comprising Lot 88 in Square 542 and Lot 60 in Square 499, is demolished so as to create a public right-of-way generally along the former right-of-way of 4th Street, S.W., so that the parts of the building to the east and west of right-of-way are no longer physically connected above grade, for zoning purposes all such improvements shall be deemed to be a single building.

SOURCE: Final Rulemaking published at 45 DCR 8184, 8187-88 (November 20, 1998); as corrected by Z.C. Order No. 807, Case No. 95-15/95-151, published at 46 DCR 1211, 1232 (February 12, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8535-36 (October 20, 2000); and Final Rulemaking published at 49 DCR 9074, 9076 (October 4, 2002).

2522 MINOR FLEXIBILITY BY ZONING ADMINISTRATOR'S RULING

2522.1 The Zoning Administrator is authorized to permit the following deviations, if the Zoning Administrator determines that the deviation or deviations will not impair the purpose of the otherwise applicable regulations:

- (a) Deviations not to exceed two percent (2%) of the area requirements governing minimum lot area, percentage of lot occupancy, and areas of courts and roof structures;
- (b) Deviations not to exceed the greater of two percent (2%) or twelve (12) inches of the linear requirements governing minimum lot width; and
- (c) Deviations not to exceed the greater of ten percent (10%) or twelve (12) inches of the linear requirements governing rear yard, side yard, and minimum dimensions of the court and court niche and roof structure setback requirements, provided that all deviations of roof structure setback requirements comply with the Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452, as amended; D.C. Official Code §§ 6 601.01 to 6-601.09 (2001) (formerly codified at D.C. Code §§ 5-401 to 5-409 (1994 Repl. & Supp. 1999))); and
- (d) Deviations not to exceed two percent (2%) of the linear frontage limitation for eating/drinking establishments in § 1901.6.

SOURCE: Final Rulemaking published at 46 DCR 7853 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741, 9742 (December 8, 2000); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8536-37 (October 20, 2000); Final Rulemaking and Order No. 10-07 published at 57 DCR 7679 (August 20, 2010).

2523 WATER TOWER ON THE EAST CAMPUS OF SAINT ELIZABETHS

- 2523.1 Notwithstanding any other provision of this Title, a water tower or elevated water tank (“Water Tower”) owned and operated by the District of Columbia Water and Sewer Authority may be established on unzoned property owned by the District of Columbia and located on the East Campus of Saint Elizabeths Hospital.
- 2523.2 No building permit to construct a Water Tower in excess of ninety (90) feet in height may be issued unless the Zoning Commission finds that said tower, as designed, meets the standards of § 3104 and is not inconsistent with the Comprehensive Plan, small area plan(s), and other adopted planning studies that pertain to the site.
- 2523.3 An application pursuant to § 2523.2 shall include such plans and illustrations necessary to adequately represent the final proposed appearance of the tower, including its materials, final elevation, and location on the East Campus. The application shall also identify how the proposed design meets the standard for approval set forth in § 2523.2.
- 2523.4 An application shall be included as a “Final Action” item for a Zoning Commission meeting scheduled after the completion of the thirty (30) day review period allowed the affected ANC(s). The notice to the affected ANC(s) shall include the date of the final action and a tentative public hearing date.
- 2523.5 The only motion that can be made at that time is for approval of the application in accordance with § 3028 and without the need for a public hearing.
- 2523.6 If no motion is made, or if the motion fails, the matter shall be moved to the “Hearing Actions” portion of the agenda, at which point the Commission may take any of the actions authorized by §§ 3011.3 through 3011.6.
- 2523.7 The Office of Planning may submit a report as to whether the Commission should approve the application. Any such report should be filed no later than ten (10) days prior to the date of the public meeting at which the final action item will be considered.
- 2523.8 A request to modify an approved design shall be subject to the same review criteria and approval process as set forth in this section for the original application.

SOURCE: Final Rulemaking and Order No. 09-10 published at 57 DCR 3487 (April 23, 2010).

2524 EXCEPTIONS TO DENSITY REGULATIONS FOR ENCLOSING OPEN ARCADES

- 2524.1 Notwithstanding the repeal of § 2515.3, a building constructed with the additional gross floor area authorized by that provision remains a conforming structure.

- 2524.2 Notwithstanding applicable floor-area-ratio limitations, and subject to §§ 2524.3 and 2524.4, an existing open arcade in a building in the SP, W, CR and C districts, may be enclosed.
- 2524.3 An open arcade area enclosed pursuant to § 2524.2 must be solely devoted to retail, arts, or service uses permitted as a matter of right.
- 2524.4 An open arcade may not be enclosed if it is located in a building that:
- (a) Is a historic landmark or has been designated as contributing to a historic district; and
 - (b) The Historic Preservation Review Board has determined that the arcade constitutes a feature contributing to the building's historic or architectural significance; or
 - (c) If the floor of the open arcade would not be at the same level and continuous with adjacent sidewalk in public space, or would not connect to an existing, adjoining open arcade adjacent to sidewalk in public space.

SOURCE: Final Rulemaking and Order No. 10-16 published at 57 DCR 11221 (November 26, 2010).

APPENDIX G

SCHEDULE OF HEIGHTS OF BUILDINGS ADJACENT TO PUBLIC BUILDINGS, AS ADOPTED BY THE COMMISSIONERS OF THE DISTRICT OF COLUMBIA, IN CONFORMITY WITH THE ACT OF CONGRESS OF JUNE 1, 1910, AND THE AMENDMENTS OF DECEMBER 30, 1910, AND MAY 20, 1912, AND AS AMENDED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, EFFECTIVE APRIL 20, 1999.

1. On G Street, NW, between Seventh and Ninth Streets, adjacent to the Civil Service Commission Building, no building shall be erected or altered so as to be higher than the horizontal line 90 feet above the top of the curb, at the northwest corner of Eighth and G Streets, NW. Ventilation and elevator shafts shall be set back from the side lines of the building a distance equal to the height of such shafts above the adjacent roof.
2. On F Street, NW, between Seventh and Ninth Streets, adjacent to the United States Patent Office, no building shall be erected or altered so as to be higher than the horizontal line 90 feet above the top of the curb at the southwest corner of Eighth and F Streets, NW. Ventilation and elevator shafts shall be set back from the side lines of the building a distance equal to the height of such shafts above the adjacent roof.

3. On Fifteenth Street, NW, between Pennsylvania Avenue and G Street, adjacent to the Treasury Building, the cornice line or parapet wall of any building shall not extend above a horizontal line 80 feet above the top of the curb, at the southeast corner of Fifteenth and G Streets, NW, and no part of the roof of any building shall be higher than a horizontal line 95 feet above the top of said curb, excepting ventilation and elevator shafts, which shall be set back from the side lines of the building a distance equal to the height of such shafts above the adjacent roof.
4. On Seventeenth Street, NW, between New York Avenue and G Street, confronting the State Department Building, no building shall be erected or altered so as to be higher than a horizontal line 80 feet above the top of the curb at the northwest corner of Pennsylvania Avenue and Jackson Place, excepting ventilation and elevator shafts, which shall be set back from the front and side lines of said building a distance equal to the height of such shafts above the adjacent roof.
5. On Pennsylvania Avenue, NW, in squares 167 and 221, confronting the Treasury Building and the State Department Building, no building shall be erected or altered so as to be higher than a horizontal line 80 feet above the top of the curb at the northeast corner of Pennsylvania Avenue and Madison Place for buildings to be erected or altered in square 221, and the curb at the northwest corner of Pennsylvania Avenue and Jackson Place for buildings to be erected or altered in square 167, excepting ventilation and elevator shafts, which shall be set back from the front and side lines of such building a distance equal to the height of such shafts above the adjacent roof.
6. On North Capitol Street, in square 625, confronting the City Post Office Building, no building shall be erected or altered to be higher than a horizontal line 90 feet above the top of the curb at the northwest corner of North Capitol Street and Massachusetts Avenue, excepting ventilation and elevator shafts, which shall be set back from the front and side lines of said building a distance equal to the height of such shafts above the adjacent roof.
7. On the north side of Maryland Avenue, NE, between First and Second Streets, adjacent to the Supreme Court Building, no building shall be erected or altered so as to be higher than a horizontal line 60 feet above the top of the curb at the northeast corner of the intersection of First Street and Maryland Avenue, NE. Ventilation and elevator shafts shall be set back from the front and side lines of the building at a distance equal to the height of such shafts above the adjacent roof.
8. On the east side of Second Street, NE, between East Capitol Street and Constitution Avenue, adjacent to the Supreme Court Building, no building shall be erected or altered so as to be higher than a horizontal line 60 feet above the top of the curb at the northeast corner of the intersection of Second

and A Streets, NE. Ventilation and elevator shafts shall be set back from the front and side lines of the building a distance equal to the height of such shafts above the adjacent roof.

9. On the east side of Third Street, SE, between East Capitol Street and Pennsylvania Avenue, adjacent to the new Library of Congress Annex, no building shall be erected or altered so as to be higher than a horizontal line 70 feet above the top of the curb at the northeast corner of Third and A Streets, SE. Ventilation and elevator shafts shall be set back from the front and side lines of the building a distance equal to the height of such shafts above the adjacent roof.
10. On the south side of Pennsylvania Avenue, SE, between Second and Third Streets, adjacent the Library of Congress Annex, no building shall be erected or altered so as to be higher than the horizontal line 70 feet above the top of the curb at the southeast corner of the intersection of Second Street and Pennsylvania Avenue, SE. Ventilation and elevator shafts shall be set back from the front and side lines of the building a distance equal to the height of such shafts above the adjacent roof.
11. On the south side of Independence Avenue, SE, between First and Second Streets, adjacent to the Library of Congress, no building shall be erected or altered so as to be higher than a horizontal line 70 feet above the top of the curb at the southeast corner of First Street and Independence Avenue, SE. Ventilation and elevator shafts shall be set back from the front and side lines of the building a distance equal to the height of such shafts above the adjacent roof.
12. On the east side of First Street, SE, between Independence Avenue and C Street, adjacent to the House Office Building, no building shall be erected or altered so as to be higher than a horizontal line 70 feet above the top of the curb at the southeast corner of First Street and Independence Avenue, SE. Ventilation and elevator shafts shall be set back from the front and side lines of the building a distance equal to the height of such shafts above the adjacent roof.
13. On the south side of C Street, SE, between First and South Capitol Streets, SE, and between South Capitol Street and Delaware Avenue, SW, adjacent to the House Office Building and Annex, no building shall be erected or altered so as to be higher than a horizontal line 90 feet above the top of the curb at the southeast corner of South Capitol and C Streets, SE. Ventilation and elevator shafts shall be set back from the front and side lines of the building a distance equal to the height of such shafts above the adjacent roof.
14. On Fourteenth Street, SW, between D and Water Streets, confronting the Bureau of Printing and Engraving, no building shall be erected or altered so

as to be higher than a horizontal line 80 feet above the top of the curb at the southeast corner of Fourteenth and D Streets, SW, excepting ventilation and elevator shafts, which shall be set back from the front and side lines of such buildings a distance equal to the height of such shafts above the adjacent roof. This restriction shall not apply to any structure that is set back from the 14th Street property line to a line that is continuous with the facade of the adjacent Bureau of Engraving and Printing annex building that is located along 14th Street, SW, between C and D Streets, SW. The height of a structure described in the preceding sentence shall be established in accordance with the requirements of An Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452, as amended; D.C. Official Code §§ 6-601.01 to 6-601.09 (formerly codified at D.C. Code §§ 5-401 to 5-409 (1994 Repl. & Supp. 1999))), and the Zoning Regulations.

15. On the north side of C Street, NE, between First and Second Streets adjacent to the Senate Office Building Annex, no building shall be erected or altered so as to be higher than a horizontal line 70 feet above the top of the curb at the northeast corner of First and C Streets, NE. Ventilation and elevator shafts shall be set back from the side lines of the building a distance equal to the height of such shafts above the adjacent roof.

SOURCE: Appendix G of the Zoning Regulations, effective May 12, 1958; as amended by the Schedule of Height of Buildings Amendment Act of 1998, effective April 20, 1999 (D.C. Law 12-234; 46 DCR 4147 (May 7, 1999)). See Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8528 (October 20, 2000).

TITLE 11 - ZONING

CHAPTER 26 INCLUSIONARY ZONING

Secs.

2600 GENERAL PROVISIONS

2601 DEFINITIONS

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2603 SET-ASIDE REQUIREMENTS

2604 BONUS DENSITY

2605 DEVELOPMENT STANDARDS

2606 EXEMPTION FROM COMPLIANCE

2607 OFF-SITE COMPLIANCE

2608 APPLICABILITY DATE

2600 GENERAL PROVISIONS

2600.1 This Chapter establishes an Inclusionary Zoning Program that furthers the Housing Element of the Comprehensive Plan by increasing the amount and expanding the geographic distribution of adequate, affordable housing available to current and future residents.

2600.2 It is the intent of the Zoning Commission to promulgate only such regulations as are necessary to establish the minimum obligations of property owners applying for building permits or certificates of occupancy under an Inclusionary Zoning Program. All other aspects of the program, including the setting of maximum purchase prices and rents, the minimum sizes of the units, the selection and obligations of eligible households, and the establishment of enforcement mechanisms such as covenants and certifications shall be as determined by the Council and Mayor of the District of Columbia.

2600.3 The most important general purposes of the Inclusionary Zoning Program include the following:

- (a) To utilize the skills and abilities of private developers to produce quality affordable housing;

- (b) To leverage private development, combined where appropriate with zoning density increases, to produce affordable housing throughout the District of Columbia;
- (c) To mitigate the impact of market-rate residential development on the availability and cost of housing available and affordable to low- and moderate-income households;
- (d) To increase the production of affordable housing units throughout the District to meet existing and anticipated housing and employment needs;
- (e) To provide for a full range of housing choices throughout the District for households of all incomes, sizes, and age ranges to preserve diversity and to ensure the benefits of economic integration for the residents of the District;
- (f) To stabilize the overall burden of housing costs on low- and moderate-income households;
- (g) To create a stock of housing that will be affordable to low- and moderate-income residents over a long term; and
- (h) To make homeownership opportunities available to low- and moderate-income residents.

SOURCE: Final Rulemaking published at 53 DCR 7013 (August 25, 2006).

2601 DEFINITIONS

2601.1 When used in the Chapter, the following terms and phrases shall have the meanings ascribed:

Achievable bonus density - The amount of the bonus density permitted under § 2604 that potentially may be utilized within a particular inclusionary development, notwithstanding constraints resulting from the physical characteristics of the land or restrictions imposed by District or federal laws and agencies.

The Act - the Inclusionary Zoning Implementation Amendment Act of 2006, effective Mar. 14, 2007 (D.C. Law 16-275; 54 DCR 880). References to the Act include any Mayor's Order, agency rule, or other administrative issuance promulgated pursuant to that legislation.

Development, inclusionary - a development subject to the provisions of this Chapter pursuant to § 2602.1.

Development, off-site - a development that accounts for all or part of an inclusionary development's requirements under this Chapter, if approved pursuant to § 2607.

Eligible household - one or more persons certified by the Mayor as being a low- or moderate-income household pursuant to the Act.

Inclusionary unit - a unit set aside for sale or rental to an eligible low- and moderate-income household as required by this Chapter or by order of the Board of Zoning Adjustment pursuant to § 2607.

Low-income household - a household of one or more individuals with a total annual income adjusted for household size equal to less than fifty percent (50%) of the Metropolitan Statistical Area median as certified by the Mayor pursuant to the Act.

Mayor - the Mayor of the District of Columbia, the Director of the agency or agencies delegated the authority to implement the Act, or the agency official or officials re-delegated such authority.

Moderate-income household - a household of one or more individuals with a total annual income adjusted for household size equal to between fifty-one percent (51%) and eighty percent (80%) of the Metropolitan Statistical Area median as certified by the Mayor pursuant to the Act.

Purchase/rental schedule - the most current schedule, published by the Mayor pursuant to the Act, establishing the maximum purchase prices and rents for inclusionary units.

SOURCE: Final Rulemaking published at 53 DCR 7013 (August 25, 2006); as amended by Final Rulemaking published at 54 DCR 6943 (July 20, 2007); as amended by Final Rulemaking published at 55 DCR 2604 (March 14, 2008).

2602 APPLICABILITY

2602.1 Except as provided in § 2602.3, the requirements and incentives of this chapter shall apply to developments that:

- (a) Are mapped within the R-2 through R-5-D, C-1 through C-3-C, USN, CR, SP, StE, and W-1 through W-3 Zone Districts, unless exempted pursuant to § 2602.3;
- (b) Have ten (10) or more dwelling units (including off-site inclusionary units);
- (c) Are either:

- (1) New multiple-dwellings;
- (2) New one (1)-family dwellings, row dwellings, or flats constructed concurrently or in phases on contiguous lots or lots divided by an alley, if such lots were under common ownership at the time of construction;
- (3) An existing development described in subparagraph (i) or (ii) for which a new addition will increase the gross floor area of the entire development by fifty percent (50%) or more; or
- (d) Consist of a residential building, other than a one (1)-family dwelling or flat, that has penthouse habitable space pursuant to § 411.16.

2602.2 A development with less than ten (10) dwelling units shall become subject to this chapter upon the filing of an application for a building permit to:

- (a) Add one (1) or more dwelling units to a new development within a two (2)-year period after the issuance of the last certificate of occupancy, if the construction for which application has been filed would result in the development having ten (10) or more dwelling units;
- (b) Convert a one (1)-family dwelling or flat to an apartment house in the R-4 Zone District for four (4) or more dwelling units approved by the Board of Zoning Adjustment; or
- (c) Convert a non-residential building to an apartment house in the R-4 Zone District for ten (10) or more units.

2602.3 This chapter shall not apply to:

- (a) Hotels, motels, or inns, except for new penthouse habitable space as described in § 2602.1(d);
- (b) Dormitories or housing developed by or on behalf of a local college or university exclusively for its students, faculty, or staff;
- (c) Housing that is owned or leased by foreign missions exclusively for diplomatic staff;
- (d) Rooming houses, boarding houses, community-based residential facilities, or single room occupancy developments;
- (e) Except for new penthouse habitable space as described in § 2602.1(d), properties located in any of the following areas:

- (1) The Downtown Development or Southeast Federal Center Overlay Districts;
 - (2) The Downtown East, New Downtown, North Capitol, Southwest, or Capitol South Receiving Zones on February 12, 2007;
 - (3) The W-2 zoned portions of the Georgetown Historic District;
 - (4) The R-3 zoned portions of the Anacostia Historic District;
 - (5) The C-2-A zoned portion of the Naval Observatory Precinct District; and
 - (6) The Eighth Street Overlay; and
- (f) Any development financed, subsidized or funded in whole or in part by the federal or District government and administered by the Department of Housing and Community Development (DHCD), the District of Columbia Housing Finance Agency, or the District of Columbia Housing Authority and that meets the requirements set forth in § 2602.7.

2602.4 Except as provided in §§ 2602.5, 2602.10, 2603.5, 2603.6, and 2607.1(c) or the Act, all inclusionary units created pursuant to this chapter shall be leased or sold only to eligible households for so long as the inclusionary development exists.

2602.5 An owner/occupant of an inclusionary unit may not sell the unit at a price greater than that established by the Mayor pursuant to § 103 of the Act unless the price is offered by the Mayor or a Housing Trust authorized by the Mayor.

2602.6 No eligible household shall be offered an inclusionary unit for rental or sale at an amount greater than that established by the Mayor pursuant to § 103 of the Act.

2602.7 A development exempted under § 2602.3 (f) shall be subject to the following provisions:

- (a) The development shall set aside, for low or moderate-income households, affordable dwelling units (“Exempt Affordable Units”) equal to at least the gross square footage that would have been required pursuant to §§ 2603.1 and 2603.2. The terms “low-income household” and “moderate-income household” shall have the same meaning as given them by the federal or District funding source, or financing or subsidizing entity, and shall hereinafter be referred to collectively as “Targeted Households”;
- (b) The Exempt Affordable Units shall be reserved for the Targeted

Households and sold or rented in accordance with the pricing structure established by the federal or District funding source, or financing or subsidizing entity, for so long as the project exists;

- (c) The requirements set forth in § 2602.7 (a) and (b) shall be stated as declarations within a covenant approved by the District; and
- (d) The approved covenant shall be recorded in the land records of the District of Columbia prior to the date that the first application for a certificate of occupancy is filed for the project; except that for developments that include one-family dwellings, the covenant shall be recorded before the first purchase agreement or lease is executed.

2602.8 No exemption may be granted pursuant to § 2602.3 (f) unless the Zoning Administrator receives a written certification from the DHCD Director that the development meets the requirements of § 2602.7 (a) and (b).

2602.9 A development exempted by § 2602.3 (f) may, nevertheless, utilize the bonus density and zoning modifications provided for in § 2604 and the zoning overlay provisions of Chapters 11 - 16, 18, or 19.

2602.10 The requirements of this chapter shall automatically terminate if title to the mortgaged property is transferred following foreclosure by, or deed-in-lieu of foreclosure to, a mortgagee in the first position, or a mortgage in the first position is assigned to the Secretary of the U.S. Department of Housing and Urban Development.

SOURCE: Final Rulemaking published at 53 DCR 7013 (August 25, 2006); as amended by Final Rulemaking published at 54 DCR 6943 (July 20, 2007); as amended by Final Rulemaking published at 55 DCR 2604 (March 14, 2008); 57 DCR 000126 (2010); as amended by Final Rulemaking and Order No. 04-33D published at 58 DCR 822 (January 28, 2011); and as amended by Final Rulemaking and Order No. 09-21 published at 58 DCR 4788 (June 3, 2011); as amended by Final Rulemaking and Order No. 12-08 published at 60 DCR 4834 (March 29, 2013); as amended by Final Rulemaking and Order No. 04-33F published at 60 DCR 5144 (April 5, 2013); as amended by Final Rulemaking and Order No. 14-11 published at 62 DCR 8883 (June 26, 2015); as amended by Final Rulemaking and Order No. 14-13 published at 63 DCR 390 (January 8, 2016); as amended by Final Rulemaking and Order No. 14-13A published at 63 DCR 8118 (June 3, 2016).

2603 SET-ASIDE REQUIREMENTS

2603.1 Except as provided in § 2603.8, an inclusionary development for which the primary method of construction does not employ steel and concrete frame structure located in an R-2 through an R-5-B Zone District or in a C-1, C-2-A, W-0, or W-1 Zone District shall devote the greater of ten percent (10%) of the gross floor area being devoted to residential use including penthouse habitable space as described in § 2602.1(d), or seventy-five percent (75%) of the bonus

density being utilized for inclusionary units plus an area equal to ten percent (10%) of the penthouse habitable space as described in § 2602.1(d).

- 2603.2 An inclusionary development of steel and concrete frame construction located in the zone districts stated in § 2603.1 or any development located in a C-2-B, C-2-B-1, C-2-C, C-3, CR, R-5-C, R-5-D, R-5-E, SP, USN, W-2, or W-3 Zone District shall devote the greater of eight percent (8%) of the gross floor area being devoted to residential use including floor area devoted to penthouse habitable space as described in § 2602.1(d), or fifty percent (50%) of the bonus density being utilized for inclusionary units plus an area equal to eight percent (8%) of the penthouse habitable space as described in § 2602.1(d).
- 2603.3 Except as provided in §§ 2603.9 and 2603.11, inclusionary developments located in R-3 through R-5-E, C-1, C-2-A, StE, W-0, and W-1 Zone Districts shall set aside fifty percent (50%) of inclusionary units for eligible low-income households and fifty percent (50%) of inclusionary units for eligible moderate-income households. The first inclusionary unit and each additional odd number unit shall be set aside for low-income households.
- 2603.4 Except as provided in § 2603.10, developments located in CR, C-2-B through C-3-C, USN, W-2 through W-3, and SP Zone Districts shall set aside one hundred percent (100%) of inclusionary units for eligible moderate-income households.
- 2603.5 The Mayor or the District of Columbia Housing Authority shall have the right to purchase up to twenty-five percent (25%) of inclusionary units in a for-sale inclusionary development in accordance with such procedures as are set forth in the Act.
- 2603.6 Notwithstanding § 2603.5, nothing shall prohibit the Mayor or the District of Columbia Housing Authority to acquire title to inclusionary units in a for-sale inclusionary development if any of the following circumstances exist:
- (a) There is a risk that title to the units will be transferred by foreclosure or deed-in-lieu of foreclosure, or that the units' mortgages will be assigned to the Secretary of the U.S. Department of Housing and Urban Development; or
 - (b) Title to the units have been transferred by foreclosure or deed-in-lieu of foreclosure, or the units' mortgages have been assigned to the Secretary of the U.S. Department of Housing and Urban Development.
- 2603.7 An inclusionary development of steel and concrete frame construction located in an StE District shall devote no less than eight percent (8%) of the gross floor area being devoted to residential use in an StE District.
- 2603.8 An inclusionary development that results from a conversion of a one (1)-family dwelling or flat to an apartment house in the R-4 Zone District for four (4) or

more dwelling units approved by the Board of Zoning Adjustment shall set aside every even numbered dwelling unit beginning at the fourth (4th) unit as an inclusionary unit.

2603.9 An inclusionary development that results from a conversion of a one (1)-family dwelling or flat to an apartment house in the R-4 Zone District for four (4) or more dwelling units approved by the Board of Zoning Adjustment shall set aside one hundred percent (100%) of inclusionary units for eligible moderate-income households.

2603.10 Notwithstanding §§ 2603.3 and 2603.4, one hundred percent (100%) of inclusionary units resulting from the set-aside required for penthouse habitable space shall be set aside for eligible low-income households.

SOURCE: Final Rulemaking published at 53 DCR 7020 (August 25, 2006); as amended by Final Rulemaking published at 55 DCR 2616 (March 14, 2008); as amended by Final Rulemaking and Order No. 09-21 published at 58 DCR 4788 (June 3, 2011); as amended by Final Rulemaking and Order No. 12-08 published at 60 DCR 4834 (March 29, 2013); and amended by Final Rulemaking and Order No. 04-33F published at 60 DCR 5144 (April 5, 2013); as amended by Final Rulemaking and Order No. 14-16 published at 62 DCR 5190 (April 24, 2015); as amended by Final Rulemaking and Order No. 14-11 published at 62 DCR 8883 (June 26, 2015); as amended by Final Rulemaking and Order No. 14-13 published at 63 DCR 390 (January 8, 2016); as amended by Final Rulemaking and Order No. 14-13C published at 63 DCR 9110 (July 1, 2016).

2604 BONUS DENSITY

2604.1 Inclusionary developments subject to the provisions of this chapter, except those located in the StE District, may construct up to twenty percent (20%) more gross floor area than permitted as a matter of right ("bonus density"), subject to all other zoning requirements (as may be modified herein) and the limitations established by the Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452; D.C. Official Code § 6-601.01, *et seq.* (2001 Ed.).

2604.2 Inclusionary developments in zoning districts listed in the chart below may use the following modifications to height and lot occupancy in order to achieve the bonus density:

Base Zone	Matter-of-Right Zoning Constraints			IZ Zoning Modifications		
	Lot Occupancy	Zoning	Height (feet)	Zoning FAR	Lot Occupancy	Height (feet)
R-5-E	75%	90		6.00	90%	90
CR	75%	90		6.00	80%	100
C-2-A	60%	50		2.50	75%	50
C-2-B	80%	65		3.50	80%	70
C-2-C	80%	90		6.00	90%	90
C-3-A	75%	65		4.00	80%	65
W-1	80%	40		2.50	80%	50

W-2	75%	60	4.00	75%	80
W-3	75%	90	6.00	80%	100
SP-1	80%	65	4.00	80%	70
SP-2	80%	90	6.00	90%	90

2604.3 Inclusionary developments in R-2 through R-4 zoning districts may use the minimum lot dimensions as set forth in the following table:

Base Zone	IZ Zoning Modifications		
	IZ Min. Lot Area (square feet)	Min. Lot Width (feet)	Min Lot Width (feet) Special Exception
R-2 Detached	3,200	40	32
R-2 Semi-Detached	2,500	30	25
R-3	1,600	20	16
R-4	1,500	18	16

SOURCE: Final Rulemaking published at 53 DCR 7020 (August 25, 2006); as amended by Final Rulemaking published at 55 DCR 2616 (March 14, 2008); as amended by Final Rulemaking and Order No. 04-33C published at 57 DCR 9735 (October 15, 2010); as amended by Final Rulemaking and Order No. 12-08 published at 60 DCR 4834 (March 29, 2013).

2605 DEVELOPMENT STANDARDS

2605.1 [REPEALED]

2605.2 The proportion of studio, efficiency, and one-bedroom inclusionary units to all inclusionary units shall not exceed the proportion of market-rate studio, efficiency, and one-bedroom units to all market-rate units.

2605.3 All inclusionary units shall be comparable in exterior design, materials, and finishes to the market-rate units.

2605.4 The interior amenities of inclusionary units (such as finishes and appliances) shall be comparable to the market-rate units, but may be comprised of less expensive materials and equipment.

2605.5 All inclusionary units in an inclusionary development shall be constructed prior to or concurrently with the construction of market-rate units, except that in a phased development, the inclusionary units shall be constructed at a pace that is proportional with the construction of the market-rate units.

2605.6 Inclusionary units shall not be overly concentrated on any floor of a project.

SOURCE: Final Rulemaking published at 53 DCR 7013 (August 25, 2006)

2606 EXEMPTION FROM COMPLIANCE

2606.1 The Board of Zoning Adjustment is authorized to grant partial or complete relief from the requirement of § 2603 upon a showing that compliance (whether on site, offsite or a combination thereof) would deny the applicant economically viable use of its land.

2606.2 No application for a variance from the requirements of § 2603.2 may be granted until the Board of Zoning Adjustment has voted to deny an application for relief pursuant to this section or § 2607.

SOURCE: Final Rulemaking published at 53 DCR 7020 (August 25, 2006); as amended by Final Rulemaking published at 55 DCR 2616 (March 14, 2008).

2607 OFF-SITE COMPLIANCE

2607.1 The Board of Zoning Adjustment is authorized to permit some or all of the set-aside requirements of § 2603 to be constructed off-site upon proof, based upon a specific economic analysis, that compliance on-site would impose an economic hardship. Among the factors that may be considered by the BZA in determining the existence of economic hardship are:

- (a) Exceptionally high fees in condominium developments that cannot be reduced to levels affordable to eligible households;
- (b) The inclusion of expensive and specialized social or health services in a retirement housing development or a development that principally provides housing for the disabled, if such services are not severable from the provision of housing and render units in the development unaffordable to eligible households; or
- (c) For a rental development the owner of which wishes to change the property's use to one listed in § 2602.3, proof that continuation of the rental use is no longer economically feasible.

2607.2 An applicant who has demonstrated the existence of economic hardship shall further demonstrate that the off-site development:

- (a) Is located within the same census tract as the inclusionary development;
- (b) Consists of new construction for which no certificate of occupancy has been issued;
- (c) Is at a location suitable for residential development;
- (d) Has complied with or will comply with all on-site requirements of this Chapter as are applicable to it;

- (e) Has not received any development subsidies from federal or District government programs established to provide affordable housing;
- (f) Will provide inclusionary units comparable in type to the market-rate units being created in their place, with gross floor areas of not less than 95% of the gross floor area of such market-rate units, and of a number no fewer than the number of units that would otherwise have been required on-site;
- (g) Will not have more than 30% of its gross floor area occupied by inclusionary units that satisfy the set-aside requirement of other properties, including the property that is the subject of the BZA application; and
- (h) Has not utilized bonus density beyond that provided by § 2604.1

2607.3 The requirement of § 2607.2 (a) may be waived upon a showing that the off-site development is owned by the Applicant, is located in the District of Columbia, and meets the requirements of § 2607.2.

2607.4 Inclusionary units constructed off-site shall not be counted toward any set-aside requirement separately applicable to the off-site development pursuant to § 2603.

2607.5 No order granting off-site compliance shall become effective until a covenant, found legally sufficient by the Office of the Attorney General, has been recorded in the land records of the District of Columbia between the owner of the off-site development and the Mayor. A draft covenant, executed by the owner of the offsite property, shall be attached to an application for relief under this section.

2607.6 The covenant shall bind the owner and all future owners of the off-site development to:

- (a) Construct and reserve the number of inclusionary units allowed to be accounted for off-site, in accordance with the plans approved by the Board and the conditions of the Board's order;
- (b) Sell or rent, as applicable, such units in accordance with the provisions of this Chapter and the Act for so long as the off-site development remains in existence;
- (c) Neither apply for nor accept any development subsidies from federal or District government programs established to provide affordable housing;
- (d) Acknowledge that the owners are legally responsible for the set-aside requirement accepted as if the requirement had been imposed directly on the off-site development; and

- (e) Not request special exception or variance relief with respect to the obligations accepted or its own obligations under this Chapter.

2607.7 Upon the recordation of the covenant, the set-aside requirements permitted to be accounted off-site shall be deemed to be the legal obligation of the current and future owners of the off-site development. All dwelling units as are required to be reserved in the off-site development in accordance with the BZA order shall be deemed inclusionary units for the purposes of this Chapter and the Act.

2607.8 No application for a certificate of occupancy for a market-rate unit on the inclusionary development shall be granted unless construction of the off-site inclusionary units is progressing at a rate roughly proportional to the construction of the on-site market-rate units.

2607.9 Inclusionary Units resulting from the set-aside required for penthouse habitable space as described in § 2602.1(d) shall be provided within the building, except that the affordable housing requirement may be achieved by providing a contribution to a housing trust fund, consistent with the provisions of §§ 414.13 through 414.16, except that the calculation of § 414.15 shall be based on the maximum permitted residential FAR, when:

- (a) The new penthouse habitable space is being provided as an addition to an existing building which is not otherwise undergoing renovations or additions that would result in a new or expanded Inclusionary Zoning requirement within the building;
- (b) The penthouse habitable space is being provided on an existing or new building not otherwise subject to Inclusionary Zoning requirements; or
- (c) The building is not otherwise required to provide inclusionary units for low-income households and the amount of penthouse habitable space would result in a gross floor area set-aside less than the gross floor area of the smallest dwelling unit within the building.

SOURCE: Final Rulemaking published at 53 DCR 7013 (August 25, 2006); as amended by Final Rulemaking published at 55 DCR 2604 (March 14, 2008); as amended by Final Rulemaking and Order No. 14-13 published at 63 DCR 390 (January 8, 2016); as amended by Final Rulemaking and Order No. 14-13A published at 63 DCR 8118 (June 3, 2016).

2608 APPLICABILITY DATE

2608.1 The provisions of §§ 2600 through 2607 of this Chapter as adopted by Zoning Commission Orders No. 04-33, 04-33A, and 04-33B and all amendments made by Orders No. 04-33A and 04-33B to 11 DCMR Chapters 1, 11 through 14, 15, 16, and 19 shall become effective upon the publication of the first purchase/rental schedule in the *D.C. Register*.

2608.2

With the exception of penthouse habitable space approved by the Zoning Commission pursuant to § 411.24, the provisions of this chapter shall not apply to any building approved by the Zoning Commission pursuant to Chapter 24 if the approved application was set down for hearing prior to March 14, 2008.

SOURCE: Final Rulemaking published at 53 DCR 7013 (August 25, 2006); as amended by Final Rulemaking published at 54 DCR 6943 (July 20, 2007); as amended by Final Rulemaking published at 55 DCR 2604 (March 14, 2008); as amended by Final Rulemaking and Order No. 14-13 published at 63 DCR 390 (January 8, 2016).

TITLE 11 - ZONING

CHAPTER 27 REGULATIONS OF ANTENNAS, ANTENNA TOWERS, AND MONOPOLES

Secs.

2700	PURPOSE
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2716	REMOVAL OF ANTENNAS, ANTENNA TOWERS MONOPOLES AND RELATED EQUIPMENT
2700	PURPOSE

2700.1 The purposes of the regulation of antennas, antenna towers, and monopoles as a particular type of structure shall be as follows:

- (a) The Zoning Commission has determined that certain antennas, antenna towers, and monopoles because of their size, shape, design, construction, or location, may affect the 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, antenna towers, and monopoles 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 the national monuments; and
- (c) The principal types of antennas, antenna towers, and monopoles regulated are those that, because of their shape, size, or quantity, potentially have the greatest visual impact and include, by example, large satellite earth station antennas, certain microwave terrestrial antennas, monopoles, and antenna towers.

2700.2 Consistent with these purposes, the construction of new towers or monopoles shall only be permitted subject to certain placement and construction standards.

SOURCE: Final Rulemaking published at 55 DCR 34 (January 4, 2008).

2701 CERTIFICATION OF FCC COMPLIANCE FOR TRANSMITTING ANTENNAS

2701.1 No application for a building permit for a transmitting antenna may be considered completed unless it is accompanied by a certification evidencing that the proposed transmitting antenna will comply with the radio frequency ("RF") radiation guidelines adopted by the Federal Communications Commission and the health and safety regulations adopted by the Occupational Safety and Health Administration.

2701.2 The certification shall be signed by a licensed engineer qualified in RF engineering and shall include the following required information:

- (a) The maximum RF radiation to be generated by the proposed antenna or antennas;
- (b) The means used to determine the RF levels;

- (c) The exact legal name, address of principal place of business, and telephone number of the applicant, certifying engineer, and property owner; and
- (d) A site plan, and roof plan if applicable, drawn to scale showing the location of the proposed antennas and all existing antennas on the site, roof, tower, or monopole.

SOURCE: Final Rulemaking published at 55 DCR 34 (January 4, 2008).

2702 MATTER OF RIGHT ANTENNAS

2702.1 All antennas that comply with the applicable provisions of this chapter e permitted as a mater of right in all zone districts, except broadcast antennas, which shall not be permitted in residence districts (R).

2702.2 No signs of any kind, including advertisements, may be placed on any antenna, unless necessary for the safety of the public.

SOURCE: Final Rulemaking published at 55 DCR 34 (January 4, 2008).

2703 GROUND MOUNTED ANTENNAS

2703.1 All ground mounted antennas, except those regulated by § 2706 or exempted by § 2707, shall comply with the following conditions:

- (a) In any Residence (R), Special Purpose (SP), Mixed Use (CR), or Waterfront (W) zone district only one antenna may be located per lot and may not exceed a mounted height of twelve feet (12 ft.) at its highest point above the ground on which it is located;
- (b) In any Commercial (C) or Industrial (CM or M) zone district an antenna may not exceed a mounted height of twenty feet (20 ft.) at its highest point above the ground on which it is located;
- (c) The antenna shall be located in either the rear yard or the side yard of the principal building on the lot, except that in the case of a corner lot no antenna may be located in the yard between the principal building structure and a street;
- (d) Each part of the antenna shall be removed from all lot lines by a minimum distance of ten feet (10 ft.);
- (e) Each antenna installation shall be located or screened such that its visibility is minimized to the greatest practical extent from any:
 - (1) Public park that is within the Central Employment Area;

- (2) Street that the lot abuts;
 - (3) Public spaces;
 - (4) Navigable waterways;
 - (5) Historic landmarks; or
 - (6) National monuments;
- (f) The antenna, to the greatest practical extent, shall be constructed of materials and colors that blend with the surroundings; and
- (g) The antenna installation shall be as small as is practical for its intended use.

2703.2 The term "ground" as used in §§ 2703.2 (a) and (b) does not include artificially elevated terrain such as berms or planter boxes but may include graded lawns, terraced landscapes that are formed from the natural grade, and at-grade patios.

2703.3 A proposed ground mounted antenna that does not comply with the above requirements or numeric limit may be permitted through the special exception process set forth in § 2712.

SOURCE: Final Rulemaking published at 55 DCR 34 (January 4, 2008).

2704 ROOF-MOUNTED ANTENNAS

2704.1 All roof-mounted antennas, except those regulated by § 2706 or exempted by § 2707, shall comply with the following conditions:

- (a) Each part of an antenna shall be removed from each edge of the roof a minimum distance equal to its total mounted height above the roof;
- (b) An antenna may not exceed a total mounted height of twelve feet (12 ft.) above the roof;
- (c) Each antenna installation shall be located or screened such that its visibility from public spaces, navigable waterways, historic landmarks, and national monuments is minimized to the greatest practical extent;
- (d) An antenna shall be constructed of materials and colors that blend with the surroundings to the greatest practical extent;

- (e) Antennas mounted on roofs with outdoor recreation space shall be secured from unauthorized access for a minimum distance of ten feet (10 ft.), by a fence or screen at least five feet (5 ft.) in height; and
- (f) Any related equipment cabinet or shelter that is not internal to the building or penthouse shall be:
 - (1) Constructed of materials and colors that blend with the building or penthouses; and
 - (2) Located to reduce its visibility from public space to the greatest practical extent.

2704.2 A proposed roof-mounted antenna that does not comply with the above requirements may be permitted through the special exception process set forth in § 2712.

SOURCE: Final Rulemaking published at 55 DCR 34 (January 4, 2008).

2705 BUILDING-MOUNTED ANTENNAS

2705.1 All building mounted antennas, except those regulated by § 2706 or exempted by § 2707, shall comply with the following conditions:

- (a) The top of the antenna shall not extend above the top of the wall, or roof of the building or structure to which it is mounted;
- (b) Each antenna installation shall be located or screened such that its visibility from public spaces, navigable waterways, historic landmarks, and national monuments is minimized to the greatest practical extent;
- (c) An antenna shall be constructed of materials and colors that blend with the surroundings to the greatest practical extent or shall be screened and/or painted to blend with the surface to which the antenna is attached;
- (d) A building-mounted antenna placed on a roof structure with a rooftop outdoor recreation space shall be secured from unauthorized access for a minimum vertical distance of ten feet (10 ft.); and
- (e) Any related equipment cabinet or shelter that is not internal to the building or penthouse shall be:
 - (1) Constructed of materials and colors that blend with the building or penthouses; and
 - (2) Located to reduce its visibility from public space to the greatest practical extent.

2705.2 A proposed building mounted antenna that does not comply with the above requirements may be permitted through the special exception process set forth in § 2712.

SOURCE: Final Rulemaking published at 55 DCR 34 (January 4, 2008).

2706 ANTENNAS LOCATED IN STEALTH STRUCTURES

2706.1 Antennas located in stealth structures may be permitted provided the following conditions are met:

- (a) The proposed stealth design provides adequate screening of the antennas;
- (b) The proposed structure is not out of scale with the subject property taking into account the size, setbacks, topography, and underlying use of the property;
- (c) The primary use of the subject property is not single-family residential or a community based residential facility;
- (d) The ground equipment of the proposed antenna be landscaped, fenced, or otherwise screened;
- (e) The diameter of a stealth flag pole shall not exceed thirty inches (30 in.) at its base; and
- (f) The height of a ground-mounted stealth structure shall be permitted, by right, to a height of eighty feet (80 ft.) in all residential zone districts and one hundred twenty feet (120 ft.) in all other zone districts.

2706.2 Any proposed antenna to be located in a stealth structure that does not comply with the above requirements may be permitted through the special exception process set forth in § 2712.

SOURCE: Final Rulemaking published at 55 DCR 34 (January 4, 2008).

2707 EXEMPTED ANTENNAS

2707.1 The requirements of §§ 2703 through 2706 shall not apply to any antenna that is:

- (a) Entirely enclosed within a building but is not the primary use within the building;
- (b) Entirely enclosed on all sides by a penthouse, or an extension of penthouse walls; this subsection shall not be interpreted to permit a penthouse in excess of the permitted height above the roof upon which it is located;

- (c) Located entirely behind and no taller than the parapet walls; or
- (d) No taller than eighteen inches (18 in.) in height and necessary for the implementation of expanded 911 or emergency communications.

2707.2 For the purposes of § 2707.1, penthouse and parapet walls may include an opaque membrane covering a port in front of the antenna that screens the antenna, blends with the wall and allows the antenna to operate.

2707.3 The requirements of §§ 2703 through 2706 shall not apply to the following classes of antennas. The number to the right indicates the maximum number of antennas within a class that may be placed on a building or located on a lot, as is applicable:

Residential type uhf/vhf television and frequency modulation (fm) radio receiving Yagi antenna located on the roof of a principal building, not to exceed eight feet (8 ft.) horizontally. 2

Whip antennas not exceeding two and one-half inches (2½ in.) in diameter, with a mounted dimension (Except that no longer than twelve feet (12 ft.) in any direction, and there located on a principal building, shall be no numeric limit on the number whip antennas that are dedicated to the provision of emergency services to the District of Columbia.) 2

Residential type super high frequency antenna located on the roof of a principal building, not to exceed three feet (3 ft.) in any dimension, excluding the support element. 1

Dish antenna located on the roof of a principal building with a diameter of no more than four feet (4 ft.), not taller than eight feet (8 ft.) as measured from the roof surface on which it is mounted, and set back from the edge of the roof a distance at least equal to its height above the roof. The principal building shall have a height of no less than twenty-five feet (25 ft.). 1

Whip antenna mounted on a vehicle on private property. 1

2707.4 A proposed antenna which does not comply with the above requirements or numeric limitation set forth in § 2707.3 may be permitted subject to the requirements of §§ 2703 through 2706.

SOURCE: Final Rulemaking published at 55 DCR 34 (January 4, 2008); as amended by Final Rulemaking and Order No. 14-13 published at 63 DCR 390 (January 8, 2016).

2708 ANTENNA MOUNTED ON ANTENNA TOWERS AND MONOPOLES

2708.1 Antennas may be mounted as a matter of right on an antenna tower or monopole that:

- (a) Is located in a General Industry (M) Zone District;
- (b) Was approved by, and constructed in accordance, with an order of the Board of Zoning Adjustment; or
- (c) Was constructed in accordance with a building permit issued prior to December 21, 2007.

2708.2 An antenna shall not be mounted on an antenna tower or monopole if, as a result of its installation:

- (a) The size of the antenna tower or monopole is increased; or
- (b) The appearance of the antenna tower or monopole is changed in a manner that adversely impacts the surrounding area.

2708.3 A transmitting antenna shall not be placed lower than fifty feet (50 ft.) above the base of the antenna tower or monopole.

2708.4 An antenna proposed to be mounted on an antenna tower or monopole that does not comply with the above requirements may be permitted through the special exception process set forth in § 2712.

SOURCE: Final Rulemaking published at 55 DCR 34 (January 4, 2008).

2709 ANTENNA TOWERS AND MONOPOLE IN GENERAL INDUSTRY DISTRICTS (M)

2709.1 An antenna tower or monopole, either alone or in conjunction with a studio or in conjunction with the erection, alteration, or use of buildings for transmission or reception equipment, shall be permitted in General Industry zone districts (M) as a matter of right; provided, the antenna tower or monopole complies with the conditions set forth in this section.

- 2709.2 An antenna tower or monopole shall be set back a minimum horizontal distance equal to its total height as measured from the ground, from any residentially developed or zoned property.
- 2709.3 Except as provided above, each part of an antenna tower or monopole shall be removed from each lot line a minimum distance equal to the greater of twenty feet (20 ft.); or a distance of at least one-third (1/3) of the total mounted height;
- 2709.4 The height of an antenna tower or monopole shall not exceed the maximum height permitted for structures plus thirty feet (30 ft.) as a matter of right. Any antenna tower or monopole in excess of this height may be permitted if approved by the Board of Zoning Adjustment subject to the conditions of § 2712, subject to § 2709.5.
- 2709.5 Any antenna tower or monopole with a height in excess of that permitted by the act of June 1, 1910 (36 Stat. 452), as amended, shall not be permitted, unless the height is approved by the Mayor or his or her designee.
- 2709.6 A written statement shall be provided agreeing to design the proposed antenna tower or monopole for at least three (3) antenna arrays and to make the array space available on a commercial basis for collocation by any telecommunications service provider whenever unused by the initial telecommunications service provider(s) or the owner.
- 2709.7 No signs of any kind, including advertisements, may be placed on an antenna tower or monopole, its equipment cabinet or its equipment shelter, unless necessary for the safety of the public.

SOURCE: Final Rulemaking published at 55 DCR 34 (January 4, 2008); 57 DCR 000126 (2010).

2710 ANTENNA TOWERS AND MONOPOLES AS PART OF A CAMPUS PLAN

- 2710.1 An antenna tower or monopole may be permitted, subject to and as a part of an approved campus plan as may be required in any zone district, subject to the special exception standards of §§ 2712.1 and 2712.2.
- 2710.2 No advertising, special art, or campus identification may be placed on an antenna tower or monopole, its equipment cabinet, or its equipment shelter.

SOURCE: Final Rulemaking published at 55 DCR 34 (January 4, 2008).

2711 OFFICE OF PLANNING REPORT

- 2711.1 The Zoning Administrator shall not take final action on an application to permit or modify an antenna tower, a monopole, or an antenna not exempted by § 2707, until a report is received from the Office of Planning or thirty (30) days have

passed since the application was submitted to the director of the Office of Planning, whichever occurs first. This requirement does not apply to the modification described in § 2711.4.

2711.2 The director of the Office of Planning and the Zoning Administrator may agree to lengthen the time period indicated in § 2711.1, but in no event shall the review period exceed sixty (60) days.

2711.3 The report of the Office of Planning shall provide specific criteria and information sufficient to enable the Zoning Administrator to determine whether the antenna complies with the applicable requirements of this chapter.

2711.4 A report from the Office of Planning is not required for the:

- (a) Modification of an existing antenna site, that involves a one-to-one replacement of antennas or an increase in the number of antennas for no more than five (5) antennas per mount or sector; provided that there would be no change to the permitted locations on roofs or increase in the height of the antennas; or
- (b) Installation or maintenance of antenna-related equipment cabinets and shelters consistent with the roof structure regulation.

SOURCE: Final Rulemaking published at 55 DCR 34 (January 4, 2008); as amended by Final Rulemaking and Order No. 12-06 published at 60 DCR 1186 (February 1, 2013).

2712 ANTENNAS SUBJECT TO BZA APPROVAL - GENERAL

2712.1 An application for special exception approval shall include the following written and graphic documentation:

- (a) A map of area to be served by the new antenna;
- (b) A map and explanation of the area being inadequately served that necessitates installation of the proposed antenna;
- (c) A map indicating the location of any other antennas and related facility sites providing service by the applicant, and any antenna tower or monopole of any provider, within a two mile radius, including public space, of the proposed antenna site, with identified heights above grade;
- (d) A site, and roof plan if applicable, showing all structures and antennas on site;
- (e) Elevation drawings of the structure and proposed antennas from all four directions;

- (f) A picture of the proposed antenna;
- (g) The total mounted height of the antenna relative to the tops of surrounding trees as they presently exist within one-quarter (1/4) mile of the proposed location; and
- (h) Other information as may be necessary for impact assessment of the antenna.

2712.2 In addition to any other conditions deemed necessary to mitigate potential adverse impacts, the Board may impose conditions pertaining to screening, buffering, lighting, or other matter necessary to protect adjacent and nearby property and may require the removal of any on-site non-conforming, inoperable, or unauthorized antenna.

SOURCE: Final Rulemaking published at 55 DCR 34 (January 4, 2008).

2713 ANTENNA TOWERS AND MONOPOLES SUBJECT TO BZA APPROVAL

2713.1 A monopole shall be permitted if approved by the Board of Zoning Adjustment in accordance with § 3104 of this title, subject to the provisions of this section, in the zone districts specified in § 2713.2.

2713.2 A monopole may be permitted as a special exception use in the following zone districts:

- (a) R, residence districts;
- (b) C-1 through C-4 commercial districts;
- (c) SP, special purpose districts;
- (d) CM, commercial-light manufacturing districts;
- (e) CR, mixed-use district; and
- (f) W, waterfront district.

2713.3 An antenna tower, either alone or in conjunction with a studio, or the erection, alteration, or use of buildings for transmission or reception equipment on the same lot, shall be permitted if approved by the Board of Zoning Adjustment in accordance with § 3104 of this title and subject to the provisions of this section, in the zone districts specified in § 2713.4.

2713.4 An antenna tower may be permitted as a special exception use in the following zone districts:

- (a) C-2 through C-4 commercial districts;
- (b) SP, special purpose districts;
- (c) CM, commercial-light manufacturing districts;
- (d) CR, mixed use district; and
- (e) W, waterfront districts.

2713.5 The location, height, and other characteristics of an antenna tower or monopole shall be:

- (a) Consistent with the purpose of this chapter;
- (b) Designed and available for collocation by other service providers;
- (c) Located so the visual impacts are minimized to the greatest practical extent, from neighboring property and adjacent public space, or appropriately screened by landscaping or other techniques to minimize the visibility of the antenna tower or monopole; and
- (d) Designed and constructed to preserve existing trees to the greatest practical extent.

2713.6 If an applicant is unable to meet the requirements of § 3104, the Board of Zoning Adjustment may nevertheless grant the application if the applicant demonstrates that:

- (a) There is a significant gap in wireless service;
- (b) The proposed antenna tower or monopole will fill this gap;
- (c) No other mounting options are available;
- (d) The site is the only location from which the gap can be filled or, if other sites are available, the antenna tower or monopole at the proposed location will generate the least adverse impacts;
- (e) That the height and other physical design characteristics of the proposed antenna tower or monopole do not exceed those which are minimally necessary to fill the gap in wireless service;

- (f) That it is using the least intrusive means to provide wireless service necessary to fill the gap in such service; and
- (g) That its proposed antenna tower and monopole, even when supporting all possible collocators, will be in full compliance with Federal Communication Commission cumulative and individual RF emission levels.

2713.7 Any antenna tower or monopole with a proposed height in excess of that permitted by the Act of June 1, 1910 (36 Stat. 452), as amended, shall not be permitted, unless the height is approved by the Mayor or his or her designee.

2713.8 An antenna tower or monopole shall be set back a minimum horizontal distance equal to its total height as measured from the ground, from any residentially developed or zoned property.

2713.9 Each part of an antenna tower or monopole shall be removed from each lot line the greater of the following:

- (a) Twenty feet (20 ft.); or
- (b) A distance of at least one-third (1/3) of the total constructed height.

2713.10 The Board of Zoning Adjustment shall submit the application to the D.C. Office of Planning for review and report.

2713.11 The applicant shall provide written and/or graphic documentation of the following:

- (a) The area to be served by the proposed new antenna tower or monopole;
- (b) The area being inadequately served;
- (c) A map indicating the location of any other antenna or related facility sites providing service by the applicant within a two mile radius, including public space, of the proposed site;
- (d) Other towers or monopoles within a two-mile radius of the proposed site with identified heights above grade;
- (e) An explanation of why the applicant cannot collocate on an existing tower or monopole;
- (f) A written statement agreeing to permit the collocation by other service providers on a commercial basis on an antenna tower;

- (g) A written statement agreeing to design a proposed monopole for at least three (3) antenna arrays and to make the array space available on a commercial basis for collocation by any telecommunications service provider whenever unused by the initial telecommunications service provider(s);
- (h) The topographic conditions of the area to be served;
- (i) The relative height of the antenna tower or monopole to the tops of surrounding trees within one-quarter mile radius of the proposed site as they presently exist;
- (j) The proposed appearance of the antenna tower or monopole, including exterior finish;
- (k) A maintenance plan explaining how the property manager will control ice build-up, falling ice, and potential falling debris; the plan should also address how inoperative antennas will be removed; and
- (l) Other information as may be necessary for impact assessment of the antenna tower or monopole.

2713.12 In addition to any other conditions deemed necessary to mitigate potential adverse impacts, the Board of Zoning Adjustment may impose conditions relating to operation, location, screening, collocation, or other requirements as it shall deem necessary to protect adjacent and nearby property, neighborhood character, and the image of the city as the nation's capital, consistent with the general purpose and intent of this chapter and may require the removal of any on-site inoperable or unauthorized antenna as a condition to the approval.

2713.13 No signs of any kind, including advertisements, may be placed on an antenna tower or monopole, its equipment cabinet, or its equipment shelter, unless necessary for the safety of the public.

SOURCE: Final Rulemaking published at 55 DCR 34 (January 4, 2008).

2714 NON-CONFORMING ANTENNAS

2714.1 A non-conforming antenna shall not be altered, modernized, or otherwise replaced, except in conformity with all provisions of this title.

2714.2 If a non-conforming 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 permitted for one (1) year; and

- (c) 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 conforming replacement.

2714.3 Within three (3) 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.

2714.4 An antenna that was legally permitted prior to the date of adoption of this chapter shall be considered a conforming antenna.

2714.5 This section does not apply to antenna towers, monopoles, or antenna support structures.

SOURCE: Final Rulemaking published at 55 DCR 34 (January 4, 2008).

2715 EQUIPMENT CABINET OR SHELTER

2715.1 If an antenna equipment cabinet or shelter is provided on the ground, it shall be subject to the following:

- (a) It shall be regulated as an accessory building subject to any applicable criteria within each zone district; and
- (b) It shall harmonize with the main structure in architectural character, material, and color.

2715.2 If an antenna equipment cabinet or shelter is provided on the roof of a building or structure, it shall be erected or enlarged subject to the following:

- (a) It shall be set back from all exterior walls a distance at least equal to its height above the roof upon which it is located;
- (b) It shall harmonize with the main structure in architectural character, material, and color;
- (c) It shall not exceed eighteen feet six inches (18 ft. 6 in.) in height above the roof upon which it is located; and
- (d) It shall be placed only on a roof of a principal structure and may not be permitted on a roof of any other roof structure or penthouse.

2715.3 The Board of Zoning Adjustment may waive one or more of the requirements of § 2715.2 for good cause shown in accordance with § 3104.

SOURCE: Final Rulemaking published at 55 DCR 34 (January 4, 2008).

TITLE 11 - ZONING

CHAPTER 28 HILL EAST (HE) DISTRICT

Secs.

- 2800 GENERAL PROVISIONS AND PURPOSES (HE)
- 2801 ZONING COMMISSION REVIEW (HE)
- 2802 USES AS A MATTER OF RIGHT (HE)
- 2803 SPECIAL EXCEPTIONS – SPECIFIC USES PERMITTED (HE)
- 2804 SPECIAL EXCEPTIONS – GENERAL PROVISIONS (HE)
- 2805 PROHIBITED USES (HE)
- 2806 ACCESSORY USES (HE)
- 2807 INCLUSIONARY HOUSING REQUIREMENTS (HE)
- 2808 BULK AND DENSITY (HE)
- 2809 PENTHOUSES (HE)
- 2810 YARDS AND LOT SIZE (HE)
- 2811 GROUND FLOOR USE – WHERE REQUIRED AND PERMITTED (HE)
- 2812 GROUND FLOOR PREFERRED USES – DESIGN STANDARDS (HE)
- 2813 DESIGN REQUIREMENTS - ALL LOCATIONS (HE)
- 2814 DESIGN REQUIREMENTS FOR BUILDINGS LOCATED ON PRIMARY STREETS (HE)
- 2815 PARKING, LOADING, AND VEHICLE ACCESS (HE)
- 2800 GENERAL PROVISIONS AND PURPOSES (HE)**
- 2800.1 The Hill East (HE) District is applied to Federal Reservation 13, which is designated for mixed use development on the Future Land use Map of the Comprehensive Plan and the Reservation 13 Hill East Waterfront Master Plan, as

approved by the Council of the District of Columbia on October 15, 2002, and is the subject of the Hill East Waterfront Design Guidelines, June 2008.

- 2800.2 Any reference to a street or a square refers to proposed streets and squares as depicted in Map A attached to the Office of Planning report dated June 1, 2007, filed in Zoning Commission Case Number 04-05, which may be viewed at the D.C. Office of Zoning.
- 2800.3 Any reference to a street shall be deemed to include a reference to the Southeast (S.E.) quadrant.
- 2800.4 For the purposes of this chapter the terms:
- (a) “Primary street” shall mean Independence Avenue, Massachusetts Avenue, and Water Street; and
 - (b) “Secondary street” shall refer to 19th Street, 20th Street, 21st Street, Burke Street, C Street, and C Place.
- 2800.5 The boundaries of the HE District correspond to Federal Reservation 13, which is bounded by Independence Avenue on the north, 19th Street on the west, Water Street on the east, and the Congressional Cemetery on the south.
- 2800.6 The HE District is divided into the following four subdistricts for the purpose of lot occupancy, floor area ratio (“FAR”) and building height:
- (a) HE-1 (19th Street) Subdistrict, which includes squares with frontage onto 19th Street, between Independence Avenue and Massachusetts Avenue);
 - (b) HE-2 (20th Street) Subdistrict, which includes squares with frontage on 20th Street;
 - (c) HE-3 (Water Street) Subdistrict, which includes squares with frontage on Water Street; and
 - (d) HE-4 (Corrections) Subdistrict, which includes squares N and O.
- 2800.7 The purposes of the Hill East District are to:
- (a) Connect and integrate Reservation 13 with adjacent neighborhoods, and the new waterfront park along the Anacostia River;
 - (b) Utilize the site to meet a diversity of public needs, including health care, education, employment, government services and administration, retail, recreation and housing;

- (c) Extend the existing pattern of local streets to and through the site to create simple, well-organized city blocks and appropriately-scaled development;
- (d) Maintain a human-scale of building heights that match existing neighborhood buildings and increase in height as the site slopes downward to the Anacostia waterfront;
- (e) Connect the Hill East neighborhood and the city at large to the waterfront via tree-lined public streets, recreational trails, and increased access to waterfront parklands;
- (f) Demonstrate environmental stewardship through environmentally-sensitive design, ample open spaces, and a waterfront park that serve as public amenities and benefit the neighborhood and the city;
- (g) Promote the use of mass transit by introducing new uses near Metro stations, and create an environment where the pedestrian, bicycle, and auto are all welcome, complementary, and unobtrusive, reducing the impact of traffic on adjacent neighborhood streets;
- (h) Limit the Central Detention Facility and the Correction Treatment Facility to areas south of Massachusetts Avenue; and
- (i) Create attractive “places” of unique and complementary character including:
 - (1) A new, vital neighborhood center around the Metro station at C and 19th Streets that serves the unmet neighborhood commercial needs of the community and extends to the waterfront with a new residential district;
 - (2) Massachusetts Avenue as a grand Washington ‘boulevard’ in the tradition of the L’Enfant plan;
 - (3) A district for city-wide uses and services, such as health care, education, and recreation along Independence Avenue; and
 - (4) A grand public waterfront park incorporating monumental places and quiet natural retreats accessed by a meandering park drive set back from the Anacostia River.

2800.8 The Hill East District shall constitute the Zoning Regulations for the geographic area referred to in § 2800.1. Where there are conflicts between this chapter and other parts of the Zoning Regulations, the provisions of the Hill East District shall govern.

2800.9 Unless specifically exempted, the requirements of the HE District shall apply to all new buildings and to all other buildings where any additions, alterations, or repairs within any 12-month period exceed one hundred percent (100%) of the assessed value of the building as set forth in the records of the Office of Tax and Revenue as of the date of a building permit application, provided:

(a) The cost basis for alterations or additions to an existing building shall be the amount indicated by the applicant on the application for a building permit; and

(b) In the case of an addition, the requirements and incentives of this Chapter apply only to the addition.

SOURCE: Final Rulemaking and Order No. 04-05 published at 56 DCR 6181 (August 7, 2009); 57 DCR 000126 (2010).

2801 ZONING COMMISSION REVIEW (HE)

2801.1 The Zoning Commission shall review the design of all new buildings, or additions to existing buildings for consistency with the design guidelines set forth at §§ 2812 through 2814 and with the general purposes of the HE District as stated in § 2800.7 of this Chapter.

2801.2 For good cause shown, the Zoning Commission, in its discretion, may waive one or more of the design standards set forth in §§ 2812 through 2814.

2801.3 The Commission may hear and decide any additional requests for special exception or variance relief needed for the subject property, including the special exceptions provided for in this Chapter. Such requests shall be advertised, heard, and decided together with the application for Zoning Commission review and approval.

2801.4 At the time of filing an application with the Zoning Commission, the applicant shall pay the filing fee specified in § 3180.1(b)(16), plus such fees as apply to any additional zoning relief requested. The provisions of § 3181 relating to the administration of fees shall apply, except that the applicant may appeal any decision of the Director regarding the fee schedule to the Zoning Commission, which shall decide the appeal as a preliminary matter to hearing the application.

SOURCE: Final Rulemaking and Order No. 04-05 published at 56 DCR 6181 (August 7, 2009); 57 DCR 000126 (2010).

2802 USES AS A MATTER OF RIGHT (HE)

2802.1 The following uses shall be permitted as a matter of right in the HE District, provided that no use may be located on a site that has not been designated for that use by the Master Plan:

- (a) Adult day treatment facility;
- (b) Antenna, subject to the standards and procedures that apply to the particular class of antenna pursuant to Chapter 27 of this Title;
- (c) Child/Elderly development center;
- (d) Church or other place of worship;
- (e) Clinic;
- (f) Community-based residential facility not described in paragraph (g), subject to the following limitations:
 - (1) Youth residential care home, community residence facility, or health care facility for not more than six (6) persons, not including resident supervisors or staff and their families;
 - (2) Youth residential care home or community residence facility for seven (7) to fifteen (15) persons, not including resident supervisors or staff and their families; provided that there shall be no property containing an existing community-based residential facility for seven (7) or more persons either in the same Square or within a radius of five hundred (500) feet from any portion of the subject property; and
 - (3) Emergency shelter for not more than four (4) persons, not including resident supervisors or staff and their families, except that an emergency shelter for not more than one hundred (100) persons, not including supervisors or staff and their families shall be permitted in Building 27 for a period of five (5) years beginning on August 15, 2014;
- (g) Community-based residential facility to be occupied by persons with a handicap plus resident supervisors, as permitted by right in residence and commercial districts pursuant to 11 DCMR §§ 201.1 (f) and 330.5 (d);
- (h) Fire Station;
- (i) Government offices and facilities;
- (j) Hotel or inn;
- (k) Library, public or private;
- (l) Museum;

- (m) Office;
- (n) Park or open space;
- (o) Police Department Local Facility;
- (p) Private club, restaurant, fast food restaurant, or food delivery service; provided, a fast food restaurant or food delivery service shall not include a drive-through;
- (q) Public recreation and community center;
- (r) Public school;
- (s) Residential dwellings, including row dwellings, flats, and multiple dwellings; and
- (t) Retail sales and services involving the sale, lease, or servicing of new or used products to the general public, or which provide personal services or entertainment, or provide product repair or services for consumer and business goods.

SOURCE: Final Rulemaking and Order No. 04-05 published at 56 DCR 6181 (August 7, 2009); as amended by Final Rulemaking and Order No. 09-16 published at 57 DCR 2961 (April 2, 2010); as amended by Final Rulemaking and Order No. 14-03 published at 61 DCR 8549 (August 15, 2014).

2803 SPECIAL EXCEPTIONS – SPECIFIC USES PERMITTED (HE)

2803.1 The uses identified in this section shall be permitted in the HE District as a special exception if approved by the Zoning Commission pursuant to the general standard of § 3104, the criteria set forth in § 2804.2 and such specific conditions as are stated below.

2803.2 Hospitals, provided:

- (a) The hospital use will be located only on Square B and/or C;
- (b) Need of the facility is demonstrated through a Certificate of Need, including a review and report by the Department of Human Services on the need for the facility and on the ability of the specific design of the facility to meet that need; and
- (c) There is a detailed plan for the facility and accessory buildings, showing the location, height, and bulk of all improvements, including but not limited to buildings, parking and loading facilities, screening, signs, capacities of the various facilities, and public utility facilities.

- 2803.3 Health care facility that meets the definition for, and is licensed as, a skilled care facility or intermediate nursing care facility under the Health Care Facilities and Community Residence Regulations.
- 2803.4 Community service center to accommodate organizations created for the purpose of improving the social or economic well-being of the residents of the area in which the center is proposed to be located, which may include, but not be limited to, centers for job training, family counseling, consumer cooperatives, and such other facilities as are similar in nature and purpose, provided that the community service center shall not be organized for profit, and no part of its net income shall inure to the benefit of any private shareholder or individual.
- 2803.5 Private school, public or private college, or university provided:
- (a) The use shall be located only on Squares A, B, C, and/or K and subject to the height, floor area ration and lot occupancy standards of each respective square;
 - (b) A private school use, including residences for teachers and/or staff of a private school, subject to the standards and requirements of § 206; and
 - (c) A college or university use, including a college or university hospital, dormitory, fraternity, or sorority house, proposed to be located on the campus of a college or university, subject to the standards and requirements of §§ 210.2 and 210.4 through 210.9
- 2803.6 Community-based residential facility not described in § 2802.1 (f) and which falls within one of the following categories:
- (a) Youth residential care home or community residence facility for nine (9) to fifteen (15) persons, not including resident supervisors or staff and their families, subject to the standards and requirements of § 303;
 - (b) Emergency shelter for five (5) to fifteen (15) persons, not including resident supervisors or staff and their families, subject to the standards and requirements of § 305; and
 - (c) Youth rehabilitation home, adult rehabilitation home, or substance abusers' home for one (1) to fifteen (15) persons, not including resident supervisors or staff and their families, subject to the standards and requirements of § 306.
- 2803.7 Additions to or the replacement of the Central Detention Facility and the Correction Treatment Facility, provided:

- (a) Any addition or replacement to the facilities shall be located only on Squares N and O; and
- (b) The application for Zoning Commission approval shall include a detailed plan for the facilities and accessory facilities, showing the location, height, and bulk of all improvements, including but not limited to buildings, parking and loading facilities, screening, signs, and utility facilities.

2803.8 Basic utilities and supporting infrastructure facilities, such as an electrical substation, natural gas regulator station, pump station, telephone exchange, or any co-generation_facility, subject to such setbacks and screening requirements as the Commission deems necessary for protection of the surrounding neighborhood.

2803.9 Antennas, subject to the standards and procedures that apply to the particular class of antenna in Chapter 27 of this Title.

2803.10 Above grade parking structures, provided:

- (a) Structures shall not directly front onto a primary or secondary street;
- (b) Preferred uses, as defined in § 2811.1, shall occupy the ground floor to a minimum depth of thirty feet (30 ft.) to separate parking areas from the primary or secondary street; and
- (c) Upper floors shall be separated from a primary or secondary street by commercial or residential uses.

2803.11 New or expanded at-grade surface parking lots accessory to an existing use or building for a period of five (5) years which may be renewed a maximum of two (2) times.

2803.12 Fast Food Establishment and Fast Food Delivery Services, provided:

- (a) The use shall not include a drive-through;
- (b) The use shall be designed and operated so as not to become objectionable to neighboring properties because of noise, sounds, odors, lights, hours of operation, or other conditions;
- (c) There shall be adequate facilities to allow deliveries to be made and trash to be collected without obstructing public rights-of-way or unreasonably obstructing parking spaces, aisles, or driveways on the site; and
- (d) The Commission may impose conditions pertaining to design, screening, lighting, soundproofing, off-street parking spaces, signs, method and hours

of trash collection, or any other matter necessary to protect adjacent or nearby property.

2803.13 Other principal uses that are not permitted by § 2802, but not prohibited by § 2805 shall be permitted in the HE District as a special exception provided the Commission considers that the use is appropriate in furthering the purposes of the HE District.

SOURCE: Final Rulemaking and Order No. 04-05 published at 56 DCR 6181 (August 7, 2009); 57 DCR 000126 (2010).

2804 SPECIAL EXCEPTIONS – GENERAL PROVISIONS (HE)

2804.1 In addition to the general standard set forth in § 3104, and any specific conditions set forth in § 2803, an applicant for a special exception within the HE District shall demonstrate compliance with § 2804.2.

2804.2 For all proposed uses, the applicant must demonstrate:

- (a) Parking and traffic conditions associated with the operation of a proposed use shall not adversely affect adjacent or nearby uses;
- (b) Noise associated with the operation of a proposed use shall not adversely affect adjacent or nearby uses;
- (c) The proposed building will comply with the applicable ground floor use and design requirements of §§ 2811 through 2814;
- (d) The building's architectural design will enhance the urban design features of the immediate vicinity in which it is located; and
- (e) Vehicular access and egress will be located and designed so as to encourage safe and efficient pedestrian movement, minimize conflict with principal pedestrian ways, function efficiently, and create no dangerous or otherwise objectionable traffic conditions.

2804.3 The D.C. Office of Planning shall refer applications for special exceptions filed pursuant to this section to the D.C. Department of Transportation and shall submit a report for each such application addressing:

- (a) Whether the proposed use furthers the purposes of the HE District;
- (b) The relationship of the proposed use to other planning considerations for the area and the District of Columbia as a whole, including the plans, programs, and policies of other departments and agencies of the District government;

- (c) The impact of the proposed use on neighboring properties; and
- (d) Any other matters that are within the Office of Planning's jurisdiction.

2804.5 The Commission may impose requirements pertaining to design, appearance, signs, massing, landscaping, and other such requirements as it deems necessary to protect neighboring property and to achieve the purposes of the HE District.

SOURCE: Final Rulemaking and Order No. 04-05 published at 56 DCR 6181 (August 7, 2009); 57 DCR 000126 (2010).

2805 PROHIBITED USES (HE)

2805.1 The following uses are prohibited within the HE District as both principal and accessory uses, unless otherwise noted:

- (a) Any establishment that has as its principal use the administration of massages;
- (b) Any industrial use first permitted in an M District;
- (c) At-grade surface parking lots, except as provided in § 2803.11;
- (d) Drive-through establishment (any establishment where goods are sold/rented or services rendered, directly to occupants of motor vehicles while in the vehicles);
- (e) Self-service storage establishment that provides separate storage areas for individual or business uses;
- (f) Sexually-oriented business establishment;
- (g) Vehicle repair and servicing, including full-serve and mini-serve gas stations, unattended key card stations, car washes, quick lubrication services, and vehicle emission test sites; and
- (h) Vehicle sales.

SOURCE: Final Rulemaking and Order No. 04-05 published at 56 DCR 6181 (August 7, 2009); 57 DCR 000126 (2010).

2806 ACCESSORY USES (HE)

2806.1 Except as prohibited by § 2805, accessory uses (including parking, but not at-grade accessory surface parking lots) buildings, or structures customarily incidental and subordinate to the principal uses permitted in § 2802 shall be permitted in the HE District as a matter of right subject to the limitations in Chapter 25 of this Title.

SOURCE: Final Rulemaking and Order No. 04-05 published at 56 DCR 6181 (August 7, 2009); 57 DCR 000126 (2010).

2807 INCLUSIONARY HOUSING REQUIREMENTS (HE)

2807.1 Development that is subject to the Inclusionary Zoning Program set forth in Chapter 26 shall be constructed according to the provisions set forth in § 2808, notwithstanding any bonus they may be granted by Chapter 26.

SOURCE: Final Rulemaking and Order No. 04-05 published at 56 DCR 6181 (August 7, 2009); 57 DCR 000126 (2010).

2808 BULK AND DENSITY (HE)

2808.1 Except as provided in § 2808.4, the maximum permitted lot occupancy, building height, floor area ratio, and number of stories in an HE Subdistrict shall be as set forth in the following table:

HE Subdistrict	Maximum Lot Occupancy	Building Height		Maximum FAR	Maximum No. of Stories
		Min.	Max.		
HE-1 (19 th St)	80%	26 ft	50 ft	3.0	4
HE-2 (20 th St)	75%	40 ft	80 ft	4.8	7
HE-3 (Water St)	80%	80 ft	110 ft	7.2	10
HE-4 (Corrections)	75%	-	90 ft	6.0	8
Square E (Park)	20%	-	26 ft	0.2	-

2808.2 The following FAR limitations on non-residential uses apply within the HE District, but only in the Squares listed below:

Square	Maximum Non-residential FAR
F	0.8
G	1.0
H	0.5
I	3.0

2808.3 Building height shall be measured from the lowest curb level along a street frontage abutting the lot.

2808.4 A hospital located in the HE-2 Subdistrict may exceed eighty feet (80 ft.) in height, to a maximum of one hundred ten feet (110 ft.), if approved as a special exception by the Zoning Commission pursuant to § 2803.2.

2808.5 Buildings or structures that abut the HE-1 Subdistrict shall provide a twelve foot (12 ft.) setback from the subdistrict boundary line for any part of the building or structure that exceeds fifty feet (50 ft.) in height.

2808.6 Buildings or structures that abut the HE-2 Subdistrict, or have street frontage on Burke Street, C Street, C Place, or Massachusetts Avenue, shall provide a twelve foot (12 ft.) setback for any part of the building that exceeds eighty feet (80 ft).

2808.7 Architectural embellishments, such as spires, towers, domes, pinnacles or minarets; penthouses over elevator shafts, ventilator shafts; antennas, chimneys, smokestacks, or fire sprinkler tanks may be erected to a height in excess of that which this section otherwise authorizes, pursuant to the Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452, as amended; D.C. Official Code §§ 6-601.01 to 6.601.09 (2001).

2808.8 The portion of Square A devoted to St. Coletta’s School shall be subject to Zoning Commission Order 03-21.

SOURCE: Final Rulemaking and Order No. 04-05 published at 56 DCR 6181 (August 7, 2009); 57 DCR 000126 (2010).

2809 PENTHOUSES (HE)

2809.1 The provisions of § 411 shall apply to penthouses in the HE Zone District.

2809.2 The height of a rooftop penthouse as measured from the surface of the roof upon which the penthouse is located shall not exceed that given in the following table:

ZONE DISTRICT	MAXIMUM PENTHOUSE HEIGHT	MAXIMUM PENTHOUSE STORIES
HE-1	12 ft. except 15 ft. for penthouse mechanical space	1; second story permitted for penthouse mechanical space
HE-2	20 ft.	1; second story permitted for penthouse mechanical space
HE-3, HE-4	20 ft.	1 plus mezzanine; second story permitted penthouse mechanical space

SOURCE: Final Rulemaking and Order No. 04-05 published at 56 DCR 6181 (August 7, 2009); 57 DCR 000126 (2010); as amended by Final Rulemaking and Order No. 14-13 published at 63 DCR 390 (January 8, 2016).

2810 YARDS AND LOT SIZE (HE)

2810.1 No side yard shall be required. If a side yard is provided, its minimum width shall be eight feet (8 ft.).

2810.2 Except as provided in § 2810.3, no rear yard shall be required for wholly non-residential buildings.

2810.3 Notwithstanding § 2801.2, an entirely non-residential building shall have a rear yard if:

- (a) The building’s rear wall faces a wall of a residential building;
- (b) The distance between the rear wall of the non-residential building and a wall of the residential buildings is forty feet (40 ft.) or less; and
- (c) A window located on the non-residential building’s rear wall would afford a direct view into the interior of the residential building through one or more of the latter’s windows.

2810.4 The rear yard required by § 2810 shall have a depth equal to the distance between the rear wall of the non-residential building and the facing wall of the residential building.

2810.5 All residential buildings shall provide a rear yard in accordance with either § 2810.6 or § 2810.7.

2810.6 When the residential portion of a building begins at or below grade, the building shall provide a rear yard with a minimum depth of three inches (3 in.) per foot of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof, but not less than twelve feet (12 ft.)

2810.7 When the residential portion of a building begins above grade, the building shall provide a rear yard with a minimum depth of three inches (3in.) per foot of vertical distance from the horizontal plane at which the residential use begins to the highest point of the main roof, but not less than twelve feet (12 ft.). The rear yard shall be provided at and above the horizontal plane at which residential use begins.

2810.8 The minimum lot area for row dwellings shall be eighteen hundred square feet (1,800 ft.²) with a minimum lot width of eighteen feet (18 ft.).

SOURCE: Final Rulemaking and Order No. 04-05 published at 56 DCR 6181 (August 7, 2009); 57 DCR 000126 (2010).

2811 GROUND FLOOR USE – WHERE REQUIRED AND PERMITTED (HE)

2811.1 For the purposes of the HE District, the term “preferred uses” shall mean retail, entertainment, cultural, or commercial uses.

2811.2 The following locations are required to devote not less than sixty-five percent (65%) of the ground floor frontage to preferred uses and main building entrances, or lobbies to office and residential uses, and shall comply with the design requirements of §§ 2812 through 2814:

- (a) The west face of Square F (19th Street frontage):

- (b) The northwest corner of Square G;
- (c) The southeast corner of Square J at Massachusetts Avenue and Water Street, facing the monumental circle;
- (d) The northeast corner of Square M at Massachusetts Avenue and Water Street, facing the monumental circle; and
- (e) All Independence Avenue and Massachusetts Avenue frontages;

2811.3 The following locations are permitted to have ground floor preferred uses, provided that the building shall be constructed so that not less than sixty-five percent (65%) of the ground floor frontage will be devoted to preferred uses and main building entrances, or lobbies to office and residential uses and shall comply with the design requirements of §§ 2812 through 2814:

- (a) All frontages on 19th Street;
- (b) All frontages on Burke Street;
- (c) The C Street frontage of Square H, facing the park in Square E, for a maximum length of two hundred feet (200 ft.) from Square H's northeast corner at the intersection of C Street and 21st Street;
- (d) The 21st Street frontage of Square D;
- (e) The southeast corner of Square D, which faces the intersection of C Street and Water Street;
- (f) The northeast corner of Square I, which faces the intersection of C Street and Water Street; and
- (g) All frontages on Water Street.

SOURCE: Final Rulemaking and Order No. 04-05 published at 56 DCR 6181 (August 7, 2009); 57 DCR 000126 (2010).

2812 GROUND FLOOR PREFERRED USES – DESIGN STANDARDS (HE)

2812.1 Wherever preferred uses, as defined in §2811.1, are required or allowed pursuant to §§ 2811.2 and 2811.3, such ground floor preferred uses shall:

- (a) If located on a corner, wrap around the corner to a minimum depth of twenty feet (20 ft.) on the side street;
- (b) Occupy the ground floor to a minimum depth of thirty feet (30 ft.);

- (c) Have a minimum clear floor-to-ceiling height of fourteen feet (14 ft.), measured from the finished grade, for the area of the ground floor dedicated to preferred uses;
- (d) The street-facing facades of buildings on primary streets shall devote not less than seventy-five percent (75%) per individual use or fifty percent (50%) of the length and fifty percent (50%) of the surface area of the street wall at the ground level to windows associated with preferred uses or windows associated with main building entrances; and
- (e) The street-facing facades of mixed-use or non-residential buildings on secondary streets shall devote not less than seventy-five percent (75%) per individual use or thirty percent (30%) of the length and thirty percent (30%) of the surface area of the street wall at the ground level to windows associated with preferred uses or windows associated with main building entrances.

2812.2 The windows required by § 2812.1(d) shall have clear or clear/low emissivity glass allowing transparency to a depth of twenty feet (20ft.) into the preferred ground level space with bottom sills no more than four feet (4 ft.) above the adjacent sidewalk grade.

2812.3 Such windows must allow views from within the building to the street.

SOURCE: Final Rulemaking and Order No. 04-05 published at 56 DCR 6181 (August 7, 2009); 57 DCR 000126 (2010).

2813 DESIGN REQUIREMENTS - ALL LOCATIONS (HE)

2813.1 The provisions of this section establish the design requirements for all buildings and structures located in the HE District.

2813.2 Except as provided in § 2814.2, the front of a building or structure shall extend to the property line(s) abutting the street right-of-way for not less than ninety percent (90%) of the property line and to a height of not less than twenty-five feet (25 ft.).

2813.3 Whatever portion of the front of a building or structure that does not extend to the property line(s) pursuant to § 2813.2 must extend to within twenty-five feet (25 ft.) of the front property line and to a height of not less than twenty-five feet (25 ft.).

2813.4 Awnings, canopies, bay windows, and balconies may extend forward of the required building line to the extent permitted by any other regulations.

2813.5 For every fifty feet (50 ft.) of uninterrupted building façade length, the building shall incorporate modulated and articulated building wall planes through the use

of projections, recesses and reveals expressing structural bays, changes in color graphical patterns, texture, or changes in building material of the façade.

- 2813.6 The articulation shall have a minimum change of plane of six inches (6 in.).
- 2813.7 Façade articulation of less than two feet (2 ft.) in depth shall qualify to meet the street frontage required building line standards of §§ 2813.2 and 2813.3.
- 2813.8 Any single articulation feature shall not exceed sixty percent (60%) of the building façade width.
- 2813.9 Buildings with ground floor retail shall incorporate vertical elements to create a series of storefront-type bays with entrances that are no more than fifty feet (50 ft.) apart.
- 2813.10 Security grilles shall have no less than seventy percent (70%) transparency.
- 2813.11 Street-facing facades shall not have blank walls (without doors or windows) greater than ten feet (10 ft.) in length.
- 2813.12 Each use within a building shall have an individual public entrance that is clearly defined and directly accessible from the public sidewalk.
- 2813.13 Exterior display of goods and exterior storage between the building line and the front lot line is prohibited. Outdoor seating for restaurants and pedestrian-oriented accessory uses, such as flower, food, or drink stands, or other appropriate vendors are permitted to the extent consistent with other District laws.
- 2813.14 Windows shall cover the following minimum area of street-facing façades above the ground floor level.

Location	Minimum Percentage	
	Non-Residential	Residential
Primary Street	35%	20%
Secondary Street	40%	20%

- 2813.15 Buildings and structures should clearly articulate a base, middle, and top, except for row dwellings and flats.
- 2813.16 High quality, durable materials which enhance the building and convey permanence shall be required.
- 2813.17 The use of synthetic stucco, vinyl siding, and/or other low-grade exterior finishes is prohibited.

SOURCE: Final Rulemaking and Order No. 04-05 published at 56 DCR 6181 (August 7, 2009); 57 DCR 000126 (2010).

2814 DESIGN REQUIREMENTS FOR BUILDINGS LOCATED ON PRIMARY STREETS (HE)

- 2814.1 The provisions of this section set forth standards for buildings and structures with frontage(s) on a primary street.
- 2814.2 Notwithstanding §§ 2813.2 and 2813.3, the fronts of buildings located at street intersections shall be constructed to the property lines abutting each intersecting street, without any setback, for a minimum of fifty feet (50 ft.) from the intersection, along each street frontage.
- 2814.3 The corner of the building at the intersection of two primary streets or a primary and secondary street shall incorporate articulation such, as but not limited to, being angled, curved, or chamfered to emphasize the corner.
- 2814.4 The distance from the corner shall not exceed twenty feet (20 ft.), measured from the corner of the lot to the end of the angled or curved wall segment.
- 2814.5 Entrances into a building shall be no more than fifty feet (50 ft.) apart and recessed no more than six feet (6 ft.) deep or ten feet (10 ft.) wide.
- 2814.6 Buildings shall incorporate vertical elements in the street-facing façade to create a series of storefront-type bays where preferred uses are present.
- 2814.7 Residential buildings shall have at least one primary entrance directly accessible from the public sidewalk.
- 2814.8 Instead of the windows required by § 2812.1(d), on primary streets, artwork and displays relating to activities occurring within the building shall be permitted as a special exception if approved by the Zoning Commission pursuant to § 3104, provided the applicant demonstrates that:
- (a) The building has more than fifty percent (50%) of its ground level space in storage, parking, or loading areas, or in uses which by their nature are not conducive to windows (such as theaters); and
 - (b) The artwork or displays are consistent with the objective of providing a pleasant, rich, and diverse pedestrian experience.

SOURCE: Final Rulemaking and Order No. 04-05 published at 56 DCR 6181 (August 7, 2009); 57 DCR 000126 (2010).

2815 PARKING, LOADING, AND VEHICLE ACCESS (HE)

- 2815.1 Parking for residential uses shall be provided as prescribed in Chapter 21 for the R-5-B Residence zone district.

- 2815.2 Parking for non-residential uses shall be as prescribed in Chapter 21 for the CR Mixed-Use zone district.
- 2815.3 Loading for residential uses shall be as prescribed in Chapter 22 for the R-5-B Residence zone district.
- 2815.4 Loading for non-residential uses shall be as prescribed in Chapter 22 for the CR Mixed-Use zone district.
- 2815.5 Loading berths shall not front onto a primary or secondary street.
- 2815.6 No driveway or garage entrance providing access to parking or loading areas shall be permitted from a primary or secondary street.
- 2815.7 Driveways or garage entrances shall not be located closer than forty feet (40 ft.) from the intersection of an alley and secondary street as measured from the intersection of the curb lines extended.
- 2815.8 A garage shall be set back at least twelve feet (12 ft.) from the center line of an alley.
- 2815.9 Exceptions from the prohibitions and limitations of this Section (except those that pertain to use) shall be permitted if approved by the Zoning Commission pursuant to § 3104, provided the applicant demonstrates that:
- (a) There is no practical alternative means of serving the parking, loading, or drop-off needs of the building to be served by the proposed driveway or garage entrance;
 - (b) The driveway or garage entrance will not impede the flow of pedestrian traffic; and
 - (c) The driveway or garage entrance is not inconsistent with the DDOT landscape plans for the public rights of way in the Hill East Waterfront area, to the extent that such plans exist at the time of the special exception application.

SOURCE: Final Rulemaking and Order No. 04-05 published at 56 DCR 6181 (August 7, 2009); 57 DCR 000126 (2010).

TITLE 11 - ZONING

CHAPTER 29 UNION STATION NORTH (USN) DISTRICT

Secs.

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2900 PREAMBLE

- 2900.1 The Union Station North (USN) District is a Unique Location District created to implement the Comprehensive Plan and other public policy goals and objectives.
- 2900.2 Unique Location Districts are intended to apply to single large sites that require a cohesive, self-contained set of regulations to guide site design, building height and bulk, or other aspects of development.
- 2900.3 The USN District recognizes the unique characteristics and development constraints of the site and provides for appropriate, site specific methods for the measurement of height and density.
- 2900.4 The USN District shall constitute the Zoning Regulations for the geographic area referred to in § 2901.1. Where there are conflicts between this chapter and other chapters of this title, the provisions of the USN District shall govern.
- 2900.5 When used in this chapter, the term “Transportation Way” means any piece of infrastructure, the intent of which is to convey people or goods from one place to another. Examples include, but are not limited to, sidewalks, stairs, elevators, fixed guideways for transit, and streets. Transportation ways may be either on, above or below ground, and may be either publicly or privately owned. Transportation ways do not include internal components of any portion of a building.

2901 APPLICABILITY

2901.1 The USN District is mapped on the following squares and air rights lots, as more specifically described in the plat attached to Zoning Commission Order No. 09-21:

- (a) Square 717, Lots 7001 and 7002 (between H and K Streets, N.E.); and
- (b) Square 720, Lots 7000 and 7001 (between Union Station and H Street, N.E.).

2901.2 The land and the volume of space below the air rights lots shall not be zoned USN. Development will occur on top of a structural platform that will span the railroad tracks underneath.

2901.3 The USN District shall not be applied to any lot located on the ground or any air rights lot outside of the boundaries described in § 2901.1.

2902 PURPOSES

2902.1 The purposes of the USN District are to:

- (a) **Implement the Comprehensive Plan** by ensuring that development of the air rights is not inconsistent with the goals and policies of the Comprehensive Plan including:
 - (1) Creating a catalytic development, providing a connection between neighborhoods west of the railroad tracks and east of the railroad tracks with an active streetscape;
 - (2) The infill of an underutilized property near a multi-modal transportation hub, the provision of a mix of high density commercial and residential uses; and
 - (3) Preservation and enhancement of Union Station, and general economic development of the NoMa area and the District of Columbia.
- (b) **Reconnect the City** by creating an urban fabric that will reconnect the H Street commercial corridor to the east, North Capitol Street to the west, NoMa to the north and west, and Union Station to the south;
- (c) **Provide a Suitable Visual Relationship to Surroundings** by ensuring the provision of exemplary architecture for any building in the USN District, and encouraging upper story setbacks and minimized penthouses;
- (d) **Improve the Character of H Street** by establishing H Street, N.E., between 1st and 2nd Streets, N.E., as an attractive, active, pedestrian-oriented street with active ground floor uses and a varied façade;

- (e) **Utilize Transportation Infrastructure** by facilitating development that would take advantage of Union Station’s unique combination of local, regional and national investment in pedestrian, bicycle, rail transit, bus transit, and intercity rail infrastructure, and ensuring that development complements, and allows the expansion and enhancement of the transportation infrastructure;
- (f) **Establish a Mix of Uses** throughout the USN District including residential and retail, as well as office, hotel and other permitted uses; and
- (g) **Create a Walkable Environment** by requiring suitable ground floor uses, appropriate building design and appropriate site layout, including wide sidewalks.

2903 THE PLATFORM

- 2903.1 The buildings to be erected within the USN will be supported by two (2) platforms erected above the existing railroad tracks and separated by H Street, N.E. (the “Platform” or “Platforms”).
- 2903.2 The Platforms will be generally horizontal structures that provide support for the new surface area, above the railroad tracks, on which development will be built.
- 2903.3 In addition to providing structural support, the Platforms may house mechanical equipment, parking and loading areas, and non-residential, residential, retail, and arts uses permitted by §§ 2913 through 2916, as well as utilities and rail-related uses.
- 2903.4 Structures below the grade of the railroad tracks and generally vertical, above-grade columns and structures will support the Platforms (collectively “Foundation Systems”). The term “Platform” or “Platforms”, when used in this chapter, does not include Foundation Systems or any station and rail-related functions or facilities that are constructed below the Platforms on the subjacent lots.
- 2903.5 Although portions of a Platform may extend below the volume of an air rights lot, any provision of this chapter pertaining to the Platform shall apply to the entire Platform.

2904 SINGLE BUILDINGS AND BUILDING UNITS

- 2904.1 For the purposes of the USN District, each Platform and all improvements constructed thereon are deemed to comprise a single building.
- 2904.2 Any part of a single building that is not connected to any other part of the same single building, other than through the structure of the Platform, will be hereinafter referred to as a Building Unit.

2905

HEIGHT

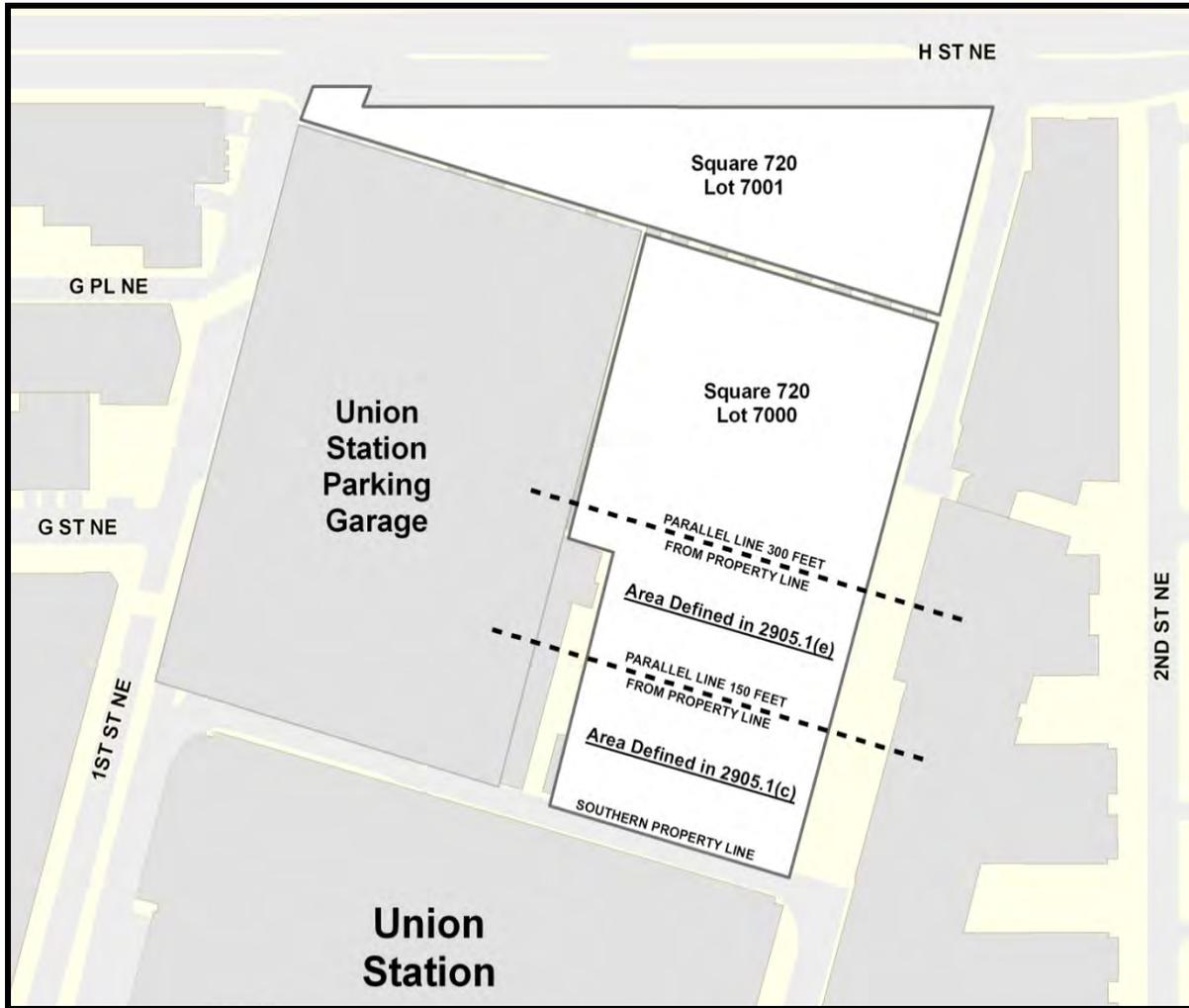
2905.1

The maximum height of a building or structure shall not exceed one hundred thirty feet (130 ft.), except that:

- (a) The maximum height of any portion of a building or structure that is both north of the centerline of Eye Street and east of a north-south line located two hundred feet (200 ft.) west of the eastern boundary of Lot 7002 in Square 717 shall not exceed ninety feet (90 ft.);
- (b) Within the area defined in § 2905.1(a), a height of greater than ninety feet (90 ft.) and no more than one hundred ten feet (110 ft.) shall be permitted if reviewed and approved by the Zoning Commission pursuant to the procedures set forth in §§ 2917 and 2919, and subject to the following:
 - (1) The Commission will make a preliminary decision whether to approve the additional height as part of its Stage 1 review;
 - (2) The preliminary approval will become final unless modified or disapproved during the Stage 2 review;
 - (3) In making its decision, the Commission shall consider the design review criteria set forth in §§ 2925.3, 2925.5, and 2925.8 and 2927.3 and 2927.9;
 - (4) The Commission must find that the building unit or units located within the defined area exhibit exceptional architectural quality; and
 - (5) The Commission may require upper story setbacks or other design modifications that it deems necessary.
- (c) The maximum height of any portion of a building or structure that is both north of the southern property line of Lot 7000 in Square 720 and south of a parallel line one hundred fifty feet (150 ft.) from the southern property line (as that area is depicted in the illustration appended to this subsection) shall not exceed ninety feet (90 ft.);
- (d) Within the area defined in § 2905(c), a height of greater than ninety feet (90 ft.) and no more than one hundred ten feet (110 ft.) shall be permitted if reviewed and approved by the Zoning Commission pursuant to the procedures set forth in §§ 2917 and 2919, and subject to the criteria of § 2905.1(b)(1) through 2905.1(b)(5);
- (e) The maximum height of any portion of a building or structure that is both north of a line parallel to and one hundred fifty feet (150 ft.) from the southern property line of Lot 7000 in Square 720 and south of a parallel line three hundred feet (300 ft.) from the southern property line (as that

area is depicted in the illustration appended to this subsection) shall not exceed one hundred ten feet (110 ft.); and

- (f) Within the area defined in § 2905(e), a height of greater than one hundred ten feet (110 ft.) and no more than one hundred thirty feet (130 ft.) shall be permitted if reviewed and approved by the Zoning Commission pursuant to the procedures set forth in §§ 2917 and 2919, and subject to the criteria of § 2905.1(b)(1) through 2905.1(b)(5).



2905.2 **The measurement of building height** shall be taken from the elevation of the sidewalk on H Street at the middle of the front of the building, to the highest point of the roof or parapet rather than from grade as would otherwise be required by § 199.

2906 PENTHOUSES

2906.1 The provisions of § 411 shall apply to penthouses in the USN Zone District.

2906.2 A penthouse may be erected to a height in excess of that permitted in § 2905 but shall not exceed the height, as measured from the surface of the roof upon which the penthouse is located, in the following table:

ZONE DISTRICT	MAXIMUM PENTHOUSE HEIGHT	MAXIMUM PENTHOUSE STORIES
USN	20 ft.	1 plus mezzanine; second story permitted for penthouse mechanical space

2906.3 [REPEALED]

2906.4 [REPEALED]

SOURCE: As amended by Final Rulemaking and Order No. 14-13 published at 63 DCR 390 (January 8, 2016).

2907 MAXIMUM FLOOR AREA RATIO (FAR) – SINGLE BUILDING

2907.1 The maximum FAR for any single building in the USN District shall be six and one half (6.5), which shall be computed in accordance with § 2909.

2908 MAXIMUM NON-RESIDENTIAL FLOOR AREA RATIO (FAR) – DISTRICT-WIDE LIMIT

2908.1 The maximum non-residential FAR for the entire USN District is five and one half (5.5).

2908.2 Until a one half (0.5) FAR of residential uses have been developed within the entire USN District, as evidenced by a certificate or certificates of occupancy for residential uses, no certificate of occupancy for non-residential uses may be issued that would result in a non-residential FAR for the entire USN District of greater than three (3.0).

2908.3 Until one (1.0) FAR of residential uses have been developed within the entire USN District, as evidenced by a certificate or certificates of occupancy for residential uses, no certificate of occupancy for non-residential uses may be issued that would result in a non-residential FAR for the entire USN District of greater than four (4.0).

2908.4 The minimum residential FAR may be apportioned between the single building north of H Street and the single building south of H Street, provided that the aggregate residential floor area is not decreased.

2908.5 The minimum residential FAR shall not include the FAR dedicated to residential parking located above the level of the Platform.

2909 COMPUTATION OF FAR

2909.1 Computation of the maximum gross floor area for each building shall be determined by multiplying six and one half (6.5) by the area of a single building's lot, subject to the exclusions identified in § 2909.5.

2909.2 Computation of the maximum non-residential gross floor area for the entire USN shall be determined by multiplying three (3.0), four (4.0) or five and one half (5.5), as applicable, by the combined areas of each single building's lot, subject to the exclusions identified in § 2909.5.

2909.3 The lot of the single building north of H Street consists of the area within lots 7001 and 7002 in Square 717.

2909.4 The lot of the single building south of H Street consists of the area within lots 7000 and 7001 in Square 720.

2909.5 Lot area shall not include private rights-of-way that generally serve the principal entrances to building units, including the fourteen foot (14 ft.) minimum sidewalk width required by § 2923.5.

2909.6 Notwithstanding § 2909.5, lot area shall include private rights-of-way that generally provide access to service, loading or automobile parking areas, as well as sidewalk area beyond the fourteen foot (14 ft.) minimum width required by § 2923.5.

2909.7 The term "gross floor area" has the same meaning as defined in § 199, except that the term only applies to the area of all enclosed structures above the top of the Platforms.

2910 BICYCLE PARKING

2910.1 Bicycle parking spaces shall be provided at a minimum as follows:

Type of use	Indoor Spaces	Outdoor spaces
Residential	One for every three units	One for every twenty units, with a minimum of two
Non-residential	One for every 10,000 square feet of gross floor area, with a minimum of two	One for every 40,000 square feet of gross floor area, with a minimum of two
Retail/service	One for every 10,000 square feet of gross floor area, with a minimum of two	One for every 5,000 square feet of gross floor area, with a minimum of two

- 2910.2 All bicycle parking spaces shall be well lit and provide convenient access to the uses they are intended to serve.
- 2910.3 Outdoor spaces may be provided in public space subject to the approval of the District Department of Transportation (DDOT).
- 2910.4 All required bicycle parking spaces shall be a minimum of two feet (2 ft.) in width and six feet (6 ft.) in length.
- 2910.5 An aisle five feet (5 ft.) in width shall be provided between rows of bicycle parking spaces and the perimeter of the area devoted to bicycle parking.
- 2910.6 If a room or common locker not divided into individual spaces is used to meet these requirements, twelve square feet (12 sq. ft.) of floor area shall be considered the equivalent of one (1) bicycle parking space. Where manufactured metal lockers or racks are provided, each locker or stall devoted to bicycle parking shall be counted as one (1) bicycle parking space.
- 2910.7 Signs shall be posted stating where bicycle parking spaces are located in each building or structure where bicycle parking spaces are required. The signs shall be located in a prominent place at each entrance to the building or structure. The sign shall have a white background with black lettering that is no less than two inches (2 in.) in height.

2911 OFF STREET AUTOMOBILE PARKING

- 2911.1 The provisions of chapter 21 do not apply to the USN District.
- 2911.2 There shall be no minimum number of automobile parking spaces required in the USN District.
- 2911.3 No lease or purchase agreement for a dwelling unit may include within its terms the sale or lease of an automobile parking space.
- 2911.4 Automobile parking spaces need not be located on the same lot with the building or building unit they are intended to serve, but must be located on a lot within or below the USN District.

2912 LOADING

- 2912.1 Loading shall be provided as required in chapter 22 for the C-3-C District.
- 2912.2 The Zoning Commission may, as a special exception, permit the reduction, elimination, relocation or consolidation of loading facilities, provided that the applicant demonstrates that:

- (a) The proposed number of loading facilities will be adequate to serve the related uses;
- (b) The loading facilities are designed such that loading and unloading of service vehicles would be accomplished without the need to move goods and materials across public areas;
- (c) The proposed loading facilities would not tend to affect adversely other modes of transportation using the adjacent public or private transportation way, as defined in § 2900.5;
- (d) The proposed loading facilities would not tend to affect adjacent properties adversely; and
- (e) The Commission may impose conditions as to screening, lighting, coping, setbacks, fences, location of entrances and exits, widening of abutting transportation ways, or any other requirement it deems necessary to protect the adjacent property and the safety and function of other modes of travel.

2913 USES AS A MATTER OF RIGHT

2913.1 Any use permitted in the C-3-C District under § 741 shall be permitted as matter-of-right.

2914 ACCESSORY USES AND BUILDINGS

2914.1 Any accessory use or building permitted in the C-3-C District under § 742 shall be permitted as an accessory use or building in the USN District.

2915 SPECIAL EXCEPTIONS

2915.1 All uses not permitted as a matter-of-right in the C-3-C District but permitted as special exceptions in the C-1, C-2, and C-3 Districts are permitted as special exceptions in the USN District if approved by the Board of Zoning Adjustment under § 3104, except that Sexually-Oriented Businesses shall be prohibited.

2916 GROUND FLOOR AREAS REQUIRED TO BE DEVOTED TO PREFERRED USES

2916.1 One hundred percent (100%) of the ground floor H Street frontage of building units shall be occupied by the preferred uses listed in §§ 1710 and 1711, except for space devoted to building entrances or lobbies, space required to be devoted to fire control, or space dedicated to transit or rail entrances or passenger circulation.

- 2916.2 Banks or financial institutions identified in § 1710.1(h) shall occupy no more than one hundred (100) total linear feet of ground floor H Street frontage, and no more than fifty feet (50 ft.) of ground floor H Street frontage in any one building unit.
- 2916.3 No single commercial occupancy shall occupy more than one hundred (100) total linear feet of ground floor H Street frontage.
- 2916.4 The entire ground floor of all building units shall have a minimum slab to slab height of fourteen feet (14 ft.), except for those spaces within the ground floor of any building unit devoted to the following uses: mechanical, electrical, and plumbing; storage; fire control; loading; and retail corridors and service corridors.

2917 ZONING COMMISSION REVIEW – GENERAL

- 2917.1 All proposed buildings, structures, or any proposed exterior renovation to any existing buildings or structures that would result in an alteration of the exterior design, as well as any associated open spaces such as parks or plazas, shall be subject to review and approval by the Zoning Commission in accordance with the following provisions. No review or approval by the Zoning Commission is required for construction of Foundation Systems within the USN District.
- 2917.2 Sections 2918 and 2919 describe the following types of Zoning Commission reviews:
- (a) Master Plan;
 - (b) Stage 1;
 - (c) Stage 2; and
 - (d) Consolidated.
- 2917.3 Any application must be signed by the owner of the subject air rights lot, but need not be signed by the owner of the subjacent lots, even if a portion of the Platform extends into the air space below the level of the air rights lot.

2918 ZONING COMMISSION REVIEW – MASTER PLAN

- 2918.1 Prior to or together with either the first Stage 1 or the first Consolidated application submitted pursuant to this chapter, the applicant shall submit for review and approval by the Commission a Master Plan for the entire USN District.
- 2918.2 A Master Plan review will examine, for the entire USN District, the dimensions and locations of transportation ways, as defined in § 2900.5, and the general locations of open spaces and building sites, in accordance with the review criteria of § 2923.

- 2918.3 A Master Plan shall be determined by the Commission to be not inconsistent with the Comprehensive Plan, to generally further the purposes of the USN District and to be acceptable in all the review criteria of § 2923.
- 2918.4 An approved Master Plan may be modified through application to the Commission, and the application for modification shall be subject to the same approval criteria as set forth in § 2918.3.
- 2918.5 An applicant must return to the Commission for review and approval of Stage 1 and Stage 2 applications or a Consolidated application prior to applying for a building permit or beginning construction of any portion of the approved Master Plan application.

2919 ZONING COMMISSION REVIEW – STAGE 1, STAGE 2, AND CONSOLIDATED APPLICATIONS

- 2919.1 A Stage 1 or Stage 2 application may request review and approval of one (1) or more building units, structures or open spaces, or of one (1) or two (2) buildings.
- 2919.2 An applicant may request consideration of the Stage 1 or Stage 2 applications individually or through a consolidated review.
- 2919.3 A Stage 1 review will examine the specific arrangement of building units on the site, the specific location of open spaces, the massing and height of building units, the mix of uses, access to structures, the location of transportation ways, as defined in § 2900.5, and access to and from the Platforms, in accordance with the Review Criteria of § 2925.
- 2919.4 A Stage 2 review will examine the outward appearance of building units, the design of landscape and hardscape, the functionality of transportation ways, and the general location of uses, in accordance with the Review Criteria of § 2927.
- 2919.5 A Consolidated review will examine all the aspects of design mentioned in § 2919.3 and 2919.4, in accordance with the Review Criteria of §§ 2925 and 2927. An application for Consolidated Review shall include all submittal requirements listed in §§ 2924 and 2926.
- 2919.6 A Stage 1, Stage 2, or Consolidated application shall be determined by the Commission to be not inconsistent with the Comprehensive Plan, not inconsistent with the approved Master Plan, to provide for a mix of uses, to be acceptable in all other applicable Review Criteria as set forth in §§ 2925 and 2927, to generally further the purposes of the USN District, and to comply with all other requirements of this chapter.
- 2919.7 An approved Stage 1, Stage 2 or Consolidated application may be modified through application to the Commission, and the application for modification shall be subject to the same approval criteria as set forth in § 2919.6.

2919.8 Upon the effective date of the Zoning Commission Order granting approval of a Stage 1 application, the applicant may apply for a building permit to construct any portion of the Platforms related to that Stage 1 application.

2919.9 An applicant must return to the Commission for review and approval of a Stage 2 application prior to applying for a building permit or beginning construction for any other portion of the approved Stage 1 Review Application.

2920 COMMUNITY REVIEW

2920.1 In conformance with § 3099.1 of this Title, the affected Advisory Neighborhood Commission (ANC) shall be granted party status to any application submitted pursuant to this chapter, and may participate in the public hearing for the application pursuant to § 3012.5 and 3012.6.

2921 AGENCY REVIEW

2921.1 The Office of Zoning shall refer the application to the Office of Planning, the District Department of Transportation, Fire and Emergency Services, the District Department of the Environment, and any other relevant District agencies for review and comment.

2922 MASTER PLAN SUBMITTAL REQUIREMENTS

2922.1 An applicant requesting approval of a Master Plan application shall provide:

- (a) A written description of the proposal, including a description of how the Master Plan review criteria are met; and
- (b) A plan or plans encompassing the entire USN District and showing:
 - (1) The location and dimensions of private rights-of-way and alleys;
 - (2) The lot areas to be used for FAR calculations, both for the entire USN District as well as the north and south buildings, pursuant to § 2909;
 - (3) The general locations of plazas, parks, or other open spaces;
 - (4) The general locations of sites for future building units; and
 - (5) Any other information needed to understand the project.

2923 MASTER PLAN REVIEW CRITERIA

2923.1 The criteria stated in the subsections that follow are applicable to Master Plan applications.

- 2923.2 Internal Connectivity – Internal connections shall result in a form of development that generally reflects the grid pattern of the District and that avoids the creation of excessively large building blocks. Internal connections shall be provided through a combination of private rights-of-way, sidewalks, paths, plazas, and parks, with a main multi-modal access point to both buildings from H Street, N.E.
- 2923.3 External Connectivity – The Master Plan shall provide the opportunity for pedestrian connections in appropriate and feasible locations to surrounding development and surrounding neighborhoods including Union Station, NoMa west of the railroad tracks, and northern Capitol Hill.
- 2923.4 Private Rights-of-Way Width – To facilitate pedestrian and bicycle movement, the curb-to-curb width of private rights-of-way shall not be excessively large.
- 2923.5 Sidewalk Width – The width of sidewalks along private rights-of-way that generally serve the principal entrances to building units shall not be less than fourteen feet (14 ft.).
- 2923.6 Community Outreach – The application shall demonstrate that community outreach has occurred through participation in multiple venues and through multiple formats, including the affected ANC, and which could include but not be limited to meetings with the community, an informational website, emails, or mailed flyers.

2924 STAGE 1 SUBMITTAL REQUIREMENTS

- 2924.1 An applicant requesting approval of a Stage 1 Review Application shall provide:
- (a) A written description of the proposal, including a description of how the applicable review criteria are met;
 - (b) Site plans, elevations, renderings, photosimulations, aerial axonometric massing diagrams, or any other suitable materials necessary to describe the project;
 - (c) For any building unit located south of H Street, ground-level view studies from multiple vantage points showing the relationship between the proposed building unit and Union Station;
 - (d) A circulation plan, including the location of all transportation ways, as defined in § 2900.5, off-street parking spaces and loading berths, including an indication of which spaces are designated for which use, and a reasonable numerical range of the number of parking spaces to be provided; the circulation plan shall show how the design facilitates north-south bicycle movement through the site and to areas outside the site, including the Metropolitan Branch Trail;
 - (e) The area and dimensions of the application site;

- (f) The gross floor area and floor area ratio for each building unit, including a break-down for each use, and the total gross floor area and floor area ratio for the building, including a breakdown for each use;
- (g) A comprehensive transportation assessment for the development under consideration, addressing pedestrian, bicycle, transit, and automobile capacity and circulation;
- (h) Estimated quantities of potable water required by the project, and of sanitary sewage and storm water to be generated, including the methods of calculating those quantities; and
- (i) Any other information needed to understand the project.

2925 STAGE 1 REVIEW CRITERIA

- 2925.1 The criteria stated in the subsections that follow are applicable to Stage 1 applications.
- 2925.2 External Connectivity – The development shall provide pedestrian connections in appropriate and feasible locations to surrounding development and surrounding neighborhoods including Union Station, NoMa west of the railroad tracks, and northern Capitol Hill. The application shall indicate the location of all such proposed connections. Connections are especially encouraged near the intersection of 1st and K Streets, N.E., 2nd and K Streets, N.E. and 2nd and Eye Streets, N.E.
- 2925.3 Building Unit Heights and Visual Relationship to Surroundings – A suitable height for each building unit and appropriate massing relationship between proposed building units and adjacent neighborhoods, Union Station and other historic landmarks, and the Federal precincts near the Capitol and the Supreme Court shall be provided, with particular attention paid to the eastern portion of the property north of Eye Street, N.E. The application shall also generally indicate what types of materials would be used on the portions of the exterior of the Platforms constructed pursuant to § 2917.14 that would be visible to the public.
- 2925.4 Transportation Hierarchy – The movement of pedestrians, bikes and transit shall be prioritized, and provide reasonable accommodation for automobiles. The location of parking and loading access shall not unduly impact the movement of pedestrians and bicyclists.
- 2925.5 Division of Building Form – Monolithic buildings or the creation of excessively large building blocks shall be avoided. Building unit massing and orientation should reflect the pattern of other development in the District.
- 2925.6 Publicly Accessible Space – Any public space provided such as streets, parks or plazas shall be easily visible and publicly accessible.

- 2925.7 Mix of Uses – The application shall demonstrate how the proposal contributes to an overall mix of uses in the USN District.
- 2925.8 Impacts on Surroundings – The proposed development shall not tend to substantially affect nearby properties adversely due to obstruction of light or air or because of noise, odors, or other impacts on air quality, including exhaust from trains. The development shall incorporate sufficient venting mechanisms for railroad uses below the site.
- 2925.9 Building Livability – The vibration and noise caused by the movement of trains under residential buildings shall be mitigated.
- 2925.10 Community Outreach – The application shall demonstrate that community outreach has occurred through participation in multiple venues and through multiple formats, including the affected ANC, and which could include but not be limited to meetings with the community, an informational website, emails, or mailed flyers.

2926 STAGE 2 SUBMITTAL REQUIREMENTS

- 2926.1 An applicant requesting approval of a Stage 2 Review Application shall provide:
- (a) Information required in § 2924.1(a) through (f);
 - (b) Elevations, detail drawings, renderings, or other graphics that clearly demonstrate the proposed architectural details, signage, materials to be used, and the lighting scheme for the building units;
 - (c) Typical floor plans and sections that show the location of uses, access to uses, points of fenestration, general internal circulation, projections and any other feature necessary to understand the project, and a table showing the floor area of each use;
 - (d) A detailed landscaping plan;
 - (e) A list of environmental features and characteristics of the development; and
 - (f) Any other information needed to understand the overall architectural character of the project.

2927 STAGE 2 REVIEW CRITERIA

- 2927.1 The criteria stated in the subsections that follow are applicable to Stage 2 applications.

- 2927.2 External Connectivity – External connections shall provide adequate size, materials, lighting and signage to move users easily and safely.
- 2927.3 Visual Relationship to Surroundings – A suitable visual relationship between building units and adjacent neighborhoods, Union Station and other historic landmarks, and the Federal precincts near the Capitol and the Supreme Court shall be provided, with particular attention paid to the eastern portion of the property north of Eye Street, N.E.
- 2927.4 Active Entrances to Building Units – Public and publicly accessible areas such as sidewalks, parks, and plazas shall be activated through the use of operational entrances to retail, office, residential, and other uses.
- 2927.5 Visual Façade Permeability – Where there are no operational entrances to uses, design of structures fronting on public and publicly accessible areas shall incorporate windows. Or, where windows are not appropriate, unarticulated blank walls shall be minimized to the extent possible.
- 2927.6 Environmental Stewardship – A high degree of environmental stewardship should be demonstrated; Characteristics may include, but not be limited to the following:
- (a) Onsite energy generation;
 - (b) Rainwater harvesting;
 - (c) Green roofs, including green spaces on the upper surface of the Platforms;
 - (d) Other landscaping on the upper surface of the Platforms such as rainwater capturing tree boxes;
 - (e) Use of native species, drought tolerant species, adequate planting depth and efficient irrigation in landscaping;
 - (f) Use of efficient plumbing fixtures and fittings, enhanced insulation, and cool roofing;
 - (g) Use of environmentally friendly products in construction and operation;
 - (h) Natural lighting, including large windows, light wells, skylights, and daylight penetration to railroad facilities below the Platforms;
 - (i) Natural ventilation, including balconies, terraces, operable windows, and vent shafts;
 - (j) Minimizing construction waste; or
 - (k) Facilitation of transit usage by allowing and/or constructing improved access to transit facilities and interconnections between transit modes.

- 2927.7 Private Open Space – Residential uses shall incorporate private open space such as balconies and terraces for individual units where practical and architecturally compatible.
- 2927.8 Design of Open Spaces – Public and private open spaces shall incorporate shaded areas and adequate seating capacity.
- 2927.9 Light and Air – Adequate light and air shall be provided to all building units in the USN District.
- 2927.10 Parking Access – Convenient access shall be provided from any parking provided to the uses it is intended to serve.
- 2927.11 Community Outreach – The application shall demonstrate that community outreach has occurred through participation in multiple venues and through multiple formats, including the affected ANC, and which could include but not be limited to meetings with the community, an informational website, emails, or mailed flyers.

2928 ASSOCIATED RELIEF

- 2928.1 Relief from any section of this chapter may be heard and decided by the Commission as a special exception in accordance with § 3104. In addition to the criteria of § 3104, the applicant shall demonstrate that the purposes of the USN District would be met even if the relief were granted.
- 2928.2 An applicant requesting approval of a project that would result in nonconformity with the minimum residential or maximum non-residential FAR for the USN District, as established by § 2908, shall demonstrate how the proposal would not be inconsistent with the purpose of establishing a mix of uses.
- 2928.3 The Zoning Commission may hear and decide any additional request for special exception or variance relief from any other provision of the Zoning Regulations for the subject property.
- 2928.4 Request for relief shall be advertised, heard, and decided together with the application for Zoning Commission review and approval.

2929 TIMEFRAME FOR APPROVAL

- 2929.1 The Zoning Commission may approve timeframes within which time an application must be filed for a building permit or a Stage 2 application must be filed.

2930 MINOR MODIFICATIONS

2930.1 The Zoning Administrator shall have authority to approve minor modifications in the final plans approved by the Zoning Commission as set forth in § 2409.6 and 2409.7.

2931 SCHEDULE OF FEES

2931.1 At the time of filing an application with the Zoning Commission, the applicant shall pay the filing fee specified in § 3180.1(b)(16), plus such fees as apply to any additional zoning relief requested. The provisions of § 3181 relating to the administration of fees shall apply, except that the applicant may appeal any decision of the Director regarding the fee schedule to the Zoning Commission, which shall decide the appeal as a preliminary matter to hearing the application.

TITLE 11 - ZONING

**CHAPTER 30 ZONING COMMISSION RULES OF PRACTICE
AND PROCEDURE**

Secs.

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3000 GENERAL PROVISIONS

- 3000.1 This chapter supplements procedures set out in the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code §§ 6-641.01 to 641.15 (2001) (formerly codified at D.C. Code §§ 5-413 to 5-432 (1994 Repl. & 1999 Supp.))); the Zoning Regulations of the District of Columbia, Title 11 DCMR; and the D.C. Administrative Procedure Act, D.C. Official Code §§ 2-501 to 2-511 (formerly codified at D.C. Code §§ 1-1501 to 1-1510 (1999 Repl.)).
- 3000.2 This chapter shall be effective on October 1, 1999, and applicable in its entirety to applications or petitions filed after that date with the Zoning Commission for the District of Columbia, and to applications or petitions filed as of that date, but for which the Commission had not granted a public hearing.

- 3000.3 No application or petition shall be dismissed on the grounds that the applicant or petitioner failed to comply with the provisions of this chapter unless, after due notice of deficiency and expiration of a reasonable time as fixed by the Commission, the deficiency has not been corrected.
- 3000.4 In any conflict between the provisions of this chapter and the Zoning Regulations, the Zoning Regulations shall govern.
- 3000.5 In any conflict within this chapter between general and specific provisions, the specific provisions shall govern.
- 3000.6 In any conflict between this chapter and the D.C. Administrative Procedure Act, the Act shall govern.
- 3000.7 The Director shall, following approval by the Commission, issue and revise application and petition forms and instructions to ensure presentation of adequate information required for the understanding and processing of applications and petitions.
- 3000.8 The Commission may, for good cause shown, waive any of the provisions of this chapter if, in the judgment of the Commission, the waiver will not prejudice the rights of any party and is not otherwise prohibited by law.
- 3000.9 Legal advice from the Office of the Attorney General may be requested or received at any time.

AUTHORITY: Unless otherwise noted, the authority for this chapter is the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 737, as amended; D.C. Official Code §§ 6-641.01 to 6-641.15 (2001) (formerly codified at D.C. Code §§ 5-413 to 5-432 (1994 Repl. & 1999 Supp.))).

SOURCE: Final Rulemaking published at 46 DCR 7853, 7855-7856 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8537-38 (October 20, 2000).

3001 COMPUTATION OF TIME

- 3001.1 In computing any period of time specified in this title, calendar days shall be counted.
- 3001.2 In computing any period of time specified in this title, the day of the act, event, or default after which the designated period of time begins to run shall not be included.
- 3001.3 The last day of the period computed as provided in § 3001.2 shall be included unless it is a Saturday, Sunday, or official District of Columbia holiday, in which

event the period shall run until the end of the next day that is neither a Saturday, Sunday, nor holiday.

3001.4 Whenever a party has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon that party, and the notice or paper is served upon that party by mail, three (3) days shall be added to the prescribed period.

3001.5 Except as otherwise provided by law, whenever an act is required or allowed to be done at or within a specified time, the Commission may, for good cause, extend or reduce the time fixed or the period of time prescribed.

SOURCE: Final Rulemaking published at 46 DCR 7855, 7856-57 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8538 (October 20, 2000).

3002 APPEARANCE AND REPRESENTATION

3002.1 In a proceeding before the Commission, any person or party may appear on that person or party's own behalf.

3002.2 Any person or party may be represented by any other person duly authorized in writing to do so.

3002.3 The authorization shall state specifically that the authorization includes the power of the agent or representative to bind the person in the case before the Commission.

SOURCE: Final Rulemaking published at 46 DCR 7855, 7857 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8538 (October 20, 2000); and Final rulemaking published at 49 DCR 2742, 2748 (March 22, 2002).

3003 SERVICE OF PAPERS; METHODS OF SERVICE; PROOF OF SERVICE

3003.1 Any paper required to be served upon a party shall be served upon that party or upon the representative designated by that party or by law to receive service of papers. When a party has appeared through a representative, service may be made upon the representative of record.

3003.2 Where there are numerous parties to a proceeding, the Commission may designate representative parties or make other special provisions regarding the service of papers.

3003.3 Service may be made and shall be considered complete as indicated in paragraphs (a) through (f) of this subsection, or as otherwise authorized by law:

- (a) By personal delivery, on handing the paper to the person to be served, or leaving it at that person's office with that person's clerk or other person in charge or, if there is no one in charge, by leaving it in a conspicuous place in the office; or, if the office is closed or the person to be served has no office, by leaving it at that person's usual place of residence with some person of suitable age and discretion then residing in that place;
- (b) By telegram or mailgram, when deposited with a telegram or mailgram company, properly addressed and with charges prepaid;
- (c) By first-class mail, when deposited in the United States mail, properly stamped and addressed;
- (d) By telecopy or FAX, when telecopied with the proper telephone number of the intended recipient's telecopier;
- (e) By e-mail, when transmitted electronically, properly addressed to the attention of the intended recipient, with the proper e-mail address; or
- (f) In any specific manner prescribed by the Commission in a proceeding.

3003.4 Proof of service, stating the name and address of the person on whom the document was served and the manner and date of service, shall be shown for each document filed.

3003.5 Proof of service may be made by any of the following means:

- (a) Written acknowledgement of the party served or that party's attorney of record;
- (b) The certificate of the attorney of record if the attorney made the service; or
- (c) The certificate of the person making the service.

SOURCE: Final Rulemaking published at 46 DCR 7855, 7857-58 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8538-39 (October 20, 2000); and Final Rulemaking published at 49 DCR 2742, 2748 (March 22, 2002).

3004 PUBLIC MEETING AND HEARING TRANSCRIPTS

3004.1 The transcripts of Commission public meetings and hearings are a matter of public record and shall be open for inspection at the Office of Zoning.

3004.2 The public meetings and hearings shall be reported under the supervision of the presiding officer, by transcription or by other means, by an official reporter who

may be designated from time to time by the Director (or designee) or who may be a regular employee of the Office of Zoning.

- 3004.3 The transcript prepared by the reporter shall be the sole official transcript of the public meetings and hearings.
- 3004.4 Copies of the transcript will be made available in the Office of Zoning fourteen (14) calendar days after the public meeting or hearing.
- 3004.5 A motion to correct a transcript may be made only when the alleged error is substantive.
- 3004.6 A motion to correct a transcript shall be filed with the Commission within ten (10) calendar days after the transcript has been made available in the Office of Zoning.
- 3004.7 Copies of the motion to correct a transcript shall be served simultaneously on all parties or their authorized representatives.
- 3004.8 The Commission will rule on a motion to correct a transcript at a public meeting or hearing.
- 3004.9 Objections to the motion to correct a transcript shall be filed with the Commission within five (5) calendar days and served upon the parties.
- 3004.10 The Commission, on its own motion at a public meeting or hearing, may order changes to a transcript at any time for any reason.
- 3004.11 If a motion to correct a transcript is granted, the corrected transcript will be made available in the Office of Zoning fourteen (14) calendar days after the Commission grants the motion.

SOURCE: Final Rulemaking published at 46 DCR 7855, 7858-59 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8539 (October 20, 2000); Final Rulemaking published at 49 DCR 2742, 2748 (March 22, 2002); and by Final Rulemaking and Order No. 10-15 published at 57 DCR 11218 (November 26, 2010).

3005 MEETINGS AND HEARINGS

- 3005.1 On or about the first (1st) day of each three (3) month period during the year, the Director shall cause to be published in the D. C Register, and shall post in the Office of Zoning, a 12-month calendar or schedule of dates setting forth the dates of meetings and hearings that will occur during such period, as well as the dates by which an application or petition must be filed with the Commission to allow its consideration on a specific hearing date. Such calendar or schedule also shall set forth any additional hearing dates as may be required by the Commission to permit consideration of applications or petitions that have been timely and

appropriately filed for a specific hearing date and that, but for reasons of excessive number of cases, continuances, or otherwise, are not able to be heard or considered on such date.

- 3005.2 The meetings and hearings of the Commission shall be open to the public, except that a meeting to consider personnel matters, litigation, or other matters that are privileged or sensitive and not required to be open by applicable law may be closed at the discretion of the Commission.
- 3005.3 The proposed agenda for each meeting or the schedule for each hearing shall be posted in the office of the Commission and available to the public at least four (4) days prior to a meeting or hearing.
- 3005.4 Copies of the agenda shall be available to the public at the meeting or hearing.
- 3005.5 Nothing in this section shall preclude the Commission from amending the agenda at a meeting or hearing.
- 3005.6 A meeting of the Commission shall be held at least once each month in accordance with a schedule to be established by the Commission, and additional meetings as needed may be called by the presiding officer or by three (3) members.
- 3005.7 The Commission shall schedule any hearings as needed, in addition to those placed on the quarterly calendar pursuant to § 3005.1, for the purpose of receiving evidence and testimony on specific applications and petitions advertised in advance. Such hearings shall be held at the time and place the Commission or the presiding officer designates.
- 3005.8 Unless all parties to a hearing agree otherwise, or unless the Commission orders otherwise, the Commission shall not postpone or continue a public hearing on a contested case for a period in excess of thirty (30) days from the date of the granting of such postponement or continuance.
- 3005.9 If the time and place of resumption is publicly announced when a postponement, continuance, or adjournment is ordered, no further notice shall be required.
- 3005.10 A majority of the Commission shall constitute a quorum.
- 3005.11 A member absent at the decision meeting may cast an absentee vote only if the member attended all of the hearings on the application or petition.
- 3005.12 A member attending a decision meeting and having read the transcript and reviewed the complete record may vote even though that member may not have attended any or all of the prior meetings or hearings on the application or petition.

3005.13 A majority of the Commission members present at a meeting or hearing may take a procedural action, but shall not take a proposed or final action on a petition or application unless the members also constitute a majority of the Commission.

SOURCE: Final Rulemaking published at 46 DCR 7855, 7859-60 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8539 (October 20, 2000); Final Rulemaking and Order No. 09-18 published at 57 DCR 5053 (June 11, 2010).

3006 EVIDENCE

3006.1 Exhibits may be offered in evidence at the hearing.

3006.2 Exhibits may be in the form of photographs, models, graphs, or other appropriate visual displays.

3006.3 Any exhibit that exceeds a size suitable for inclusion in the record shall be reduced or folded to a size not to exceed legal size of eight and one-half by fourteen inches (8¹/₂ in. x 14 in.).

3006.4 No material that exceeds legal size shall be submitted for the record.

3006.5 If models are used, photographs of the models not exceeding legal size shall be supplied at the public hearing.

3006.6 The Zoning Act of 1938, the Zoning Regulations (including appendices and the official Zoning Map), and this chapter shall be a part of the record of every proceeding before the Commission, and it shall not be necessary for any party or person formally to move their introduction into evidence.

3006.7 The applicant, a public agency representative, a party, or a person may appear as a witness and offer evidence at a hearing.

3006.8 In a contested case under § 3022, witnesses may be examined or cross-examined by the Commission, the applicant, or any party so determined by the Commission under this chapter.

3006.9 In a rulemaking case under § 3021, only the Commission may examine witnesses.

3006.10 In any case, any authorized representative of any public agency may pose a question to a witness through the presiding officer.

SOURCE: Final Rulemaking published at 46 DCR 7855, 7860-61 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8539 (October 20, 2000).

3007 NOTICES TO ADVISORY NEIGHBORHOOD COMMISSIONS

3007.1 Any notice required by D.C. Official Code § 1-309.10(c)(4) to be provided to affected Advisory Neighborhood Commissions, the Commissioner representing the affected single member district, and the Office of Advisory Neighborhood Commissions (“notice recipients”) may be provided by electronic or first-class mail; provided, that the notice shall be by first-class mail unless a notice recipient agrees in writing to receive future notifications through electronic mail.

3007.2 A notice of application shall constitute the notice required by D.C. Official Code § 1309.10(b) and starts the time period for the affected Commission to review the application and submit its written report pursuant to D.C. Official Code § 1-309.10(d).

SOURCE: Final Rulemaking and Order No. 10-04 published at 57 DCR 9736 (October 15, 2010).

3008-3009 [RESERVED]

3010 APPLICATIONS AND PETITIONS

3010.1 Any proceeding before the Commission shall be initiated by the filing of an application or petition with the Commission on the form and in the number that the Commission may prescribe, except that the Commission may initiate a case on its own motion.

3010.2 Contested cases are adjudicatory in nature; present issues for resolution at a public hearing that potentially will affect a relatively small number of persons or properties; and involve primarily questions of fact applicable to a small number of persons or properties, while broader issues of public policy are secondary concerns. Contested cases include, without limitation, the following:

- (a) Planned unit developments filed according to chapter 24 of this title;
- (b) Requests for zoning map amendments filed by the property owner or owners for a single property or for multiple properties that are contiguous or are only separated by a street or alley;
- (c) Applications for air space development; and
- (d) Applications for Zoning Commission review and approval pursuant to chapters 16, 18, 28, and 29 of this title, as well as § 1709.21.

3010.3 Contested cases shall be initiated by the filing of an application. Public hearings on a contested case shall be processed and conducted according to the D.C. Administrative Procedure Act, D.C. Official Code § 2-509 (2001) (formerly codified at D.C. Code § 1-1509 (1999 Repl.)), and § 3022 of this chapter, unless the Commission determines otherwise pursuant to § 3010.7.

- 3010.4 Rulemaking cases are cases that are legislative in nature and cases in which the issues to be resolved at the public hearing may affect large numbers of persons or property or the public in general, including:
- (a) A zoning text or map amendment that is proposed in furtherance of the Comprehensive Plan or other public law or policy;
 - (b) Cases in which the primary issues involve land use and urban planning and zoning policies, such as the development pattern of the city or a particular geographic area, population density, distribution of employment centers, traffic and transportation patterns, and related matters; and
 - (c) Cases in which the facts, information, and opinions sought for the public hearing are to come from a wide cross-section of the public.
- 3010.5 Rulemaking cases include:
- (a) Proposals to amend the text of the Zoning Regulations;
 - (b) Proposals initiated by public agencies to amend the zoning map for a neighborhood, commercial district, or other geographic area encompassing multiple properties, unless determined otherwise by the Commission pursuant to § 3010.7; and
 - (c) Proposals initiated by private persons, organizations, or other entities to amend the zoning map in cases where:
 - (1) The petitioner does not own all of the property proposed to be rezoned; or
 - (2) The petitioner owns all of the property proposed to be rezoned, but the ownership pattern is geographically scattered or otherwise of a character that raises land use policy questions to a greater degree than highly localized issues of fact and effects on neighboring properties.
- 3010.6 Rulemaking cases are initiated by the filing of a petition. Public hearings shall be processed and conducted according to the provisions of § 3021, unless the Commission determines otherwise pursuant to § 3010.7.
- 3010.7 Notwithstanding the classifications of cases in §§ 3010.2 and 3010.5, the Commission may, on its own motion or at the request of any person, review and determine the designation of such case as a contested case or a rulemaking case based on the standards contained in §§ 3010.2 and 3010.4.
- 3010.8 A proceeding that is a contested case within the meaning of D.C. Official Code § 2-502(8) (2001)(formerly codified at D.C. Code § 1-1502(8)) (1999 Repl.)), shall

be conducted pursuant to the requirements of the D.C. Administrative Procedure Act.

SOURCE: Final Rulemaking published at 46 DCR 7855, 7861-63 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8539-41 (October 20, 2000); as amended by Final Rulemaking published at 51 DCR 6837, 6849 (July 9, 2004); as amended by Final Rulemaking published at 52 DCR 63, 71 (January 7, 2005); as amended by Final Rulemaking and Order No. 06-32 published at 56 DCR 5052 (June 26, 2009); as amended by Final Rulemaking and Order No. 09-21 published at 58 DCR 4788 (June 3, 2011).

3011 REVIEW AND PROCESSING OF APPLICATIONS AND PETITIONS

- 3011.1 Except as provided in § 2523.4, as soon as an application or petition is accepted for filing by the Director of the Office of Zoning, the Director shall place a copy of the application or petition in the public record of the Commission and refer a copy to the D.C. Office of Planning for review and recommendation on whether the matter should be processed further, except that the applications for Zoning Commission review and approval filed pursuant to chapters 16, 18, 28, and 29 of this title, which are deemed complete by the Director, shall be immediately scheduled for hearing consistent with the notice provisions of this chapter. The exception from the requirements of this subsection shall not apply to an application for Zoning Commission approval pursuant to § 1612 unless accompanied by a written report of the Office of Planning certifying that the application is compliant with the standards of that section.
- 3011.2 The report of the Office of Planning on whether the matter should be set for public hearing shall be in writing and filed with the Director of the Office of Zoning at least ten (10) days prior to the meeting at which it is to be considered by the Commission, and forthwith shall be filed in the public records of the Commission.
- 3011.3 After considering the application or petition and the recommendations of the Office of Planning, and after reasonable opportunity for the applicant or petitioner to present the applicant's or petitioner's views, the Commission may dismiss the application or petition or set it down for public hearing or other proceeding.
- 3011.4 The vote of a majority of the full Commission shall be required to deny or dismiss an application or petition without a hearing. The vote of a majority of the members present may set the matter down for a public hearing or other proceeding.
- 3011.5 If the matter is denied or dismissed without a public hearing, the Commission shall issue a dismissal order, copies of which shall be published in the D.C. Register, served on the applicant or petitioner, and provided to the public library system and to the appropriate locations. The order shall include a statement of reasons for the dismissal.

3011.6 If the Commission denies or dismisses an application or petition without prejudice, the order shall also state the type of modification the Commission considers appropriate.

3011.7 If the matter is set down for a public hearing, the Commission shall at the same meeting:

- (a) Confirm whether the matter will be heard as a contested or rulemaking case according to the standards in § 3010 and provide that the notice of hearing will state such classification;
- (b) Schedule the date or dates for the public hearing, providing for an adequate number of public hearing sessions within a short time span, taking into account the nature and complexity of the case as presented in the report of the Office of Planning and any additional comments by the Office of Planning or the Director of the Office of Zoning; and
- (c) Make every effort to expedite cases regarding which the Office of Planning report and comments at the meeting suggest that:
 - (1) The case has substantial merit in the public interest;
 - (2) The issues in the case are relatively straight forward, and few if any modifications to the proposal are likely to be necessary; and
 - (3) Little or no opposition has yet appeared, and the concerns at this preliminary stage appear to be capable of resolution in an expedited processing.

3011.8 In expediting certain cases as provided in § 3011.7(c), the Commission shall ensure that large or more complex cases of great import to the public interest are not delayed or are only delayed to a minor degree.

3011.9 An applicant or petitioner granted a public hearing and other processing shall be so notified and informed of any other requirements of the Commission.

SOURCE: Final Rulemaking published at 46 DCR 7855, 7863-66 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8541 (October 20, 2000); as amended by Final Rulemaking published at 51 DCR 6837, 6849 (July 9, 2004); as amended by Final Rulemaking published at 52 DCR 63, 71 (January 7, 2005); as amended by Final Rulemaking published at 52 DCR 9874, 9886 (November 4, 2005); as amended by Final Rulemaking and Order No. 04-05 published at 56 DCR 6181 (August 7, 2009); as amended by Final Rulemaking and Order No. 09-10 published at 57 DCR 3487 (April 23, 2010); as amended by Final Rulemaking and Order No. 09-21 published at 58 DCR 4788 (June 3, 2011).

3012 AGENCY REPORTS

3012.1 As to those applications or petitions for which set down is required, as soon as an application or petition is set down for a public hearing, the matter shall be referred to the D.C. Office of Planning and any other public agencies that may be requested to provide information and assistance, depending on the nature of the case. As to those applications for which set down is not required pursuant to § 3011.1, as soon as an application requesting Zoning Commission review and approval pursuant to chapter 16, 18, 28 and 29 of this title is accepted for filing by the Director of the Office of Zoning, a copy of the application shall be referred to the D.C. Office of Planning and other appropriate agencies for review and comment. A copy shall also be sent for review and comment to:

- (a) The National Capital Planning Commission of:
 - (1) All chapter 18 applications;
 - (2) Those applications for approval pursuant to 11 DCMR §1610.1 (a) and (d);
 - (3) The portion of the application for Master Plan approval relating to the single building south of H Street pursuant to 11 DCMR § 2918.1; and
 - (4) Those applications for Stage 1 or Consolidated approval for any part of the single building south of H Street pursuant to 11 DCMR § 2919.1;
- (b) The Capitol Police Board for those applications for approval pursuant to 11 DCMR § 1612.18; and
- (c) The District Department of Transportation for those applications for special exception approval pursuant to § 2803.

3012.2 The Director of the Office of Planning shall coordinate review of the case and prepare an impact assessment of the project. The assessment shall include reports in writing from all relevant District departments and agencies including the Departments of Transportation and Housing and Community Development, and, if a historic district or historic landmark is involved, the State Historic Preservation Officer.

3012.3 The written reports and recommendations requested by the Commission pursuant to § 3012.1 shall be filed by the Director of the Office of Planning with the Director of the Office of Zoning at least ten (10) days in advance of the hearing. The Director of the Office of Zoning shall include these reports and recommendations in the public record.

3012.4 The Director of the Office of Zoning shall notify the Director of the Office of Planning in writing of the required attendance of agency representatives at the public hearing.

3012.5 If an Advisory Neighborhood Commission (ANC) wishes to participate in a contested case under § 3022, the ANC shall file a written report with the Zoning Commission at least seven (7) days in advance of the hearing. In a rulemaking under § 3021, there shall be no filing deadline as long as the record in that case is open. All written reports shall contain the following:

- (a) An identification of the application or petition;
- (b) When the public meeting of the ANC to consider the application or petition was held;
- (c) Whether proper notice of that meeting was given by the ANC;
- (d) The number of members of the ANC that constitute a quorum and the number of members present at the meeting;
- (e) The issues and concerns of the ANC about the application or petition, as related to the standards against which the application or petition shall be judged;
- (f) The recommendation, if any, of the ANC as to the disposition of the application or petition;
- (g) The vote on the motion to adopt the report to the Commission;
- (h) The name of the person who is authorized by the ANC to present the report; and
- (i) The signature of the ANC chairperson or vice-chairperson.

3012.6 The Commission shall give "great weight" to the written report of the ANC, as required by § 3 of the Comprehensive Advisory Neighborhood Commissions Reform Amendment Act of 2000, effective June 27, 2000 (D.C. Law 13-135; D.C. Official Code § 1-309.10(d)(2001)). In the event the ANC submits its report on the basis of understandings, agreements, or meetings with the applicant or petitioner which later are modified by the applicant or petitioner, the designated ANC representative may comment orally concerning the specific modifications. No other new matters may be presented orally by the designated ANC representative. The Commission may leave the record open to permit the ANC to submit a revised report.

SOURCE: Final Rulemaking published at 46 DCR 7855, 7865-66 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by

reference the text of Proposed Rulemaking published at 47 DCR 8335, 8541-42 (October 20, 2000); as amended by Final Rulemaking published at 51 DCR 6837, 6849 (July 9, 2004); as amended by Final Rulemaking published at 52 DCR 63, 71 (January 7, 2005); as amended by Final Rulemaking published at 52 DCR 9874,9886 (November 4, 2005); as amended by Final Rulemaking published at 54 DCR 1579,1593 (February 16, 2007); as amended by Final Rulemaking and Order No. 04-05 published at 56 DCR 6181 (August 7, 2009); 57 DCR 000126 (2010); as amended by Final Rulemaking and Order No. 09-21 published at 58 DCR 4788 (June 3, 2011).

3013 SUPPLEMENTAL FILINGS

3013.1 As soon as practical, but in no case less than twenty (20) days before the notice of hearing is scheduled to be published in the *D.C Register*, the applicant or petitioner shall file twenty (20) copies of the following with the Director:

- (a) Any additional information, reports, or other materials specified by the Commission at the time the matter was set down for public hearing and any additional copies of the original application or petition and supportive material, if unchanged; or, if the Commission requested the applicant or petitioner to make any changes in the application or petition, copies of the updated application or petition and supportive material;
- (b) A list of witnesses who are prepared to testify on the applicant's or petitioner's behalf;
- (c) A written summary of testimony of all witnesses or of the written report and the area of expertise of any expert who will be called to testify at the hearing;
- (d) Any additional information, reports, or other materials the applicant or petitioner may wish to introduce;
- (e) Reduced plans, which plans shall be no larger than eleven inches by seventeen inches (11 in. x 17 in.), show the "north arrow" reading up, and include a bar scale;
- (f) A list of maps, plans, or other documents that are readily available to the general public and that will be offered into evidence; and
- (g) An estimate of the time required for the presentation of the applicant's or petitioner's case, subject to the decision of the presiding officer as provided in § 3020.1(j).

3013.2 At the same time as filing the material that is required by § 3013.1, the applicant or petitioner, when necessary to support the application or petition, shall file two (2) sets of full-size plans.

- 3013.3 In the case of a map amendment pursuant to § 3021, the supplemental information filed by the petitioner shall include the names and addresses of the owners of all property proposed to be rezoned.
- 3013.4 If the application is processed as a map amendment, public air space application, or planned unit development, and proffers any benefit or amenity listed in § 3013.5, the applicant shall file a memorandum of understanding that has been executed by the applicant and the agency that would enter into or administer the agreement to provide the benefit or amenity.
- 3013.5 The provisions of § 3013.4 shall apply to the following benefits and amenities:
- (a) Minority participation opportunities through agreement with the D.C. Local Business Opportunity Commission;
 - (b) First-source employment opportunities through agreement with the Department of Employment Services;
 - (c) Cash contributions to the D.C. Public Schools or other agency;
 - (d) Services provided for the elderly, handicapped, children, or others through agreement with one or more agencies;
 - (e) Agreement with the Department of Transportation, the National Park Service, or other public agency or private entity to provide or maintain improvements to the public property;
 - (f) The production of housing units through agreement with the Department of Housing and Community Development, the affected Advisory Neighborhood Commission, or any other public agency or private entity; and
 - (g) Any other amenity that would require the agreement of or administration by any public agency or private entity.
- 3013.6 For all applications filed pursuant to § 3022, the supplemental information filed also shall include the:
- (a) Names and addresses of the owners of all property located within two hundred feet (200 ft.) of the subject property; provided, however, in the case of a residential condominium or cooperative with twenty-five (25) or more dwelling units, mailed notice may be provided to the board of directors or to the association of the condominium or cooperative that represents all of the owners of all such dwelling units; and

- (b) Name and address of each person having a lease with the owner for all or part of any building located on the property involved in the application.

3013.7 The Director shall not issue any notice of hearing until the applicant or petitioner certifies in writing that all of the requirements of this section have been complied with.

3013.8 No application or petition shall be modified less than twenty (20) days prior to public hearing.

3013.9 The Commission may permit the modification of the application or petition at the hearing.

3013.10 If the application or petition includes a report by a transportation consultant or expert, the applicant or petitioner shall provide a copy of the report to the Department of Transportation at least twenty (20) days prior to the public hearing.

SOURCE: Final Rulemaking published at 46 DCR 7853, 7866-7868 (October 1, 1999); as amended by Final Rulemaking published at 46 DCR 8041, 8042 (October 8, 1999); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8542-43 (October 20, 2000).

3014 NOTICE OF HEARINGS: GENERAL

3014.1 Notice of a hearing pursuant to the rulemaking provisions of § 3021 or the contested case provisions of § 3022 shall be given by:

- (a) Publishing notice of the hearing in the D.C. Register at least forty (40) days in advance of the hearing;
- (b) Posting a copy of the notice of the public hearing in the Office of Zoning at least forty (40) days prior to the hearing; and
- (c) Providing copies of the notice of the public hearing to the public library system and the appropriate Advisory Neighborhood Commission(s) for posting in appropriate locations. These copies of the notice shall be mailed or delivered at least forty (40) days prior to the hearing.

3014.2 Each notice shall include a general summary of the application or petition under consideration, and shall state the time and place of the public hearing, the name of the applicant or petitioner, the action of the Commission prayed for, and whether the proceedings will be conducted pursuant to §§ 3021 or 3022.

3014.3 For hearings to amend the Zoning Map pursuant to § 3021, the petitioner shall post the street frontage of each square affected by the rezoning proposal with a notice of public hearing. This information shall be posted at least forty (40) days in advance of the hearing.

3014.4 The notice required by § 3014.3 shall be supplied by the Director of the Office of Zoning showing the:

- (a) Calendar number of the petition;
- (b) Nature of the petition;
- (c) Name of the petitioner;
- (d) Property involved; and
- (e) Location, time, and date of the public hearing.

3014.5 The petitioner shall comply with the requirements of §§ 3015.7 through 3015.9 regarding filing of a sworn affidavit and maintenance of the posting.

3014.6 The Commission may give any additional notice of the hearing, including notice in the manner prescribed in § 3015, as it deems necessary or appropriate.

SOURCE: Final Rulemaking published at 46 DCR 7855, 7868 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8544 (October 20, 2000); as amended by Final Rulemaking and Order No. 09-10 published at 57 DCR 3487 (April 23, 2010).

3015 NOTICE OF CONTESTED CASE HEARINGS

3015.1 Notice of a contested case hearing pursuant to § 3022 shall be given in accordance with § 3014 and the additional requirements of this section.

3015.2 Notice of the hearing published in the D.C. Register shall include lot, square, and street address of the property involved; and the number of the Advisory Neighborhood Commission (ANC) area in which the property is located. This notice shall also cite the requirements for participation as a party.

3015.3 At least forty (40) days prior to a hearing, the Commission shall mail a copy of the notice to:

- (a) Owners of all property within two hundred feet (200 ft.) of the property included in the application; provided, however, in the case of a residential condominium or cooperative with twenty-five (25) or more dwelling units, mailed notice may be provided to the board of directors or to the association of the condominium or cooperative that represents all of the owners of all such dwelling units;
- (b) Each person having a lease with the owner for all or part of any building located on the property involved in the application; and

- (c) The ANC for the area in which the property is located, or for any other ANC that is within two hundred feet (200 ft.) of the property involved in the application.
- 3015.4 When a Zoning Map amendment, planned unit development, air space development, or Zoning Commission review and approval pursuant to chapters 16, 18, 28, and 29 of this title is requested by a property owner for the property owned, the applicant shall give additional notice of the public hearing by posting the property with notice of hearing at least forty (40) days in advance of the hearing.
- 3015.5 The notice required by § 3015.4 to be placed upon an applicant's property shall be posted in plain view of the public at each street frontage on the property and on the front of each existing building located on the subject property.
- 3015.6 All notices required by § 3015.4 shall be supplied by the Director, and shall show the:
 - (a) Calendar number of the application;
 - (b) Nature of the application;
 - (c) Name of the applicant;
 - (d) Property involved; and
 - (e) Location, time, and date of the public hearing.
- 3015.7 When required to post any notice by § 3015.4, the applicant shall file with the Director a sworn affidavit demonstrating compliance with §§ 3015.4 and 3015.5. This affidavit shall be filed not less than thirty (30) days prior to the public hearing. A form of affidavit supplied by the Director may be used, but is not required.
- 3015.8 The applicant shall attach to the affidavit a photograph of each sign after posting and as viewed by the public, identifying the street frontage or other location of each sign.
- 3015.9 The applicant shall make a reasonable effort to maintain the posting by checking the signs weekly and reposting when necessary. The applicant shall swear or affirm at the hearing that this has been done.
- 3015.10 Notice of the public hearing pursuant to § 3015.3 shall not be a jurisdictional prerequisite to action by the Commission. It shall be intended to offer supplemental notice only.

3015.11 If a failure of notice under § 3015.3 is alleged and proven, the Commission may consider all the surrounding circumstances, including the extent of actual notice received by the public from all sources, attendance at the public hearing, and the nature and extent of the proposed construction and use under the application, if approved. On the basis of these considerations, the Commission may determine whether the public hearing will be postponed, continued, or held as scheduled.

SOURCE: Final Rulemaking published at 46 DCR 7855, 7870-71 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8545 (October 20, 2000); as amended by Final Rulemaking published at 51 DCR 6837, 6850 (July 9, 2004); as amended by Final Rulemaking published at 52 DCR 63, 72 (January 7, 2005); as amended by Final Rulemaking and Order No. 04-05 published at 56 DCR 6181 (August 7, 2009); as amended by Final Rulemaking and Order No. 09-10 published at 57 DCR 3487 (April 23, 2010); as amended by Final Rulemaking and Order No. 09-21 published at 58 DCR 4788 (June 3, 2011).

3016-3019 [RESERVED]

3020 HEARING PROCEDURES: GENERAL

3020.1 The presiding officer shall have authority to:

- (a) Regulate the course of the hearing;
- (b) Rule upon offers of proof and receive relevant evidence;
- (c) Assign exhibit numbers for all written documentary and other tangible matter offered in evidence;
- (d) Dispose of procedural requests or similar matters, including motions to amend and to order hearings reopened;
- (e) Rule upon motions to consolidate applications or petitions for hearing;
- (f) Call, qualify, and examine witnesses;
- (g) Introduce into the record documentary or other evidence;
- (h) Request any party or person at any time during the hearing to state that party or person's position concerning any issues in the proceeding and theory in support of that position;
- (i) Rule upon the qualifications of witnesses offered as experts;
- (j) Exclude unduly repetitious or irrelevant testimony, and permit a witness to adopt the prior testimony of another witness; and

(k) Take any other action authorized by this title or necessary under this chapter.

3020.2 Except as provided in § 3020.3, the applicant and all persons and parties (except an ANC) in support shall collectively have a maximum sixty (60) minutes, exclusive of cross-examination, to present testimony, and all persons and parties (except an ANC) in opposition shall collectively have no more than sixty (60) minutes, exclusive of cross-examination, to present testimony in opposition. Nothing herein shall prohibit the Commission from placing reasonable restrictions on cross-examination, including time limits and limitations on the scope of cross-examination, by the applicant or parties in support or opposition.

3020.3 The Commission may grant additional or lesser time than that allowed under § 3020.2 to an applicant and persons and parties in support, or to persons and parties in opposition, to present a case, provided that the presiding officer shall ensure reasonable balance in the allocation of time between proponents and opponents.

3020.4 If surprise to the applicant or petitioner or to a party in a contested case under § 3022 is clearly shown and the inability to proceed is demonstrated, a hearing may be adjourned to allow the applicant, petitioner, or party sufficient time to offer rebuttal evidence. This evidence shall be filed with the Director at least fourteen (14) days before the hearing is resumed.

SOURCE: Final Rulemaking published at 46 DCR 7855, 7871-73 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8546 (October 20, 2000).

3021 RULEMAKING HEARINGS

3021.1 The rules of procedure in this section shall apply to rulemaking proceedings, including petitions for amendments to the text of the Zoning Regulations pursuant to § 102 and to certain applications for a change in the Zoning Maps of the District designated by the Commission pursuant to § 3010.7 as coming within the Commission's rulemaking power.

3021.2 The rules in this section shall supplement the rules in §§ 3010, 3011, 3013, 3014, 3015, 3020, and 3024.

3021.3 Any person may appear at a hearing in a rulemaking proceeding, and may present, within the time limits determined by the Commission, evidence, testimony, or argument that is relevant and not unduly repetitious.

3021.4 No person shall have the standing of a party in a rulemaking proceeding.

3021.5 The order of procedure at the hearing shall be as follows:

- (a) Call to order and opening statement by the presiding officer;
- (b) Introductory statement by Commission staff;
- (c) Consideration of pending motions and procedural matters;
- (d) Applicant's or petitioner's case;
- (e) Reports or statements by the Office of Planning and other public agency representatives;
- (f) Affected Advisory Neighborhood Commissions;
- (g) Persons in support of the application or petition; and
- (h) Persons in opposition to the application or petition.

SOURCE: Final Rulemaking published at 46 DCR 7855, 7873 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8546 (October 20, 2000).

3022 CONTESTED CASE HEARINGS

- 3022.1 The contested case procedures in § 10 of the D.C. Administrative Procedure Act, D.C. Official Code § 2-509, and this section shall apply to applications for a change in the Zoning Map pursuant to § 102 and to applications for planned unit developments, air space developments, and similar plan review activities of the Commission, including those required by chapters 16, 18, 28, and 29 of this title, as well as §§ 1709.21 and 2523.2, except as otherwise provided in § 3010.7.
- 3022.2 This section supplements the rules in §§ 3010, 3011, 3013, 3014, 3015, 3020, and 3024.
- 3022.3 Except for the applicant and the ANC, to participate as a party in a proceeding before the Commission, any affected person shall file with the Commission, not less than fourteen (14) days prior to the date set for the hearing, the following information:
- (a) The person's name and address;
 - (b) A request to appear and participate as a party;
 - (c) Whether the person will appear as a proponent or opponent of the application;
 - (d) If the person will appear through legal counsel and, if so, the name and address of the legal counsel;

- (e) A list of witnesses who will testify on the person's behalf; and
- (f) A written statement setting forth why the person should be granted party status, including reference to the following:
 - (1) The property owned or occupied by the person, or in which the person has an interest, that will be affected by the action requested of the Commission;
 - (2) The legal interest the person has in the property, such as owner, tenant, trustee, or mortgagee;
 - (3) The distance between the person's property and the property that is the subject of the application before the Commission;
 - (4) The environmental, economic, social, or other impacts likely to affect the person and/or the person's property if the action requested of the Commission is approved or denied; and
 - (5) An explanation of how the person's interests as identified in response to paragraph (4) would likely be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning action than those of other persons in the general public.

3022.4 The Commission shall determine who will be recognized as a party. In so determining, the Commission shall consider whether the provisions of § 3022.3 have been complied with and whether the specific information presented qualifies the person as a party. The Commission shall grant party status only if the person requesting party status has clearly demonstrated that the person's interests would likely be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning action than those of other persons in the general public.

3022.5 A party may cross-examine any other party or person, except the Commission; provided, that the presiding officer may rule a question out of order when it is irrelevant, immaterial, or unduly repetitious.

3022.6 Evidence shall be taken in conformity with D.C. Official Code § 2-509(b)(2001) (formerly codified at D.C. Code § 1-1509(b) (1999 Repl.)).

3022.7 Witnesses shall be examined and cross-examined orally under oath or affirmation.

3022.8 The order of procedure for presenting evidence at the hearing shall be as follows:

- (a) Call to order and opening statement by the presiding officer;
- (b) Introductory statement by Commission staff;
- (c) Consideration of pending motions and procedural matters;
- (d) Applicant's case;
- (e) Reports or statements by the Office of Planning and other public agency representatives;
- (f) Affected ANCs;
- (g) Parties in support of the application;
- (h) Persons in support of the application;
- (i) Parties in opposition to the application;
- (j) Persons in opposition to the application; and
- (k) Rebuttal by applicant.

3022.9 In a contested case proceeding under this chapter, no decision or order of the Commission on an application shall be made except upon the exclusive record of the proceedings before the Commission.

SOURCE: Final Rulemaking published at 46 DCR 7855, 7873-76 (October 1, 1999); as amended by Final Rulemaking, 47 DCR 9347, 9349-50 (November 24, 2000); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8567-47 (October 20, 2000); as amended by Final Rulemaking published at 51 DCR 6837, 6850 (July 9 2004); as amended by Final Rulemaking published at 52 DCR 63, 72 (January 7 2005); as amended by Final Rulemaking and Order No. 06-32 published at 56 DCR 5052 (June 26, 2009); as amended by Final Rulemaking and Order No. 04-05 published at 56 DCR 6181 (August 7, 2009); as amended by Final Rulemaking and Order No. 09-10 published at 57 DCR 3487 (April 23, 2010); as amended by Final Rulemaking and Order No. 09-21 published at 58 DCR 4788 (June 3, 2011).

3023 EX PARTE COMMUNICATIONS

3023.1 In any proceeding that is a contested case within the meaning of D.C. Official Code § 2-502(8)(2001)(formerly codified at D.C. Code § 1-1502(8) (1999 Repl.)), all members of the Commission shall be prohibited from receiving or participating in any ex parte communication relevant to the merits of the proceeding.

- 3023.2 The prohibition in § 3023.1 shall begin to apply upon the referral of any application or petition pursuant to § 3011, and shall not terminate until the final disposition of the case.
- 3023.3 The prohibition in § 3023.1 shall not extend to communication between the Commission and the staff concerning matters of record.
- 3023.4 As used in this section, the term "ex parte communication" shall mean an oral or written communication not in the public hearing record with respect to which reasonable prior notice to all participants to the proceeding is not given.
- 3023.5 As used in this section, the phrase "participants to the proceeding" shall mean all parties to the proceeding and any other persons who have been granted limited participation.

SOURCE: Final Rulemaking published at 46 DCR 7855, 7876 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8547 (October 20, 2000).

3024 CLOSING THE RECORD

- 3024.1 The record shall be closed at the end of the public hearing, except that the record may be kept open for a stated period for the receipt of specific exhibits, information, or legal briefs, as directed by the presiding officer. Any other materials received by the Commission after the close of the record shall be returned by the Director and not received into the files of the Commission. However, if the materials are accompanied by a request to re-open the record, the request shall be accepted and presented to the Chair for consideration. The request must demonstrate good cause and the lack of prejudice to any party. If granted, the materials shall be entered into the record.
- 3024.2 An applicant that has been required by § 3013.4 to submit a memorandum of understanding, and who did not submit, during or before the hearing, a fully executed written agreement to implement that memorandum, shall submit a written agreement, executed by the applicant and all appropriate agencies or entities, before the record closes.
- 3024.3 In a contested case proceeding under § 3022, the Commission shall allow all parties to a case an opportunity to file written responses to any exhibits, information, or briefs submitted after the close of the hearing. These responses shall be filed within seven (7) days following the date by which the exhibits, information, or briefs were due.
- 3024.4 In a rulemaking under § 3021, the Commission may allow persons an opportunity to file written responses to any exhibits, information, or briefs submitted within the period designated by the Commission.

3024.5 The Commission reserves the right to reopen the record at any time prior to the issuance of a final decision. In a contested case under § 3022, notice of reopening the record shall be served upon all parties to the proceeding.

3024.6 [DELETED]

3024.7 The Commission may close the record at the end of a contested case hearing and vote either to approve or deny an application as its proposed action. The Commission may describe such conditions as the Commission desires to have included in its final decision or order, subject to the requirements of D.C. Official Code § 2-509(e) (2001) (formerly codified at D.C. Code § 1 - 1509(e) (1999 Repl.)), and §§ 3025.3, 3028.3, and 3028.4.

SOURCE: Final Rulemaking published at 46 DCR 7855, 7876-77 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8547 (October 20, 2000); as amended by Final Rulemaking published at 47 DCR 9741, 9743 (December 8, 2000); as amended by Final Rulemaking and Order No. 12-11 published at 60 DCR 8967 (June 14, 2013).

3025 POST-HEARING PROCEDURES: GENERAL

3025.1 Prior to filing the final decision, the Commission may on its own motion re-open the record and require further hearing on designated issues before the Commission.

3025.2 Notice of a further hearing along with a designation of issues shall be forwarded to any party who participated in the earlier proceedings, or the party's authorized representative. Notice shall be given at least fourteen (14) days prior to the date set for further hearing.

3025.3 A proposed action to amend the text of the Zoning Regulations or the Zoning Map, or to approve a planned unit development or air space development shall be referred to the National Capital Planning Commission for comment and review pursuant to § 492(b)(2) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 774, 810; D.C. Official Code § 6-641.05 (formerly codified at D.C. Code § 5-417 (1994 Repl.))).

3025.4 The report of the National Capital Planning Commission shall be in writing. It also may be presented orally by the chairperson or a duly authorized representative.

SOURCE: Final Rulemaking published at 46 DCR 7855, 7877 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8547 (October 20, 2000).

3026 PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

3026.1 In a contested case under § 3022, the parties are encouraged to submit to the Office of Zoning proposed findings of fact and conclusions of law within such time as the presiding officer may direct, which in any event shall not be less than seven (7) days after the transcript of the hearing is delivered to the Office of Zoning.

3026.2 To assist parties in preparing proposed findings of fact and conclusions of law, the Office of Zoning shall make available to all parties and to the public a generic model of the form and substance of findings and conclusions.

3026.3 Notice of the availability of the transcript shall be given to the parties in writing by the Director.

3026.4 Copies of proposed findings and conclusions shall be served by each party upon all other parties.

SOURCE: Final Rulemaking published at 46 DCR 7855, 7877-78 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8548 (October 20, 2000).

3027 PROPOSED ACTION

3027.1 The Commission may take a proposed action at the close of the hearing pursuant to §§ 3021 and 3022, or at a later time when the record is closed.

3027.2 In a rulemaking under § 3021, the following shall apply:

(a) A proposed decision to amend the text of the Zoning Regulations or the Zoning Map shall be published in the D.C. Register as proposed rulemaking; and

(b) A proposed decision not to amend the text or map shall not be published in the D.C. Register.

3027.3 In a contested case under § 3022, a proposed decision shall not be published in the D.C. Register.

3027.4 The Commission need not take proposed action with respect to an application for Zoning Commission review and approval pursuant to chapters 16, 18, 28, and 29 of this title, as well as §§ 1709.21 and 2523.2, but may take final action in accordance with § 3028, either at the close of the hearing or at a subsequent public meeting and, in the case of an application pursuant to § 2523, at the initial public meeting regarding the application.

SOURCE: Final Rulemaking published at 46 DCR 7855, 7878 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8548 (October 20, 2000); as amended by Final Rulemaking and Order No. 06-32 published at 56 DCR 5052 (June 26, 2009); as amended by Final Rulemaking and Order No. 04-05 published at 56 DCR 6181 (August 7, 2009); as amended by Final Rulemaking and Order No. 09-10 published at 57 DCR 3487 (April 23, 2010); as amended by Final Rulemaking and Order No. 09-21 published at 58 DCR 4788 (June 23, 2011).

3028 FINAL ACTION

- 3028.1 In a rulemaking under § 3021, to take final action to amend the text of the Zoning Regulations or the Zoning Map, the Commission may proceed following receipt of the report of the National Capital Planning Commission or after thirty (30) days of the referral required under § 3025, whichever is sooner; provided, that in no case shall the Commission take final action sooner than thirty (30) days after publication of the proposed rulemaking in the D.C. Register.
- 3028.2 In a rulemaking under § 3021, to take final action that does not amend the text of the Zoning Regulations or the Zoning Map, the Commission may proceed without referral to or report from the National Capital Planning Commission and without publication of proposed rulemaking in the D.C. Register.
- 3028.3 In a contested case under § 3022, to take final action to amend the Zoning Map or to approve planned unit development or air space development, the Commission may proceed following receipt of the report from the National Capital Planning Commission or after thirty (30) days of the referral required under § 3025, whichever is sooner.
- 3028.4 To take final action that does not amend the Zoning Map or that denies a planned unit development, the Commission may proceed without a referral to or report from the National Capital Planning Commission.
- 3028.5 The Commission shall issue its written order on an application or petition no later than forty-five (45) days after the Commission's vote to take final action on the application or petition.
- 3028.6 The final action of the Commission on an application or petition shall be in the form of a written order that shall be filed in the record.
- 3028.7 In a rulemaking proceeding under § 3021, the order shall be published in the D.C. Register as a final rulemaking action.
- 3028.8 In a contested case under § 3022, the order shall be accompanied by findings of fact and conclusions of law. The order shall be published in the D.C. Register. Prior to publication in the D.C. Register, copies of the order shall be served on any party who appeared and participated in the hearing in person or by authorized representative.

3028.9 A written order setting forth a final action shall become final and effective upon publication in the D.C. Register, unless the Commission specifies a later effective date. An amendment to the Zoning Map approved in connection with an application for a planned unit development shall, however, become effective only upon completion of the process required by chapter 24 of this title, and upon filing with the District of Columbia a covenant ensuring compliance with approved plans.

SOURCE: Final Rulemaking published at 46 DCR 7855, 7878-79 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8548-49 (October 20, 2000).

3029 RECONSIDERATION AND REFILEING

3029.1 Requests for reconsideration of an application or petition dismissed without a hearing shall not be entertained.

3029.2 No application or petition essentially the same as that dismissed without a hearing shall be accepted for filing within six (6) months after dismissal; provided, that an application or petition dismissed without prejudice may be refiled at the convenience of the applicant or petitioner.

3029.3 An application or petition may be withdrawn prior to advertisement of a hearing. Following advertisement, an application or petition may be withdrawn only with the consent of the Commission. In either case, an application or petition shall not be accepted for refileing within six (6) months after the withdrawal.

3029.4 No application or petition essentially the same as that denied following a hearing shall be accepted for filing within one (1) year after denial.

3029.5 A motion for reconsideration, rehearing, or re-argument of a final order in a contested case under § 3022 may be filed by a party within ten (10) days of the order having become final. The motion shall be served upon all other parties. The Commission shall not receive or consider any motion for reconsideration, rehearing, or re-argument of a final order in a contested case proceeding that is filed prior to the order having become final.

3029.6 A motion for reconsideration, rehearing, or re-argument shall state specifically the respects in which the final order is claimed to be erroneous, the grounds of the motion, and the relief sought. No request for rehearing shall be considered by the Commission unless new evidence is submitted that could not reasonably have been presented at the original hearing. If a rehearing is granted, notice shall be given as in the case of an original hearing.

3029.7 Within seven (7) days after a motion has been filed and served, any other party may file an answer in opposition to or in support of the motion.

- 3029.8 Neither the filing nor the granting of the motion shall stay a decision unless the Commission orders otherwise.
- 3029.9 A motion for reconsideration, rehearing, or re-argument shall not be a prerequisite to judicial review.
- 3029.10 A motion for reconsideration, rehearing, or re-argument of a final order in a rulemaking under § 3021 shall not be accepted or considered, except that a member of the Commission may initiate a motion for reconsideration up to thirty-five (35) days after the vote on the final action.

SOURCE: Final Rulemaking published at 46 DCR 7855, 7879-80 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8548-49 (October 20, 2000); as amended by Final Rulemaking and Order No. 12-11 published at 60 DCR 8967 (June 14, 2013).

3030 CONSENT CALENDAR

- 3030.1 The purpose of this section is to create an expedited procedure to be known as the "Consent Calendar." The procedure shall allow the Zoning Commission, in the interest of efficiency, to make, without public hearing, minor modifications and technical corrections to previously approved final orders, rulemaking, or other actions of the Zoning Commission, including corrections of inadvertent mistakes. The procedure also permits the Zoning Commission to consider a request to add penthouse space pursuant to § 411.24.
- 3030.2 For purposes of this section, "minor modifications" shall mean modifications of little or no importance or consequence.
- 3030.3 Any party to a proceeding before the Commission, or the Commission upon its own motion, may request that a matter be placed on the Consent Calendar.
- 3030.4 The request shall be in writing; state the nature of, and reasons, and grounds for the minor modification or technical correction; and include a copy of any Commission final order, map, plan, rulemaking, or other action or relief proposed to be modified or corrected.
- 3030.5 All written requests for placement of a matter on the Consent Calendar shall be made to the Director.
- 3030.6 All written requests shall be served by the moving party on all parties in the original proceeding at the same time that the request is served on the Director.

- 3030.7 The Director shall, in the Director's sole discretion, determine the appropriate form of public notice and any additional service, taking into account the nature of the request and any issues relating to efficiency and fairness.
- 3030.8 Within seven (7) days after a request to put a matter on the Consent Calendar has been filed and served, any other party may file a response in opposition to or in support of the request. The responding party shall serve all other parties at the time that the response is filed with the Office of Zoning.
- 3030.9 The Director shall provide written comments and recommendations to the Commission on each request for placement of a matter on the Consent Calendar.
- 3030.10 In reviewing requests for placement of a matter on the Consent Calendar, the Director may request advice from other District agencies, including the Office of the Attorney General.
- 3030.11 Based upon the written request for placement of a matter on the Consent Calendar, all supporting and opposing submissions and the reports of other District of Columbia agencies, the Director shall determine which matters shall be placed on the Consent Calendar for consideration and action by the Commission without public hearing at its monthly meeting.
- 3030.12 Any member of the Commission may remove any item from the Consent Calendar for any reason. Any matter that is not placed on the Consent Calendar or that is removed from the Consent Calendar shall be acted upon by the Commission according to the applicable procedures contained in other sections of this chapter.
- 3030.13 All relief granted by the Commission under this section shall be consistent with the intent of the Commission in approving its original order, map, plan, rulemaking, or other action or relief proposed to be modified or corrected and shall not substantially impair the intent, purpose, or integrity of the zone plan as embodied in the Zoning Regulations and Zoning Map.

SOURCE: Final Rulemaking published at 46 DCR 7855, 7880-82 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8549-50 (October 20, 2000); as amended by Final Rulemaking and Order No. 14-13 published at 63 DCR 390 (January 8, 2016).

3031-3034 [RESERVED]

3035 COLLEGE AND UNIVERSITY USES: ZONING COMMISSION APPROVAL

- 3035.1 Effective December 8, 2000, the Zoning Commission shall hear and decide all applications filed under § 3104 for special exception approval under §§ 210,

302.2, 322.2, 332.2, 352.2, 507, 615, and 916 of a campus development plan; the amendment of a campus development plan; the further processing of an approved campus development plan to permit the construction and use of a specific building or structure within a campus, whether the plan was approved by the Commission or the Board of Zoning Adjustment; and the interim use of land or improved property within a reasonable distance of a campus.

- 3035.2 This section applies to all applications filed on or after December 8, 2000, with the Commission and to all applications filed before that date with the Board but for which the public hearing on the application has not commenced.
- 3035.3 The Board shall continue to hear and decide all applications for which the public hearing commenced before December 8, 2000, and, in the cases that it has heard and decided, all post-hearing motions under § 3126 and requests for modification of approved plans under § 3129.
- 3035.4 The Commission shall use the standards for special exception approval in § 3104, subject to the conditions specified in §§ 210, 507, 615, and 916, in reviewing and approving college and university uses.
- 3035.5 Except for § 3128 relating to the Commission's *sua sponte* review of Board orders and decisions, the Commission shall use the Board of Zoning Adjustment Rules of Practice and Procedure in chapter 31 of this title that apply to special exception proceedings in processing, reviewing, and approving college and university uses.
- 3035.6 At the time of filing an application with the Commission, the applicant shall pay the filing fee specified in § 3180.1(b)(3). The provisions of § 3181 relating to the administration of fees shall apply, except that in an application to be heard by the Commission, the applicant shall appeal any decision of the Director regarding the fee schedule to the Commission, which shall decide the appeal at a meeting or hearing as a preliminary matter to hearing the application.

SOURCE: Final Rulemaking published at 47 DCR 9725, 9738 (December 8, 2000).

3036-3039 [RESERVED]

3040 FILING FEES

- 3040.1 At the time of filing an application or petition for an amendment to the Zoning Map, the applicant or petitioner shall pay a filing fee of three hundred twenty-five dollars (\$325).
- 3040.2 At the time of filing a petition for an amendment to the text of the Zoning Regulations, the petitioner shall pay a filing fee of three hundred twenty-five dollars (\$325).

- 3040.3 At the time of filing an application for approval of a planned unit development, air space development, or any other action where review of a specific site or building plan is required, the applicant shall pay a filing fee of six hundred fifty dollars (\$650).
- 3040.4 At the time of filing an application for a modification to an approved planned unit development, air space development, or any other action where review of a specific site or building plan was required, the applicant shall pay a filing fee of five hundred twenty dollars (\$520).
- 3040.5 At the time of filing a request for approval of an extension of time to the validity of an order for a previously approved planned unit development, the applicant shall pay a filing fee of five hundred twenty dollars (\$520).
- 3040.6 All fees shall be paid by check or money order made payable to the D.C. Treasurer.

SOURCE: Final Rulemaking published at 46 DCR 7855, 7882-83 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8550 (October 20, 2000); as amended by Final Rulemaking and Order No. 10-09/10-10 published at 57 DCR 9480 (October 8, 2010).

3041 HEARING FEES

- 3041.1 If the Commission schedules a public hearing on an application or petition for an amendment to the Zoning Map, prior to advertisement of the hearing, the applicant or petitioner shall pay a hearing fee in accordance with the following schedule:
- (a) For rezoning to any R-1, R-2, or R-3 District, for each acre or part of an acre, six hundred fifty dollars (\$650);
 - (b) For rezoning to any R-4 or R-5-A District, for each acre or part of an acre, one thousand six hundred and twenty-five dollars (\$1,625);
 - (c) For rezoning to any R-5-B District, for each acre or part of an acre, three thousand two hundred fifty dollars (\$3,250);
 - (d) For rezoning to any R-5-C, R-5-D, or R-5-E District, for each acre or part of an acre, six thousand five hundred dollars (\$6,500);
 - (e) For rezoning to any SP, W, or CR District, for each twenty thousand square feet (20,000 ft.²) or part of that area, two thousand six hundred dollars (\$2,600);

- (f) For rezoning to any C-1 or C-2 District, for each ten thousand square feet (10,000 ft.²) or part of that area, one thousand six hundred twenty-five dollars (\$1,625);
- (g) For rezoning to any C-3, C-4, or C-5 District, for each ten thousand square feet (10,000 ft.²) or part of that area, three thousand two hundred fifty dollars (\$3,250);
- (h) For rezoning to any C-M or M District, for each twenty thousand square feet (20,000 ft. ²) or part of that area, two thousand six hundred dollars (\$2,600);
- (i) For any overlay district, the fee shall be computed in accordance with the requirement for the underlying zone;
- (j) The maximum hearing fee for rezoning to any Residence District (R-1, R-2, R-3, R-4, or R-5) shall be sixty-five thousand dollars (\$65,000); and
- (k) For an application or petition that proposes rezoning to more than one (1) zone district or is in the alternative, the fee shall be the total of the amounts for the area devoted to each proposed district or alternative computed separately.

3041.2 An applicant or petitioner shall not be required to pay a hearing fee for any alternative districts added by the Commission at the time it sets the case for hearing.

3041.3 If the Commission schedules a public hearing on a petition for an amendment to the text of the Zoning Regulations, prior to the advertisement of the hearing, the petitioner shall pay a hearing fee of three hundred twenty-five dollars (\$325) for each section of this title proposed to be added, deleted, or amended, with a maximum hearing fee of one thousand three hundred dollars (\$1,300).

3041.4 If the Commission schedules a public hearing on an application for approval of a planned unit development, air space development, or any other action where review of a specific site plan or building plan is required, prior to the advertisement of the hearing, the applicant shall pay a hearing fee in accordance with the following schedule; provided that for those applications exempted from the setdown process, the fees shall be paid at the time the application is filed:

- (a) For each one hundred square feet (100 ft.²) of gross floor area or part thereof included in the application devoted to dwelling units, and the immediate area needed to serve that dwelling unit, seven dollars (\$7), with a maximum of sixty-five thousand dollars (\$65,000);

- (b) For each one hundred square feet (100 ft.²) of gross floor area or part thereof included in the application devoted to any use other than a dwelling unit and the immediate area needed to serve that dwelling unit, thirteen dollars (\$13);
- (c) In the case of an application that combines dwelling units and other uses, the fee shall be the total of the amounts for each use computed separately; and
- (d) There shall be no charge for the hearing on the second stage of a two-stage planned unit development application.

3041.5 In the case of an application or petition combining two (2) or more actions described in this section, the fee charged shall be the greatest of all the fees computed separately.

3041.6 If the Commission schedules a public hearing on an application for a modification to an approved planned unit development, air space development, or any other action where review of a specific site or building plan was required, prior to the advertisement of the hearing, the applicant shall pay a hearing fee equal to twenty six percent (26%) of the original hearing fee or one thousand three hundred dollars (\$1,300), whichever is greater.

3041.7 All fees shall be paid by check or money order made payable to the D.C. Treasurer.

SOURCE: Final Rulemaking published at 46 DCR 7855, 7883-85 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8550 (October 20, 2000); as amended by Final Rulemaking published at 50 DCR 8824, 8825 (October 17, 2003); as amended by Final Rulemaking and Order No. 10-09/10-10 published at 57 DCR 9480 (October 8, 2010).

3042 WAIVER OF HEARING FEES

3042.1 In the case of an application to permit the construction of a low or moderate income subsidized housing development, the D.C. Department of Housing and Community Development may request the Commission to waive the normal hearing fee.

3042.2 For the purposes of this section, the term "subsidized housing development" shall mean a housing development that receives funding from a recognized District of Columbia or federal government housing subsidy program. Low or moderate income projects shall be as defined by the U.S. Department of Housing and Urban Development.

3042.3 To obtain the waiver, the applicant shall file with the application the request of the D.C. Department of Housing and Community Development.

3042.4 The request shall certify that the proposed development meets the requirements of § 3042.2, and shall state why the proposed waiver should be granted.

3042.5 The Commission shall rule upon the request for waiver of fees at the time the matter is set for public hearing.

SOURCE: Final Rulemaking published at 46 DCR 7855, 7885-86 (October 1, 1999).

3043 EXEMPTION FROM FEES

3043.1 A department, office, or agency of the government of the District of Columbia is not required to pay a filing or hearing fee for an application, where the property is owned by the District of Columbia or that agency or is under one or both of their jurisdictions and the property is to be used for a government building or use.

3043.2 The following person or entities shall not be required to pay a filing or hearing fee for a petition to amend the Zoning Map or the text of the Zoning Regulations:

- (a) A department, office, or agency of the government of the District of Columbia, including an Advisory Neighborhood Commission;
- (b) The National Capital Planning Commission; or
- (c) A citizens' association or association created for civic purposes that is not for profit.

SOURCE: Final Rulemaking, 46 DCR 7855, 7886 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8551 (October 20, 2000); as amended by Final Rulemaking and Order No. 09-10 published at 57 DCR 3487 (April 23, 2010); as amended by Final Rulemaking and Order No. 10-09/10-10 published at 57 DCR 9480 (October 8, 2010).

3044 [RESERVED]

3045 MISCELLANEOUS FEES

3045.1 Fees for miscellaneous zoning services and documents provided by the Office of Zoning are as follows:

- (a) The fee for providing a zoning certification is fifty dollars (\$50.00);
- (b) The fee for photocopying is twenty cents (20¢) per page;
- (c) Repealed;
- (d) Repealed; and

- (e) The fee for retrieving Office of Zoning records located off-site is fifteen dollars (\$15.00) per record. This fee will be waived when the records are sought for noncommercial use and the request is made by an educational or scientific institution for scholarly or scientific research or by a representative of the news media. The Office of Zoning may not require advance payment of the fee unless the requester has previously failed to pay fees in a timely fashion.

3045.2 All fees shall be paid by check or money order made payable to the D.C. Treasurer.

SOURCE: Final Rulemaking published at 46 DCR 7855, 7886 (October 1, 1999); as amended by Final Rulemaking published at 50 DCR 9391 (November 7, 2003); as amended by Final Rulemaking published at 53 DCR 9921, 9923 (December 15, 2006); as amended by Final Rulemaking and Order No. 10-09/10-10 published at 57 DCR 9480 (October 8, 2010); Final Rulemaking and Order No. 11-20 published at 59 DCR 2915 (April 13, 2012).

3099 DEFINITIONS

3099.1 When used in this chapter, the following terms and phrases shall have the meanings ascribed:

Commission - the Zoning Commission for the District of Columbia.

Director - the Director of the Office of Zoning, or such successor official as shall be designated to be the supervisor of the full-time administrative staff of the Commission.

Member - a member of the Zoning Commission of the District.

Party - an applicant, or the Advisory Neighborhood Commission for the area within which the property that is the subject of the contested case is located, or any person who is admitted as a party by the Commission pursuant to § 3022. Parties shall have all those rights set forth in this chapter, specifically including §§ 3000, 3004, 3020, 3022, 3024, 3025, and 3029.

Person - includes an individual, partnership, association, corporation, or public agency.

Presiding officer - the chairperson or the chairperson *pro tem* of the Zoning Commission.

SOURCE: Final Rulemaking published at 46 DCR 7855, 7886-87 (October 1, 1999).

TITLE 11 - ZONING

CHAPTER 31 BOARD OF ZONING ADJUSTMENT RULES OF PRACTICE AND PROCEDURE

Secs.

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3199	DEFINITIONS
3100	JURISDICTION; AUTHORITY; POWERS
3100.1	The Board of Zoning Adjustment shall have original jurisdiction to grant variances under § 3103 and special exceptions under § 3104, and to exercise all other powers authorized by the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended, D.C. Official Code §§ 6-641.01 to 6-641.15 (formerly codified at D.C. Code §§ 5-413 to 5-432 (1994 Repl. & 1999 Supp.))) (the "Zoning Act").

- 3100.2 The Board, pursuant to the Zoning Act, shall also hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision, determination, or refusal made by any administrative officer or body, including the Mayor, in the administration or enforcement of the Zoning Regulations, Title 11 DCMR.
- 3100.3 The rules prohibiting *ex parte* communication in Commission contested cases, as set forth in § 3023 of this title, apply to all applications and appeals before the Board and commence upon the filing of such proceedings.
- 3100.4 In an appeal, the Board may, in conformity with the Zoning Act, D.C. Official Code § 6-641.07(g)(4) (formerly codified at D.C. Code § 5-424(g)(4) (1994 Repl.)), "reverse or affirm, wholly or partly; or may modify the order, requirement, decision, determination, or refusal appealed from; or may make any order that may be necessary to carry out its decision or authorization; and to that end shall have all the powers of the officer or body from whom the appeal is taken."
- 3100.5 Except for §§ 3100 through 3105, 3121.5 and 3125.4, the Board may, for good cause shown, waive any of the provisions of this chapter if, in the judgment of the Board, the waiver will not prejudice the rights of any party and is not otherwise prohibited by law.
- 3100.6 No appeal or application shall be dismissed on the grounds that the appellant or applicant failed to comply with the provisions of this chapter unless, after due notice of the deficiency and expiration of a reasonable time as fixed by the Board, the deficiency has not been corrected, except that the Board may dismiss an application or appeal if the applicant or appellant fails to appear at a hearing without explanation.
- 3100.7 The Board shall not consider informal requests for advice or moot questions.

AUTHORITY: Unless otherwise noted, the authority for this chapter is the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code §§ 6-641.01 to 6-641.15 (2001) (formerly codified at D.C. Code §§ 5-413 to 5-432 (1994 Repl. & 1999 Supp.)).

SOURCE: Final Rulemaking published at 46 DCR 7853, 7853-89 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8551-53 (October 20, 2000); as amended by Final Rulemaking published at 47 DCR 9741, 9742 (December 8, 2000); as amended by Final Rulemaking and Order No. 12-11 published at 60 DCR 8967 (June 14, 2013).

3101 ORGANIZATION

- 3101.1 The Board shall consist of five (5) members and shall have the duties and powers set forth in the Zoning Act and the Zoning Regulations.

3101.2 Three (3) members of the Board shall constitute a quorum of the Board, but a lesser number may meet and adjourn.

3101.3 The Board shall elect its chairperson and vice-chairperson at its first meeting held in January of each calendar year.

3101.4 The chairperson shall preside at all meetings and hearings of the Board. In the event of the absence or disability of the chairperson, the vice-chairperson shall preside. In the event of the absence or disability of the chairperson and the vice-chairperson, the senior member of the Board in terms of years of service shall preside.

SOURCE: Final Rulemaking published at 46 DCR 7853, 7889 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8553 (October 20, 2000).

3102 GENERAL PROVISIONS

3102.1 The rules of practice and procedure in this chapter supplement the procedures set forth in the Zoning Act, the Zoning Regulations, and the District of Columbia Administrative Procedure Act, D.C. Official Code §§ 2-501 to 2-511 (2001) (formerly codified at D.C. Code §§ 1-1501 to 1-1510 (1999 Repl.)).

3102.2 This chapter became effective on October 1, 1999 and applies to all appeals or applications filed after that date with the Board, or pending as of October 1, 1999, but for which notice of public hearing had not been given.

3102.3 In any conflict between this chapter and any other provision of this title, the other provisions of this title shall govern. In any conflict with this chapter between general and specific rules, the specific rules shall govern.

3102.4 The Board at any time and from time to time may seek the legal advice of the Office of the Corporation Counsel on any matter relating to compliance with and enforcement of this title.

SOURCE: Final Rulemaking published at 46 DCR 7853, 7890 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8553-54 (October 20, 2000).

3103 VARIANCES

3103.1 [DELETED]

3103.2 With respect to variances, the Board has the power under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(3)(2001) (formerly codified at D.C. Code § 5-424 (g)(3) (1994 Repl.)), "[w]here, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the original adoption of the regulations, or by reason of exceptional topographical conditions

or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under D.C. Official Code §§ 6-641.01 to 6-651.02 would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, to authorize, upon an appeal relating to the property, a variance from the strict application so as to relieve the difficulties or hardship; provided, that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map."

- 3103.3 Variances are classified as area variances or use variances.
- 3103.4 An area variance is a request to deviate from an area requirement applicable to the zone district in which the property is located.
- 3103.5 Examples of area variances are requests to deviate from:
- (a) Requirements that affect the size, location, and placement of buildings and other structures such as height, floor area ratio, lot occupancy, yard width and depth, and minimum court size;
 - (b) Minimum parking or loading requirements to an extent greater than what may be permitted by special exception;
 - (c) Limitations on the extent to which the gross floor area of a building may be occupied by a matter of right non-residential use;
 - (d) Limitations on the alteration or conversion of certain structures on alley lots as stated in § 2507.3;
 - (e) The prohibition against certain enlargements and additions to nonconforming structures as stated at § 2001.3; and
 - (f) Preconditions to the establishment of a matter of right use including, but not limited to, the minimum land area requirement of § 401.3 applicable to the conversion of a building an apartment house as permitted by § 330.5(e); provided that the waiver would not cause the proposed use to meet the definition of a more intense use.
- 3103.6 A use variance is a request to permit:
- (a) A use that is not permitted by right or special exception in the zone district where the property is located;
 - (b) A use that is expressly prohibited in the zone district where the property is located; or

- (c) An expansion of a nonconforming use prohibited by § 2002.3.

3103.7 The standard for granting a variance, as stated in § 3103.1 differs with respect to use and area variances as follows:

- (a) An applicant for an area variance must prove that as a result of the attributes of a specific piece of property described in § 3103.1, the strict application of a zoning regulation would result in peculiar and exceptional practical difficulties to the owner of property; and
- (b) An applicant for a use variance must prove that as a result of the attributes of a specific piece of property described in § 3103.1, the strict application of a zoning regulation would result in exceptional and undue hardship upon the owner of the property.

SOURCE: Final Rulemaking published at 46 DCR 7853, 7890-91 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8553-54 (October 20, 2000); as amended by Final Rulemaking and Order No. 12-11 published at 60 DCR 8967 (June 14, 2013).

3104 SPECIAL EXCEPTIONS

3104.1 The Board is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2) (formerly codified at D.C. Code § 5-424(g)(2) (1994 Repl.)), to grant special exceptions, as provided in this title, where, in the judgment of the Board, the special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps, subject in each case to the special conditions specified in this title, as follows:

TYPE OF SPECIAL EXCEPTION	ZONE DISTRICT	SECTIONS IN WHICH THE CONDITIONS ARE SPECIFIED
Accessory apartment to one-family detached dwelling	R-1 District	§ 202.10
Accessory mechanical amusement machines used to display sexual activities or specific anatomical areas	C-3-C, C-4, C-5 (PAD) Districts	§ 2501.5
Accessory uses in C-5 (PAD) District not specifically permitted	C-5 (PAD) District	§ 761.5
Additions to one-family dwellings or flats	Any R District	§ 223

TYPE OF SPECIAL EXCEPTION	ZONE DISTRICT	SECTIONS IN WHICH THE CONDITIONS ARE SPECIFIED
Adult day treatment facility	R-1, R-2, and R-3 District	§ 205
Animal Boarding	Any C-2, C-3, C-4, USN, C-M or M District	§§ 721.7, 721.8, 735, 736, 802.21 and 822.14
Animal shelter	Any C-2, C-3, C-4 or USN District	§739
Athletic field operated by local community organization	Any R District	§ 209
Antenna for commercial TV or FM	Any R, SP, or CR District, W-1, W-2, or W-3 Districts	§§211, 514, 617, and 914
Antenna, other than commercial	Any R, SP, or CR District, W-1, W-2, or W-3 Districts	§§ 212,515, 617, and 914
Art gallery	R-5 District	§ 361
ARTS Overlay District - substitution of bonus use for existing legitimate theater use	ARTS Overlay District	§ 1904.5
ARTS Overlay District - use and area requirements	ARTS Overlay District	§§ 1901.4 and 1906.1
Automobile sales or repair	CR District	§ 614
Automobile accessory sales	C-1 District	§ 710
Boathouse	W-0 District	§ 921
Bowling alley	CR, C-1, W-1, W-2, and W-3 Districts	§§ 609, 709, and 908
Building lot control	Any R District or within 25 feet of an R District	§ 2516
Building service trades, including plumber, electrician, exterminator, and air-conditioning mechanic	CR, W-1, W-2, and W-3 Districts	§§ 612 and 912
CAP Overlay District - uses	CAP Overlay District	§§ 1201.3 and 1202
Caretaker's Residence	W-0 District	§ 924
Carport - location	Any District	§ 2300.8
CB/UT Overlay District - area requirements, tree removal, grading, and topographical change	CB/UT Overlay District	§§ 1568.3 and 1569

TYPE OF SPECIAL EXCEPTION	ZONE DISTRICT	SECTIONS IN WHICH THE CONDITIONS ARE SPECIFIED
Child/elderly development center	Any R District	§ 205
Church programs	SP District	§ 517
Clerical and religious group residences	SP District	§ 516
Commercial adjuncts to hotel with less than 100 rooms or suites	R-5-B, R-5-C, R-5-D, and R-5-E Districts	§ 356
Community-based residential facility	Any R, SP, CR, C-1, or C-2 District, W-1, W-2, or W-3 Districts	§§ 218 - 221, 303 - 306, 335, 357 - 360, 513, 616, 711, 732, and 913
Community center building operated by local community organization	Any R District	§ 209
Community service center	R-4 and R-5 Districts	§§ 334 and 352
Convenience stores and personal services in apartment house	R-5 Districts	§ 354
Conversion of non-residential building to apartment house not meeting the requirements of § 330.7	R-4 District	§ 337
Conversion of residential building to apartment house	R-4 District	§ 336
District government use in former public school buildings.	R-1 District	§ 222
Electric substation	Any R, SP, or CR District, W-1, W-2, or W-3 Districts	§§ 207, 509, 608, and 907
Electronic Equipment Facility	C-3, C-4, USN, C-M, or M District	§§ 745, 756, 802.10 - 802.16, and 822.9 - 822.14
Excavation of clay, sand, or gravel	Any R or C District	§ 2505.3
Expanded child development home for ten (10) to twelve (12) individuals fifteen (15) years of age or less.	Any R District	§ 203.7(f).
Expansion of former public school buildings with District government uses, or other permitted uses.	R-1 District	§ 222

TYPE OF SPECIAL EXCEPTION	ZONE DISTRICT	SECTIONS IN WHICH THE CONDITIONS ARE SPECIFIED
Extension of use, height, and bulk	Any District	§§ 107.8 and 2514.2
Fast food restaurant near Residence District	C-3-A District	§ 743.4
Floating home	W-0 District	§ 922.3 and §922.3
FT Overlay District - setback, landscaping, and fencing	FT Overlay District	§ 1564
Gasoline service stations	C-1, C-2, C-3, and USN Districts	§§ 706, 726, and 743.1
Green Area Ratio	All Districts Where Applicable	§ 3405
Height in excess of 35 feet to a maximum of 40 feet in R-4 Districts as specified in § 400.1	R-4 District	§ 400.23
Home occupation not specifically permitted or prohibited in § 203	R-1 District	§ 203.10
Hospital or clinic	CR, W-1, W-2, or W-3 Districts	§§ 606 and 906
Hotel or inn	SP District	§ 512
Intermediate materials recycling facility	C-M District	§ 802.3
Laboratory, research or testing	CR District	§ 613
Langdon Overlay - setback, landscaping, fencing, and parking requirements	LO Overlay District	§ 806.6
Laundry or dry cleaning establishment	C-2, C-3, C-4, C-5 (PAD), and USN District	§§ 729, 743.2(c), 753.1(b), and 761.2
Light manufacturing, processing, fabricating, or milling	CR, W-1,W-2,or W-3 Districts	§ 610 and 909
Loading berths - location and number	Downtown Urban Renewal Area and USN District	§ 2202.2
Loading berths - modification of access, maintenance, and operations standards	Any District	§ 2204.13
Marina	W-0 District	§ 922
Massage establishment	C-2, C-3, C-4, C-5 (PAD), USN, C-M, and M Districts	§§ 731, 743.3, 753.2, 761.2, 802.2, and 822.2

TYPE OF SPECIAL EXCEPTION	ZONE DISTRICT	SECTIONS IN WHICH THE CONDITIONS ARE SPECIFIED
Mechanical parking garage	C-3 Districts	§ 743.1
Minimum Pervious Surface	All Districts Where Applicable	§ 412
Miscellaneous uses	CR or W Districts	§§ 618 , 915 and 922
Motorcycle sales or repair	CR, C-2, C-3-A, and C-3-B Districts	§§ 614, 727, and 743.2
MW Overlay District - lot greater than 10,000 square feet	MW Overlay District	§ 1308.2
Natural gas regulatory stations	Any R, SP, or CR District, W-1, W-2, or W-3 Districts	§§ 207, 509,608 and 907
Naval Observatory Precinct Overlay District - special exceptions	NO Overlay District	§ 1533
Neighborhood Commercial Overlay District - special exceptions	NC Overlay District	§ 1304
Nightclub, bar, cocktail lounge or restaurant within a penthouse	Any District where use permitted within a building.	§ 411.4
Nonconforming antenna - temporary replacement	Any District	§ 2001.12
Nonconforming use - change	Any District	§ 2003
Nonprofit organization use of existing residential building and land	Any R District	§ 217
Not-for-profit use in former public school buildings.	R-1 District	§ 222
Office building - construction, addition, or conversion	SP District	§ 508.1
Park operated by local community organization	Any R District	§ 209
Parking garage	R-5 and SP Districts	§§ 355 and 506
Parking garage on alley lot	R-4 and R-5 Districts	§§ 333 and 352
Parking lot	Any R or SP District	§§ 213 and 505

TYPE OF SPECIAL EXCEPTION	ZONE DISTRICT	SECTIONS IN WHICH THE CONDITIONS ARE SPECIFIED
Parking lot on alley lot	R-4 and R-5 Districts	§§ 333 and 352
Parking lot standards	R-1, R-2, R-3, R-4, and R-5-A Districts and contiguous districts	§§ 2303.2 - 2303.5
Parking spaces - location and amount	Downtown Urban Renewal Area	§§ 2103.2 - 2103.6
Parking spaces - location of accessory spaces	Any District	§§ 214, 510, 708, 730, 743.2(d), 751.1(c), 761.2, 803.1, 824, 926.1 and 2116.5-2116.9
Parking spaces - location, row dwellings	Any District	§ 2117.9(c)
Parking spaces - reduction or elimination for boathouses	W-0 District	§ 926.3
Parking spaces, nonresidential - reduction in required amount	Any District	§ 2108
Parking spaces, nonresidential - reduction in required amount outside Central Employment Area and with connection to Metrorail Station	Any District	§ 2107
Penthouses - above a detached dwelling, semi-detached dwelling, rowhouse, or flat	Any District	§ 411.5
Penthouses - location, design, number, and all other regulated aspects	Any District	§ 411.11
Pet grooming establishment	Any C-2, C-3, C-4, USN, C-M, or M District	§§ 736, 802.25, and 822.20
Playground operated by local community organization	Any R District	§ 209
Prepared food shop with greater than eighteen seats for patrons	C-1, C-2-A	712
Private stable	Any R District	§ 208
Public recreation and community center	Any R, SP, CR, or W District	§§ 402.7, 403.3, 408.1, 531.2, 532.3, 538.1, 632.1, 634.4, 931.3, 932.4, 937.1, and 2001.13

TYPE OF SPECIAL EXCEPTION	ZONE DISTRICT	SECTIONS IN WHICH THE CONDITIONS ARE SPECIFIED
Public school (not meeting the Requirements of Chapter 4).	Any R District	206
Public storage garage on alley lot	R-4 and R-5 Districts	§§ 333 and 352
Public utility pumping stations	Any R, SP, CR, or C District, USN, W-1, W-2, or W-3 Districts	§§ 207, 509, 608, 707, 728, 743.2(b), 753.1, 761.2, and 907
RC Overlay District - area and use restrictions	RC Overlay District	§ 1403
Rear yard requirements - waiver	C-3 or C-4 District	§ 774.2
Repair garage	C-2, C-3, and USN Districts	§§ 726.1 and 743.1
Residential developments, new	R-5-A District	§ 353
Retail, service, arts and cultural uses as specified	W-0 District	§ 925
Roof structures - location, design, number, and all other regulated aspects	Any District	§§ 411.11, 537.1, 639.1, 777.1, 845.1, and 936.1
School - private school other than trade school	Any R District	§ 206
School - private school or trade school	W-1, W-2, or W-3 Districts	§ 912
School - residence for teachers and staff of private school	R-1, R-2, R-3, and R-4 Districts	§ 206
Sexually-oriented businesses	C-3, C-4, and C-5 (PAD) Districts	§§ 744, 754, and 761.2
Solid waste handling facility	C-M and M Districts	§§ 802.4 - 802.9 and 822.3 - 822.8
SSH Overlay District - nonresidential uses	SSH Overlay	§ 1553
Storage of wares and goods on alley lot	R-4 and R-5 Districts	§§ 333 and 352
Surface Parking Lots Landscaping Standards	All Districts Where Applicable	§ 2111
Swimming pool operated by local community organization	Any R. District	§ 209
Telephone exchange	R4, R-5, SP, CR, and W-1, W-2, and W-3 Districts	§§ 332.1(b), 509, 608, and 907

TYPE OF SPECIAL EXCEPTION	ZONE DISTRICT	SECTIONS IN WHICH THE CONDITIONS ARE SPECIFIED
TSP Overlay District - ground coverage and tree removal	TSP Overlay District	§ 1515
Veterinary boarding hospital	Any C-2, C-3, C-4, USN, C-M, or M District	§§ 738, 802.27, and 822.22
Warehouse use	CR, W-1, W-2, and W-3 Districts	§§ 611 and 910
Wholesale use	CR, W-1, W-2, and W-3 Districts	§§ 611 and 910
Yacht club	W-0 District	§ 923

3104.2 In the case of a use that was originally permitted and lawfully established as a matter of right and for which the Zoning Regulations now require special exception approval from the Board of Zoning Adjustment, any extension or enlargement of that use shall require special exception approval from the Board.

3104.3 In determining whether to approve any extension or enlargement under § 3104.2, the Board shall apply the standards and criteria of the Zoning Regulations to the entire use, rather than to just the proposed extension or enlargement.

3104.4 Effective December 8, 2000, the Zoning Commission shall, pursuant to § 3035 and the standards in § 3104.1, hear and decide all applications for special exception approval under §§ 210, 302.2, 322.2, 332.2, 352.2, 507, 615, and 916 of a campus development plan; the amendment of a campus development plan; the further processing of an approved campus development plan to permit the construction and use of a specific building or structure within a campus, whether the plan was approved by the Commission or the Board of Zoning Adjustment; and the interim use of land or improved property within a reasonable distance of a campus. The following table summarizes the uses that may be permitted:

TYPE OF SPECIAL EXCEPTION	ZONE DISTRICT	SECTIONS IN WHICH THE CONDITIONS ARE SPECIFIED
College, university, or other academic institution of higher learning	Any R, SP or CR District, or W-1, W-2, or W-3 Districts	§§ 210, 507, 615, and 916
Dormitory, fraternity, or sorority house on campus	R-1, R-2, R-3, and SP Districts	§§ 210 and 507
Hospital - college or university on campus	R-1, R-2, R-3, and SP Districts	§§ 210 and 507

3104.5 Except for the sua sponte review provisions of § 3128, the Commission shall use the Board of Zoning Adjustment Rules of Practice and Procedure in this chapter

in processing, reviewing, and approving all applications for special exception approval for college and university uses, such that wherever a particular provision in this chapter refers to the Board of Zoning Adjustment, the word " Board" shall mean Zoning Commission.

3104.6 The sua sponte review provisions of § 3128 do not apply to cases heard and decided by the Commission under this section.

SOURCE: § 8207.2 of the Zoning Regulations, as amended by: Final Rulemaking published at 22 DCR 1901, 1904 (October 14, 1975); Final Rulemaking published at 28 DCR 3482, 3506 (August 7, 1981); Final Rulemaking published at 29 DCR 4913, 4919 (November 5, 1982); Final Rulemaking published at 31 DCR 6585, 6627 (December 28, 1984); Final Rulemaking published at 36 DCR 1509, 1522 (February 24, 1989); Final Rulemaking published at 39 DCR 8305, 8310 (November 13, 1992); Final Rulemaking published at 40 DCR 1951, 1954 (March 19, 1993); Final Rulemaking published at 46 DCR 7853, 7891-94 (October 1, 1999); Final Rulemaking published at 46 DCR 8289 (October 15, 1999); Final Rulemaking published at 47 DCR 9725, 9739-40 (December 8, 2000); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8554-59 (October 20, 2000); Final Rulemaking published at 48 DCR 9830, 9841 (October 26, 2001); and Final Rulemaking published at 49 DCR 8891, 8894-95 (September 27; 2002); Final Rulemaking published at 50 DCR 10137(November 28, 2003); Final Rulemaking published at 51 DCR 3440(April 2, 2004); Final Rulemaking published at 52 DCR 6358 (July 8, 2005); Final Rulemaking published at 53 DCR 6363(August 4, 2006); Final Rulemaking published at 53 DCR 9580 (December 1, 2006); Final Rulemaking published at 53 DC 10085 (December 22, 2006); Final Rulemaking published at 54 DCR 3072 (April 6, 2007); Final Rulemaking published at 54 DCR 8943 (September 14, 2007); Final Rulemaking published at 54 DCR 9393 (September 28, 2007); Final Rulemaking and Order No. 08-18 published at 56 DCR 2391 (March 27, 2009); Final Rulemaking and Order No. 09-11 published at 57 DCR 1242 (February 5, 2010); as amended by Final Rulemaking and Order No. 09-17A published at 57 DCR 1898 (March 5, 2010); as amended by Final Rulemaking and Order No. 09-21 published at 58 DCR 4788 (June 3, 2011); as amended by Final Rulemaking and Order No. 14-11 published at 62 DCR 8883 (June 26, 2015); as amended by Final Rulemaking and Order No. 14-13 published at 63 DCR 390 (January 8, 2016); as amended by Final Rulemaking and Order No. 15-17 published at 63 DCR 1632 (February 12, 2016).

3105 MEETINGS AND HEARINGS

3105.1 On or about the first (1st) day of each three (3) month period during the year, the Director shall cause to be published in the D.C. Register, and shall post in the Office of Zoning, a twelve (12)-month calendar or schedule of dates setting forth the dates upon which meetings and hearings shall occur, as well as the dates by which an appeal or application must be filed with the Board to allow its consideration on a specific hearing date. Such calendar or schedule also shall set forth any additional hearing dates as may be required by the Board to permit consideration of appeals or applications that have been timely and appropriately filed for a specific hearing date and that, but for reasons of excessive number of cases, continuances or otherwise, are not able to be heard or considered on such date.

3105.2 All meetings and hearings of the Board shall be open to the public, except that the Board may in its discretion close a meeting to consider personnel matters,

litigation, or other matters that are privileged or sensitive and are not required to be open by applicable law. The Board shall keep minutes of its proceedings as prescribed in § 3105.6(d).

- 3105.3 All records of the Board shall be filed in the Office of Zoning and shall be open to public inspection.
- 3105.4 The Board shall annually, on or before the first (1st) day of September, make a report to the Zoning Commission and the Mayor, summarizing cases considered and actions taken for the immediately preceding fiscal year.
- 3105.5 [RESERVED]
- 3105.6 Subject to the direction of the Board and its chairperson, the Director shall perform the following duties:
- (a) Conduct all correspondence of the Board, send out all notices required by this title, attend all meetings and hearings of the Board, keep the docket and minutes of the Board's proceedings, compile all required records, and maintain the necessary files and indexes;
 - (b) Enter in the docket the number assigned to each appeal or application, the name of the appellant or applicant, a short description of the premises (by street number or otherwise), the nature of the appeal or application, and the final disposition of the proceeding;
 - (c) Enter in the docket all continuances, postponements, dates of sending notices, and other steps taken or acts done by the Board or its officers on behalf of the Board;
 - (d) Enter in the minute book the resolution relating to each case acted on by the Board, the vote of each member of the Board (those absent or failing to vote being so marked), all other actions of the Board, and the full reasons for its decisions; and
 - (e) Issue certifications of zoning on plats duly issued by the Office of the Surveyor, in accordance with the procedures established by the Director.
- 3105.7 The proposed public agenda for each meeting shall be posted in the Office of Zoning and made available to the public at least seven (7) days prior to the meeting or hearing. The schedule for each public hearing shall be posted in the Office of Zoning and made available to the public at least thirty (30) days prior to the hearing.
- 3105.8 Copies of the agenda or schedule for each meeting or hearing shall be available to the public at the meeting or hearing.

- 3105.9 The Board may amend the agenda or schedule at the meeting or hearing.
- 3105.10 In addition to those hearings placed on the calendar pursuant to § 3105.1, the Board shall schedule such hearings as may be needed in order to receive evidence and testimony on specific appeals and applications that have been previously advertised. Such additional hearings shall be held at the time and place as the Board or the presiding officer designates.
- 3105.11 Unless all parties to a hearing before the Board agree otherwise, or unless the Board orders otherwise, the Board shall not postpone or continue a hearing for a period in excess of thirty (30) days from the date of such postponement or continuance or until the next available scheduled hearing date, whichever is earlier.
- 3105.12 Meetings and hearings shall be held at such time and place as the Board or the presiding officer may designate.
- 3105.13 Meetings and hearings may be adjourned from time to time. If the time and place of resumption is publicly announced when the adjournment is ordered, no further notice shall be required.
- 3105.14 A member absent at the decision meeting may cast an absentee vote only if the member attended all of the hearings on the appeal or application.
- 3105.15 A member attending the decision meeting and having read the transcript and reviewed the complete record may participate and may vote even though that member may not have attended any or all of the prior meetings or hearings on the appeal or application.

SOURCE: Final Rulemaking published at 46 DCR 7853, 7894-96 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8559-60 (October 20, 2000).

3106 APPEARANCE AND REPRESENTATION

- 3106.1 In a proceeding before the Board, any person or party may appear on that person's or party's own behalf. Any person or party may be represented by any other person duly authorized in writing to do so. The authorization shall state specifically that the authorization includes the power of the agent or representation to bind the person in the case before the Board.
- 3106.2 Except for the appellant, applicant, or the ANC, to participate as a party in a proceeding before the Board, any affected person shall file with the Board, not less than fourteen (14) days prior to the date set for the hearing, the following information:

- (a) The person's name and address;
- (b) A request to appear and participate as a party;
- (c) Whether the person will appear as a proponent or opponent of the appeal or application;
- (d) Whether the person will appear through legal counsel and, if so, the name and address of the legal counsel; and
- (e) A written statement setting forth why the person should be granted party status, including reference to the following:
 - (1) The property owned or occupied by the person, or in which the person has an interest, that will be affected by the zoning relief requested of the Board;
 - (2) The legal interest the person has in the property, such as owner, tenant, trustee or mortgagee;
 - (3) The distance between the person's property and the property that is the subject of the appeal or application before the Board;
 - (4) The environmental, economic, social, or other impacts likely to affect the person and/or the person's property if the zoning relief requested of the Board is approved or denied; and
 - (5) An explanation of how the person's interests as identified in response to paragraph (4) would likely be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning relief than those of other persons in the general public.

3106.3 [REPEALED]

3106.4 No member of the Board or the Zoning Commission shall represent any person before the Board other than himself or herself while a member of the Board or the Commission.

3106.5 No former member of the Board or the Zoning Commission shall represent any person before the Board other than himself or herself for a period of six (6) months after the date that the member's service on the Board or Commission terminates.

3106.6 No former member of the Board or former employee of the Government of the District of Columbia shall represent any person other than himself or herself in a particular matter for which the member or employee had a substantial responsibility while a member of the Board or an employee of the District.

SOURCE: Final Rulemaking published at 46 DCR 7853, 7896 - 98 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9347, 9350-51 (November 20, 2000); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8560 (October 20, 2000); as amended by Final Rulemaking and Order No. 12-11 published at 60 DCR 8967 (June 14, 2013).

3107 APPEARANCE IN PARKING LOT APPLICATION CASES

3107.1 At the public hearing on an application to establish or continue a parking lot, the owner of the real property, the lessee (if any), and a person who has personal knowledge of and can testify to the day-to-day operation of the parking lot shall appear before the Board. If the owner is not an individual, then the owner may be represented by an authorized agent who can advise the Board of the owner's future plans for the property.

SOURCE: Final Rulemaking published at 46 DCR 7853, 7898 (October 1, 1999).

3108 DECORUM AND GOOD ORDER

3108.1 No person shall utter loud, threatening, or abusive language, or engage in any disorderly or disruptive conduct that has the effect of (as determined by the presiding officer) impeding any meeting, hearing, or other proceeding of the Board or the orderly conduct of official business of any member, officer, employee, or agent of the Board; or enter or remain in, during the course of any meeting, hearing, or other proceeding of the Board, any area set aside for use by persons other than the general public.

SOURCE: Final Rulemaking published at 46 DCR 7853, 7898 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8560 (October 20, 2000).

3109 APPEAL AND APPLICATION FORMS

3109.1 The director shall, following approval of the Board, issue and revise appeal and application forms and instructions to ensure presentation of adequate information for the understanding and processing of appeals and applications.

SOURCE: Final Rulemaking published at 46 DCR 7853, 7898 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8560 (October 20, 2000).

3110 COMPUTATION OF TIME

- 3110.1 In computing any period of time specified in this chapter, calendar days shall be counted.
- 3110.2 In computing any period of time specified in this chapter, the day of the act, event, or default after which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or official District of Columbia holiday, in which event the period shall run until the end of the next day that is neither a Saturday, Sunday, nor official holiday.
- 3110.3 Whenever a party has the right or is required to do some act within a prescribed period after the service of a notice or other paper, and the paper or notice is served upon the party by mail, three (3) days shall be added to the prescribed period.
- 3110.4 Except as otherwise provided by law, whenever an act is required or allowed to be done at or within a specified time, the time fixed or the period of time prescribed may, for good cause, be extended or reduced by the Board with notice to all parties.

SOURCE: Final Rulemaking published at 46 DCR 7853, 7898-99 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8561 (October 20, 2000).

3111 SERVICE OF PAPERS; METHODS OF SERVICE; PROOF OF SERVICE

- 3111.1 Any paper required to be served upon a party shall be served upon that party, or upon the representative designated by that party or by law to receive service of papers. When a party has appeared through a representative, service may be made upon the representative of record.
- 3111.2 Service may be made by personal delivery, first class mail, telegram, or mailgram or as otherwise authorized by law. Where there are numerous parties to a proceeding, the Board may designate representative parties or make other special provisions regarding the service of papers.
- 3111.3 Service upon a party may be made and shall be considered complete as indicated in paragraphs (a) through (f) of this subsection or as otherwise authorized by law:
- (a) By personal delivery, on handing the paper to the person or leaving it at the person's office with the person's clerk or other person in charge, or if there is no one in charge, by leaving it in a conspicuous place therein, or if the office is closed or the person to be served has no office, by leaving it at that person's usual place of residence with some person of suitable age and discretion then residing there;

- (b) By telegram or mailgram, when deposited with a telegram or mailgram company, properly addressed and with charges prepaid;
- (c) By first class mail, when deposited in the United States mail, properly stamped and addressed;
- (d) By telecopy or FAX, when telecopied with the proper telephone number of the intended recipient's telecopier;
- (e) By e-mail when transmitted electronically, properly addressed to the attention of the intended recipient, with the proper e-mail address; or
- (f) In any specific manner prescribed by the Board in a proceeding.

3111.4 Proof of service, stating the name and address of the person on whom the document was served and the manner and date of service, shall be shown and may be made by either of the following methods:

- (a) Written acknowledgement of the party served or the party's representative; or
- (b) The written statement of the person making the service.

SOURCE: Final Rulemaking published at 46 DCR 7853, 7899-7900 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8561 (October 20, 2000).

3112 PRE-HEARING PROCEDURES FOR APPEALS

3112.1 The rules of procedure in this section apply to all appeals filed with the Board pursuant to §§ 3100 and 3200.

3112.2 Any person aggrieved by any order, requirement, decision, determination, or refusal made by an administrative officer or body, including the Mayor of the District of Columbia, in the administration or enforcement of the Zoning Regulations may file a timely appeal with the Board as follows:

- (a) An appeal shall be filed within sixty (60) days from the date the person appealing the administrative decision had notice or knowledge of the decision complained of, or reasonably should have had notice or knowledge of the decision complained of, whichever is earlier.
- (b) If the decision complained of involves the erection, construction, reconstruction, conversion, or alteration of a structure or part thereof, the following subparagraphs shall establish the latest date on which an appeal may be filed:

- (1) No appeal shall be filed later than ten (10) days after the date on which the structure or part thereof in question is under roof. For purposes of this subparagraph, the phrase "under roof" means the stage of completion of a structure or part thereof when the main roof of the structure or part thereof, and the roofs of any structures on the main roof or part thereof, are in place; and
 - (2) The provisions of paragraph (b) of this subsection shall not relieve an appellant of the jurisdictional requirement in paragraph (a) of this subsection of filing a timely appeal.
- (c) Notwithstanding paragraphs (a) and (b) of this subsection, for purposes of establishing the timeliness of an appeal under this subsection, an appellant shall have a minimum of sixty (60) days from the date of the administrative decision complained of in which to file an appeal.
- (d) The Board may extend the sixty- (60) day deadline for the filing of an appeal only if the appellant demonstrates that:
- (1) There are exceptional circumstances that are outside of the appellant's control and could not have been reasonably anticipated that substantially impaired the appellant's ability to file an appeal to the Board; and
 - (2) The extension of time will not prejudice the parties to the appeal, as identified in § 3199.1.

3112.3 An authorized agent may file an appeal on behalf of the aggrieved person.

3112.4 If an agent files an appeal, the appeal shall include a letter signed by the aggrieved person authorizing the agent to act on the person's behalf in the appeal. The Board may at any time require additional evidence demonstrating the authority of the agent to act for the appellant.

3112.5 Each appeal shall be made on the appropriate form provided by the Board. All information required by such form shall be furnished by the appellant at the time of filing the appeal.

3112.6 At the time of filing the appeal, any fee established by the Mayor of the District of Columbia shall be paid to the District of Columbia Treasurer.

3112.7 Each appeal, along with any application filed pursuant to § 3113, shall be numbered serially and docketed and may be placed upon the calendar of the Board by geographic areas by the Director. When the appeal is accepted, a copy

of the appeal form shall be sent to the ANC for the area within which the property is located.

- 3112.8 A public hearing shall be held on each appeal to the Board.
- 3112.9 Appeals shall be heard in the order in which they appear on the calendar; provided, the hearing date for an appeal may be advanced by order of the Board for good cause shown.
- 3112.10 No later than fourteen (14) days before the date of the hearing for the appeal, the appellant shall file with the Board any additional statements, information, briefs, reports (including reports or statements of expert and other witnesses), plans, or other materials that the appellant may wish to offer into evidence at the hearing. Any map, plan, or other document or matter readily available to the general public need only be fully referenced and the source given by the appellant in place of filing a copy.
- 3112.11 The appellant may withdraw an appeal at any time. Withdrawal shall not authorize the removal of any document from the files of the Board. The appeal fee shall not be refunded upon withdrawal. Without special leave of the Board, a new appeal shall not be accepted again for filing for at least ninety (90) days after withdrawal of the appeal.
- 3112.12 Without special leave of the Board, an appeal dismissed by the Board for failure to comply with the procedural requirements of this title shall not be accepted again for filing for at least ninety (90) days after the date of the order dismissing the appeal.
- 3112.13 Notice of a public hearing on an appeal shall include the number of the appeal, the administrative action appealed from, the name of the appellant, the property involved, the ANC for the area within which the property is located, and the location, time, and date of the public hearing.
- 3112.14 Notice of the public hearing shall be given by the Director not less than forty (40) days before the date of the hearing by:
- (a) Publishing the notice in the D.C. Register;
 - (b) Mailing the notice to the parties to the appeal;
 - (c) Mailing the notice to the ANC for the area within which the subject property is located; and
 - (d) Posting the calendar of cases to be heard by the Board in the Office of Zoning.

3112.15 At the time of the hearing on the appeal, the Board shall consider any request to intervene made pursuant to § 3106.2. The Board shall grant intervener status only if the person requesting intervener status has clearly demonstrated that they have a specific right or interest that will be affected by action on the appeal.

3112.16 In granting intervener status, the Board may specify whether the person will be permitted to intervene in the appeal for general or limited purposes.

SOURCE: Final Rulemaking published at 46 DCR 7853, 7900-02 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8561-62 (October 20, 2000); Final Rulemaking published at 50 DCR 1200 (February 7, 2003); as amended by Final Rulemaking and Order No. 12-11 published at 60 DCR 8967 (June 14, 2013).

3113 PRE-HEARING PROCEDURES FOR APPLICATIONS

3113.1 The rules of procedure in this section apply to all applications filed with the Board (including applications filed pursuant to §§ 3107 and 3108 in effect prior to October 1, 1999, and §§ 3103 and 3104); provided, however, the provisions of this section only apply to chancery applications to the extent specified in § 3134 and to applications processed under the expedited review procedures to the extent specified in § 3118.

3113.2 As an alternative to filing the zoning memorandum as required by the application form, applications for variances and special exceptions may be filed with the Director by architects or attorneys without the necessity of prior certification by the Zoning Administrator, provided that the architect or attorney certifies that the requirements set forth in the immediately following sentence are true and correct. Such architect or attorney shall certify to the Board that: (a) the architect or attorney is duly licensed to practice in the District of Columbia; (b) the architect or attorney currently is in good standing and otherwise entitled to practice in the District of Columbia; and (c) the applicant is entitled to apply for the variance or special exception sought for the reasons stated in the application. Nothing in this subsection is intended to affect the discretion of the Director to reject an application for failure to comply with the provisions of this subsection or this title.

3113.3 The owner of property for which application is made may file an application with the Board.

3113.4 An authorized agent may file an application on behalf of the owner. The application shall include a letter signed by the owner authorizing the agent to act on the owner's behalf in respect of the application. The Board may at any time require additional evidence demonstrating the authority of the agent to act for the owner.

- 3113.5 Each application to the Board shall be made on the appropriate form provided by the Board. All information required by the form shall be furnished by the applicant at the time of filing the application, including:
- (a) The name and addresses of the owners of all property located within two hundred feet (200 ft.) of the subject property; provided, however, in the case of a residential condominium or cooperative with twenty-five (25) or more dwelling units, mailed notice may be provided to the board of directors or to the association of the condominium or cooperative that represents all of the owners of all the dwelling units; and
 - (b) The name and address of each person having a lease with the owner for all or part of any building located on the property involved in the application.
- 3113.6 At the time of filing the application, any fee established by the Mayor of the District of Columbia shall be paid to the District of Columbia Treasurer.
- 3113.7 Each application, along with any appeal filed pursuant to § 3112, shall be numbered serially and docketed, and may be placed upon the calendar of the Board by geographic areas by the Director. When the application is accepted, a copy of the application form shall be sent to the ANC for the area within which the property is located.
- 3113.8 No later than fourteen (14) days before the date of the hearing for the application, the applicant shall file with the Board any additional statements, information, briefs, reports (including reports or statements of expert and other witnesses), plans, or other material that the applicant may wish to offer into evidence at the hearing. Any map, plan, or other document, or matter readily available to the general public need only be fully referenced and the source given by the applicant in place of filing a copy.
- 3113.9 If the application includes a report by a transportation consultant or expert, the applicant shall provide a copy of the report to the Department of Transportation at least twenty (20) days prior to the public hearing.
- 3113.10 The applicant may withdraw an application at any time. Withdrawal shall not authorize the removal of any document from the files of the Board. The application fee shall not be refunded upon withdrawal. Without leave of the Board, a new application shall not be accepted for filing again for at least ninety (90) days after withdrawal of the application.
- 3113.11 Without leave of the Board, an application dismissed by the Board for failure to comply with the procedural requirements of this title shall not be accepted for filing again for at least ninety (90) days after the date of the order dismissing the application.

- 3113.12 Notice of a public hearing on an application shall include the number of the application, the nature of the application, the name of the applicant, the property involved, the ANC for the area within which the property is located, and the location, time, and date of the public hearing.
- 3113.13 Notice of the public hearing shall be given by the Director not less than forty (40) days before the date of the hearing by:
- (a) Publishing the notice in the D.C. Register;
 - (b) Mailing the notice to the applicant and to the owners of all property within two hundred feet (200 ft.) of the property involved in the application; provided, however, in the case of a residential condominium or cooperative with twenty-five (25) or more dwelling units, mailed notice may be provided to the board of directors or to the association of the condominium or cooperative that represents all of the owners of all the dwelling units;
 - (c) Mailing the notice to each person having a lease with the owner for all or part of any building located on the property involved in the application;
 - (d) Mailing the notice to the ANC for the area within which the subject property is located; and
 - (e) Posting the calendar of cases to be heard by the Board in the Office of Zoning.
- 3113.14 The applicant shall give additional notice of the public hearing by posting the property with notice of the hearing at least fifteen (15) days in advance of the hearing.
- 3113.15 The applicant shall post notice at each street frontage on the property involved and on the front of each building located on the subject property. Each notice shall be in plain view of the public.
- 3113.16 Notices for posting shall be supplied by the Director showing the number of the application, the nature of the application, the name of the applicant, the property involved, the ANC for the area within which the property is located, and the location, time, and date of the public hearing.
- 3113.17 In the case of an application for approval of a college or university campus plan, the notice shall be posted on all frontages of the property included within the plan that face any property not owned by the college or university.

- 3113.18 The applicant shall make a reasonable effort to maintain the posted notice by checking the signs at least once every five (5) days, and by posting new notice(s) as necessary.
- 3113.19 At least five (5) days prior to the public hearing, the applicant shall file with the Board a sworn affidavit demonstrating compliance with § 3113.15. A form of affidavit supplied by the Board may be used but shall not be required.
- 3113.20 The applicant shall attach to the affidavit described in § 3113.15 a photograph of each sign after posting and as viewed by the public, identifying the street frontage and location of each sign.
- 3113.21 At the time of the hearing on the application, the Board shall consider any request for party status made pursuant to § 3106.2. The Board shall grant party status only if the person requesting party status has clearly demonstrated that the person's interests would likely be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning relief than those of other persons in the general public.

SOURCE: Final Rulemaking published at 46 DCR 7853, 7902-7905 (October 1, 1999); as amended by Final Rulemaking published at 46 DCR 8041, 8042 (October 8, 1999); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8562-64 (October 20, 2000); Final Rulemaking and Order No. 09-13 published at 57 DCR 3295 (April 16, 2010); as amended by Final Rulemaking and Order No. 12-11 published at 60 DCR 8967 (June 14, 2013).

3114 REPORTS OF PUBLIC AGENCIES FOR APPLICATIONS

- 3114.1 The rules of procedure in this section shall apply to all applications filed with the Board (including applications filed pursuant to §§ 3107 and 3108 in effect prior to October 1, 1999, and §§ 3103 and 3104); provided, however, the provisions of this section shall only apply to chancery applications to the extent specified in § 3134.
- 3114.2 When an application is referred in advance of the public hearing to any public agency for a report or recommendation, that report and recommendation shall be filed with the Board at least seven (7) days prior to the date set for the hearing on the application.
- 3114.3 Upon agreement by all parties to a proceeding, the report and recommendation may become a part of the exclusive record at any time without benefit of cross-examination.
- 3114.4 In the absence of any such agreement, the report and recommendation shall not become a part of the exclusive record unless an officer, member, or employee of the public agency appears at the hearing to present the report and recommendation and be cross-examined by the parties, unless the Board finds the report and recommendation to be full and complete on its face, having given due regard to

the importance of the evidence, availability of witnesses, and the need of cross-examination for a full and true disclosure of the facts.

3114.5 After consultation with the presiding officer, the Director shall notify those representatives of the public agency who should be present at the hearing.

3114.6 If an application is referred in advance of the public hearing to any public agency for a report or recommendation, no report is received in the record, and the time period specified in § 2509 has elapsed, then the Board may proceed to decide the application based on the record not including such report and recommendation.

SOURCE: Final Rulemaking published at 46 DCR 7853, 7905 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8564 (October 20, 2000).

3115 ADVISORY NEIGHBORHOOD COMMISSIONS: REPORTS AND NOTICE

3115.1 The written report of the ANC prepared in response to a notice of application provided pursuant to § 3115.5 shall be submitted to the Board at least seven (7) days in advance of the hearing and shall contain the following information:

- (a) An identification of the appeal or application;
- (b) When the public meeting of the ANC to consider the appeal or application was held;
- (c) Whether proper notice of that meeting was given by the ANC;
- (d) The number of members of the ANC that constitute a quorum and the number of members present at the meeting;
- (e) The issues and concerns of the ANC about the appeal or application as related to the standards of the Zoning Regulations against which the appeal or application must be judged;
- (f) The recommendation, if any, of the ANC as to the disposition of the appeal or application;
- (g) The vote on the motion to adopt the report to the Board;
- (h) The name of the person authorized by the ANC to present the report; and
- (i) The signature of the ANC chairperson or vice-chairperson.

3115.2 The Board shall give "great weight" to the written report of the ANC, as required by § 3 of the Comprehensive Advisory Neighborhood Commissions Reform

Amendment Act of 2000, effective June 27, 2000 (D.C. Law 13-135, 47 DCR 5519 (2000) (codified at D.C. Official Code § 1-309.10(d)(3)(A)(2001).

3115.3 In the event the ANC submits its report on the basis of understandings, agreements, or meetings with the appellant or applicant that later are modified by the appellant or applicant, the designated ANC representative may comment orally concerning the specific inconsistencies. No other new matters may be presented orally by the designated ANC representative.

3115.4 Any notice required by D.C. Official Code § 1-309.10(c)(4) to be provided to affected Advisory Neighborhood Commissions, the Commissioner representing the affected single member district, and the Office of Advisory Neighborhood Commissions (“notice recipients”) may be provided by electronic or first-class mail; provided, that the notice shall be by first-class mail unless a notice recipient agrees in writing to receive future notifications through electronic mail.

3115.5 A notice of an application shall constitute the notice required by D.C. Official Code § 1-309.10(b) and starts the time period for the affected Commission to review the application and submit its written report pursuant to D.C. Official Code §1-309.10(d).

SOURCE: Final Rulemaking published at 46 DCR 7853, 7905-06 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8565 (October 20, 2000); as amended by Final Rulemaking and Order No. 10-04 published at 57 DCR 9736 (October 15, 2010).

3116 EXPEDITED APPLICATIONS

3116.1 The Board shall have the authority to expedite applications; provided:

- (a) The Office of Planning recommends expediting the case and indicates the reasons an expedited processing is necessary and desirable; and
- (b) Expediting the subject application shall not result in removing another application from the hearing agenda for that date.

SOURCE: Final Rulemaking published at 46 DCR 7853, 7906-07 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8565 (October 20, 2000).

3117 HEARING PROCEDURES

3117.1 The rules of procedure in this section apply to public hearings on all appeals and applications filed with the Board under this chapter; provided, however, the provisions of this section only apply to chancery applications to the extent specified in § 3134.

3117.2 A public hearing, even if expedited under § 3116.1, shall be held on each appeal or application. Appeals and applications shall be heard in the order in which they are filed with the Board and appear on the calendar. The hearing date for an appeal or application may be advanced or postponed by order of the Board for good cause shown.

3117.3 The presiding officer at a hearing shall have the authority to:

- (a) Regulate the course of the hearing;
- (b) Rule upon offers of proof and receive relevant evidence;
- (c) Assign exhibit numbers for all written, documentary, and other tangible matter offered in evidence;
- (d) Hold conferences on the issues with the consent of the parties;
- (e) Except as required under § 3117.5, dispose of procedural requests or similar matters (including motions to amend and to order hearings reopened) and rule upon motions to consolidate appeals or applications for hearing;
- (f) Call, qualify, and examine witnesses and introduce into the record documentary or other evidence;
- (g) Request the parties at any time during the hearing to state their respective positions concerning any issue in the proceeding and theory in support thereof;
- (h) Subject to § 3105.11, adjourn a hearing and establish the date when the hearing will be continued;
- (i) Close a hearing;
- (j) Rule upon the qualifications of witnesses offered as experts;
- (k) Exclude unduly repetitious or irrelevant testimony and permit a witness to adopt the prior testimony of another witness; and
- (l) Take any other action authorized by these rules or necessary under these rules.

3117.4 Except as provided in § 3117.5, an appellant, applicant, and persons and parties (except an ANC in support) shall collectively have no more than sixty (60) minutes, exclusive of cross-examination, to present testimony, and all persons and parties (except an ANC) in opposition shall collectively have no more than sixty

(60) minutes, exclusive of cross-examination, to present testimony in opposition. Nothing herein shall prohibit the Board from placing reasonable restrictions on cross-examination, including time limits and limitations on the scope of cross-examination.

- 3117.5 The Board may grant additional or lesser time to that under § 3117.4 to an appellant or applicant and persons and parties in support, or to a person or party in opposition, to present a case in opposition. The Board shall ensure reasonable balance in the time allocation between proponents and opponents.
- 3117.6 Nothing in § 3117.3 shall preclude members from questioning witnesses in any hearing before the Board.
- 3117.7 The hearing shall be reported under the supervision of the presiding officer, stenographically or by other means, by a reporter who may be designated from time to time by the Board or by a regular employee of the District.
- 3117.8 The prepared transcript shall be the sole official transcript of the hearing.
- 3117.9 The transcript shall be open for inspection at the Office of Zoning.
- 3117.10 Copies of the transcript shall be available to parties and to the public from the Office of Zoning upon payment of the charges fixed for making the copies.
- 3117.11 The order of procedure for presenting evidence at the hearing shall be as follows:
- (a) On appeals filed pursuant to § 3112:
 - (1) Appellant's case;
 - (2) Administrative officer's case;
 - (3) Case for owner, lessee, or operator of property involved, if not the appellant;
 - (4) The ANC for the area within which the property is located;
 - (5) Intervenor's case, if intervention is permitted by the Board; and
 - (6) Rebuttal and closing statement by appellant.
 - (b) On applications filed pursuant to § 3113:
 - (1) Applicant's case;
 - (2) Report and recommendation from the D.C. Office of Planning;

- (3) Reports and recommendations from other public agencies;
- (4) The ANC for the area within which the property is located;
- (5) Parties and persons in support of the application;
- (6) Parties and persons in opposition to the application; and
- (7) Rebuttal and closing statement by the applicant.

3117.12 The Board may close the record at the end of a hearing and vote at such time either to approve or deny the appeal or application.

SOURCE Final Rulemaking published at 46 DCR 7853, 7907-09 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8565-67 (October 20, 2000).

3118 EXPEDITED REVIEW

3118.1 The purpose of this section is to create an expedited review process to be followed after an applicant waives its right to a hearing for an eligible application.

3118.2 An eligible application is an application for:

- (a) An addition to a one-family dwelling or flat or new or enlarged accessory structures pursuant to § 223; or
- (b) A park, playground, swimming pool, or athletic field pursuant to § 209.1.

3118.3 Subject to the removal process described in §§ 3118.6 and 3118.7, an eligible application that includes a waiver of hearing will be placed on an expedited review calendar and decided without hearing at the Board’s next regularly scheduled session after:

- (a) The completion of the public notice procedures set forth in § 3118.4; and
- (b) The completion of the ANC review period of thirty (30) days from the date it receives notice of the application, excluding Saturdays, Sundays, and holidays, plus an additional fourteen (14) calendar days.

3118.4 Notice of expedited review shall be given in the same manner and include the same information as required by §§ 3113.12 through 3113.16, except that references to “public hearing” or “hearing” shall mean “expedited review” and all other requirements of § 3113 shall apply with the same proviso.

- 3118.5 The public notice of an expedited review and the ANC notice of an application requesting expedited review shall also indicate:
- (a) The procedure for requesting the removal of the application from the expedited review calendar is as described in §§ 3118.6 and 3118.7; and
 - (b) That the only public notice of the hearing date for a removed application will be the posting of that date in the Office of Zoning beginning on the date that the application was removed and continuing until the date of such hearing.
- 3118.6 An application tentatively placed on an expedited review calendar will be removed and rescheduled for a hearing:
- (a) At the oral or written request of a Board member made at any time prior to the vote on the application;
 - (b) Upon the receipt of a timely filed request for party status in opposition to the application; or
 - (c) At the written request of the Office of Planning, if filed with the Office of Zoning no later than fourteen (14) days prior to the date that the expedited review is scheduled.
- 3118.7 An application tentatively placed on an expedited review calendar also will be removed and rescheduled for a hearing if requested by the following entities or persons in accordance with § 3118.8, unless the request is denied by the Presiding Officer pursuant to § 3118.9:
- (a) The affected ANC(s) or affected Single Member District(s);
 - (b) The Councilmember representing the area in which the subject property is located or representing an area located within two-hundred feet (200 ft.) of the subject property; or
 - (c) The owner or occupant of any property located within two-hundred feet (200 ft.) of the subject property.
- 3118.8 A request to remove made pursuant to § 3118.7 shall:
- (a) Be filed with the Office of Zoning no later than fourteen (14) days prior to the date that the expedited review is scheduled;
 - (b) Be accompanied by a statement indicating that the requester, or the requester's representative, intends to appear as a witness at the hearing; and
 - (c) Shall include a summary proffer of the testimony to be given at that time.

- 3118.9 The Presiding Officer shall grant a request to remove an application made pursuant to § 3118.7 unless the proffered testimony is irrelevant, in which case the request shall be denied.
- 3118.10 Orders granting an application approved by expedited review need not contain findings of facts or conclusions of law, but shall reflect the nature of the relief granted and any conditions imposed.

SOURCE: Final Rulemaking and Order No. 09-13 published at 57 DCR 3295 (April 16, 2010); Final Rulemaking and Order No. 09-13A published at 57 DCR 6999 (August 6, 2010).

3119 EVIDENCE

- 3119.1 This section applies to all appeals and applications filed with the Board under this chapter; provided, however, this section only applies to chancery applications to the extent specified in § 3134.
- 3119.2 In all appeals and applications, the burden of proof shall rest with the appellant or applicant. If no evidence is presented in opposition to the case, the appellant or applicant shall not be relieved of this responsibility.
- 3119.3 Each party may appear at a hearing to offer evidence and cross-examine witnesses.
- 3119.4 Evidence shall be taken in conformity with D.C. Official Code § 2-509(b)(2001) (formerly codified at D.C. Code 1-1509(b)(1999 Repl.)).
- 3119.5 Exhibits may be offered in evidence at the hearing. These exhibits may be in the form of photographs, models, graphs, or other materials.
- 3119.6 Any exhibit that exceeds a size suitable for inclusion in the record shall be reduced or folded to a size not to exceed legal size (8 1/2 inches by 14 inches).
- 3119.7 No material shall be submitted for the record that exceeds legal size or cannot be folded to legal size.
- 3119.8 If models are used, photographs of the models not exceeding legal size shall be supplied at the public hearing.
- 3119.9 The Zoning Act, the Zoning Regulations (including appendices and the official Zoning Maps), and this chapter shall be a part of the record of every proceeding before the Board, and it shall not be necessary for any party formally to move their introduction into evidence.

SOURCE: Final Rulemaking published at 46 DCR 7853, 7909-10 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8567 (October 20, 2000).

3120 [RESERVED]

3121 PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW; CLOSING THE RECORD

- 3121.1 This section applies to all appeals and applications filed with the Board under this chapter; provided, however, this section only applies to chancery applications to the extent specified in § 3134.
- 3121.2 The parties are encouraged to submit to the Office of Zoning proposed findings of fact and conclusions of law within such time as the presiding officer may direct, which in any event shall not be less than seven (7) days after the transcript of the hearing is delivered to the Office of Zoning.
- 3121.3 To assist any party in preparing proposed findings of fact and conclusions of law, the Office of Zoning shall make available to such party, upon request, a generic prototype or illustrative model of the form and substance of findings of fact and conclusions of law.
- 3121.4 Each party shall serve any proposed findings of fact and conclusions of law on all other parties at the same time as the proposed findings and conclusions are filed with the Board.
- 3121.5 The record shall be closed following the public hearing, except that the record may be kept open for a stated period for the receipt of specific exhibits, information, or legal briefs, as may be directed by the presiding officer.
- 3121.6 The Board shall allow all parties to a case an opportunity to file written responses to any exhibits, information, or briefs submitted after the close of the hearing.
- 3121.7 Written responses shall be filed within seven (7) days after the date by which the exhibits, information, or briefs were due, unless otherwise directed by the presiding officer.
- 3121.8 In the event parties participating in a hearing are so numerous as to make service of proposed findings of fact and conclusions of law, responses to materials filed after the close of the hearing, and service of the final decision or order burdensome to the Board and all the parties, the Board may designate at the close of the hearing representative parties to the proceeding who will be served and who may respond.
- 3121.9 Any material received by the Board after the close of the record except that permitted by § 3121.5, that bears upon the substance of the appeal or application shall be returned by the Director and not received into the files of the Board. However, if the materials are accompanied by a request to re-open the record, the

request shall be accepted and presented to the Chair for consideration. The request must demonstrate good cause and the lack of prejudice to any party. If granted, the materials shall be entered into the record.

SOURCE: Final Rulemaking published at 46 DCR 7853, 7910-11 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8567-68 (October 20, 2000); as amended by Final Rulemaking and Order No. 12-11 published at 60 DCR 8967 (June 14, 2013).

3122-3123 [RESERVED]

3124 POST-HEARING PROCEDURES: GENERAL PROVISIONS

3124.1 This section applies to all appeals and applications filed with the Board under this chapter; provided, however, this section applies to chancery applications only to the extent specified in § 3134.

3124.2 Prior to the filing of a final decision, the Board may, on its own motion, reopen the record and require further hearing on designated issues.

3124.3 Notice of further hearing, plus a designation of issues to be addressed, shall be forwarded to any party who participated in the earlier proceedings or to representative parties pursuant to designations made under § 3112.15 at least ten (10) days prior to the date set for further hearing.

SOURCE: Final Rulemaking published at 46 DCR 7853, 7911-12 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8568 (October 20, 2000).

3125 FINAL DECISION AND EFFECTIVE DATE OF DECISIONS

3125.1 This section applies to all appeals and applications filed with the Board under this chapter; provided, however, this section only applies to chancery applications to the extent specified in § 3134.

3125.2 The concurring vote of at least a full majority of the members of the Board is necessary for any decision.

3125.3 The concurring vote of at least a full majority of the members of the Board is necessary for any decision. After a vote to grant or deny an application or appeal, the prevailing party may file a proposed order or a revision to a previously filed proposed order. No response to the proposed order may be submitted by any other party.

3125.4 Formal notice of an order shall be given to any party to the appeal or application, by serving the party with a copy of the decision or order and the accompanying findings of fact and conclusions of law, by first class mail, postage prepaid.

- 3125.5 A copy of the decision or order and the accompanying findings of fact and conclusions of law shall be served on the council member representing the ward within which the property is located and any ANC that submitted a written report in accordance with § 3115.
- 3125.6 For purposes of this chapter, a decision or order shall be and become final upon its filing in the record and service upon the parties.
- 3125.7 Approval of an application shall include approval of the plans submitted with the application for the construction of a building or structure (or addition thereto) or the renovation or alteration of an existing building or structure, unless the Board orders otherwise.
- 3125.8 An applicant shall be required to carry out the construction, renovation, or alteration only in accordance with the plans approved by the Board, unless the Board orders otherwise.
- 3125.9 No order of the Board shall take effect until ten (10) days after it becomes final pursuant to § 3125.6.
- 3125.10 The Director or the Chairperson of the Board is authorized to sign a final decision or order that has been approved by a majority of the Board.

SOURCE: Final Rulemaking published at 46 DCR 7853, 7912 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9347, 9352 (November 24, 2000); and Final Rulemaking published at 49 DCR 2742, 2748 (March 22, 2002); as amended by Final Rulemaking and Order No. 12-11 published at 60 DCR 8967 (June 14, 2013).

3126 RECONSIDERATION OR REHEARING

- 3126.1 This section applies to all appeals and applications filed with the Board under this chapter; provided, however, this section only applies to chancery applications to the extent specified in § 3134.
- 3126.2 Any party may file a motion for reconsideration or rehearing of any decision of the Board, provided that the motion is filed with the Director within ten (10) days from the date of issuance of a final written order by the Board. The Board shall not receive or consider any motion for reconsideration, rehearing, or re-argument of a final order in a contested case proceeding that is filed prior to the order being issued nor waive this prohibition.
- 3126.3 Any motion for reconsideration shall be served upon all other parties, or any representative parties pursuant to designations made pursuant to § 3112.15.
- 3126.4 A motion for reconsideration shall state specifically all respects in which the final decision is claimed to be erroneous, the grounds of the motion, and the relief sought.

- 3126.5 Within seven (7) days after a motion for reconsideration has been filed and served, any other party may file an answer in opposition to or in support of such motion.
- 3126.6 No request for rehearing shall be considered by the Board unless new evidence is submitted that could not reasonably have been presented at the original hearing. If a rehearing is granted, notice shall be given as in the case of an original hearing.
- 3126.7 The Board, on its own motion made not later than ten (10) days following the filing of the final decision in the record, may decide to reconsider or rehear an application or appeal.
- 3126.8 No member shall vote on any post-hearing motion unless the member participated in, and voted on, the original decision, or the member read the transcript of the hearings and reviewed the record.
- 3126.9 Unless the Board orders otherwise, neither the filing nor granting of a motion for reconsideration or rehearing shall automatically stay the effect of a final decision.
- 3126.10 A motion for reconsideration or rehearing shall not be a prerequisite to judicial review.
- 3126.11 An appellant or applicant whose appeal or application has been denied shall not institute a new appeal or application on the same facts within one (1) year from the date of the order upon the previous appeal or application.

SOURCE: Final Rulemaking published at 46 DCR 7853, 7912-13 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8569 (October 20, 2000); as amended by Final Rulemaking and Order No. 12-11 published at 60 DCR 8967 (June 14, 2013).

3127 EXCLUSIVE RECORD

- 3127.1 This section applies to all new appeals and applications filed with the Board under this chapter; provided, however, this section only applies to chancery applications to the extent specified in § 3134.
- 3127.2 No decision or order of the Board on an appeal or application shall be made except upon the exclusive record of the proceedings before the Board.

SOURCE: Final Rulemaking published at 46 DCR 7853, 7913-14 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8569 (October 20, 2000).

3128 REVIEW BY ZONING COMMISSION

- 3128.1 Within the ten (10) day period set forth in § 3125.9, the Zoning Commission may, sua sponte, determine to review any final decision or order of the Board.

- 3128.2 The Commission's determination to review a decision or order of the Board shall be transmitted forthwith to the Director, who shall forward to the Commission the record in the case and shall serve notice of the Commission's determination to review the Board's decision or order upon all parties to such case.
- 3128.3 Upon receipt of the record, the Commission shall review the case and take such action as it deems appropriate; provided, however, the Commission shall not reverse or modify any decision or order of the Board without affording the parties to the case an opportunity to present memoranda to the Commission in support of or in opposition to the action of the Board.
- 3128.4 Any action by the Commission may include, without limitation, any of the following:
- (a) Hearing argument on the Board record in the case;
 - (b) Affirmance, modification, or reversal of the Board's decision or order; and
 - (c) Remanding the case to the Board for reconsideration, rehearing, or other action pursuant to instructions of the Commission.
- 3128.5 The sua sponte review process established in this section shall not grant any rights of appeal to the Commission.
- 3128.6 Because there is no right of appeal to the Commission from any action of the Board, the Commission need not answer any communications to the Commission (regardless of the form) requesting that sua sponte review be undertaken. Sua sponte review is a discretionary internal process.
- 3128.7 The Commission shall look to the following guidelines when determining whether to invoke its sua sponte review authority. The Commission may exercise sua sponte review as follows:
- (a) In a particular instance where it appears to the Commission that the Board has exceeded its prerogatives and has thus in effect changed the zoning;
 - (b) Where it appears that a basic policy of the Commission, as expressed in the Zoning Regulations, has been violated as a result of action by the Board; or
 - (c) In an unusual instance, as determined by the Commission.

SOURCE: Final Rulemaking published at 46 DCR 7853, 7914-15 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8569-70 (October 20, 2000).

3129 MODIFICATION OF APPROVED PLANS

- 3129.1 This section applies to all appeals and applications filed with the Board under this chapter; provided, however, this section only applies to chancery applications to the extent specified in § 3134.
- 3129.2 The Board shall consider requests to approve minor modifications to plans approved by the Board, as set forth in §§ 3125.7 and 3125.8. The request shall be in writing, shall state specifically the modifications requested and the reasons therefore and include a copy of the plans for which approval is now requested.
- 3129.3 A request for minor modification of plans shall be filed with the Board not later than two (2) years after the date of the final order approving the application.
- 3129.4 All requests for minor modifications of plans shall be served on all other parties to the original application at the same time as the request is filed with the Board. A party shall have ten (10) days within which to submit written comments that such party may have concerning the requested modification.
- 3129.5 A decision on a request for minor modification of plans shall be made by the Board on the basis of the written request, the plans submitted therewith, and any responses thereto from other parties to the original application.
- 3129.6 Approval of requests for modification of approved plans shall be limited to minor modifications that do not change the material facts upon which the Board based its original approval of the application.
- 3129.7 A request to modify other aspects of a Board order may be made at anytime, but shall require a hearing.
- 3129.8 The scope of a hearing conducted pursuant to § 3129.7 shall be limited to impact of the modification on the subject of the original application, and shall not permit the Board to revisit its original decision.
- 3129.9 The filing of any modification request under this section shall not act to toll the expiration of the underlying order and the grant of any such modification shall not extend the validity of any such order.

SOURCE: Final Rulemaking published at 46 DCR 7853, 7915 (October 1, 1999); as amended by Final Rulemaking published at 46 DCR 8041, 8042 (October 8, 1999); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8570 (October 20, 2000); as amended by Final Rulemaking and Order No. 09-01 published at 56 DCR 4388 (June 5, 2009); as amended by Final Rulemaking and Order No. 12-11 published at 60 DCR 8967 (June 14, 2013).

3130 TIME LIMITS ON THE VALIDITY OF BOARD ORDERS

- 3130.1 No order authorizing the erection or alteration of a structure shall be valid for a period longer than two (2) years, or one (1) year for an Electronic Equipment Facility (EEF), unless, within such period, the plans for the erection or alteration are filed for the purposes of securing a building permit, except as permitted in § 3130.6.
- 3130.2 Any permit approved under this chapter shall be issued within a period of six (6) months after the date of the filing of an application for the permit.
- 3130.3 The erection or alteration approved in the permit shall be started within six (6) months after the date of the issuance of the permit, and shall proceed to completion in accordance with its terms. If the work is not started within such period the permit shall expire and shall not be renewed.
- 3130.4 An order of the Board authorizing the use of all or any portion of a structure or parcel of land shall not be valid for a period in excess of six (6) months, unless such use is established within that period; provided, however, that where the permitted use is dependent upon the erection or alteration of a structure, §§ 3130.1 through 3130.3 shall apply.
- 3130.5 In the event an appeal is filed in a court of competent jurisdiction from an order of the Board, all time limitations in this section shall commence to run from the decision date of the court's final determination of the appeal. Unless stayed by the Board or a court of competent jurisdiction, an appellant or applicant may proceed pursuant to the order of the Board prior to the court's final determination.
- 3130.6 The Board may extend the time periods in § 3130.1 for good cause shown upon the filing of a written request by the applicant before the expiration of the approval; provided, that the Board determines that the following requirements are met:
- (a) The extension request is served on all parties to the application by the applicant, and all parties are allowed thirty (30) days to respond;
 - (b) There is no substantial change in any of the material facts upon which the Board based its original approval of the application that would undermine the Board's justification for approving the original application; and
 - (c) The applicant demonstrates that there is good cause for such extension, with substantial evidence of one or more of the following criteria:
 - (1) An inability to obtain sufficient project financing due to economic and market conditions beyond the applicant's reasonable control;

- (2) An inability to secure all required governmental agency approvals by the expiration date of the Board's order because of delays that are beyond the applicant's reasonable control; or
- (3) The existence of pending litigation or such other condition, circumstance, or factor beyond the applicant's reasonable control.

3130.7 A time extension granted pursuant to § 3130.6 shall not exceed two (2) years, or one (1) year for an Electronic Equipment Facility.

3130.8 The Board's decision on the request shall be in writing and shall become final and effective upon its filing in the record and service upon the parties.

3130.9 A request for a time extension shall toll the expiration date for the sole purpose of allowing the Board to consider the request.

3130.10 If the request is not decided prior to an order's expiration date, no application for a building permit may be filed pursuant to the order unless and until a decision granting the request becomes final and effective pursuant to § 3130.8.

SOURCE: Final Rulemaking published at 46 DCR 7853, 7916 (October 1, 1999); as amended by Final Rulemaking published at 48 DCR 9830, 9841 (October 26, 2001); as amended by Final Rulemaking and Order No. 09-01 published at 56 DCR 4388 (June 5, 2009); as amended by Final Rulemaking and Order No. 10-08 published at 57 DCR 9492 (October 8, 2010); as amended by Final Rulemaking and Order No. 12-11 published at 60 DCR 8967 (June 14, 2013).

3131 COMMENCEMENT OF SPECIAL EXCEPTION TERMS

3131.1 When the Board limits its approval of a special exception to a term of years, the length of that term begins on the date upon which the order became final.

SOURCE: Final Rulemaking and Order No. 10-08 published at 57 DCR 9492 (October 8, 2010).

3132 EXPIRATION OF SPECIAL EXCEPTION USES

3132.1 If a special exception use is established, the use will only expire if:

- (a) An expiration date is specified in the order;
- (b) The special exception use is discontinued for any reason for any period of three (3) or more years occurring after October 8, 2010; except where governmental action impedes access to the premises; or
- (c) A certificate of occupancy for a different use is issued after October 8, 2010.

3132.2 If a special exception use expires, any subsequent use shall conform to the regulations of the district in which the use is located.

3132.3 Notwithstanding § 3132.1(b), a special exception use shall not expire if there is objective proof of a continuing use or of affirmative steps taken to resume the use during the period of time identified by the Zoning Administrator when revoking an existing certificate of occupancy or denying an application for a replacement certificate of occupancy.

SOURCE: Final Rulemaking and Order No. 10-08 published at 57 DCR 9492 (October 8, 2010).

3133 [RESERVED]

3134 CHANCERY APPLICATIONS

3134.1 The provisions of this section shall apply to all applications made pursuant to chapter 10 of this title for the location, replacement, or expansion of chanceries that are subject to disapproval by the Board pursuant to § 206(b) of the Foreign Missions Act, approved August 24, 1982 (96 Stat. 283; D.C. Official Code §§ 6-1306(b) (2001) (formerly codified at D.C. Code § 5-1206(b) (1994 Repl.))).

3134.2 This section shall establish procedures for considering applications under the Foreign Missions Act and chapter 10 of this title as rulemaking proceedings.

3134.3 No person shall have the standing of a party in a proceeding under this section.

3134.4 The provisions of §§ 3101, 3102, 3105, 3106, 3108 through 3111, and 3115 apply to applications under chapter 10 of this title, except that no person shall have the standing of a "party" in a proceeding under this section.

3134.5 Except as specifically incorporated in § 3134.6, the remaining provisions of this chapter shall not apply to applications under chapter 10 of this title.

3134.6 The following subsections apply to applications under chapter 10 of this title, except that no person shall have the standing of a "party" in a proceeding under this subsection:

(a) Applications: §§ 3113.3, 3113.4, and 3113.6 through 3113.10;

(b) Required Reports: §§ 3114.5 and 3114.6;

(c) Hearing Procedures: §§ 3117.7 through 3117.10;

(d) Records: §§ 3119.5 through 3119.8;

(e) Closing the Record: §§ 3121.5, 3121.9, 3124.2, and 3124.3; and

(f) Final decision and final date: §§ 3125.2, 3125.8, and 3125.9.

3134.7 Each application submitted pursuant to this section shall be accompanied by a letter or other transmittal from the United States Department of State indicating that the Department of State has reviewed the application as required by § 205 of the Foreign Missions Act, D.C. Official Code § 6-1305 (2001)(formerly codified at D.C. Code § 5-1205 (1994 Repl.)), and has approved the application for the purposes of filing and processing by the Board.

3134.8 A public hearing shall be held on each application.

3134.9 Notice for chancery applications shall be as follows:

- (a) Notice of the filing of a chancery application shall be published in the D.C. Register;
- (b) Notice shall be given in the same manner as for an application under § 3113; and
- (c) A notice of proposed rulemaking shall be published in the D.C. Register at least forty (40) days in advance of the hearing.

3134.10 When an application is referred in advance of the public hearing to the Mayor, the United States Secretary of State, and the Historic Preservation Review Board for recommendation, that report and recommendation shall be filed with the Board at least eight (8) days prior to the date set for the hearing.

3134.11 The presiding hearing officer shall have the authority to:

- (a) Regulate the course of the hearing;
- (b) Rule upon offers of testimony, statements, and exhibits and receive relevant, non-repetitious testimony, statements, and exhibits;
- (c) Assign exhibit numbers for all written documentary and other tangible matter offered for the record;
- (d) Dispose of procedural requests or similar matters, including motions to amend and to order hearings reopened;
- (e) Call, qualify, and examine witnesses, and introduce into the record documentary or other material;

- (f) Request the persons appearing at the hearing to state their respective positions concerning any issue in the proceeding and his or her theory in support thereof;
- (g) Adjourn a hearing and establish the date when the hearing will be continued;
- (h) Close a hearing;
- (i) Rule upon the qualifications of witnesses offered as experts;
- (j) Establish reasonable time limits for witnesses and fairly allocate time among the persons appearing at the hearing;
- (k) Exclude unduly repetitious or irrelevant testimony and permit a witness to adopt the prior testimony of another witness; and
- (l) Take any other action authorized by, or necessary under, this section.

3134.12 Any person may appear at a hearing in a chancery application proceeding and present evidence, testimony, or argument that is relevant and not unduly repetitious within such time limits as the Board may determine. Nothing in § 3140.11 shall preclude members from questioning witnesses in hearings before the Board.

3134.13 The order of procedure at the hearing shall be as follows:

- (a) Call to order and opening statement by the presiding officer;
- (b) Consideration of pending motions and procedural matters;
- (c) Applicant's case;
- (d) Reports or statements by the Secretary of State and the Mayor;
- (e) Reports or recommendations by other public agencies;
- (f) The ANC for the area within which the property is located;
- (g) Persons in support of the application; and
- (h) Persons in opposition to the application.

3134.14 The record in a chancery application proceeding shall consist of the following:

- (a) Every written statement filed shall be part of the record of the hearing;

- (b) Oral testimony offered at the hearing shall be part of the record of the hearing; and
- (c) The Foreign Missions Act, the Zoning Act, and the Zoning Regulations (including appendices and the official Zoning Maps) shall be a part of the record of every proceeding before the Board.

3134.15 Notice of a further hearing, plus a designation of the issues, shall be forwarded to any person who appeared and participated in the earlier hearings at least ten (10) days prior to the date set for the further hearing.

3134.16 Each notice of a decision or order shall be made as follows:

- (a) Formal notice of a decision or order shall be given to the applicant by first class mail, postage prepaid;
- (b) A copy of the decision or order shall be served on the councilmember representing the ward within which the property is located and any ANC that submitted a written report in accordance with § 3115; and
- (c) A copy of the decision shall be published in the D.C. Register as a notice of final rulemaking.

3134.17 For purposes of this section, a decision of the Board is final upon publication in the D.C. Register. The decision shall be and become effective ten (10) days after having become final, as specified in § 3125.9.

SOURCE: Final Rulemaking published at 46 DCR 7853, 7916-20 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8571-72 (October 20, 2000); and Final Rulemaking-published at 49 DCR 2742, 2749 (March 22, 2002).

3135-3179 [RESERVED]

3180 SCHEDULE OF FEES

3180.1 Except as provided in §§ 3180.1(e) and 3180.3, at the time of filing an appeal or application with the Board, the appellant or applicant shall pay a filing fee in accordance with the following schedule:

- (a) For an application for a variance, one thousand forty dollars (\$1,040) for each provision of the Zoning Regulations from which a variance is requested;
- (b) For an application for a special exception:

- (1) For a parking lot, parking garage, or accessory parking, one hundred four dollars (\$104) for each parking space;
- (2) For a child development center or private school, thirty-three dollars (\$33) for each full-time or part-time student based on the maximum capacity requested, with a maximum of three thousand two hundred fifty dollars (\$3,250);
- (3) For a college or university use, six thousand five hundred dollars (\$6,500) for the processing of a new or revised campus plan, and three thousand two hundred fifty dollars (\$3,250) for review of a specific building or use within an approved plan;
- (4) For a residential use in the R-5-A District under § 353, five hundred twenty dollars (\$520) for each dwelling unit;
- (5) For a community-based residential facility, one hundred four dollars (\$104) for each person housed based on the maximum capacity requested (not including resident supervisors and their families), with a maximum of five thousand two hundred dollars (\$5,200);
- (6) For an office use in the SP District, fifty-two dollars (\$52) for each one hundred square feet (100 ft.²) or part thereof of gross floor area;
- (7) For roof structures under § 411, two thousand six hundred dollars (\$2,600);
- (8) For a hotel or inn in the SP District, one hundred four dollars (\$104) for each sleeping room or suite;
- (9) For a gasoline service station, five thousand two hundred dollars (\$5,200);
- (10) For a repair garage, one thousand five hundred sixty dollars (\$1,560);
- (11) For a home occupation under § 203, one thousand five hundred sixty dollars (\$1,560);
- (12) For an accessory apartment under § 202, three hundred twenty-five dollars (\$325);
- (13) For a theoretical lot under § 2516, one thousand five hundred sixty dollars (\$1,560) for the first lot and five hundred twenty dollars (\$520) for each lot thereafter;

- (14) For an intermediate materials recycling facility under § 802, five thousand two hundred dollars (\$5,200);
 - (15) For an antenna under § 211, two thousand six hundred dollars (\$2,600); and
 - (16) For any other special exception not listed in this section, one thousand five hundred sixty dollars (\$1,560);
- (c) For an application for permission to locate, replace, or expand a chancery in an R-5-D, R-5-E, or SP Zone District or in the Diplomatic (D) Overlay District, or to reconstruct an existing chancery that is destroyed in an R-1, R-2, R-3, R-4, R-5-A, R-5-B, or R-5-C Zone District, either:
- (1) Sixty-five dollars (\$65) for each one hundred square feet (100 sq. ft.) or part thereof of gross floor area; or
 - (2) Five hundred dollars (\$500) when the expansion does not result in an increase to gross floor area, such as the erection or enlargement of a fence;
- (d) For an application involving one owner-occupied, one-family dwelling or flat, regardless of the number of variances, special exceptions, or alternatives requested, three hundred twenty-five dollars (\$325);
- (e) For an appeal of any decision of the Zoning Administrator or other administrative officer, one thousand forty dollars (\$1,040), except that the following appellants shall not be required to pay a filing fee:
- (1) A department, office, or agency of the Government of the District of Columbia, including an Advisory Neighborhood Commission;
 - (2) The National Capital Planning Commission; and
 - (3) A citizens' association or association created for civic purposes that is not for profit; and
- (f) For a time extension, a minor modification of plans or a modification of conditions of an order of the Board for an owner-occupied one-family dwelling or flat, one hundred thirty dollars (\$130); for all other applicants, twenty-six percent (26%) of the original filing fee.

3180.2 In the case of an application combining two (2) or more actions described in §§ 3180.1(a) and 3180.1(b), or for an application requesting consideration of

more than one alternative, the fee shall be the total of the amounts for each action or alternative computed separately.

- 3180.3 A department, office, or agency of the Government of the District of Columbia shall not be required to pay a filing fee for a special exception or variance where the property is owned by the District of Columbia or that agency or is under one or both of their jurisdictions and the property is to be occupied for a government building or use.

SOURCE: Final Rulemaking published at 46 DCR 7853, 7920-22 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8572 (October 20, 2000). Final Rulemaking published at 54 DCR 3072 (April 6, 2007); as amended by Final Rulemaking and Order No. 09-01 published at 56 DCR 4388 (June 5, 2009); as amended by Final Rulemaking and Order No. 10-09/10-10 published at 57 DCR 9480 (October 8, 2010); as amended by Final Rulemaking and Order No. 15-08 published at 62 DCR 9807 (July 17, 2015).

3181 ADMINISTRATION OF FEES

- 3181.1 All fees shall be paid by check or money order made payable to the District of Columbia Treasurer.

- 3181.2 The Director shall be responsible for administering, interpreting, and applying the terms of the fee schedule in § 3180.

- 3181.3 Any decision of the Director regarding the application of the fee schedule in § 3180 may be appealed to the Board by the appellant or applicant. The fee appeal shall be in writing and set forth specifically the error allegedly committed by the Director, the grounds for the appeal, and the relief requested. The Board shall decide the appeal at a meeting or hearing as a preliminary matter to considering the fee appeal or application.

- 3181.4 The Board may authorize the refund of all or a portion of the filing fee if it finds that the application was incorrectly filed at the direction of the Zoning Administrator.

SOURCE: Final Rulemaking published at 46 DCR 7853, 7912-13 (October 1, 1999); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8572-73 (October 20, 2000).

3182-3198 [RESERVED]

3199 DEFINITIONS

- 3199.1 When used in this chapter, the following terms and phrases shall have the meanings ascribed:

ANC - an Advisory Neighborhood Commission established in accordance with § 738 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 774, 824, as amended; D.C. Official Code § 1-207.38 (formerly codified at D.C. Code § 1-251 (1999 Repl.))).

Board - the Board of Zoning Adjustment of the District of Columbia.

Decision - the concurring vote of at least a full majority of the members with respect to any appeal or application filed with the Board.

Director - the Director of the Office of Zoning, or such successor official as shall be designated to be the supervisor of the full-time administrative staff of the Board.

Member - a member of the Board, including the member of the Zoning Commission or its staff serving on the Board.

Order - a written order of the Board evidencing its decision on an appeal or application.

Party - the following, as indicated:

(a) On appeals to the Board pursuant to §§ 3100.2 and 3200.2:

- (1) The appellant;
- (2) The person whose administrative decision is the subject of the appeal;
- (3) The owner, lessee, operator, or contract purchaser of the property involved in the administrative decision, if not the appellant;
- (4) The ANC for the area within which the property that is the subject of the appeal is located; and
- (5) Any other person who is permitted by the Board to intervene pursuant to § 3112.15;

(b) On applications to the Board pursuant to §§ 107.7, 3103, and 3104:

- (1) The applicant;
- (2) The ANC for the area within which the property is located; and
- (3) Any other person granted party status by the Board pursuant to § 3106.3.

Person - an individual, partnership, association, corporation, public agency, or other legal entity.

Presiding Officer - the Chairperson of the Board or the Chairperson pro tem of the Board.

3199.2 Except for the definitions in § 3199.1, the provisions of § 199.1 and the definitions set forth therein, shall be incorporated by reference in this section.

SOURCE: Final Rulemaking published at 46 DCR 7853, 7923-24 (October 1, 1999); Final Rulemaking published at 47 DCR 9347, 9352-53 (November 24, 2000); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8573 (October 20, 2000).

TITLE 11 - ZONING

CHAPTER 32 ADMINISTRATION AND ENFORCEMENT

Secs.

3200 GENERAL PROVISIONS

3201 PENALTIES

3202 BUILDING PERMITS

3203 CERTIFICATES OF OCCUPANCY

3204 [DELETED]

3205 COMPLIANCE WITH CONDITIONS IN ORDERS

3200 GENERAL PROVISIONS

3200.1 In accordance with § 11 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 801, as amended; D.C. Official Code § 6-610.10 (2001)(formerly codified at D.C. Code § 5-427 (1999 Supp.))), the Mayor shall administer and enforce the Zoning Regulations.

3200.2 In accordance with § 8 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 799, as amended; D.C. Official Code § 6-641.07(f)(2001)(formerly codified at D.C. Code § 5-424 (f)(1994 Repl.))), appeals to the Board of Zoning Adjustment may be taken by any person aggrieved, or organization authorized to represent that person, or by any officer or department of the District or federal government, affected by any decision of an administrative officer granting or refusing a building permit or granting or withholding a certificate of occupancy or any other administrative decision based in whole or part upon any Zoning Regulations or Zoning Maps adopted pursuant to the Zoning Act.

3200.3 The fee for any appeal or application made in accordance with the provisions of this chapter shall be as determined by the Mayor.

AUTHORITY: Unless otherwise noted, the authority for this chapter is the Zoning Act 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code §§ 6-641.01 to 6-641.15 (2001)(formerly codified at D.C. Code §§ 5-413 to 5-432 (1994 Repl. & 1999 Supp.)).

SOURCE: §§ 8101.1 and 8102.1 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8573-74 (October 20, 2000).

3201 PENALTIES

3201.1 As provided in § 10 of the Zoning Act (52 Stat. 797, 800, as amended; D.C. Official Code § 6-641.09 (2001)(formerly codified at D.C. Code § 5-426 (1994 Repl.))), the owner or person in charge of or maintaining any building or land, or any other person who erects, constructs, reconstructs, alters, converts, maintains, or uses any building or structure, or part of a building or structure, or land in violation of the provisions of this title shall, upon conviction for that violation, be punished by a fine of not more than one hundred dollars (\$100) per day for each and every day the violation continues.

3201.2 The Office of the Attorney General of the District of Columbia, or any neighboring property owner or occupant who would be specially damaged by any violation of this title, may, in addition to all other remedies provided by law, institute injunction or other appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use; or to correct or abate a violation; or to prevent the occupancy of the buildings, structure, or land.

SOURCE: §§ 8105.1 and 8105.2 of the Zoning Regulations, effective May 12, 1958; as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8574 (October 20, 2000).

3202 BUILDING PERMITS

3202.1 Except as provided in § 3202.5, 3202.7, or 3202.8, a building permit shall not be issued for the proposed erection, construction, conversion, or alteration of any structure unless the plans of and for the erection, construction, conversion, or alteration fully conform to the provisions of this title.

3202.2 To determine compliance with the provisions of this title, each application for a building permit shall be accompanied by any of the following that is deemed necessary:

- (a) Scaled drawings showing the:
 - (1) Exact shape, topography, and dimensions of the lot to be built upon;
 - (2) Plan, elevation, and location by dimensions of all existing and proposed structures, and the proposed use of those structures;
 - (3) Parking and loading plans and the basis for computation of those plans; and
 - (4) Other information necessary to determine compliance with this title; and

- (b) An official building plat, in duplicate, prepared by the Surveyor of the District of Columbia, upon which the applicant shall indicate in ink and to the same scale dimensions:
 - (1) All existing and proposed structures;
 - (2) The number, size, and shape of all open parking spaces, open loading berths, and approaches to all parking and loading facilities; and
 - (3) Other information necessary to determine compliance with the provisions of this title.

3202.3 Except as provided in the building lot control regulations for Residence Districts in § 2516 and § 5 of An Act to amend an Act of Congress approved March 2, 1893, entitled “An Act to provide a permanent system of highways in that part of the District of Columbia lying outside of cities,” and for other purposes, approved June 28, 1898 (30 Stat. 519, 520, as amended; D.C. Official Code, 2001 Ed. § 9-101.05 (formerly codified at D.C. Code § 7-114 (1995 Repl.))), a building permit shall not be issued for the proposed erection, construction, or conversion of any principal structure, or for any addition to any principal structure, unless the land for the proposed erection, construction, or conversion has been divided so that each structure will be on a separate lot of record; except a building permit may be issued for:

- (a) Buildings and structures related to a fixed right-of-way mass transit system approved by the Council of the District of Columbia;
- (b) Boathouse, yacht club, or marina that fronts on a public body of water, is otherwise surrounded by public park land, and is zoned W-0;
- (c) Any combination of commercial occupancies separated in their entirety, erected, or maintained in a single ownership shall be considered as one (1) structure;
- (d) Trapeze school and aerial performing arts center to be constructed pursuant to § 1804.7; and
- (e) A structure in the USN District to be constructed on an air rights lot that is not a lot of record.

3202.4 Except as provided in §§ 3202.8 through 3202.12, any construction authorized by a permit may be carried to completion pursuant to the provisions of this title in effect on the date that the permit is issued, subject to the following conditions:

- (a) The permit holder shall begin construction work within two (2) years of the date on which the permit is issued; and
- (b) Any amendment of the permit shall comply with the provisions of this title in effect on the date the permit is amended.

3202.5

If an application for a building permit is filed when the Zoning Commission has pending before it a proceeding to consider an amendment of the zone district classification of the site of the proposed construction, the processing of the application and the completion of work pursuant to the permit shall be governed as follows:

- (a) If the application is filed on or before the date on which the Zoning Commission makes a decision to hold a hearing on the amendment, the processing of the application and completion of the work shall be governed by § 3202.4. The application shall be accompanied by any fee that is required, and by the plans and other information required by § 3202.2, which shall be sufficiently complete to permit processing without substantial change or deviation, and by any other plans and information that are required to permit complete review of the entire application under any applicable District of Columbia regulations;
- (b) If the application is filed after the date on which the Zoning Commission has made a decision to hold a hearing on the amendment, the application may be processed, and any work authorized by the permit may be carried to completion, only in accordance with the zone district classification of the site pursuant to the final decision of the Zoning Commission in the proceeding, or in accordance with the most restrictive zone district classification being considered for the site;
- (c) For purposes of paragraph (b) of this section, the phrase "zone district classification being considered for the site" shall include any zone district classification that the Zoning Commission has decided to notice for adoption and the zone district classification that is in effect on the date the application is filed;
- (d) The limitation in paragraph (b) of this subsection shall not prevent the issuance of a building permit that is necessary in an emergency to protect the public health or safety; and
- (e) The limitation in paragraph (b) of this subsection shall not apply to a decision to hold a hearing on an application that is filed by an owner of property, pursuant to §102.2(a).

- 3202.6 All applications for building permits authorized by orders of the Board of Zoning Adjustment may be processed in accordance with the Zoning Regulations in effect on the date those orders are promulgated; Provided, that all applications for building permits shall be accompanied by the plans and other information required by § 3202.2, which shall be sufficiently complete to permit processing without substantial change or deviation.
- 3202.7 A building permit issued in accordance with §§ 3202.4 through 3202.6 shall not be renewable if permitted to lapse, unless it is reprocessed in accordance with all provisions of this title.
- 3202.8 Notwithstanding § 3202.4, a building permit application (including a foundation-to-grade permit application) (the Permit Application) for construction of a new one- (1) family dwelling or flat, or for construction of an addition or alteration to an existing one- (1) family dwelling or an existing flat not involving a conversion to an apartment house, or an addition or alteration to an existing apartment house in the R-4 Zone District shall be processed, and any work authorized by the permit may be carried to completion pursuant to the provisions of the R-4 regulations in place as of July 17, 2014, if:
- (a) The Permit Application was legally filed with, and accepted as complete by, the Department of Consumer and Regulatory Affairs prior to February 1, 2015; or
 - (b) The project has:
 - (1) An unexpired approval of a variance or special exception by the Board of Zoning Adjustment; or
 - (2) An unexpired approval of a design or concept design by the Historic Preservation Review Board (including a delegated approval made pursuant to 10-C DCMR §§ 319 through 321), or the Commission of Fine Arts; and
 - (3) The vote to approve the variance, special exception, design, or concept design or the delegated action occurred:
 - (A) Prior to June 26, 2015; or
 - (B) On or after June 26, 2015, and the application for the variance, special exception, design, or concept design was filed prior thereto.
- 3202.9 Notwithstanding § 3202.4, a building permit application (including a foundation-to-grade permit application) (the Permit Application) for construction involving the conversion of a one- (1) family dwelling or flat to an apartment house in the

R-4 Zone District shall be processed, and any work authorized by the building permit may be carried to completion pursuant to the provisions of the R-4 regulations in place as of July 17, 2014, if:

- (a) The Permit Application was legally filed with, and accepted as complete by, the Department of Consumer and Regulatory Affairs prior to July 17, 2014; or
- (b) The project has:
 - (1) An unexpired approval of a variance or special exception by the Board of Zoning Adjustment; or
 - (2) An unexpired approval of a design or concept design by the Historic Preservation Review Board (including a delegated approval made pursuant to 10-C DCMR §§ 319 through 321), or the Commission of Fine Arts; and
 - (3) The vote to approve the variance, special exception, design, or concept design or the delegated action occurred:
 - (A) Prior to June 26, 2015; or
 - (B) On or after June 26, 2015, and the application for the variance, special exception, design, or concept design was filed prior thereto.

3202.10 Notwithstanding § 3202.4 and except as provided in § 3202.11, a building permit application (including a foundation-to-grade permit application) (the Permit Application) for construction involving the conversion of an existing non-residential building to an apartment house in the R-4 Zone District shall be processed, and any work authorized by the building permit may be carried to completion pursuant to the provisions of the R-4 regulations in place as of July 17, 2014, if:

- (a) The Permit Application was legally filed with, and accepted as complete by, the Department of Consumer and Regulatory Affairs prior to June 26, 2015; or
- (b) The project has:
 - (1) An unexpired approval of a variance or special exception by the Board of Zoning Adjustment; or
 - (2) An unexpired approval of a design or concept design by the Historic Preservation Review Board (including a delegated

approval made pursuant to 10-C DCMR §§ 319 through 321), or the Commission of Fine Arts; and

- (3) The vote to approve the variance, special exception, design, or concept design or the delegated action occurred:
 - (A) Prior to June 26, 2015; or
 - (B) On or after June 26, 2015, and the application for the variance, special exception, design, or concept design was filed prior thereto.

3202.11 Notwithstanding § 3202.10, an applicant for a building permit described in § 3202.10 may choose to have its building permit application processed in accordance with the R-4 regulations in place as of June 26, 2015 by indicating its choice in writing as part of its building permit application. A Board of Zoning Adjustment application may be amended to reflect the applicant's intended choice.

3202.12 Notwithstanding § 3202.4, a building permit application (including a foundation-to-grade permit application) (the Application) for construction involving any penthouse other than as restricted in § 411.5 may be processed, and any work authorized by the building permit may be carried to completion, pursuant to the provisions of the roof structure regulations in place as of November 19, 2015, if the Application was legally filed with, and accepted as complete by, the Department of Consumer and Regulatory Affairs, and had received a Letter of Zoning Compliance from the Zoning Administrator prior to that date.

SOURCE: §§ 8103.1 through 8103.8 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 34 DCR 433 (January 16, 1987); Final Rulemaking published at 35 DCR 790 (February 5, 1988); Final Rulemaking published at 36 DCR 653 (January 20, 1989); Final Rulemaking published at 36 DCR 7827, 7828 (November 10, 1989); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8574-75 (October 20, 2000); as amended by Final Rulemaking published at 50 DCR 8826 (October 17, 2003); as amended by Final Rulemaking published at 51 DCR 263 (January 9, 2004); as amended by Final Rulemaking published at 51 DCR 3440 (April 2, 2004); as amended by Final Rulemaking published at 52 DCR 6358 (July 8, 2005); as amended by Final Rulemaking and Order No. 09-09 published at 56 DCR 8849 (November 13, 2009); as amended by Final Rulemaking and Order No. 09-21 published at 58 DCR 4788 (June 3, 2011); as amended by Final Rulemaking and Order No. 12-11 published at 60 DCR 8967 (June 14, 2013); as amended by Final Rulemaking and Order No. 14-11 published at 62 DCR 8883 (June 26, 2015); as amended by Final Rulemaking and Order No. 14-11(1) published at 62 DCR 12737 published at 62 DCR 12737 (September 25, 2015); as amended by Final Rulemaking and Order No. 14-13B published at 63 DCR 9533 (July 15, 2016).

3203 CERTIFICATES OF OCCUPANCY

3203.1 Except as provided in §§ 3203.7, 3203.8, 3203.9, or the second sentence of this subsection, no person shall use any structure, land, or part of any structure or land for any purpose until a certificate of occupancy has been issued to that person

stating that the use complies with the provisions of this title and the D.C. Construction Code, Title 12 DCMR. The requirements of this subsection shall not apply to:

- (a) A one-family dwelling; or
- (b) A community based residential facility to be occupied by six or fewer persons with a handicap plus resident supervisors, as permitted by right in residence and commercial districts pursuant 11 DCMR §§ 201.1 (f) and 330.5 (d).

3203.2 Certificates of occupancy shall not be required for separate apartments or bachelor apartments in an apartment house, tenements or apartments in a tenement house, or offices in an office building, if a certificate of occupancy is issued for the entire structure.

3203.3 Except in the case of a church, all certificates of occupancy shall be conspicuously posted in or upon the premises to which they apply so that they may be seen readily by anyone entering the premises.

3203.4 If the erection or alteration of a structure is contemplated, a certificate of occupancy for that structure shall not be issued until the erection or alteration is completed to the point of availability of occupancy for use, except as provided in § 3203.5.

3203.5 Where an alteration to a structure is required by law in order to effect compliance with regulations adopted pursuant to the Means of Egress Law, approved December 24, 1942 (56 Stat. 1083, as amended; D.C. Official Code §§ 6-703.03 to 6-703.09 (2001)(formerly codified at D.C. Code §§ 5-518 to 5-524 (1994 Repl.))), a certificate of occupancy for that structure may be issued prior to the alteration; Provided, that the use of the structure for which a certificate of occupancy is desired, if a new use, is not one that would require a greater amount of egress or fire protection facilities under the Means of Egress Law than is required for the use existing prior to the alteration.

3203.6 Any certificate of occupancy issued under the terms of §§ 3203.4 or 3203.5 shall be subject to compliance with regulations adopted pursuant to the Means of Egress Law.

3203.7 If an application for a certificate of occupancy is filed when the Zoning Commission has pending before it a proceeding to consider an amendment of the zone district classification of the site of the proposed use, the processing of the application, and the establishment of the occupancy, shall be governed as follows:

- (a) If the application is filed on or before the date on which the Zoning Commission makes a decision to hold a hearing on the amendment, the

processing of the application and completion of the work shall be governed by § 3203.8;

- (b) Except as otherwise provided in § 3203.11, if the application is filed after the date on which the Zoning Commission has made a decision to hold a hearing on the amendment, the application may be processed, and any use authorized by the certificate of occupancy may be established and maintained only in accordance with the most restrictive provision of the zone district classifications being considered for the site or in accordance with the zone district classifications of the site pursuant to the final decision of the Zoning Commission in the proceeding;
- (c) For purposes of paragraph (b) of this subsection, the phrase "zone district classifications being considered for the site" shall include any zone district classification that the Zoning Commission has decided to notice for adoption and the zone district classification that is in effect on the date the application is filed;
- (d) The limitation in paragraph (b) of this subsection shall not apply to a decision to hold a hearing on an application to amend the Zoning Regulations or Zoning Maps filed by an owner of property pursuant to § 102.2(a) of this title; and
- (e) The limitation in paragraph (b) of this subsection shall not apply to an application for a certificate of occupancy that only changes the identity of the owner or occupant and that does not change a use authorized by a certificate of occupancy that was issued either before the decision to hold a hearing on the amendment or pursuant to paragraph (a) of this subsection.

3203.8 Any use that is authorized by a certificate of occupancy may be established and continued pursuant to the terms of the certificate and the provisions of this title in effect on the date that the certificate is issued, subject to the following conditions:

- (a) The use shall be designated on the certificate of occupancy in terms of a use classification that is established by this title;
- (b) The use shall be established within six (6) months of the date on which the certificate is issued; and
- (c) Any amendment of the use authorized by the certificate shall comply with the provisions of this title in effect on the date that the certificate is amended.

3203.9 Applications for certificates of occupancy authorized by orders of the Board of Zoning Adjustment may be processed in accordance with the Zoning Regulations in effect on the date the orders were promulgated; provided, that all applications

for certificates of occupancy shall be accompanied by information sufficiently complete to permit processing without substantial change or deviation.

3203.10 Certificates of occupancy issued in accordance with §§ 3203.7, 3203.8, or 3203.9 shall not be renewable if permitted to lapse unless processed in accordance with all provisions of this title.

3203.11 This subsection shall govern the issuance of a certificate of occupancy for the use of a structure, or part thereof, if the establishment of the use is dependent upon the erection, construction, conversion, or alteration of the structure, or part thereof; provided:

- (a) The use authorized shall be designated as a proposed use at the time of application for the building permit on which the use depends;
- (b) A building permit shall be issued in compliance with § 3202;
- (c) At the time of issuance of the building permit that is required by this subsection, the proposed use shall be designated in a provisional certificate of occupancy; and
- (d) The use designated in the provisional certificate of occupancy shall comply with all provisions of this title in effect on the date on which the building permit required by this subsection is issued.

3203.12 An Electronic Equipment Facility (EEF) that occupied at least fifty percent (50%) of the gross floor area of the space owned or leased within a building by the EEF for EEF use on October 16, 2000, pursuant to a valid certificate of occupancy, but for which a building permit or certificate of occupancy has not yet been issued for the entire owned or leased space, shall be permitted to complete construction and occupancy within the entire owned or leased space as a matter-of-right, provided that the use is registered with the Zoning Administrator within ninety (90) days after the effective date of this section.

SOURCE: §§ 8104.1 through 8104.10 of the Zoning Regulations, effective May 12, 1958; as amended by: Final Rulemaking published at 34 DCR 433 (January 16, 1987); Final Rulemaking published at 36 DCR 653, 654 (January 20, 1989); Final Rulemaking published at 36 DCR 7827 (November 10, 1989); Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8575-76 (October 20, 2000); Final Rulemaking published at 48 DCR 9830, 9841 (October 26, 2001); Final Rulemaking published at 55 DCR 761 (January 25, 2008); as amended by Final Rulemaking and Order No. 09-16 published at 57 DCR 2961 (April 2, 2010).

3204 [DELETED]

SOURCE: Final Rulemaking published at 39 DCR 8312, 8322 (November 13, 1992); 57 DCR 000126 (2010).

3205 COMPLIANCE WITH CONDITIONS IN ORDERS

- 3205.1 The provisions of this section shall apply when a building permit or certificate of occupancy has been issued under the authority of an order of the Board of Zoning Adjustment or the Zoning Commission, and the order of the Board or Commission sets forth any condition to the issuance of the building permit or certificate of occupancy, or to the approval of a variance, special exception, or planned unit development.
- 3205.2 If the order of the Board or Commission conditions the issuance of a building permit or certificate of occupancy upon the recordation of a covenant, then, for purposes of §§ 3205.4 and 3205.5, each term and condition in the covenant shall be treated as a condition to the issuance of the building permit or the certificate of occupancy.
- 3205.3 If a building permit or certificate of occupancy has been issued under the authority of a decision of the Board to approve a special exception or variance, then for purposes of §§ 3205.4 and 3205.5, each condition to the approval of the special exception or variance shall be treated as a condition to the issuance of the building permit or certificate of occupancy.
- 3205.4 Any person who owns, controls, occupies, maintains, or uses any building, structure, or land, or any part of any building, structure, or land, shall at all times comply with any condition to the issuance of the certificate of occupancy for the building, structure, or land, or part thereof.
- 3205.5 Any person who erects, constructs, reconstructs, alters, converts, owns, controls, occupies, maintains, or uses any building, structure, or any part of any building or structure shall at all times comply with any condition to the issuance of the building permit for the building, structure, or part thereof.

SOURCE: Final Rulemaking published at 34 DCR 2699 (April 24, 1987); as amended by Final Rulemaking published at 38 DCR 612, 646 (January 18, 1991); and Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8576 (October 20, 2000).

TITLE 11 – ZONING

CHAPTER 33 - SAINT ELIZABETHS EAST CAMPUS (StE) DISTRICT

Secs.

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3301 GENERAL PROVISIONS AND APPLICABILITY

3301.1 The Saint Elizabeths East Campus (StE) District is a unique location district created to implement the public policy goal and objectives of the Comprehensive Plan, the St. Elizabeths Redevelopment Framework Plan, as approved by the Council of the District of Columbia on December 16, 2008, and the Saint Elizabeths East Master Plan and Design Guidelines, June 4, 2012.

3301.2 The StE District shall apply to Lot 2 in Square S-5868, which comprises the area historically referred to as the Saint Elizabeths East Campus, and generally bounded by the Unified Communications Center to the north; open space and the

St. Elizabeths Psychiatric Hospital the east; Alabama Avenue and the residential community to the south; and Martin Luther King, Jr., Avenue to the west.

- 3301.3 The StE District shall constitute the Zoning Regulations for the geographic area referred to in § 3301.2. Where there are conflicts between this chapter and other chapters of this title, the provisions of the StE District shall govern.

3302 PURPOSES

- 3302.1 The StE District is intended to provide for the development of this site with a mix of uses, achieved through the adaptive reuse of existing buildings as well as new construction.

- 3302.2 The StE District is intended to provide for a broad mix of uses, including residential, commercial, hospitality, educational, and civic uses consistent with the Master Plan, with a target of approximately four million two hundred thousand (4,200,000) square feet of development, exclusive of the StE-2, StE-18, and StE-19 subdistricts and specified above-grade parking.

- 3302.3 The purposes of the StE District are to:

- (a) Improve community connectivity and access to and through the campus;
- (b) Enhance the unique and historic identity of the campus;
- (c) Reinvigorate the campus as an important neighborhood center;
- (d) Preserve and adaptively reuse the historic resources;
- (e) Embody the District's design and sustainability goals;
- (f) Create a safe public realm and enhanced pedestrian experience;
- (g) Enhance multi-modal transportation networks;
- (h) Support wider economic development initiatives; and
- (i) Ensure a parking supply that meets the needs of the St Elizabeths site while minimizing impacts on surrounding neighborhoods and incurring acceptable impacts on the surrounding road network.

- 3302.4 Land Use and Urban Design principles for the StE District include:

- (a) Create a safe environment by providing for a mix of uses and open spaces that are capable of being programmed to ensure vitality and social activity;
- (b) Create a desirable development opportunity by providing for flexibility in uses and appropriate building heights and densities;

- (c) Provide street-activating uses such as retail on the ground floor of buildings along designated public streets;
- (d) Recognize the unique and historic characteristics of the site and provide for the appropriate reuse of the historic buildings and new development that will respect the site's historic nature;
- (e) Design and site new development sensitively to preserve existing gateways, vistas, and campus landmarks;
- (f) Create focal points to help establish a unique sense of place and orientation;
- (g) Provide for significant open space, including community parks, plazas, and natural open space on the site;
- (h) Provide for the preservation of the existing ravine within subdistrict StE-19 in its current, natural state; and
- (i) Promote the use of best practice environmental and stormwater management design.

3303 USES

3303.1 The following use categories are applicable to the StE District:

- (a) Agriculture - The on-site cultivation, or maintenance of plants, or the breeding or keeping of animals and livestock intended for personal use or eventual sale or lease off-site, including but not limited to: farm, truck garden, beekeeping, greenhouse, dairy, horticultural nursery, or community garden;
- (b) Animal Sales, Care, and Boarding - The on-site sale, medical care, or short term boarding of animals for a fee, which may include licensed veterinary practices such as medicine, surgery, or dentistry for animals, the provision of animal services such as grooming, training, or care-taking, including but not limited to pet shop, veterinary clinic or hospital, pet grooming establishment, dog day care center, animal boarding facility, animal sales establishment, or animal shelter;
- (c) Antennas - Any structure involving conducting, transmitting, or receiving communication signals, encompassing the portions of the structure responsible for signal transmission and reception, any associated towers, commercial broadcast antenna, mobile telecommunication antenna, microwave dish, satellite earth station, whip, or yagi antennas immediately related support and stabilizing elements, and rotating or other directional mechanisms;

- (d) Arts Design and Creation - The on-site design, rehearsal, or creation of visual, auditory, or performance art. This use may encompass work space for artists, artisans, or craftsmen practicing fine arts or applied arts or crafts, and may include the sale of items created on the site; including but not limited to artist studio, artisan production including kiln-fired, metal-working, wood-working, furniture making and glass-blowing arts, photographic studio, recording studio, radio, or broadcasting studio, or arts incubator;
- (e) Basic Utilities - The commercial or governmental generation, transmission, distribution, or storage of energy, water, stormwater, cable, or telecommunication-related information, commonly taking the form of infrastructure services which are provided city-wide including but not limited electrical sub-station, telephone exchange, optical transmission node, electronic equipment facility, sewer plant, water treatment plant, methods and facilities for renewable energy generation, or utility pumping station;
- (f) Chancery - The principal offices of a foreign mission used for diplomatic or related purposes, and annexes to such offices (including ancillary offices and support facilities), including the site and any building on such site that is used for such purposes;
- (g) Community-based Institutional Facility - Monitored care to individuals who have a common need for treatment, rehabilitation, assistance, or supervision in their daily living; have been assigned to the facility; or are being detained by the government, other than as a condition of probation, including, but not limited to, adult rehabilitation home, youth rehabilitation home, or detention or correctional facilities;
- (h) Daytime Care - The non-residential licensed care, supervision, counseling, or training, for a fee, of individuals who are not related by blood, adoption, or marriage to the caregiver, and who are present on the site for less than 24 hours per day, including, but are not limited to: child care centers and programs, pre-schools, nursery schools, before-and-after school programs, or elder care centers and programs;
- (i) Education – Education and academic institutions that provide District or state mandated basic education or educational uses of higher learning which offer courses of general or specialized study leading to a degree as well as accessory play areas, dormitories, cafeterias, recreational, or sports facilities; including, but not limited to, private schools, public or charter schools at the elementary, middle, junior high, or high school level; colleges, community colleges, universities, or boarding schools;
- (j) Emergency Shelter - Any use providing thirty (30) days or less of temporary housing to indigent, needy, homeless, or transient individuals as

well as providing ancillary services such as counseling, vocational training, or similar social and career assistance;

- (k) Entertainment, Assembly, and Performing Arts - Facilities designed primarily for public assembly that enables patrons to experience visual, auditory, performance, or literary arts; attend sporting events or conferences; or participate in active leisure activities, typically characterized by activities and structures that draw large numbers of people to specific events or shows, including, but not limited to bowling alley, miniature golf, movie theatre, concert hall, or stadium;
- (l) Food and Alcohol Services - The sale of food, alcoholic drinks, or refreshments prepared on the premises and sold to customers for immediate consumption on or off the premises, including, but not limited to: prepared food shop, café, delicatessen, restaurant, fast food establishment, bar, nightclub, ice cream parlor, or coffee shop;
- (m) Health Care - The on-site licensed provision of medical diagnosis, treatment, or prevention of illness or disease of humans, or medical or surgical care to patients including, but not limited to: dentist, doctor, optician, hospitals, clinics, or medical offices;
- (n) Institutional - Any non-governmental use involving the public assembly of people or provision of services for social, cultural, or religious purposes and which may include uses of a public, nonprofit, or charitable nature generally providing local service on-site to people of a local community, including, but not limited to, private clubs, private libraries, non-profit social service providers, or religious facilities;
- (o) Large Scale Government - Any use involving services owned, managed, or provided by a governmental entity and associated with providing regional or wider services, including, but are not limited to: airports, jails, truck dispatch facilities or police/fire training facilities;
- (p) Local Government - Services owned, managed, or provided by local government and associated with providing neighborhood-scaled services to meet the community needs of the directly adjacent areas, including, but not limited to: public community centers, police stations, libraries, or fire stations;
- (q) Lodging - Temporary housing for an agreed upon term of less than thirty (30) consecutive days; offered to the public for compensation, and open to transient rather than permanent guests, including, but not limited to, hotels, motels, inns, or bed and breakfast establishments;
- (r) Motor Vehicle-related - On-site sale, rental, service, maintenance, or refueling of motor vehicles or their components. These uses include the sale, installation or repair of parts, components, accessories, or fuel for

motor vehicles, including, but not limited to, gas service station, auto repair facility, carwash, automobile sales, boat sales, or motorcycle sales;

- (s) Office - On-site administrative, business, professional, research, or laboratory-based activities. These uses are characterized by activities in an office setting that focus on the provision of off-site sale of goods or on-site information-based services, usually by professionals, including, but not limited to, real estate agency, law firm, accounting firm, advertising agency, stockbrokerage firm, or laboratory;
- (t) Open Space - Land that is intended to be preserved in a largely natural state;
- (u) Parking - The on-site short- or long-term storage of motor vehicles, including surface lots or within structures, including, but not limited to: parking accessory to another use, public parking lot, public parking garage, and private garage;
- (v) Parks and Recreation - Publicly accessible passive or active open space or a structure or facility under the jurisdiction of a public agency that is used for community recreation activities, including, but not limited to: public plazas, parks, outdoor recreation, community gardens, areas devoted to recreational activities such as picnicking, boating, fishing, bicycling, tennis, or swimming, and structures or other recreation facilities such as auditorium, multi-purpose room, gymnasium, meeting space, open space, playground, playing court, golf course, playing field, or swimming pool, with associated accessory uses such as kitchen facilities;
- (w) Production, Distribution, Light Industrial, and Repair - The on-site production, distribution, repair, assembly, processing, or sale of materials, products, innovative technology, or goods intended for a wholesale, manufacturing, or industrial application, including, but not limited to, centralized services or logistics for retail uses, wholesale goods establishments, outdoor material storage, warehouse, ground shipping facility, or wholesale sales;
- (x) Residential - Any use offering habitation to one or more households on a continuous basis established by tenancy with a minimum term of a month or property ownership, including, but are not limited to: single dwelling unit, multiple dwelling units. This use category includes residential facilities that provide housing and supervision for persons with disabilities, which may include twenty-four- (24-) hour on-site supervision, lodging, and meals for individuals who require supervision within a structured environment, and which may include specialized services such as medical, psychiatric, nursing, behavioral, vocational, social, or recreational services, including but not limited to community residence facilities, retirement

homes, substance abusers' home, youth residential care home, assisted living facility, floating homes, and other residential uses;

- (y) Retail - The on-site sale of goods, wares, or merchandise directly to the consumer or persons without a resale license, typically to individuals in small quantities for their direct use, including, but not limited to, uses such as antique shop, drugstore, department store, card shop, grocery store, jewelry store, fabric store, or pawn shop but not including firearm sales;
- (z) Service - The contracting of work that does not necessarily result in a tangible commodity, typically providing personal services or small-scale product repair or services for consumer and business goods on-site, including, but not limited to: bank, appliance repair, travel agency, fitness center, yoga studio, shoe repair, tailor, or parcel delivery service; and
- (aa) Transportation Infrastructure - Structures or conveyances designed for individual mode or multimodal public transportation purposes, including, but not limited to: land or facilities for the movement or storage of transportation system components, streetcar or bus passenger depots, transportation rights of way, Metro stations, mass transit stations, bus stops, bicycle paths, bus transfer stations, accessways, airports, bicycle facilities, multi-use paths, pedestrian connections, or streets.

3303.2 The uses listed in § 3303.1 shall be permitted by-right in all subdistricts of the StE District, except as limited in §§ 3303.3 to 3303.8.

3303.3 Within the StE-19 subdistrict, no use is permitted except for Open Space and Transportation Infrastructure.

3303.4 Uses permitted within the StE-10 and StE-14a subdistricts shall be in accordance with the R-4 use provisions of 11 DCMR § 330 which includes but is not limited, to rowhouses, flats, attached or detached dwellings, and other uses compatible with a low to moderate density residential zone.

3303.5 Accessory uses, buildings, or structures customarily incidental and subordinate to the principal uses permitted in § 3302 shall be permitted in any StE District except StE-19 as a matter of right, subject to the limitations in chapter 25 of this title.

3303.6 Preferred uses described in § 3305 shall be provided in accordance with the provisions of that section.

3303.7 The following uses shall be permitted in the StE District as a special exception if approved by the Board of Zoning Adjustment pursuant to the general standard of § 3104, the criteria set forth in § 3304 and the specific conditions stated below:

- (a) Emergency shelter for five (5) to fifteen (15) persons, not including resident supervisors or staff and their families, subject to the standards and requirements of § 305; and
- (b) Community Based Institutional Facilities for seven (7) to fifteen (15) persons, not including resident supervisors or staff and their families, subject to the standards and requirements for Youth and Adult Rehabilitation Homes of § 306.

3303.8 The following uses are prohibited within the StE District as either a principal or an accessory use:

- (a) Any establishment that has as its principal use the administration of massages;
- (b) Any industrial use first permitted in the M District;
- (c) Correctional Facility;
- (d) Drive-through establishment, where goods are sold/rented or services rendered, directly to occupants of motor vehicles while in the vehicles;
- (e) Firearm Sales, including gun store, ammunition sales, pawn shop carrying guns, or weaponry store;
- (f) Self-service storage establishment that provides separate storage areas for individual or business uses;
- (g) Sexually-oriented business establishment;
- (h) Vehicle repair and servicing, including full-serve and mini-serve gas stations, unattended key card stations, car washes, quick lubrication services, and vehicle emission test sites; and
- (i) Vehicle sales.

3304 SPECIAL EXCEPTION GENERAL PROVISIONS

3304.1 In addition to the general standards set forth in § 3104, an applicant for a special exception to establish a Community Based Institutional Facility pursuant to § 3303.7 shall demonstrate that:

- (a) The proposal addresses any conditions pertaining to that use as detailed in this chapter;
- (b) Noise and other potential impacts associated with the operation of a proposed use shall not adversely affect adjacent or nearby uses;

- (c) Traffic conditions associated with the operation of a proposed use shall not adversely affect adjacent or nearby uses; and
- (d) The proposed building will comply with the applicable ground floor use.

3305 PREFERRED USE REQUIREMENTS

3305.1 Preferred uses shall include any use within the Arts, Design & Creation; Food & Alcohol Services; Retail; or Service use categories described in § 3303.1.

3305.2 Each building that faces the following streets or locations in the following subdistricts shall devote not less than fifty percent (50%) of the gross floor area of the ground floor to preferred uses:

- (a) StE-3, facing Martin Luther King Jr. Avenue S.E., Cypress Street S.E., or Sycamore Street S.E., and the park;
- (b) StE-7, facing Martin Luther King Jr. Avenue S.E., Cypress Street S.E., or Dogwood Drive S.E., or Oak Drive S.E.;
- (c) StE-14b, facing Dogwood Drive S.E., Oak Drive S.E., or the southwest corner;
- (d) StE-15, facing Dogwood Drive S.E., 13th Street S.E., Oak Drive S.E., or the park;
- (e) StE-16, facing 13th Street S.E. and the southwest corner; and
- (f) StE-17, facing Dogwood Drive S.E., 13th Street S.E., or Oak Drive S.E.

3305.3 Not less than fifty percent (50%) of the surface area of the street wall, including building entrances, of those building frontages described in § 3305.2 shall be devoted to doors or display windows having clear or low emissivity glass.

3305.4 Preferred uses shall provide direct, exterior access to the ground level.

3305.5 The minimum floor-to-ceiling height for portions of the ground floor level devoted to preferred uses shall be fourteen feet (14 ft.).

3305.6 Ground floor area required for preferred uses may not be transferred to any other lot through the Combined Lot Development procedures of § 3307.

3305.7 For good cause shown, the Board of Zoning Adjustment may authorize interim occupancy of the preferred use space required under § 3305.2 by other uses permitted in the StE District for up to a five (5) year period, provided that:

- (a) The ground-floor space is suitably designed for future occupancy by preferred uses;

- (b) The proposed use is compatible with the surrounding uses; and
- (c) It can be demonstrated that a preferred use cannot be accommodated due to market conditions.

3306 FLOOR-AREA-RATIO (FAR), HEIGHT, LOT OCCUPANCY, REAR YARD SETBACK, MINIMUM LOT AREA, AND SETBACKS

3306.1 The StE District is divided into the StE-1 through StE-19 Districts for the purpose of floor area ratio (FAR), lot occupancy, and building height.

3306.2 Except as provided in this section, the FAR, height of a building or structure, not including a penthouse, lot occupancy, and rear yard in a StE Zone District shall not exceed or be less than that set forth in the following table:

Zone District	FAR (Max.)	FAR Required Residential (Min.)	FAR Above Grade Parking (Max.)	Height (Max. Ft.)	Lot Occupancy (Max. %)	Rear Yard (Min. Ft.)
StE-1	0.20	-	-	25	25	-
StE-2	4.00	-	-		75	-
StE-3	2.50	-	-	80	60	-
StE-4	0.50	-	-	25	60	-
StE-5	1.50	-	-	65	60	-
StE-6	3.20	1.60	-	90	75	-
StE-7	1.50	1.00	§ 3306.3	§ 3306.4	60	-
StE-8	0.40	-	-	25	60	-
StE-9	1.50	-	-	65	60	-
StE-10	1.50	-	-	40	60	20
StE-11	0.70	-	-	25	60	-
StE-12	3.00	1.50	-	80	75	-
StE-13	3.20	1.60	-	90	75	-
StE-14a	1.50		-	40	60	20
StE-14b	1.50	1.00	-	40	60	20
StE-15	2.00	1.00	§ 3306.3	80	75	-
StE-16	3.20	1.60	-	90	75	-
StE-17	0.50	-	§ 3306.3	70	60	-
StE-18	4.00	-	-	90	75	-
StE-19	0.00	-	-	0	n/a	-

3306.3 FAR for structured parking located above grade is regulated as follows:

- (a) : In addition to the FAR permitted by § 3306.2, additional FAR for above grade parking is permitted as follows
 - (1) Within the StE-7 subdistrict – 1.0 FAR;
 - (2) Within the StE-15 subdistrict – 1.0 FAR; and

(3) Within the StE-17 subdistrict – 2.0 FAR;

- (b) Any of the FAR permitted under § 3306.3(a) that is not used for above grade parking may be utilized for any other use permitted within that zone;
- (c) Any above-grade parking shall conform to the standards of § 3309; and
- (d) This density may not be transferred through the Combined Lot Provisions of § 3307 to another parcel.

3306.4 Maximum permitted height within the StE-7 subdistrict is as follows:

- (a) For a distance of two-hundred fifty feet (250 ft.) measured from the north property line bounding Cypress Street, the maximum permitted height shall be eighty feet (80 ft.); and
- (b) For the remainder of this parcel, the maximum permitted height shall be fifty feet (50 ft.).

3306.5 The height and FAR limits of §3306.2 shall serve as the maximums permitted under a planned unit development (PUD).

3306.6 The minimum lot area for row dwellings in any StE District shall be one thousand eight hundred square feet (1,800 s.f.) with a minimum lot width of eighteen feet (18 ft.).

3306.7 No part of a building within the StE-6, StE-13, and StE-16 subdistricts shall project above a plane drawn at a forty-five degree (45⁰) angle from a line located seventy-five feet (75 ft.) directly above the eastern property line that abuts the ravine.

3306.8 Buildings within the StE-17 and StE-18 subdistricts shall be set back not less than ten feet (10 ft.) from the property line that abuts Alabama Avenue and 13th Street.

3306.9 No part of a building within the StE-17 and StE-18 subdistricts shall project above a plane drawn at a forty-five degree (45⁰) angle from a line located fifty feet (50 ft.) directly above the property line that abuts Alabama Avenue.

SOURCE: As amended by Final Rulemaking and Order No. 14-13 published at 63 DCR 390 (January 8, 2016).

3307 COMBINED LOTS

3307.1 Except for lots located in the StE-2, StE-10, StE-14a, StE-14b, StE-18, or StE-19 subdistrict, two (2) or more lots in one (1) or more StE subdistrict(s) may be combined for the purpose of achieving the minimum required FAR equivalent of residential uses, subject to the following:

- (a) The lots may be located in the same StE subdistrict or in different StE subdistricts;
- (b) The lot(s) receiving residential gross floor area need not be located in a StE subdistrict with a residential requirement; and
- (c) The total height and density limits of the subdistricts shall not be exceeded.

3307.2 No allocation of gross floor area shall be effective unless an instrument, legally sufficient to effect such a transfer, is filed with the Zoning Administrator and recorded by the Recorder of Deeds in the land records against all lots included in the combined lot development.

3307.3 The instrument shall be in the form of a declaration of covenants that:

- (a) Is signed by the owners of all affected parcels;
- (b) Runs with the land in perpetuity;
- (c) Burdens all parcels involved in the allocation of gross floor area; and
- (d) States the maximum permitted gross floor areas for all uses in all parcels, the maximum allowed gross floor area for nonresidential uses in all parcels and the gross floor area of nonresidential uses allocated. The covenant shall further state that, after the transfer, the combined lots conform with the maximum gross floor area limitations.

3307.4 The declaration of covenants shall expressly state that it may be substantively amended or terminated only with the approval of the Zoning Administrator.

3307.5 The declaration of covenants shall be approved in content by the Zoning Administrator and certified for legal sufficiency by the Office of the Attorney General. The declaration shall also contain a written statement by the Director of the D.C. Office of Planning attesting to:

- (a) The lots' eligibility to allocate residential and nonresidential uses;
- (b) The accuracy of the computations with respect to the amount of residential and nonresidential uses allocated; and
- (c) Whether, after the transfer, the combined lots will conform with the maximum gross floor area limitations for the lots before any such transfer.

SOURCE: Final Rulemaking and Order No. 12-08A published at 63 DCR 4084 (March 18, 2016).

3308 INCLUSIONARY ZONING

- 3308.1 All residential development is subject to Inclusionary Zoning and shall be constructed according to the provisions set forth in chapter 26 except for § 2604.
- 3308.2 The FAR, lot occupancy, and height maximums of § 3306.2 shall serve as the maximum permitted density for buildings and structures within each subdistrict including for the provision of inclusionary units.

3309 OFF-STREET PARKING

- 3309.1 The cumulative total of all parking spaces, including below-grade, surface, and above-grade structured parking, shall not exceed a total of four thousand eight hundred (4,800) parking spaces, exclusive of parking on the StE-2 or StE-18 subdistricts, existing surface parking lots, historic structures, and any parking associated with existing District of Columbia Government facilities.
- 3309.2 Each application to the Department of Consumer and Regulatory Affairs for a development that includes above-grade or below-grade structured parking or surface parking shall provide an accounting of the total number of parking spaces within the StE District which count towards the four thousand eight hundred (4,800) parking space limit.
- 3309.3 Additional parking spaces beyond the four thousand eight hundred (4,800) space limit shall be permitted by special exception by the Board of Zoning Adjustment pursuant to § 3104 and in accordance with the provisions of § 3304.2 and 3304.3, provided that the applicant addresses compliance with the following standards:
- (a) The application shall include a detailed accounting of the existing and proposed number and locations of parking spaces provided pursuant to § 3309.1; and shall also include a traffic study assessing the impacts of the proposed additional parking spaces on local traffic patterns for referral to and comment by the District Department of Transportation;
 - (b) The applicant shall include a transportation demand management (TDM) plan, as well as District Department of Transportation analysis of the TDM plan. The parameters of the analysis shall be outlined by the District Department of Transportation; and
 - (c) Vehicular access and egress will be located and designed so as to encourage safe and efficient pedestrian movement, minimize conflict with principal pedestrian ways, function efficiently, and create no dangerous or otherwise objectionable traffic conditions.
- 3309.4 For any application pursuant to § 3309.3:
- (a) The Board shall judge, balance, and reconcile the need for additional on-site parking against any adverse impacts the presence of the parking will

have on traffic, and the aesthetics and development of the surrounding neighborhood; and

- (b) The Board may impose requirements pertaining to design, appearance, signs, massing, landscaping, and other such requirements as it deems necessary to protect neighboring property and to achieve the purposes of the StE District.

3309.5 Any additional commuter parking, beyond parking that may exist as of (*date of enactment*) within the StE-18, shall be for the exclusive use of residents of, employees within, or visitors to the StE District or Federal employees of the adjacent Saint Elizabeths West Campus.

3309.6 Parking spaces shared by more than one use is permitted.

3309.7 Parking spaces need not be located on the same lot as the building or buildings they are intended to serve, but must be located on a lot within the StE District other than the StE-18 or StE-19 subdistrict.

3309.8 Parking spaces shall not be located between a street right-of-way line and the more restrictive of either a building façade or a line extending from and parallel to a building façade. A building used solely as a parking attendant shelter shall not trigger this restriction.

3309.9 Parking spaces provided within a structure shall be located at least twenty feet (20 ft.) from all lot lines that abut public streets, unless the surface of the parking spaces is at least ten feet (10 ft.) below grade, at all points along the building frontage.

3309.10 Parking spaces within an above-grade structure along 13th Street, Dogwood Street, and Sycamore Street shall be lined with preferred uses as defined in § 3305.1 on the ground floor to a depth of thirty feet (30 ft.) minimum.

3309.11 All parking spaces, other than mechanical parking spaces shall be accessible at all times from a driveway accessing either an improved street or an improved alley or alley system with a minimum width of ten feet (10 ft.).

3309.12 Parking spaces provided within a mechanized parking system need not meet the accessibility requirement of § 3309.10 as long as the mechanized parking system does.

3309.13 Parking spaces and drive aisles shall be designed in accordance with the standards of 11 DCMR chapter 21 of this title.

3309.14 Where other options for access to parking spaces exist, such as from an alley or a different street, access to parking shall not be from a section of street where preferred uses are required in accordance with § 3305; or from Martin Luther King Jr. Avenue, S.E., Dogwood Street, 13th Street, or Oak Drive.

3309.15 Approval of a driveway under this chapter shall not be interpreted to imply permission for a curb cut in public space. An applicant for a driveway with a curb cut in public space shall have the responsibility to obtain all other necessary approvals and permissions.

3310 LOADING

3310.1 Loading requirements for each use shall be as prescribed in chapter 22, § 2201, 2203, and 2204 of this title.

3310.2 Where other options for access to parking spaces exist, such as from an alley or a different street, access to loading shall not be from a section of street where preferred uses are required in accordance with § 3305; or from Martin Luther King Jr. Avenue, S.E., Dogwood Street, 13th Street, or Oak Drive.

3310.3 Loading entrances shall not be located closer than forty feet (40 ft.) from the intersection of an alley and public street as measured from the intersection of the curb lines extended.

3310.4 Loading entrances shall not be located closer than forty feet (40 ft.) from the nearest intersection of a street as measured from the intersection of the curb lines extended.

3310.5 Loading entrances shall make use of architectural treatments, to mitigate visual impacts.

3310.6 Access points requiring a curb cut should be a sufficient distant from any street intersection so as not to disrupt traffic flow.

3311 BICYCLE PARKING

3311.1 The bicycle parking standards of this chapter apply to all newly constructed buildings.

3311.2 Bicycle parking spaces shall be provided in accordance with § 2119 of this title.

3312 PENTHOUSES

3312.1 The provisions of § 411 shall apply to penthouses in the StE Zone Districts.

3312.2 A penthouse may be erected to a height in excess of that permitted in § 3301 but shall not exceed the height, as measured from the surface of the roof upon which the penthouse sits, in the following table:

ZONE DISTRICT	MAXIMUM PENTHOUSE HEIGHT	MAXIMUM PENTHOUSE STORIES
StE-1, StE-4, StE-8, StE-10, StE-11, StE-14, StE-7 pursuant to § 3301.4(b)	12 ft. except 15 ft. for penthouse mechanical space	1; second story permitted for penthouse mechanical space
StE-2, StE-5, StE-9	12 ft. except 18 ft. 6 in. for penthouse mechanical space	1; second story permitted for penthouse mechanical space
StE-3, StE-12, StE-15, StE-17 StE-7 pursuant to § 3301.4(a)	20 ft.	1; second story permitted for penthouse mechanical space
StE-6, StE-13, StE-18	20 ft.	1 plus mezzanine; second story permitted for penthouse mechanical space

SOURCE: Final Rulemaking and Order No. 12-08 published at 60 DCR 4834 (March 29, 2013); as amended by Final Rulemaking and Order No. 14-13 published at 63 DCR 390 (January 8, 2016).

CHAPTER 34 – GREEN AREA RATIO

Secs.

3400	INTRODUCTION TO GREEN AREA RATIO
3401	APPLICABILITY OF GREEN AREA RATIO STANDARDS
3402	CALCULATION OF GREEN AREA RATIO
3403	LANDSCAPE ELEMENT CONDITIONS FOR GREEN AREA RATIO
3404	SUBMITTAL REQUIREMENTS FOR GREEN AREA RATIO
3405	SPECIAL EXCEPTIONS FOR GREEN AREA RATIO
3406	MAINTENANCE REQUIREMENTS FOR GREEN AREA RATIO

3400 INTRODUCTION TO GREEN AREA RATIO

3400.1 Green Area Ratio (GAR) is the ratio of the weighted value of landscape elements to land area. The GAR score relates to an increase in the quantity and quality of environmental performance of the urban landscape.

3400.2 Green Area Ratio sets integrated environmental requirements for landscape elements and site design that contribute to the reduction of stormwater runoff, the improvement of air quality, and the mitigation of the urban heat island effect.

3400.3 The purposes of the GAR regulations are to:

- (a) Implement a value-based system of requirements for environmental site design that provides flexibility in meeting environmental performance standards; and
- (b) Promote attractive and environmentally functional landscapes.

3400.4 The purpose of this chapter is to:

- (a) Provide general guidance about the regulation of GAR requirements;
- (b) Define the applicability of GAR;
- (c) Set forth the formula for calculating the GAR and define its component parts;

- (d) Identify those landscape elements that are included in the GAR, explain how their area is measured, and set forth eligibility conditions;
- (e) Establish multipliers for each eligible landscape element;
- (f) Indicate what plans and certifications must accompany an application submitted to demonstrate proof of GAR compliance; and
- (g) Establish maintenance requirements for the landscape elements that are provided as part of a property's GAR requirement.

3401 APPLICABILITY OF GREEN AREA RATIO STANDARDS

3401.1 The requirements of this chapter shall become applicable October 1, 2013.

3401.2 Except as provided in § 3401.3 and pursuant to the conditions and requirements of this chapter, properties in zones listed in the following table shall provide a GAR as specified in the following table:

ZONE DISTRICT	GREEN AREA RATIO
R-5-A and R-5-B	0.40
R-5-C, R-5-D and R-5-E C-1, C-2-A, C-2-B, C-2-B-1, and C-2-C W-1, W-2, W-3 SP-1, SP-2	0.30
C-3-A, C-3-B	0.25
C-3-C, C-4, C-5, CR and any property within the DDD overlay	0.20
CM-1, CM-2, CM-3, and M, <ul style="list-style-type: none"> • all structures except one story warehouses • one story warehouses 	<ul style="list-style-type: none"> • 0.30 • 0.10

3401.3 The GAR standards set forth in this chapter shall apply to all new buildings and to all existing buildings where any additions, interior renovations, or both within any twelve (12) month period exceed one hundred percent (100%) of the assessed value of the building as set forth in the records of the Office of Tax and Revenue as of the date of the building permit application, except:

- (a) Buildings that do not require certificates of occupancy;
- (b) Municipal wastewater treatment facilities operated by the District of Columbia Water and Sewer Authority;

- (c) The interior renovation of an existing building that:
 - (1) Is located in the Central Employment Area;
 - (2) Has an existing one hundred percent (100%) lot occupancy prior to the filing of the building permit;
 - (3) Has an existing roof that cannot support a dead load of four inches (4 in.) of growth medium on the roof; and
 - (4) The work proposed by the building permit application will not result in a roof capable of supporting a dead load of four inches (4 in.) of growth medium on the roof; or
- (d) A historic resource and any additions thereto subject to the provisions of § 3401.7.

3401.4 Notwithstanding §§ 3202.4 and 3401.2, the provisions of this chapter shall not apply to any application for a building permit:

- (a) That has been officially accepted by the Department of Consumer and Regulatory Affairs as being complete prior to October 1, 2013 if the building permit plans are consistent; or
- (b) Filed on or after October 1, 2013 if the building permit plans are consistent with:
 - (1) An unexpired approval of a first stage, second stage, or consolidated planned unit development, variance, special exception, design review under the CG or SEFC overlay, or concept design by the Historic Preservation Review Board or Commission of Fine Arts; provided the vote to approve occurred prior to October 1, 2013;
 - (2) An unexpired approval of a variance, special exception, or design review under the CG or SEFC overlay granted on or after October 1, 2013, for which a public hearing was held prior thereto;
 - (3) An unexpired approval of a first stage, second stage, or consolidated planned unit development that was granted after October 1, 2013, but which was set down for a public hearing prior thereto;
 - (4) A Large Tract Review completed prior to July 1, 2012 subject to the following:

- (A) The application shall be filed no later than July 1, 2014;
- (B) The application shall be consistent with the conditions of the Large Tract Review;
- (C) The building shall achieve a GAR of no less than 0.1; and
- (D) This subparagraph shall expire on July 2, 2014.

3401.5 Any approved change or modification to a permit, project or application in §§ 3401.3 and 3401.4 that results in an increase in impervious surface or lot occupancy of twenty percent (20%) or more shall cause the GAR to be applicable for that portion of a project that is effected by the modification.

3401.6 In addition to meeting the applicable burden for obtaining further processing approval under a campus plan to construct or add to a building, the college or university applicant shall demonstrate the extent to which the building or addition meets the GAR standards. Further processing approval shall include the determination by the Zoning Commission that the proposed building is compliant with the intent of the GAR regulations.

3401.7 A historic resource and any additions thereto are exempt from the requirement of this chapter as a result of a change of use or an increase of intensity of use, except that this chapter shall be applicable when any addition results in an increase in the gross floor area of the historic resource by 50% or more. For the purposes of this chapter a “historical resource” is a building or structure listed in the District of Columbia Inventory of Historic Sites or a building or structure certified in writing by the State Historic Preservation Officer as contributing to the character of the historic district in which it is located.

3401.8 The cost basis for additions, alterations or repairs to an existing building shall be the amount indicated by the applicant on the application for a building permit.

SOURCE: Final Rulemaking and Order No. 12-10A published at 60 DCR 16657 (December 6, 2013).

3402 CALCULATION OF GREEN AREA RATIO

3402.1 The GAR shall be calculated using the following formula:

$$\text{GAR} = \frac{(\text{area of landscape element 1} \times \text{multiplier}) + (\text{area of landscape element 2} \times \text{multiplier}) + \dots}{\text{Lot Area}}$$

- 3402.2 For the purposes of the above formula and the remainder of this chapter:
- (a) The term “landscape element” refers to one of the elements listed in the table in § 3402.9, and will be hereafter referred to as “landscape element” or “element;”
 - (b) The term “multiplier” refers the number listed the Table in § 3402.9 that corresponds to a “landscape element”; and
 - (c) The “area of landscape element” shall be the square feet of a landscape element, unless the element is a tree or large shrub, in which case “area of landscape element” refers to the element’s equivalent square footage as indicated in § 3402.7.

3402.3 The process for calculating a property’s GAR under the formula is as follows:

- (a) The area of each landscape element is multiplied by its corresponding multiplier;
- (b) The resulting numbers for all landscape elements are added together;
- (c) The resulting point total is then divided by the total land area of the lot; and
- (d) The product of the equation equals the property’s GAR.

3402.4 The total points for all permeable paving and enhanced tree growth credits may not count for more than one-third (1/3) of the GAR score for a lot.

3402.5 If multiple landscape elements occupy the same area, for example groundcover under a tree or trees and shrubs on an intensive green roof, the full square footage or equivalent square footage of each element may be counted.

3402.6 A landscape element must meet the eligibility conditions of § 3403.

3402.7 Equivalent square feet of tree canopy and large shrubs are identified in the table below.

GREEN AREA RATIO LANDSCAPE ELEMENTS	EQUIVALENT SQUARE FOOTAGE
Plants, not including grasses, at least 2 feet tall at maturity	9 s.f. per plant
Tree canopy for trees 2.5 inches to 6 inches in diameter	50 s.f. per tree
Tree canopy for trees 6 inches to 12 inches in diameter	250 s.f. per tree
Tree canopy for trees 12 inches to 18 inches in diameter	600 s.f. per tree
Tree canopy for trees 18 inches to 24 inches in diameter	1300 s.f. per tree
Tree canopy for trees larger than 24 inches in diameter	2000 s.f. per tree

3402.8 Landscape elements of the GAR shall be measured in the following ways:

- (a) All trees shall be measured for diameter at a height four feet, six inches (4 ft. 6 in.) above grade when planted and the square footage equivalent based on diameter shall be as established in the table in § 3402.7;
- (b) For vegetated walls, use the vertical square footage of the portion of the wall covered by vegetation; and
- (c) For all other elements other than trees, large shrubs, perennials, and vegetated walls, square footage is determined by the area of a horizontal plane that is over the element.

3402.9 Eligible landscape elements are identified in the table below:

GREEN AREA RATIO LANDSCAPE ELEMENTS	MULTIPLIER
Landscape area (select one of the following for each area)	
Landscape areas with a soil depth of less than 24 inches	0.3
Landscape areas with a soil depth of 24 inches or more	0.6
Bioretention facilities	0.4
Plantings	
Ground covers, or other plants less than 2 feet tall at maturity	0.2
Plants , not including grasses, at least 2 feet tall at maturity	0.3
Tree canopy for all trees 2.5 inches to 6 inches in diameter	0.5
Tree canopy for new trees 6 inches in diameter or larger	0.6
Tree canopy for preservation of existing trees 6 inches to 24 inches in diameter	0.7
Tree canopy for preservation of existing trees 24 inches diameter or larger	0.8
Vegetated wall, plantings on a vertical surface	0.6
Vegetated roofs	
Extensive vegetated roof over at least 2 inches but less than 8 inches of growth medium	0.6
Intensive vegetated roof over at least 8 inches of growth medium	0.8
Permeable paving	
Permeable paving over at least 6 inches and less than 2 feet of soil or gravel	0.4
Permeable paving over at least 2 feet of soil or gravel	0.5
Other	

GREEN AREA RATIO LANDSCAPE ELEMENTS	MULTIPLIER
Enhanced tree growth systems	0.4
Renewable energy generation (area of)	0.5
Water features (using at least 50% recycled water)	0.2
Bonuses	
Native plant species listed in §3403.9	0.1
Landscaping in food cultivation	0.1
Harvested stormwater irrigation	0.1

SOURCE: As amended by Final Rulemaking and Order No. 14-16 published at 62 DCR 5190 (April 24, 2015).

3403 LANDSCAPE ELEMENT CONDITIONS FOR GREEN AREA RATIO

3403.1 No landscape element may be counted towards a property’s GAR unless it meets the applicable conditions stated in this section.

3403.2 Plantings over the specified soil depths shall meet the required conditions listed in the Table of Landscape Elements and Multipliers in § 3402.9.

3403.3 Bioretention facilities shall be landscaped areas that receive rainwater from surrounding areas and use plants and soils to slow, filter, and infiltrate stormwater runoff. *Bioretention facilities* include but are not limited to rain or rainwater gardens, bioretention planters, or linear cells or swales. These do not include structures made of cement or concrete alone.

3403.4 Trees shall meet the following conditions:

- (a) All trees shall be at least two and one-half inches (2.5 in.) in diameter measured at a height four feet, six inches (4 ft. 6 in.) above grade when planted and shall be replaced if damaged or killed by any cause; and
- (b) All trees shall meet the American Standard for Nursery stock, as set forth by the American Nursery and Landscape Association.

3403.5 Vegetated walls shall meet the following conditions:

- (a) The maximum calculated vertical dimension shall not exceed thirty feet (30 ft.) unless the vegetated wall features a built-in growth medium;
- (b) The area calculated for the vegetated wall features shall be fully covered within a period of two (2) to five (5) years from planting;

- (c) The area calculated is the ground coverage area, not the total plant growth area;
- (d) The walls shall be at least five feet (5 ft.) from a side or rear lot line; and
- (e) Where stormwater harvesting for irrigation is proposed, vegetated walls shall contain a connection to the proposed irrigation system.

3403.6 Vegetated roofs shall meet the following conditions:

- (a) Designs for vegetated roofs must include plans to provide supplemental water;
- (b) Where stormwater harvesting for irrigation is proposed, vegetated roofs shall contain a connection to the proposed irrigation system; and
- (c) The groundcover vegetation on a vegetated roof is not additionally eligible for groundcover value towards GAR requirements.

3403.7 Water features shall meet the following conditions:

- (a) Water features must use harvested rainwater for at least fifty percent (50%) of the annual flow; and
- (b) The water features must be under water for at least six (6) months out of twelve (12).

3403.8 Enhanced tree growth systems shall meet the following conditions:

- (a) Be at least twenty-four inches (24 in.) deep, under pavement, and adjacent to planting areas; and
- (b) Be composed of soils that are not considered contaminated or compacted according to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, approved December 11, 1980 (94 Stat. 2767; 42 USC § 9601 *et seq.*).

3403.9 Native plant species shall meet the following conditions:

- (a) The plants are listed in the U.S. Fish and Wildlife Service's Native Plants for Wildlife Conservation Landscaping: Chesapeake Bay Watershed guide; or
- (b) The applicant provides two (2) references in current publications showing that the plant is native to the region; and
- (c) The plant is not listed on the U.S. Fish and Wildlife Service's list of Plant Invaders of Mid-Atlantic Natural Areas.

- 3403.10 Food cultivation shall meet the following conditions:
- (a) All food cultivation areas must be easily accessible to at least one occupant of the building;
 - (b) All food cultivation areas must have a source of water that can reach all portions of the food cultivation area; and
 - (c) The cultivation of animals for food is not eligible for GAR credits.
- 3403.11 Harvesting stormwater for irrigation shall meet the following conditions:
- (a) If the irrigation type is spray, applicants shall follow treatment standards set forth in the current District Department of Environment's Stormwater Management Guidebook; and
 - (b) If the irrigation type is drip, no additional treatment of stormwater is required.

3404 SUBMITTAL REQUIREMENTS FOR GREEN AREA RATIO

- 3404.1 This section lists the submittal requirements for demonstrating compliance with a GAR requirement.
- 3404.2 For the purposes of this section, the term Certified Landscape Expert means a person who is a:
- (a) State of Virginia certified landscape architect;
 - (b) State of Maryland certified landscape architect;
 - (c) International Society of Arboriculture Certified Arborist;
 - (d) Maryland's certified Professional Horticulturist; or
 - (e) Landscape Contractors Association MD-DC-VA Certified Landscape Technician;
- 3404.3 Applicants shall submit a GAR score sheet with the GAR calculated for the given lot at the time of building permit application.
- 3404.4 Applicants shall provide a landscape plan prepared by a Certified Landscape Expert that includes the following information:
- (a) GAR elements called out by category and area, which may be provided as a part of the landscape plan or as a separate document;
 - (b) Lot dimension and size;

- (c) Location and areas of all landscape elements with dimensions;
- (d) Location, size, and species of all plants used to meet requirements;
- (e) Both common and botanical names of all plant material;
- (f) Identification of all existing trees that are to be preserved, with their location, trunk diameter at four feet, six inches (4 ft. 6 in.) above grade, canopy radius, and species;
- (g) Plans indicating how preserved trees and other plants will be protected during demolition and construction;
- (h) Location and dimensions of wheel stops, curbs, or other devices to protect landscaping for landscaped areas adjacent to driveways;
- (i) A schematic irrigation and drainage plan and the size and depth of all plant containers for rooftop or container landscaping or areas to be irrigated with rainwater;
- (j) Location and size of any trees to be removed;
- (k) Specifications for soil improvement; and
- (l) Signature of the Certified Landscape Expert who prepared the plans together as verification that plantings and other landscape elements meet the requirements of the this chapter.

3404.5 Applicants shall provide a landscape maintenance plan prepared and signed by a Certified Landscape Expert that describes how the plantings, water features and hardscape features will be cared for and maintained including:

- (a) Soil preparation;
- (b) Use of compost;
- (c) Plant replacement;
- (d) Irrigation;
- (e) Weed and pest control; and
- (f) Control of noxious or invasive species.

3404.6 The following modifications or substitutions to the landscape elements of an approved landscape plan require a plan revision and approval:

- (a) Number of trees, shrubs, or groundcovers;

- (b) Location of required plantings or landscape features;
- (c) Substitution of species; or
- (d) Revisions of any feature that could decrease the planting area or lower the GAR score.

3404.7 Except as provided below, approved landscape elements shall be installed in accordance with the approved plan prior to the issuance of the certificate of occupancy.

3404.8 Prior to the issuance of the certificate of occupancy, a landscape checklist must be signed by a Certified Landscape Expert, verifying that that landscaping was installed according to the building permit approved by DCRA.

3404.9 The Zoning Administrator may grant a temporary certificate of occupancy when installation of the required landscaping is not currently possible due to weather, season or site construction subject to the condition that the required landscaping must be installed within four (4) months after the date the temporary certificate is issued.

3404.10 The Zoning Administrator may grant up to two (2) extensions of a temporary certificate of occupancy, each for a four (4) month period by based on the same conditions of § 3004.9.

3405 SPECIAL EXCEPTIONS FOR GREEN AREA RATIO

3405.1 The Board of Zoning Adjustment may grant, by special exception, a full or partial reduction in the GAR required under this chapter if, in addition to meeting the general requirements of § 3104, the applicant demonstrates that providing the GAR is impractical as a result of equivalent sustainability measures already being implemented on the property that achieve the intent of the GAR through methods not available through the GAR requirement.

3406 MAINTENANCE REQUIREMENTS FOR GREEN AREA RATIO

3406.1 All plantings and landscape elements used to calculate a property's GAR must be maintained for the life of the project. If, for any reason, the installed landscape elements fall below the minimum required GAR score, new eligible landscape elements shall be added to compensate and result in the required ratio. These elements are not required to be the same as the submitted plans, so long as the GAR achieved is equivalent.

SOURCE: Final Rulemaking and Order No. 12-10 published at 60 DCR 10077 (July 12, 2013); as amended by Final Rulemaking and Order No. 14-16 published at 62 DCR 5190 (April 24, 2015).

TITLE 11 – ZONING

CHAPTER 35 – WALTER REED ZONE

Secs.

3500	GENERAL PROVISIONS AND PURPOSE AND INTENT
3501	WR-1 ZONE
3502	WR-2 ZONE
3503	WR-3 ZONE
3504	WR-4 ZONE
3505	WR-5 ZONE
3506	WR-6 ZONE
3507	WR-7 ZONE
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3509	[RESERVED]
3510	HEIGHT AND ROOFTOP STRUCTURES
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- 3541 GREEN AREA RATIO
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- 3544-3589 [RESERVED]
- 3590 USE GROUPS
- 3591 USES – RULE FOR INTERPRETATION

3500 GENERAL PROVISIONS AND PURPOSE AND INTENT (WR)

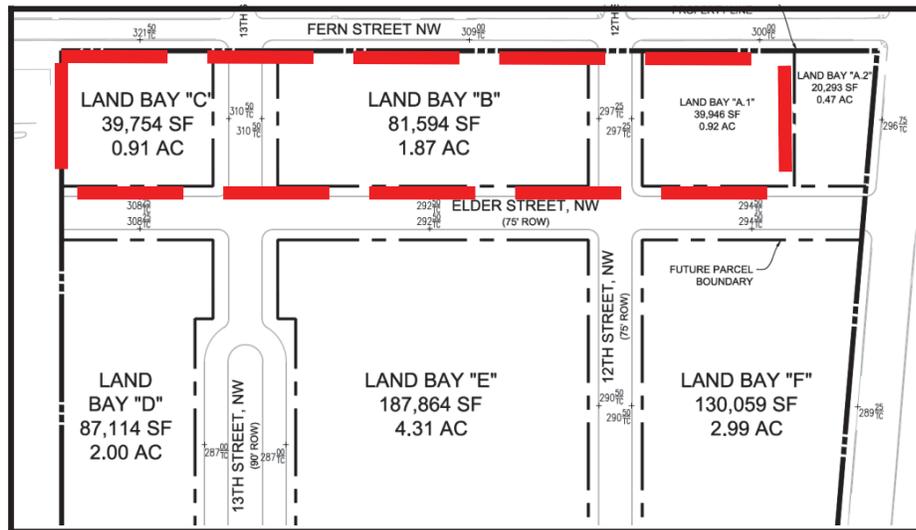
3500.1 The purposes of the Walter Reed (WR) zones are to:

- (a) Provide for the growth of the former Walter Reed Army Medical Center campus with a broad mix of uses, achieved through the adaptive reuse of existing buildings as well as new construction, as generally indicated in the Comprehensive Plan and as recommended by the planning studies of the area;
- (b) Preserve the unique historic architectural and landscape character of the Walter Reed campus as a resource for the adjacent neighborhoods and the District as a whole;
- (c) Reweave the Walter Reed campus into the physical and social fabric of the adjacent neighborhoods by extending the existing street grid into the WR zone;
- (d) Create a vibrant town center that will provide economic development, employment, and retail opportunities for the District and adjacent neighborhoods;
- (e) Advance sustainability performance with green building techniques and promote innovative energy uses and stormwater management; and
- (f) Accommodate selected uses pursuant to a Base Realignment and Closure Act Notice of Interest process.

3500.2 This chapter shall constitute the Zoning Regulations for the geographic area described by the plat attached to Z.C. Order No. 14-22. Where there are conflicts between this chapter and other chapters or subtitles of this title, the provisions of this chapter shall govern.

- 3500.3 The WR zone is divided into the WR-1 through the WR-8 zones. Each zone may have one (1) or more sub-areas, as identified in the Development Standards table for each zone. Each sub-area may be comprised of one (1) or more Land Bays.
- 3500.4 Land Bays are defined on the plat attached to Z.C. Order No. 14-22.
- 3500.5 Any reference to a street refers to either existing or proposed streets as depicted on the plat attached to Z.C. Order No. 14-22.
- 3500.6 Any reference to a building number refers to the buildings as identified in the Walter Reed Army Medical Center Small Area Plan, adopted by the Council of the District of Columbia, April 30, 2013.
- 3500.7 The area of private rights-of-way shall not be included in the area of any land bay, nor included in the calculation of floor area ratio (FAR).
- 3500.8 In the WR zone, square footage allocated for streetcar related facilities or for the production of energy, such as co- or tri-generation facilities, does not count against FAR maximums.
- 3500.9 In the WR zone, floor area allocated to a covered loading area, whose perimeter is at least seventy-five percent (75%) lined with other uses, does not count against FAR maximums.

3501 WR-1 ZONE



- 3501.1 WR-1 zone is intended to:
 - (a) Provide for residential development that complements the character of nearby established residential neighborhoods;

- (b) Transition from the low- to moderate-scale residential uses north of Fern Street to the medium-density commercial and residential uses proposed for south of Elder Street; and
- (c) Discourage driveway access directly from the street to private off-street parking.

3501.2 The development standards for the WR-1 zone are set forth in the following table:

WR-1							
Sub-Area (Land Bays A.1, B and C)	Lot Width (min.)	Height (max.)	Stories (max.)	Lot Occupancy (max.)	Pervious Surface (min.)	Side Yard Setback (min.)	Rear Yard Setback (min.)
Lots with any frontage on Fern Street	18 ft.	45 ft.	4	70%	10%	None required; 4 ft. if provided	None required
Any other lot	18 ft.	55 ft.	5	70%	10%	None required; 4 ft. if provided	None required

3501.3 The maximum number of permitted dwelling units on any lot shall be two (2), which includes both principal and accessory units.

3501.4 For any Inclusionary or affordable residential unit that is administered through the Department of Housing and Community Development, the minimum lot width shall be sixteen feet (16 ft.).

3501.5 Height shall be measured in accordance with §§ 400.16 through 400.21, except that for any building fronting on Elder Street, the building height measuring point may be established at the finished grade at the middle of the front of the building.

3501.6 No building shall be located between Fern and Elder Streets within fifty feet (50 ft.) of the western boundary of the WR zone.

3501.7 In the WR-1 zone, no driveway or garage entrance providing access to parking or loading areas shall be permitted from a public or private street.

3501.8 In the WR-1 zone, any private driveway shall be constructed of pervious materials. This does not apply to a private alley.

3501.9 An addition to a one (1)-family dwelling or flat, or a new or enlarged accessory structure on the same lot as a one (1)-family dwelling or flat, shall be permitted, even though the addition or accessory structure does not comply with all of the requirements of § 3501.2, as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this subsection:

- (a) The addition or accessory structure shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:
 - (1) The light and air available to neighboring properties shall not be unduly affected;
 - (2) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;
 - (3) The addition or accessory structure, together with the original building, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale, and pattern of houses along the subject street frontage; and
 - (4) In demonstrating compliance with paragraphs (a), (b), and (c) of this subsection, the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed addition or accessory structure to adjacent buildings and views from public ways;
- (b) The lot occupancy of all new and existing structures on the lot shall not exceed eighty percent (80%); and
- (c) The Board of Zoning Adjustment may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent or nearby properties.

3502

WR-2 ZONE



3502.1 The WR-2 zone is intended to:

- (a) Create a vibrant and pedestrian-oriented commercial and residential center to serve as a housing, commercial, and retail anchor for the Walter Reed campus, adjacent neighborhoods, and the District.
- (b) Promote an engaging streetscape to activate adjacent uses and users;
- (c) Encourage clear visibility of retail uses along 12th Street from Georgia Avenue; and
- (d) Create new passive and active open space amenities to accommodate residential and retail uses.

3502.2 The development standards for the WR-2 zone are set forth in the following table:

WR-2					
Sub-Area	Height (max.)	Stories (max.)	Floor Area Ratio (max.)		Residential Lot Occupancy Above the First Two Stories (max.)
			Total	Non-Residential Use	
Land Bay D	85 ft.	7	2.5	1.0	80%
Land Bay E	85 ft.	7	3.75	1.0	80%

3502.3 The non-residential maximum FAR requirement shall be measured per sub-area, as opposed to per building.

3502.4 Lot occupancy on the first two (2) stories is permitted up to one hundred percent (100%), regardless of use.

3502.5 If less than 3.75 FAR is developed in Land Bay E, excess floor area can be transferred to Land Bay K.1 in the WR-3 zone, or Land Bay F in the WR-3 zone, or Land Bay D in the WR-2 zone, or a combination of those land bays, subject to the requirements of this subsection:

- (a) No more than one hundred fifty thousand square feet (150,000 sq. ft.) of floor area may be transferred in total, of which no more than fifty thousand square feet (50,000 sq. ft.) may be non-residential floor area;
- (b) The maximum total FAR and the maximum non-residential FAR on Land Bay E shall be reduced by the total amount of floor area transferred and the amount of non-residential floor area transferred, respectively;
- (c) The maximum total FAR and the maximum non-residential FAR on the receiving land bays shall be increased by the total amount of floor area transferred and the amount of non-residential floor area transferred, respectively;
- (d) The allowable building height and lot occupancy on the receiving parcels shall not be increased, but the total FAR and the non-residential FAR of the receiving land bays may be increased to the amounts listed in the following table:

Land Bay	Maximum FAR (Total)	Maximum FAR (Non-residential uses)
K.1	3.5	1.25
F	2.5	1.25
D	3.5	1.25

- (e) Before the transfer may occur, the applicant shall record in the Land Records of the District of Columbia a covenant for each property, in a form acceptable to the District, that states the size, in square feet, of Land Bays E, K.1, F, and D, the maximum FAR and non-residential FAR permitted as a matter-of-right for Land Bays E, K.1, F, and D, the total amount of floor area being transferred, the amount of non-residential floor area being transferred, and the resulting maximum FAR and non-residential FAR for both Land Bays E, K.1, F, and D; and
- (f) The applicant for any building permit for Land Bays E, K.1, F, or D shall submit with the permit application the covenant required by sub-paragraph (e) as well as any and all calculations used to derive the matter-of-right and resulting FARs for the land bays.

3502.6

In the WR-2 zone, no less than one hundred percent (100%) of the façade of buildings located along Elder Street, Dahlia Street, 12th Street, and 13th Street shall be built to within ten feet (10 ft.) of the property lines abutting the subject street to a height of not less than twenty-five feet (25 ft.), except that:

- (a) The requirements of this subsection shall not apply to the portions of building façades that front on a plaza located along 12th Street;
- (b) The height requirement of this subsection may be reduced to eighteen feet (18 ft.) if the roof immediately above the eighteen (18)-foot façade is occupied by a public or private outdoor terrace; and
- (c) Relief from the build-to requirements of this subsection may be granted by the Board of Zoning Adjustment as a special exception subject to the requirements of § 3104, provided that the applicant adequately demonstrates that:
 - (1) The proposed design meets the intent of creating a streetwall along the street in question; and
 - (2) The area set back from the property line does not unduly restrict access by the public by a gate, fence, wall, or other barrier.

3502.7

In the WR-2 zone, all portions of the ground floor devoted to non-residential uses shall be subject to the following requirements:

- (a) The minimum floor-to-ceiling clear height shall be fourteen feet (14 ft.), except for those spaces within the ground floor of any building devoted to the following uses: mechanical, electrical, and plumbing; storage; fire control; loading; parking; and retail corridors and service corridors;
- (b) The surface of any streetwall or wall fronting on a plaza shall devote at least fifty percent (50%) of the surface area at the ground floor to display windows with clear glass or pedestrian entrances;
- (c) Each non-residential use with frontage on a public street or plaza shall have an individual public pedestrian entrance directly accessible from a sidewalk or plaza upon which the use has frontage;
- (d) Pedestrian entrances or areas where future entrances to non-residential uses could be installed without structural changes shall be located no more than an average distance of forty feet (40 ft.) apart on all façades fronting a public street or plaza;
- (e) On 12th Street, no single non-residential occupancy shall occupy more than one hundred (100) consecutive linear feet of ground-floor building frontage. On other streets, no single non-residential occupancy shall

occupy more than fifty (50) consecutive linear feet of ground-floor building frontage; and

- (f) One (1) or more building frontages of a grocery store may be exempt from the requirements of paragraph (e) provided that:
 - (1) The grocery store contains as an ancillary use a café, restaurant or similar use, or a seating area within the grocery store where food and beverages purchased on-site may be consumed;
 - (2) The use described in sub-paragraph (1) is located directly against the subject building frontage;
 - (3) Clear glass allows the plain view of the use from the exterior of the building;
 - (4) The use is open to the public at least during normal grocery store hours; and
 - (5) In no case shall a single non-residential occupancy occupy more than two hundred (200) consecutive linear feet of ground-floor building frontage on 12th Street or one hundred feet (100 ft.) on any other street.

3503

WR-3 ZONE



3503.1

The WR-3 zone is intended to:

- (a) Provide for moderate- to medium-density commercial and residential development that activates Georgia Avenue frontage through enhanced ground-floor retail opportunities, a more uniform street wall, and publicly accessible plazas;
- (b) Maintain a sensitive scale of development in relation to properties on the east side of Georgia Avenue as appropriate; and
- (c) Preserve existing and encourage new green and open space to activate the site, and to allow for recreation opportunities as appropriate.

3503.2 The development standards for the WR-3 zone are set forth in the following table:

WR-3						
Sub-Area	Height (max.)	Stories (max.)	Floor Area Ratio (max.)		Residential Lot Occupancy Above the First Two Stories (max.)	Setbacks
			Total	Non-Residential Use		
Land Bay A.2	70 ft.	5	3.5	1.0	80%	n/a
Land Bay F	See § 3503.3	6	1.75	1.0	80%	n/a
Land Bay G.4	75 ft.	6	3.0	1.0	80%	n/a
Land Bay K.1	70 ft.	5	2.75	1.0	80%	See § 3503.7

3503.3 For Land Bay F, the maximum height of buildings or structures shall be sixty (60) feet within one hundred feet (100 ft.) of Georgia Avenue, and seventy-five feet (75 ft.) elsewhere.

3503.4 For Land Bays F, G.4, and K.1, the non-residential maximum FAR requirement shall be measured by sub-area, as opposed to per building.

3503.5 Lot occupancy on the first two (2) stories is permitted up to one hundred percent (100%), regardless of use, and except as limited by § 3503.10.

3503.6 Non-residential uses or building entrances to any use shall occupy one hundred percent (100%) of the ground-floor building façades facing the plaza constructed pursuant to § 3503.10.

3503.7 In Land Bay K.1, any new construction shall be set back no less than twenty feet (20 ft.) from the Aspen Street property line as it exists as of January 1, 2015.

3503.8 In the WR-3 zone, no less than seventy percent (70%) of the façade of buildings located along Fern Street, Elder Street, Dahlia Street, Aspen Street, and Georgia Avenue shall be built to the property lines abutting the subject street right-of-way to a height of not less than twenty-five feet (25 ft.), except that:

- (a) The requirements of this subsection shall not apply to the portions of building façades that front on a plaza established pursuant to § 3503.10;
- (b) The requirements of this subsection shall not apply to portions of building façades that are set back from the right-of-way for the purpose of preserving existing mature trees and for which trees the applicant for a building permit shall provide a permanent plan, approved by the Urban Forestry Administration, for tree maintenance and replacement;

- (c) The height requirement of this subsection may be reduced to eighteen feet (18 ft.) if the roof immediately above the eighteen (18)-foot façade is occupied by a public or private outdoor terrace; and
- (d) Relief from the build-to requirements of this subsection may be granted by the Board of Zoning Adjustment as a special exception subject to the requirements of § 3104, provided that the applicant adequately demonstrates that:
 - (1) The proposed design meets the intent of creating a streetwall along the street in question; and
 - (2) The area set back from the property line does not unduly restrict access by the public by a gate, fence, wall, or other barrier.

3503.9 In the WR-3 zone, all portions of the ground floor devoted to non-residential uses shall be subject to the following requirements:

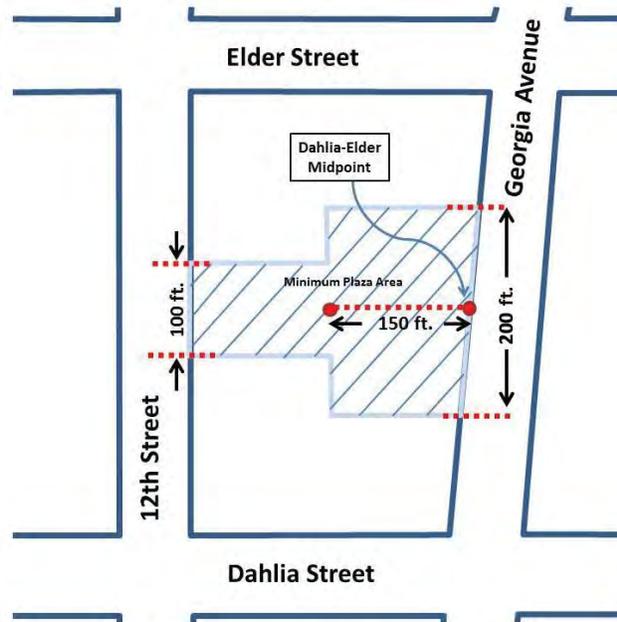
- (a) The minimum floor-to-ceiling clear height shall be fourteen feet (14 ft.), except for those spaces within the ground floor of any building devoted to the following uses: mechanical, electrical, and plumbing; storage; fire control; loading; parking; and retail corridors and service corridors;
- (b) The surface of any streetwall or wall fronting on a plaza shall devote at least fifty percent (50%) of the surface area at the ground floor to display windows with clear glass or pedestrian entrances;
- (c) Each non-residential use with frontage on a public street or plaza shall have an individual public pedestrian entrance directly accessible from a sidewalk or plaza upon which the use has frontage; and
- (d) Pedestrian entrances or areas where future entrances to non-residential uses could be installed without structural changes shall be located no more than an average distance of forty feet (40 ft.) apart on all facades fronting a public street or plaza.

3503.10 In Land Bay F, a plaza shall be provided which meets the criteria of this subsection:

- (a) No part of a building above grade shall cover the areas described below, as illustrated in the diagram below. The resulting plaza is the minimum open space, and building façades need not front immediately upon or follow the boundaries of the prescribed open space:
 - (1) The central two hundred feet (200 ft.) of the frontage on Georgia Avenue between Dahlia and Elder Streets to a depth of one hundred fifty feet (150 ft.) west of Georgia Avenue, with the depth

measured at the midpoint between Dahlia and Elder Streets and drawn parallel to Dahlia and Elder Streets; and

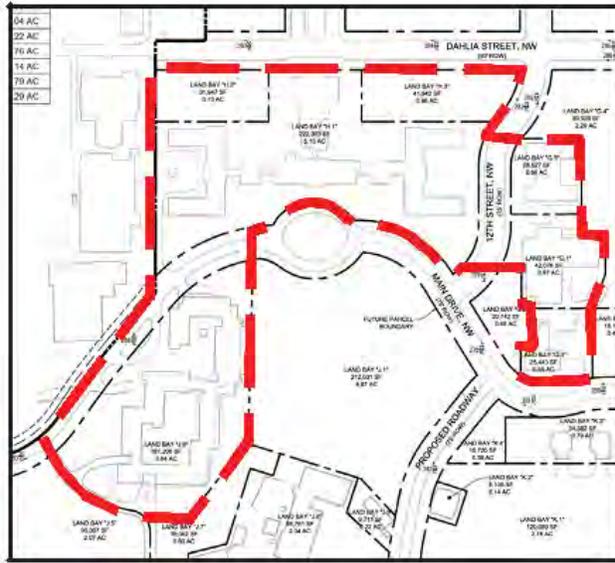
- (2) The central one hundred feet (100 ft.) of frontage on 12th Street between Dahlia and Elder Streets and extending east to connect to the open space described in § 3503.10(a)(1); and



- (b) The open space described in § 3503.10(a) shall constitute a plaza that must:
 - (1) Be open to the sky;
 - (2) Be open and available to the general public on a continuous basis;
 - (3) Be lighted and landscaped;
 - (4) Preserve at least ninety percent (90%) of the existing mature, healthy trees; and
 - (5) Provide at least fifty percent (50%) pervious surface, including any water feature.

3504

WR-4 ZONE



3504.1 The WR-4 zone is intended to:

- (a) Provide for moderate-density commercial and residential development that adaptively reuses and sensitively develops proximate to historic resources; and
- (b) Maintain the campus-like setting of Building 1 and other buildings through preservation of certain nearby open spaces.

3504.2 The development standards for the WR-4 zone are set forth in the following table:

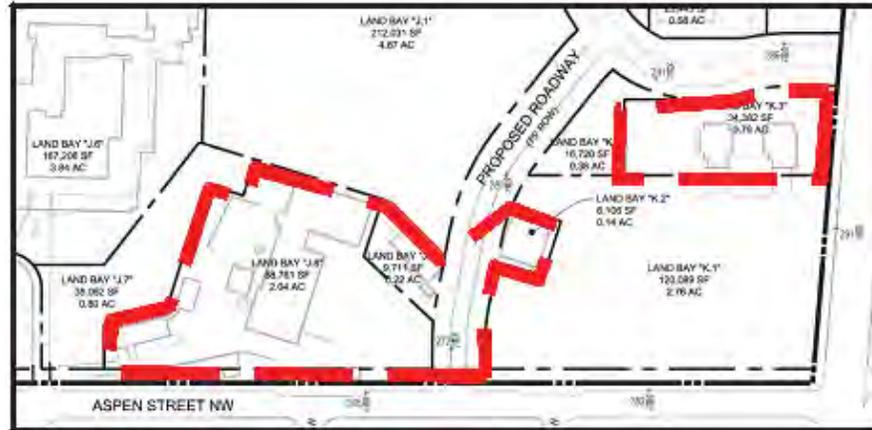
WR-4					
Sub-Area	Height (max.)	Stories (max.)	Floor Area Ratio (max.)	Lot Occupancy (max.)	Setbacks
Land Bay H.1	40 ft.	3	1.0	60%	See § 3504.3
Land Bays H.2 and H.3	40 ft.	3	2.0	100%	See § 3504.3
Land Bays G.1 and G.5	50 ft.	4	1.75	75%	n/a
Land Bay G.3	40 ft.	4	0.9	60%	See § 3504.4
Land Bay J.6	55 ft.	4	1.15	50%	n/a

3504.3 In Land Bays H.1, H.2, and H.3, no building or portion of a building shall be constructed east of the easternmost point of existing Building 1.

3504.4 In Land Bay G.3, no building or portion of a building shall be constructed south of the southernmost point of existing Building 12.

3504.5 In Land Bay H.3, no surface parking lot is permitted east of the easternmost point of existing Building 1.

3505 WR-5 ZONE



3505.1 The WR-5 zone is intended to:

- (a) Provide moderate-density residential and commercial development that also supports arts and cultural uses; and
- (b) Encourage continuous east/west green connections and passive and active recreation opportunities.

3505.2 The development standards for the WR-5 zone are set forth in the following table:

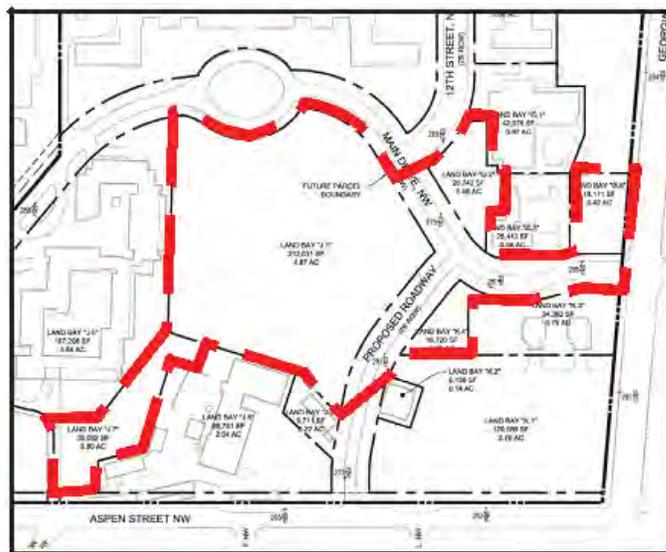
WR-5					
Sub-Area	Height (max.)	Stories (max.)	FAR (max.)	Lot Occupancy (max.)	Setbacks
Land Bay K.3	50 ft.	3	1.0	35%	See § 3505.3
Land Bays J.9 and K.2	35 ft.	2	0.75	75%	n/a
Land Bay J.8	35 ft.	2	0.4	40%	See § 3505.4

3505.3 In Land Bay K.3, no building or portion of a building shall be constructed north of the northernmost point of existing Buildings 8 or 9, or east of the easternmost portion of Building 8.

3505.4 In Land Bay J.8, any new construction shall be set back no less than twenty feet (20 ft.) from the Aspen Street property line as it exists on January 1, 2015. Existing buildings may be renovated and adaptively reused, even if within the setback area.

3505.5 For new construction in Land Bay J.8, all portions of the ground floor devoted to non-residential uses shall have a minimum floor-to-ceiling height of fourteen feet (14 ft.), except for those spaces within the ground floor of any building devoted to the following uses: mechanical, electrical, and plumbing; storage; fire control; loading; parking; and retail and service corridors.

3506 WR-6 ZONE



3506.1 The WR-6 zone is intended to:

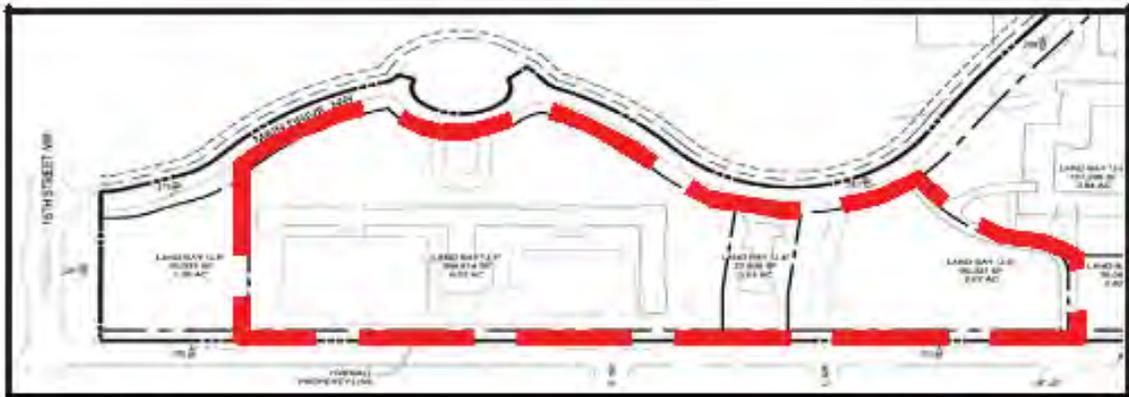
- (a) Preserve the unique character of the Great Lawn and maintain the campus atmosphere at the heart of the historic Walter Reed campus, including the landscaped entrances to the WR zone around Main Drive and East and West Cameron Drives;
- (b) Assure that the Great Lawn's permanent use is for its primary natural function as well as for enjoyment by the general public; and
- (c) Encourage continuous east/west green connections.

3506.2 The development standards for the WR-6 zone are set forth in the following table:

WR-6	
Sub-Area	FAR (max.)
Land Bays J.1, J.7, G.2, G.6, and K.4	0

- 3506.3 In the WR-6 zone, no new surface parking lots are permitted.
- 3506.4 Notwithstanding the restriction of § 3506.2, temporary structures may be erected to house any temporary use, subject to the temporary use provisions of § 3591.6.
- 3506.5 Notwithstanding the restriction of § 3506.2, up to five (5) permanent structures, of no more than four hundred square feet (400 sq. ft.) each, may be constructed for the general purpose of food and beverage sales, or other retail or service use ancillary to the role of the WR-6 as an open space zone. This section shall not imply approval by the Historic Preservation Review Board or any other permitting authority.
- 3506.6 In Land Bay J.7, a density of 0.5 FAR is permitted for a Parks and Recreation use, or a similar use operated by a non-governmental entity.
- 3506.7 In Land Bay J.7, any new construction built pursuant to § 3506.5 shall be set back no less than twenty feet (20 ft.) from the Aspen Street property line as it exists on January 1, 2015.

3507 WR-7 ZONE



- 3507.1 The WR-7 zone is intended to
- (a) Provide medium-density residential development that is sensitive to existing development on the south side of Aspen Street;

- (b) Encourage adaptive reuse of existing buildings to accommodate, among other uses, institutions; and
- (c) Encourage open and green space suitable for sustainable infrastructure and amenities as appropriate.

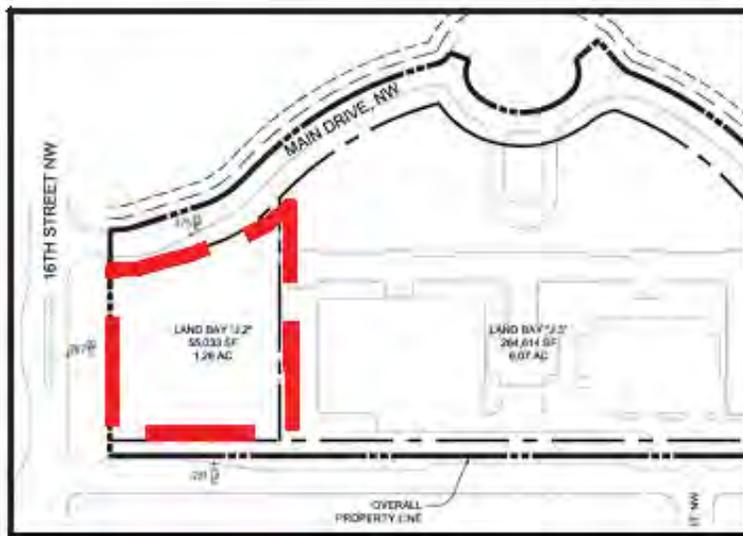
3507.2 The development standards for the WR-7 zone are set forth in the following table:

WR-7					
Sub-Area	Height (max.)	Stories (max.)	FAR (max.)	Lot Occupancy (max.)	Setbacks
Land Bay J.5	55 ft.	5	1.25	50%	See § 3507.3
Land Bay J.4	25 ft.	2	1.0	50%	See § 3507.3
Land Bay J.3	45 ft.	4	0.75	40%	See § 3507.3 See § 3507.4

3507.3 In the WR-7 zone, any new construction shall be set back no less than twenty feet (20 ft.) from the Aspen Street property line as it exists on January 1, 2015.

3507.4 In Land Bay J.3, no building or portion of a building shall be constructed north of the northernmost point of existing Building 11.

3508 WR-8 ZONE



3508.1 The WR-8 zone is intended to:

- (a) Provide medium-density residential development that is sensitive to existing development on the south side of Aspen Street; and

- (b) Encourage open and green space suitable for sustainable infrastructure and amenities as appropriate.

3508.2 The development standards for the WR-8 zone are set forth in the following table:

WR-8					
Sub-Area	Height (max.)	Stories (max.)	FAR (max.)	Lot Occupancy (max.)	Setbacks
Land Bay J.2	See § 3508.3	5	3.25	80%	See § 3508.4

3508.3 In the WR-8 zone, the maximum height of buildings or structures shall be as follows:

- (a) Within twenty-five feet (25 ft.) of the setback specified in § 3508.4, fifty feet (50 ft.) above the finished grade at the middle of the Aspen Street building façade; and
- (b) Elsewhere, sixty-five feet (65 ft.) as measured from whichever measuring point is chosen for the building for the purpose of measuring height.

3508.4 In the WR-8 zone, any new construction shall be set back no less than twenty feet (20 ft.) from the Aspen Street property line, as it exists on January 1, 2015

3509 [RESERVED]

3510 HEIGHT AND PENTHOUSES (WR)

3510.1 For the purposes of applying general zoning requirements of this Title:

- (a) The WR-1, WR-7, and WR-8 zones shall be considered Residence zones and shall be subject to § 411; and
- (b) The WR-2, WR-3, WR-4, WR-5, and WR-6 zones shall be considered Mixed Use or Commercial Zones and shall be subject to §§ 770.6-770.9 and 777.

3510.2 In the WR zone, the point chosen for measurement of height shall conform to the other provisions of this title, except that the point may be on either a public or private street.

3510.3 A penthouse constructed in accordance with the provisions of § 411 may be erected to a height in excess of that permitted, but shall not exceed the height, as

measured from the surface of the roof upon which the penthouse sits, in the following table:

ZONE DISTRICT	MAXIMUM PENTHOUSE HEIGHT	MAXIMUM PENTHOUSE STORIES
WR-1, WR-6	Pursuant to §411.5	Pursuant to §411.5
WR-4, WR-5, WR-7	12 ft. except 15 ft. for penthouse mechanical space	1; second story permitted for penthouse mechanical space
WR-8	12 ft., except 18 ft. 6 in. for penthouse mechanical space	1; second story permitted for penthouse mechanical space
WR-3	20 ft.	1; second story permitted for penthouse mechanical space
WR-2	20 ft.	1 plus mezzanine; second story permitted for penthouse mechanical space

3511 STREETScape STANDARDS (WR)

3511.1 In all WR zones, all buildings are subject to the following design requirements:

- (a) Façades that front on public or private streets or plazas shall not have blank walls uninterrupted for more than ten feet (10 ft.) by doors windows, or architectural features that modulate and articulate the building wall planes. Projections permitted into the public right-of-way by other regulations shall satisfy this requirement; and
- (b) Security grilles shall have no less than seventy percent (70%) transparency.

3512 USE PERMISSIONS (WR)

3512.1 This table specifies which use groups, defined in § 3590, are permitted by right (P), by right with conditions (C), as a special exception (S), or not permitted (N) within the WR zones as either a principal or accessory use:

Use Category	ZONE							
	WR-1	WR-2	WR-3	WR-4	WR-5	WR-6	WR-7	WR-8
Agriculture, large	P	P	P	P	P	P	P	P
Agriculture, residential	P	P	P	P	P	P	P	P
Animal Sales, Care and Boarding	N	S § 3514.3	S § 3514.3	S § 3514.3	S § 3514.3	N	N	N
Antennas	C § 3513.2	N	C § 3513.2	C § 3513.2				
Arts Design and Creation	C § 3513.3	P	P	P	P	P	P	C § 3513.3
Basic Utilities	P	P	P	P	P	P	P	P
Chancery	P	P	P	P	P	N	P	P
Community-based Institutional Facility	S § 3514.7	N	S § 3514.7	S § 3514.7				

Use Category	ZONE							
	WR-1	WR-2	WR-3	WR-4	WR-5	WR-6	WR-7	WR-8
Daytime Care	C § 3513.5	C § 3513.6 S § 3514.4	C § 3513.6 S § 3514.4	C § 3513.6 S § 3514.4	C § 3513.6 S § 3514.4	N	C § 3513.6 S § 3514.4	C § 3513.6 S § 3514.4
Eating and Drinking Establishments	N	C § 3513.7 S § 3514.5	C § 3513.7 S § 3514.5	C § 3513.7 S § 3514.5	C § 3513.7 S § 3514.5	P	N	N
Education, College/University	N	P	P	P	P	N	C § 3513.8	N
Education, Private	N	P	P	P	P	N	C § 3513.8	N
Education, Public	N	P	P	P	P	N	C § 3513.8	N
Emergency Shelter	C § 3513.4 S § 3514.6	N	C § 3513.4 S § 3514.6	C § 3513.4 S § 3514.6				
Entertainment, Assembly and Performing Arts	N	P	P	P	P	P	N	N
Firearm Sales	N	N	N	N	N	N	N	N
Government, Large	N	N	N	N	N	N	N	N
Government, Local	N	P	P	P	P	N	N	N
Institutional, General	N	P	P	P	P	N	P	P
Institutional, Religious-Based	P	P	P	P	P	P	P	P
Lodging	N	P	P	P	P	N	N	N
Marine	N	N	N	N	N	N	N	N
Medical Care	N	P	P	P	P	N	P	P
Motor Vehicle-related	N	S § 3514.8	S § 3514.8	S § 3514.8	S § 3514.8	N	N	N
Office	N	P	P	P	P	N	P	N
Parking	C § 3513.9	N	C § 3513.9	C § 3513.9				
Parks and Recreation	P	P	P	P	P	P	P	P
Production, Distribution and Repair	N	N	N	N	N	N	N	N
Residential	P	P	P	P	P	N	P	P
Retail	C § 3513.10	P	P	P	P	P	C § 3513.10	C § 3513.10
Service, Financial	N	P	P	P	P	N	N	N
Service, General	N	C § 3513.11	C § 3513.11	C § 3513.11	C § 3513.11	N	N	N
Sexually-based Business Establishment	N	N	N	N	N	N	N	N
Transportation Infrastructure	P	P	P	P	P	P	P	P

Use Category	ZONE							
	WR-1	WR-2	WR-3	WR-4	WR-5	WR-6	WR-7	WR-8
Waste-related Services	N	N	N	N	N	N	N	N

3512.2 For the purposes of the WR zone, a community garden or playground managed by a non-profit organization or homeowners' association shall be considered a use in the Parks and Recreation use group provided the community garden or playground is open to the public.

3512.3 A Home Occupation use, including a business, profession, or other economic activity, which is conducted full-time or part-time in a dwelling unit that serves as the principal residence of the practitioner, shall be permitted subject to the following conditions:

- (a) The home occupation use shall comply with the requirements of § 203 of this Title; and
- (b) The home occupation use is not within a dwelling unit in an accessory building.

A home occupation use not meeting all of the above conditions may be permitted as a special exception by the Board of Zoning Adjustment under § 3104 of this Title.

3513 CONDITIONAL USES (WR)

3513.1 The following conditions shall apply to the By Right with Conditions (C) uses in § 3512.

3513.2 Antennas shall be permitted subject to the standards and procedures that apply to the particular class of antenna in Chapter 27 of this title, which shall be applied to the WR zone as follows:

- (a) The WR-1, WR-7, and WR-8 zones shall be considered Residential/R zones; and
- (b) The WR-2, WR-3, WR-4, WR-5, and WR-6 zones shall be considered as C-2-A zones.

3513.3 An Arts Design and Creation use shall be permitted if it is clearly incidental to and accessory to the primary residential use, and subject to the following:

- (a) The practitioner of the Arts Design and Creation use must reside on the premises;

- (b) All operations and storage of materials shall occur inside the building;
 - (c) Incidental sales of art work or other craft produced on site shall be permitted within the dwelling; and
 - (d) The practitioner may teach the art to one (1) or more apprentices.
- 3513.4 An Emergency Shelter for one (1) to four (4) persons shall be a matter-of-right use. An Emergency Shelter for more than four (4) persons may be permitted as a Special Exception pursuant to § 3514.6.
- 3513.5 In the WR-1 zone, Daytime Care uses shall be permitted by right subject to the following conditions:
- (a) The dwelling unit in which the use is located shall be the principal residence of the caregiver; and
 - (b) The use otherwise shall meet the definition of a home occupation.
- 3513.6 Daytime Care uses shall be permitted by right subject to the following conditions in the WR-2, WR-3, WR-4, WR-5, WR-7, and WR-8 zones:
- (a) A Daytime Care use is permitted by right for no more than twenty-five (25) persons not including resident supervisors or staff and their families;
 - (b) Any outdoor play area shall be located on the same lot as the Daytime Care use; and
 - (c) Daytime Care uses not meeting the above conditions may be permitted by special exception subject to § 3514.4 and the special exception criteria of § 3104.
- 3513.7 All Eating and Drinking Establishment uses shall be permitted by right except that:
- (a) A drive-through shall not be permitted; and
 - (b) Fast Food Establishments and a Fast Food Establishment that meets the definition of a Food Delivery Services may be permitted by special exception pursuant to § 3514.5 and if approved by the Board of Zoning Adjustment as a special exception under § 3104.
- 3513.8 Education (Public, Private, College/University) uses shall be permitted in the WR-7 zone only on Land Bay J.3.
- 3513.9 Parking shall be permitted by right provided that all off-street parking is provided in compliance with the provisions of § 3530;

3513.10 A sale in the nature of a yard sale, garage sale, or home sales party may be held at a dwelling unit at most four (4) times during a twelve (12) month period.

3513.11 Service, General uses shall be permitted by right provided that a laundry or dry cleaning facility shall not exceed two thousand five hundred square feet (2,500 sq. ft.) of gross floor area.

3514 SPECIAL EXCEPTION USES (WR)

3514.1 The uses listed as requiring special exception approval (S) in § 3512 shall be permitted in a WR zone if approved by the Board of Zoning Adjustment pursuant to § 3104 and subject to the provisions of this section.

3514.2 The Board of Zoning Adjustment may impose additional requirements pertaining to design, appearance, screening, lighting, location of buildings, soundproofing, hours of operation or other aspects of the proposed use that the Board of Zoning Adjustment deems necessary to protect adjacent or nearby property.

3514.3 Animal Sales, Care, and Boarding shall be subject to the following conditions:

- (a) The use shall produce no noise or odor objectionable to nearby properties, including residential units located in the same building as the use, and shall utilize industry standard sound-absorbing materials, such as acoustical floor and ceiling panels, acoustical concrete and masonry, and acoustical landscaping;
- (b) The applicant shall demonstrate that the use will comply with the following conditions, and any Board of Zoning Adjustment approval shall be subject to the use's continued compliance with these standards:
 - (1) The use shall take place entirely within an enclosed building;
 - (2) The windows and doors of the space devoted to the animal boarding use shall be kept closed;
 - (3) No animals shall be permitted in an external yard on the premises;
 - (4) Animal waste shall be placed in closed waste-disposal containers and shall utilize a qualified waste disposal company to collect and dispose of all animal waste at least weekly; and
 - (5) Odors shall be controlled by means of an air filtration system (for example, High Efficiency Particulate Air "HEPA" filtration) or an equivalently effective odor control system;
- (c) A veterinary boarding hospital may board any animal permitted to be lawfully sold in the District of Columbia, pursuant to D.C. Official Code § 8-1808(h)(1); and

- (d) The Board of Zoning Adjustment may impose additional requirements pertaining to the location of buildings or other structures; entrances and exits; buffers, barriers, and fencing; soundproofing; odor control; waste storage and removal (including frequency); the species and/or number and/or breeds of animals; or other requirements, as the Board of Zoning Adjustment deems necessary to protect adjacent or nearby property.

3514.4 Daytime Care uses not meeting the conditions of § 3513.6 shall be permitted by special exception, subject to the following conditions:

- (a) The facility shall be located and designed to create no objectionable traffic condition and no unsafe condition for picking up and dropping off persons in attendance; and
- (b) Any off-site play area shall be located so as to not endanger individuals traveling between the play area and the center or facility.

3514.5 Fast Food Establishment and a Fast Food Establishment that meets the definition of a Food Delivery Services shall be permitted by special exception, subject to the following conditions:

- (a) No part of a lot on which a fast food establishment or food delivery business is located shall be within twenty-five feet (25 ft.) of a residential zone, including WR-1, WR-7, and WR-8, unless separated therefrom by a street or alley;
- (b) Any outdoor refuse dumpsters shall be housed in a three (3)-sided brick enclosure equal in height to the dumpster or six feet (6 ft.) high, whichever is greater, with the entrance to the enclosure including an opaque gate;
- (c) The use shall not include a drive-through;
- (d) There shall be no customer entrance in the side or rear of a building that faces an alley containing a zone boundary line for a residential zone;
- (e) There shall be adequate facilities to allow deliveries to be made and trash to be collected without obstructing public rights-of-way or unreasonably obstructing parking spaces, aisles, or driveways on the site;
- (f) The use shall be designed and operated so as not to become objectionable to neighboring properties because of noise, sounds, odors, lights, hours of operation; and
- (g) The use shall be located and designed so as to create no dangerous or other objectionable traffic conditions.

3514.6 Emergency Shelter use for five (5) to twenty-five (25) persons, not including resident supervisors or staff and their families, subject to the following conditions:

- (a) There shall be no other property containing an emergency shelter for seven (7) or more persons either in the same square or within a radius of five hundred feet (500 ft.) from any portion of the property;
- (b) There shall be adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility;
- (c) The proposed facility shall meet all applicable code and licensing requirements;
- (d) The facility shall not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area;
- (e) The Board of Zoning Adjustment may approve more than one (1) emergency shelter in a square or within five hundred feet (500 ft.) only when the Board of Zoning Adjustment finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations; and
- (f) The Board of Zoning Adjustment may approve a facility for more than twenty-five (25) persons, not including resident supervisors or staff and their families, only if the Board of Zoning Adjustment finds that the program goals and objectives of the District of Columbia cannot be achieved by a facility of a smaller size at the subject location and if there is no other reasonable alternative to meet the program needs of that area of the District.

3514.7 Community-based Institutional Facilities (CBIF) for one (1) to twenty (20) persons, not including resident supervisors or staff and their families subject to the following conditions:

- (a) There shall be no other property containing a CBIF for seven (7) or more persons in the same square;
- (b) There shall be no other property containing a CBIF for seven (7) or more persons within a radius of five hundred feet (500 ft.) from any portion of the subject property;
- (c) There shall be adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility;
- (d) The proposed facility shall meet all applicable code and licensing requirements;

- (e) The facility shall not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area; and
- (f) The Board of Zoning Adjustment may approve more than one (1) community-based institutional facility in a square or within five hundred feet (500 ft.) only when the Board of Zoning Adjustment finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations.

3514.8 All motor vehicle related uses are prohibited except motor vehicle sales, which may be permitted by Special Exception subject to the following conditions:

- (g) There shall be no outdoor storage of vehicles;
- (h) The surface of any streetwall or wall fronting on a plaza shall devote at least fifty percent (50%) of the surface area at the ground floor to display windows with clear glass or pedestrian entrances;
- (i) Vehicular access into the showroom shall be through a moveable glass façade, or through an internal ramp or elevator from an underground garage;
- (j) If vehicular access into the showroom is from the street through a moveable façade, the applicant shall submit a plan showing the area external to the building, including landscaping, hardscape, the method by which vehicles shall be transferred into the showroom, and where any necessary delivery trucks shall unload and park. The Board of Zoning Adjustment shall find that the loading activities shall not unduly impact pedestrian movement outside the building, or negatively impact the streetscape, including street trees and street furniture. If the use fronts on a public street, approval under this section shall not imply approval by the Public Space Committee or any other permitting authority;
- (k) Any repair of vehicles shall occur inside the building in a location not visible from the right-of-way; and
- (l) The Board of Zoning Adjustment shall find that the use does not impair the overall pedestrian or retail environment of the neighborhood.

3515 PROHIBITED USES (WR)

3515.1 In addition to the use groups listed in the table in § 3512 as not permitted, the following uses are prohibited in the WR zone as both principal and accessory uses:

- (a) Drive-through or drive-in, as either a principal or accessory use;

- (b) Any establishment that has as its principal use the administration of massages; and
- (c) Self-service storage establishment that provides separate storage areas for individual or business uses.

3515.2 Any use not listed in the table in § 3512 as permitted by right or otherwise permitted by conditions, special exception, or as an accessory or home occupation in this Section/Chapter shall be deemed to be not permitted unless determined by the Zoning Administrator to be compatible with like permitted uses and consistent with the general use impacts of permitted uses.

3616-3529 [RESERVED]

3530 AUTOMOBILE PARKING (WR)

3530.1 The cumulative total of all automobile parking spaces, including below-grade, surface, and above-grade structured parking, shall not exceed a total of three thousand four hundred (3,400) parking spaces.

3530.2 Each application to the Department of Consumer and Regulatory Affairs for a development that includes parking shall provide an accounting of the total number of parking spaces within the WR zone which count towards the parking space limit of § 3530.1.

3530.3 Parallel parking spaces on a private street shall not count toward the limit of § 3530.1, provided they are open to use by the public and not reserved for a particular or private use.

3530.4 Parking spaces dedicated for use by a car-sharing service or dedicated for the charging of electric vehicles shall not count toward the limit of § 3530.1.

3530.5 Additional parking spaces beyond the limit of § 3530.1 shall be permitted by special exception by the Board of Zoning Adjustment pursuant to § 3104 and provided that the applicant addresses compliance with the following standards:

- (a) The application shall include:
 - (1) A detailed accounting of the existing and proposed number and locations of parking spaces provided pursuant to § 3530.1;
 - (2) A traffic study assessing the impacts of the proposed additional parking spaces that would, at a minimum, include an updated trip generation study, parking occupancy study for the entire site, and impacts on local traffic patterns, for referral to and comment by the District Department of Transportation (DDOT).

The parameters of the analysis shall be outlined by DDOT prior to the application; and

(3) A transportation demand management (TDM) plan, for referral to and comment by DDOT. The parameters of the analysis shall be outlined by DDOT prior to the application; and

(b) Vehicular access and egress to the additional parking will be located and designed so as to encourage safe and efficient pedestrian movement, minimize conflict with principal pedestrian ways, function efficiently, and create no dangerous or otherwise objectionable traffic conditions.

3530.6 For any application pursuant to § 3530.5:

(a) The Board of Zoning Adjustment shall judge, balance, and reconcile the need for additional on-site parking against any adverse impacts the presence of the parking will have on traffic, and the aesthetics and development of the surrounding neighborhood; and

(b) The Board of Zoning Adjustment may impose requirements pertaining to design, appearance, signs, massing, landscaping, and other such requirements as it deems necessary to protect neighboring property and to achieve the purposes of the WR zone.

3530.7 Parking spaces need not be located on the same lot as the building or buildings they are intended to serve, but must be located within the WR zone.

3530.8 Parking spaces may be shared among more than one (1) use, whether the uses are on the same lot or on separate lots. A parking space that is shared among more than one (1) use shall be subject to the following conditions:

(a) The parking space and the uses shall all be within the WR zone;

(b) The parking space shall not serve as required parking for any other use during the days and times each use the space serves is in operation;

(c) A written agreement assigning the parking space to each use, stating compliance with § 3530.8(b), shall be signed by the owner of the parking space and the owner of each use requiring the parking space;

(d) The final, original written agreement shall be filed with the Zoning Administrator prior to the issuance of the first certificate of occupancy for the use;

(e) Any amendment or successor agreement must be filed no later than ten (10) days following execution by the parties; and

- (f) The Zoning Administrator shall maintain a file of all written agreements and amendments for each lot containing a parking space shared between multiple uses and for the lots sharing the parking space.

3530.9 Parking spaces shall not be located between a street right-of-way line and the more restrictive of either a building façade or a line extending from and parallel to a building façade. A building used solely as a parking attendant shelter shall not trigger this restriction. Notwithstanding the restriction of this subsection, the existing surface parking lot south of Building 11 may remain, but shall not be expanded in size.

3530.10 Parking spaces within an above-grade structure shall be lined with preferred uses on the ground and second floors to a depth of fifteen feet (15 ft.) minimum, except the portions of the building façade used for vehicular, bicycle, or pedestrian access to the parking area. For the purposes of this subsection, preferred uses shall include any use from the Arts Design and Creation; Eating and Drinking Establishments; Office; Residential; Retail; Service, General; and Service, Financial use groups.

3530.11 All parking spaces, other than mechanical parking spaces, shall be accessible at all times from a driveway accessing either an improved street or an improved alley or alley system with a minimum width of ten feet (10 ft.). Parking spaces provided within or accessed by a mechanized parking system need not meet the accessibility requirement of this subsection as long as the mechanized parking system does.

3530.12 New parking spaces and drive aisles shall be designed in accordance with the standards of 11 DCMR Chapter 21.

3530.13 Approval of a driveway under this chapter shall not be interpreted to imply permission for a curb cut in public space. All curb cuts in public space shall obtain all necessary approvals and permissions.

3530.14 All access to parking facilities, whether from a public or private right-of-way, shall meet DDOT and Public Space Committee standards.

3531 BICYCLE PARKING (WR)

3531.1 When bicycle parking spaces are required, signs shall be posted in a prominent place at each entrance to the building or structure stating where bicycle parking spaces are located.

3531.2 A property owner shall provide and maintain all required bicycle parking spaces so long as the structure that the bicycle parking spaces are designed to serve exists. Maintenance of required bicycle parking spaces shall include keeping all racks and spaces clear of snow, ice, and any other obstructions.

3531.3 Where required bicycle parking is provided as racks, the racks must meet the following standards:

- (a) The bicycle frame and one wheel can be locked to the rack with a high security U-shaped shackle lock without removing a wheel from the bicycle;
- (b) A bicycle six feet (6 ft.) long can be securely held with its frame supported in at least two (2) places so that it cannot be pushed over or fall in a manner that would damage the wheels or components;
- (c) Racks shall be placed a minimum of thirty inches (30 in.) on center from one another; twenty-four inches (24 in.) from any other obstructions; with a forty-eight inch (48 in.) minimum aisle separating racks; and provide a minimum clearance width of twelve inches (12 in.) for each bicycle; and
- (d) The rack shall be securely anchored.

3531.4 Each required bicycle parking space shall be accessible without moving another bicycle.

3531.5 Bicycle parking spaces shall be provided as stated in this subsection:

- (a) All residential uses with eight (8) or more dwelling units and non-residential uses with four thousand square feet (4,000 sq. ft.) or more of gross floor area shall provide bicycle parking spaces pursuant to the following table:

Use	Long-Term Spaces	Short-Term Spaces
Agriculture, Large	None	2 spaces
Agriculture, Residential	None	None
Animal Sales, Care and Boarding	1 space for each 10,000 sq. ft.	1 space for each 10,000 sq. ft.
Antennas	None	None
Arts Design and Creation	1 space for each 10,000 sq. ft.	1 space for each 20,000 sq. ft.
Basic Utilities	1 space for each 20,000 sq. ft.	None
Chancery	1 space for each 5,000 sq. ft.	1 space for each 40,000 sq. ft.
Community-Based Institutional Facility	1 space for each 10,000 sq. ft.	1 space for each 10,000 sq. ft.
Daytime Care	1 space for each 10,000 sq. ft.	1 space for each 10,000 sq. ft.
Eating and Drinking Establishment	1 for each 10,000 sq. ft.	1 space for each 3,500 sq. ft.
Education, College/ University	1 space for each 7,500 sq. ft.	1 space for each 2,000 sq. ft.
Education, Private School	1 space for each 7,500 sq. ft.	1 space for each 2,000 sq. ft.
Education, Public	1 space for each 7,500 sq. ft.	1 space for each 2,000 sq. ft.
Emergency Shelter	1 space for each 10,000 sq. ft.	1 space for each 10,000 sq. ft.
Entertainment, Assembly, and Performing Arts	1 space for each 10,000 sq. ft.	1 space for each 10,000 sq. ft.

Firearm Sales	1 space for each 10,000 sq. ft.	1 space for each 3,500 sq. ft.
Government, Large-Scale	1 for each 7,500 sq. ft.	1 space for each 40,000 sq. ft. but no less than 6 spaces
Government, Local	1 for each 7,500 sq. ft.	1 space for each 40,000 sq. ft. but no less than 6 spaces
Medical Care	1 space for each 10,000 sq. ft.	1 space for each 40,000 sq. ft.
Institutional, General	1 space for each 7,500 sq. ft.	1 space for each 2,500 sq. ft. but no less than 8 spaces
Institutional, Religious	1 space for each 7,500 sq. ft.	1 space for each 2,500 sq. ft. but no less than 8 spaces
Lodging	1 space for each 10,000 sq. ft.	1 space for each 40,000 sq. ft.
Marine	None	1 space for each 3,500 sq. ft.
Motor Vehicle-related	1 space for each 20,000 sq. ft.	1 space for each 10,000 sq. ft.
Office	1 for each 2,500 sq. ft.	1 space for each 40,000 sq. ft.
Parking	None	None
Parks and Recreation	None	1 space for each 10,000 sq. ft. but no less than 6 spaces
Production, Distribution, & Repair	1 space for each 20,000 sq. ft.	None
Residential House Residential Flat	None	None
Residential Apartment	1 space for each 3 dwelling units	1 space for each 20 dwelling units
Retail	1 for each 10,000 sq. ft.	1 space for each 3,500 sq. ft.
Service, General	1 for each 10,000 sq. ft.	1 space for each 3,500 sq. ft.
Service, Financial	1 for each 10,000 sq. ft.	1 space for each 3,500 sq. ft.
Sexually-based Business Establishment	1 for each 10,000 sq. ft.	1 space for each 10,000 sq. ft.
Transportation Infrastructure	None	None
Waste-related Services	1 space for each 20,000 sq. ft.	None

- (b) After the first fifty (50) bicycle parking spaces are provided for a use, additional spaces are required at one-half (1/2) the ratio specified in § 3531.5(a);
- (c) Notwithstanding §§ 3531.5(a) and (b), no property shall be required to provide more than one hundred (100) short-term bicycle parking spaces. All properties with a long-term bicycle parking requirement shall provide at least two (2) long-term spaces, and all properties with a short-term requirement shall provide at least two (2) short-term spaces. The bicycle parking standards of this chapter shall be met when a new building is constructed;
- (d) When a property changes use categories or adds a use category, the property shall add any bicycle parking spaces necessary to meet the requirements for the new use. However, historic resources shall not be required to provide additional bicycle parking spaces for a change in use when the gross floor area of the building is not expanded;

- (e) An addition to an existing building, or the expansion of a use within a building, triggers additional bicycle parking requirements only when the gross floor area of the building or use is expanded or enlarged by twenty-five percent (25%) or more beyond the gross floor area on September 4, 2015, or in the case of a new building, the gross floor area used to calculate the initial parking requirement. The additional minimum parking required shall be calculated based upon the entire gross floor area added;
- (f) Additions to historic resources shall be required to provide additional bicycle parking spaces only for the addition's gross floor area and only when the addition results in at least a fifty percent (50%) increase in gross floor area beyond the gross floor area existing on September 4, 2015;
- (g) If a use operates solely outside of a building, any expansion of that use shall conform to the applicable bicycle parking standards;
- (h) Uses governed by a campus plan are subject to the bicycle parking requirements approved by the Zoning Commission and are not subject to the bicycle parking requirements otherwise applicable; and
- (i) When there is more than one (1) use on a lot, the number of bicycle parking spaces provided must equal the total required for all uses. If a single use falls into more than one (1) use category for which different bicycle parking minimums apply, the standard that requires the greater number of bicycle parking spaces shall apply.

3531.6 The amount of bicycle parking shall be calculated pursuant to the rules of this subsection:

- (a) All bicycle parking standards shall be calculated on the basis of gross floor area, except for Residential uses, which base bicycle parking standards on the number of dwelling units;
- (b) For purposes of calculating bicycle parking standards, gross floor area does not include floor area devoted to off-street parking or loading facilities, including aisles, ramps, and maneuvering space; and
- (c) Calculations of bicycle parking spaces that result in a fractional number of one-half (1/2) or more shall be rounded up to the next consecutive whole number. Any fractional result of less than one-half (1/2) shall be rounded down to the previous consecutive whole number.

3531.7 Short-Term Bicycle Parking Spaces shall meet the following requirements:

- (a) Required short-term bicycle parking spaces shall be located either on the same lot as the use they are intended to serve or on public space within twenty feet (20 ft.) of the lot. A use providing short-term bicycle parking

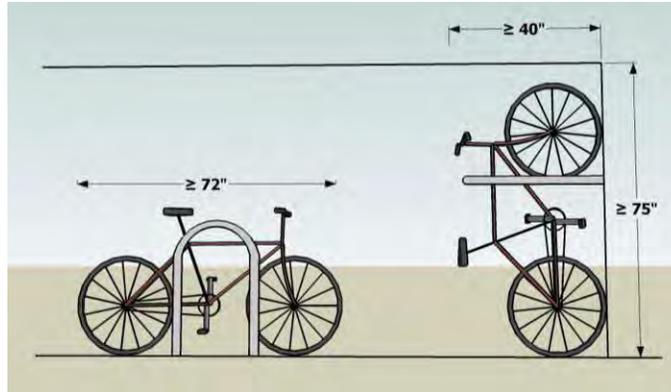
on adjacent public space must obtain approval of a public space application under Title 24 DCMR;

- (b) Required short-term bicycle parking spaces shall be located within one-hundred and twenty feet (120 ft.) of a primary entrance to the building they serve;
- (c) Areas devoted to short-term bicycle parking on private property shall be surfaced and maintained with an all-weather surface;
- (d) Required short-term bicycle parking spaces shall be provided as bicycle racks that meet the standards of § 3531.3;
- (e) An aisle at least four feet (4 ft.) wide between rows of bicycle parking spaces and the perimeter of the area devoted to bicycle parking shall be provided. Aisles shall be kept clear of obstructions at all times. Where the bicycle parking is on or adjacent to a sidewalk, the aisle may extend into the right-of-way; and
- (f) Required short-term bicycle parking spaces shall be provided in a convenient, well-lit location that can be viewed from the building the spaces are intended to serve. Required short-term bicycle parking spaces shall be available for shoppers, customers, commuters, messengers, and all other visitors to the site.

3531.8 Long-Term Bicycle Parking Spaces shall meet the following requirements:

- (a) All required long-term bicycle parking spaces shall be located within the building of the use requiring them;
- (b) Except as noted below, required long-term bicycle parking spaces shall be located no lower than the first cellar level or the first complete parking level below grade, and no higher than the first above-grade level. Spaces shall be available to employees, residents, and other building occupants;
- (c) If vehicular parking is segregated on different levels of a parking garage based on use, required long-term bicycle parking spaces may be located on the garage level dedicated to the use which generated the bicycle parking requirement. However, in no instance shall required long-term bicycle spaces be located lower than the second parking level below grade or the second parking level above grade;
- (d) Required long-term bicycle parking shall be provided as racks or lockers. Bicycle racks for required long-term parking shall be provided in a parking garage or a bicycle storage room;

- (e) Where required long-term bicycle parking is provided in a garage, it shall be clearly marked and be separated from adjacent motor vehicle parking spaces by wheel stops or other physical automobile barrier;
- (f) Where required long-term bicycle parking is provided in a bicycle room, the room shall have either solid walls or floor-to-ceiling fencing. The room shall have locked doors;
- (g) For any bicycle room with solid walls, the entirety of the interior of the bicycle room shall be visible from the entry door. A motion-activated security light enclosed in a tamper-proof housing shall be provided in each bicycle room;
- (h) Where required long-term bicycle parking is provided in lockers, the lockers shall be securely anchored and meet the following minimum dimensions:
 - (1) Twenty-four inches (24 in.) in width at the door end;
 - (2) Eight inches (8 in.) in width at the opposite end;
 - (3) Seventy-two inches (72 in.) in length; and
 - (4) Forty-eight inches (48 in.) in height;
- (i) Each required long-term bicycle parking space shall be directly accessible by means of an aisle of a minimum width of four feet (4 ft.) and have a minimum vertical clearance of seventy-five inches (75 in.). Aisles shall be kept clear of obstructions at all times;
- (j) A minimum of fifty percent (50%) of the required long-term bicycle parking spaces shall allow the bicycles to be placed horizontally on the floor or ground. Vertical bicycle racks shall support the bicycle without the bicycle being suspended; and
- (k) Each required long-term bicycle parking space shall be a minimum width of twenty-four inches (24 in.), and shall be:
 - (1) A minimum of seventy-two inches (72 in.) in length if the bicycles are to be placed horizontally; or
 - (2) A minimum of forty inches (40 in.) in length if the bicycles are to be placed vertically.



3531.9 Showers and Changing Facilities for newly constructed buildings and buildings that expand in gross floor area by more than twenty five percent (25%) shall meet the requirements of this subsection, which is intended to ensure that long-term bicycle parking spaces are usable by the long-term occupants, especially employees, of non-residential uses:

- (a) A non-residential use that requires long-term bicycle parking spaces and that occupies more than twenty-five thousand square feet (25,000 sq. ft.) in gross floor area shall provide a minimum of two (2) showers. An additional two (2) showers shall be installed for every fifty thousand square feet (50,000 sq. ft.) of gross floor area above the first twenty-five thousand square feet (25,000 sq. ft.), up to a maximum requirement of six (6) showers;
- (b) A non-residential use that requires long-term bicycle parking spaces and that occupies more than twenty-five thousand square feet (25,000 sq. ft.) in gross floor area shall provide a minimum number of clothing lockers equal to six-tenths (0.6) times the minimum number of required long-term bicycle parking spaces. Each locker required by this subsection shall be a minimum of twelve inches (12 in.) wide, eighteen inches (18 in.) deep, and thirty-six inches (36 in.) high;
- (c) Showers and lockers required by this subsection shall be accessible to employees and other long-term occupants of the use requiring them. Showers and lockers shall be located within the same building as the use requiring them; and
- (d) Where more than one non-residential use in a building requires shower and locker facilities under this subsection, the uses may share a single shower and locker facility, as long as the total number of showers and lockers is equal to the sum total required for the uses individually.

3531.10 When providing the number of bicycle parking spaces or showers and changing facilities required is impractical or contrary to other District regulations, or when it is unnecessary due to a lack of demand for bicycle parking, the Board of Zoning

Adjustment may grant, as a special exception, a full or partial reduction in the minimum number of long-term spaces, the minimum number of short term spaces, or the quantity of shower and changing facilities required for a use or structure, subject to the general requirements of § 3104 and the requirements of this subsection:

- (a) If requesting a reduction in the amount of parking, the applicant must demonstrate one (1) of the following:
 - (1) Due to the physical constraints of the property, the required bicycle parking spaces cannot be provided on the lot or, in the case of short-term bicycle parking spaces, on abutting public space; or
 - (2) The use or structure will generate demand for less bicycle parking than the minimum bicycle parking standards require, as a result of:
 - (A) The nature of the use or structure;
 - (B) Land use or topographical characteristics of the neighborhood that minimize the need for required bicycle parking spaces; or
 - (C) A transportation demand management plan approved by DDOT, the implementation of which shall be a condition of the Board of Zoning Adjustment's approval, will result in demand for less short-term bicycle parking than the minimum bicycle parking standards require; or
 - (3) The nature or location of an historic resource precludes the provision of bicycle parking spaces; or providing the required bicycle parking would result in significant architectural or structural difficulty in maintaining the integrity and appearance of the historic resource;
- (b) A reduction in parking granted under this subsection shall only be for the amount that the applicant demonstrates cannot be physically provided, and proportionate to the reduction in bicycle parking demand demonstrated by the applicant; and
- (c) If requesting a reduction in the quantity of shower and changing facilities, the applicant must demonstrate that:
 - (1) The intent of § 3531.9 is met; and
 - (2) Either:
 - (A) The use will not generate the demand for the full number of showers and changing facilities required; or

- (B) The property owner has an arrangement to make use of showers and changing facilities off-site, and that the showers and changing facilities will be reasonably available to long-term occupants of the use requiring the facilities.

3532 LOADING (WR)

- 3532.1 Any building permit application for new construction or an addition to an existing building shall be accompanied by a detailed loading plan demonstrating full compliance with this chapter.
- 3532.2 All access to loading facilities, whether from a public or private right of way, shall meet DDOT and Public Space Committee standards.
- 3532.3 The Zoning Administrator may at his or her discretion, request that DDOT review and make a recommendation regarding any item on the loading plan prior to approving the building permit application.
- 3532.4 No certificate of occupancy shall be issued unless the loading facilities have been constructed in accordance with the approved loading plans.
- 3532.5 All buildings or structures shall be provided with loading berths and service/delivery spaces as follows, except for structures erected on Kingman and Heritage Islands for which the construction of service delivery loading spaces shall be prohibited:

Use	Minimum Number of Loading Berths Required	Minimum Number of Service/Delivery Spaces Required
Agriculture		
	None	None
Animal Sales, Care and Boarding		
5,000 to 20,000 sq. ft. gross floor area	1	None
More than 20,000 to 100,000 sq. ft. gross floor area	2	1
More than 100,000 sq. ft. gross floor area	3	1
Antennas		
	None	None
Arts Design and Creation		
5,000 to 20,000 sq. ft. gross floor area	1	None
More than 20,000 to 100,000 sq. ft. gross floor area	2	1
More than 100,000 sq. ft. gross floor area	3	1
Basic Utilities		
20,000 to 50,000 sq. ft. gross floor area	1	1
More than 50,000 to 200,000 sq. ft. gross floor area	2	1
More than 200,000 sq. ft. gross floor area	3	1
Chancery		
30,000 to 100,000 sq. ft. gross floor area	1	1
More than 100,000 sq. ft. gross floor area	2	1

Use	Minimum Number of Loading Berths Required	Minimum Number of Service/Delivery Spaces Required
Community-Based Institutional Facility		
30,000 to 100,000 sq. ft. gross floor area	1	1
More than 100,000 sq. ft. gross floor area	2	1
Daytime Care		
30,000 to 100,000 sq. ft. gross floor area	1	1
More than 100,000 sq. ft. gross floor area	2	1
Education		
30,000 to 100,000 sq. ft. gross floor area	1	1
More than 100,000 sq. ft. gross floor area	2	1
Emergency Shelter		
30,000 to 100,000 sq. ft. gross floor area	1	1
More than 100,000 sq. ft. gross floor area	2	1
Entertainment, Assembly, and Performing Arts		
50,000 to 100,000 sq. ft. gross floor area	1	None
More than 100,000 to 500,000 sq. ft. gross floor area	2	None
More than 500,000 sq. ft. gross floor area	3	None
Firearm Sales		
5,000 to 20,000 sq. ft. gross floor area	1	None
More than 20,000 to 100,000 sq. ft. gross floor area	2	1
More than 100,000 sq. ft. gross floor area	3	1
Food and Alcohol Services		
5,000 to 20,000 sq. ft. gross floor area	1	None
More than 20,000 to 100,000 sq. ft. gross floor area	2	1
More than 100,000 sq. ft. gross floor area	3	1
Government, Large-Scale		
30,000 to 100,000 sq. ft. gross floor area	1	1
More than 100,000 sq. ft. gross floor area	2	1
Government, Local		
30,000 to 100,000 sq. ft. gross floor area	1	1
More than 100,000 sq. ft. gross floor area	2	1
Health Care		
30,000 to 100,000 sq. ft. gross floor area	1	1
More than 100,000 sq. ft. gross floor area	2	1
Institutional		
30,000 to 100,000 sq. ft. gross floor area	1	1
More than 100,000 sq. ft. gross floor area	2	1
Lodging		
10,000 to 50,000 sq. ft. gross floor area	1	None
More than 50,000 to 100,000 sq. ft. gross floor area	2	None
More than 100,000 to 500,000 sq. ft. gross floor area	3	None
More than 500,000 sq. ft. gross floor area	4	None
Marine		
30,000 to 100,000 sq. ft. gross floor area	1	1
More than 100,000 sq. ft. gross floor area	2	1
Motor Vehicle-related		
5,000 to 20,000 sq. ft. gross floor area	1	None
More than 20,000 to 100,000 sq. ft. gross floor area	2	1
More than 100,000 sq. ft. gross floor area	3	1
Office		

Use	Minimum Number of Loading Berths Required	Minimum Number of Service/Delivery Spaces Required
20,000 to 50,000 sq. ft. gross floor area	1	1
More than 50,000 to 200,000 sq. ft. gross floor area	2	1
More than 200,000 sq. ft. gross floor area	3	1
Parking		
	None	None
Parks and Recreation		
More than 30,000 sq. ft. gross floor area	None	1
Production, Distribution, and Repair		
5,000 to 25,000 sq. ft. gross floor area	1	None
More than 25,000 sq. ft. gross floor area	2	None
For each 100,000 sq. ft. gross floor area more than 50,000 sq. ft.	1	None
Residential		
More than 50 dwelling units	1	1
Retail		
5,000 to 20,000 sq. ft. gross floor area	1	None
More than 20,000 to 100,000 sq. ft. gross floor area	2	1
More than 100,000 sq. ft. gross floor area	3	1
Service		
5,000 to 20,000 sq. ft. gross floor area	1	None
More than 20,000 to 100,000 sq. ft. gross floor area	2	1
More than 100,000 sq. ft. gross floor area	3	1
Sexually-oriented Business Est.		
5,000 to 20,000 sq. ft. gross floor area	1	None
More than 20,000 to 100,000 sq. ft. gross floor area	2	1
More than 100,000 sq. ft. gross floor area	3	1
Transportation Infrastructure		
	None	None
Waste-related Services		
5,000 to 25,000 sq. ft. gross floor area	1	None
More than 25,000 sq. ft. gross floor area	2	None
For each 100,000 sq. ft. gross floor area more than 50,000 sq. ft.	1	None

- 3532.6 The loading requirements must be met when a new building or structure is constructed.
- 3532.7 No loading berths are required for buildings or structures with a gross floor area less than the minimum specified in § 3532.5.
- 3532.8 Each loading berth shall be accompanied by one (1) adjacent loading platform.
- 3532.9 When a property changes or adds a use category, the following shall apply:
- (a) Additional loading berths, loading platforms and service/delivery spaces shall be required only when the minimum number of loading spaces required for the new use category exceeds the number of spaces required for the prior use category that occupied the same floor area;

- (b) When determining the amount of additional required loading, it shall be assumed that the previous use provided the minimum number of spaces required; and
- (c) Historic resources shall not be required to provide additional loading for a change in use without expansion.

3532.10 An addition to an existing building, or the expansion of a use within a building triggers additional loading requirements only when the gross floor area of the building or use is expanded or enlarged by twenty-five percent (25%) or more beyond the gross floor area on September 4, 2015, or in the case of a new building, the gross floor area used to calculate the initial loading requirement. The additional minimum loading berths and service/delivery spaces required shall be calculated based upon the entire gross floor area added.

3532.11 An addition to a historic resource shall be required to provide additional loading berths, loading platforms, and service/delivery spaces only for the addition's gross floor area and only when the addition results in at least a fifty percent (50%) increase in gross floor area beyond the gross floor area existing on September 4, 2015.

3532.12 Where two (2) or more uses share a building or structure, the uses may share loading as long as internal access is provided from all shared uses requiring loading.

3532.13 For a building or structure having three (3) or more required loading berths in one (1) location, the loading berths may be stacked.

3532.14 No other use shall be conducted from or upon the loading berth or service/delivery space or any portion thereof.

3532.15 Each service/delivery space shall be clearly marked "For Service and Delivery Vehicles Only" and used exclusively for such vehicles.

3532.16 The provision of loading spaces shall be governed by the rules of measurement contained in this subsection:

- (a) When two (2) or more non-residential uses in the same use category share a building or structure, all of the uses in the same use category shall be added together to derive the total gross floor area, to determine the required number of berths and spaces for that use category;
- (b) When two (2) or more uses in different use categories share a building or structure, the building or structure is only required to provide enough berths and spaces to meet the requirement for the use category with the highest requirement, and not the combination of requirements for all use categories provided that all uses that require loading have access to the loading area;

- (c) At least one (1) loading berth shall be provided when the sum of the gross floor area of the separate uses exceeds the minimum gross floor area requiring loading berths for any one (1) of the separate uses; and
- (d) For purposes of calculating loading requirements for non-residential uses, gross floor area does not include floor area devoted to off-street parking or loading facilities, including aisles, ramps, and maneuvering space.

3532.17 Loading facilities shall be located as described in this subsection:

- (a) Except as provided elsewhere in this subsection, all loading berths and service/delivery spaces shall be located within the building or structure the berths or spaces are designed to serve;
- (b) Loading may be located in the rear or side yard of the building that it is designed to serve, but must be screened in accordance with § 3532.21;
- (c) All loading platforms shall be located contiguous and with unobstructed access to the loading berth and shall have unobstructed access to an entrance to the building or structure;
- (d) All uses in the building shall have direct access to required loading platforms or access through a common interior space or corridor;
- (e) All loading berths shall be designed so that no vehicle or any part thereof shall project over any lot line, front setback line, or building restriction line; and
- (f) Required loading berths may be provided in facilities designed to serve jointly two (2) or more adjoining buildings or structures on lots that share a party wall or lot line or are separated only by an alley within a single square; provided:
 - (1) The number of berths in the joint facilities shall not be less than that required for the total combined requirement in § 3532.5; and
 - (2) A binding covenant that is acceptable to the Zoning Administrator, ensuring the joint use of the loading berths and entered into by all property owners concerned, shall be recorded in the land records of the District of Columbia for the affected properties. A certified true copy of the recorded covenant shall be filed with the Zoning Administrator. Joint use of the loading berths by all parties involved shall continue in effect so long as the binding agreement remains in force. If the agreement becomes legally ineffective or inoperable, the loading berths shall be provided as otherwise required by this section.

3532.18 Access to loading facilities shall be provided as required by this subsection:

- (a) All loading berths and service/delivery spaces shall be accessible at all times from a driveway meeting the following requirements:
 - (1) A driveway or access aisle leading to a loading berth or service/delivery space shall have a minimum width of twelve feet (12 ft.), a maximum width of twenty-four feet (24 ft.), and a maximum slope of twelve percent (12%); and
 - (2) No driveway providing access to a loading berth or service/delivery space shall be located in such a way that a vehicle entering or exiting from the loading berth blocks any street intersection; and
- (b) A loading berth or service/delivery space shall be designed so that it is usable and accessible by the vehicles that it is intended to serve.

3532.19 The size, layout, and maintenance of loading facilities shall be as prescribed in this subsection:

- (a) All loading berths shall be a minimum of twelve feet (12 ft.) wide, have a minimum depth of thirty feet (30 ft.) and have a minimum vertical clearance of fourteen feet (14 ft.);
- (b) All service/delivery spaces shall be a minimum of ten feet (10 ft.) wide, have a minimum depth of twenty feet (20 ft.) and have a minimum vertical clearance of ten feet (10 ft.);
- (c) All loading berths shall be accompanied by one (1) adjacent loading platform that meets the following requirements:
 - (1) A loading berth that is less than fifty-five feet (55 ft.) deep shall have a platform that is at least one hundred square feet (100 sq. ft.) and at least eight feet (8 ft.) wide;
 - (2) A loading berth that is fifty-five feet (55 ft.) deep or greater shall have a platform that is at least two hundred square feet (200 sq. ft.) and at least twelve feet (12 ft.) wide;
 - (3) Loading platforms shall have a minimum vertical clearance of ten feet (10 ft.); and
 - (4) A loading platform floor shall consist of one (1) horizontal level;
- (d) No loading platform need be provided for loading berths if the required loading berth is increased in depth for the full width thereof, such that the

resulting enlarged loading berth is equal in area to the combined area of a required loading berth and a required loading platform;

- (e) The dimensions specified in this section for loading berths and service/delivery spaces are exclusive of access aisles, maneuvering space, and loading platforms;
- (f) All loading berths and service/delivery spaces including access aisles, driveways, and maneuvering areas shall be surfaced and maintained with an all-weather surface; and
- (g) A loading berth or service/delivery space, including access aisles, driveways, and maneuvering areas, shall be maintained and used as a loading berth or service/delivery space for as long as the use exists that the loading berth or service/delivery space is designed to service.

3532.20 Trash rooms and trash receptacles shall meet the following requirements:

- (a) Buildings requiring loading must have a designated trash area either within the building or within a loading berth or within an accessory building or structure immediately adjacent to the loading area or within an enclosed receptacle in a designated trash area within the loading area. All new developments over two thousand square feet (2,000 sq. ft.) of gross floor area, other than buildings with only one (1) or two (2) dwelling units, must clearly show the area for the building's trash receptacles on the building plans; and
- (b) Trash receptacles external to a building shall be screened and covered.

3532.21 Screening and lighting for loading facilities shall meet the requirements of this subsection:

- (a) All loading berths or service/delivery spaces that are not enclosed within a building shall have screening around the entire perimeter, subject to the standards of §§ 3532.21(c) and (d);
- (b) Screening is not required if the loading area is in a rear yard and separated from all contiguous property by at least twenty-five feet (25 ft.);
- (c) The screening required by § 3532.21(a) shall be a solid masonry wall at least twelve inches (12 in.) thick and seventy-two inches (72 in.) high. The wall shall harmonize with the main structure in architectural character, material, and color;
- (d) Gaps in the screening are allowed only to provide driveways and pedestrian exits or entrances that open directly onto a street or alley. No individual gap may exceed twenty feet (20 ft.) in width;

- (e) Any lighting used to illuminate a loading berth, loading platform, or service/delivery space shall be arranged so that all direct light rays are confined to the surface of the berth, platform, or space; and
- (f) Any loading berths or service/delivery spaces that are not enclosed within a building, if potentially visible from a public right-of-way, shall have, in addition to the wall required by this subsection, a screen of evergreen trees, planted at a distance of no more than fifteen feet (15 ft.) on center, of a species that at maturity would have a typical height of at least fifteen feet (15 ft.).

3532.22

The Board of Zoning Adjustment may grant a special exception from the requirements of this section when providing the number of spaces required is impractical or contrary to other District regulations, subject to the criteria of this subsection:

- (a) The Office of Zoning shall refer any application under this section to the Office of Planning and the District Department of Transportation for review and report.
- (b) The Board of Zoning Adjustment may grant, as a special exception, a full or partial reduction of the number of loading berths or service/delivery spaces required by § 3532.5 if, in addition to meeting the general requirements of § 3104, the applicant demonstrates that:
 - (1) The only means by which a motor vehicle could access the lot is from a public street, and provision of a curb cut or driveway on the street would violate any regulation in this section, or in Chapters 6 or 11 of Title 24 DCMR; or
 - (2) For an historic resource, providing the required loading facilities would result in significant architectural or structural difficulty in maintaining the integrity and appearance of the historic resource;
- (c) The Board of Zoning Adjustment may grant, as a special exception, a waiver of the access requirements of § 3532.18 if, in addition to meeting the general requirements of § 3104, the applicant demonstrates that:
 - (1) The lot has unusual topography, grades, shape, size, or dimensions; or
 - (2) Alternate access arrangements would improve site design, landscaping, or traffic patterns or provide safer ingress or egress;
- (d) The Board of Zoning Adjustment may grant, as a special exception, modifications or waivers of the screening requirements of § 3532.21 if, in addition to meeting the general requirements of § 3104, the applicant demonstrates that:

- (1) Existing protective and screening walls on the lot or on adjacent property are adequate to prevent adverse impacts on adjacent property; or
 - (2) Provision of protective screening walls would result in the removal of healthy trees or other landscaping, or architectural features determined by the Board of Zoning Adjustment to be worthy of protection or to provide equal screening benefits; and
- (e) When granting a special exception under this subsection, the Board of Zoning Adjustment may impose conditions as to screening, lighting, coping, setbacks, fences, location of entrances and exits, widening of abutting alleys, loading management or transportation demand management practices, or any other requirement it deems necessary to protect adjacent or nearby property and promote the public health, safety, and welfare.

3533– 3539 [RESERVED]

3540 AFFORDABLE HOUSING

- 3540.1 Affordable housing shall be provided as described in this section. The provisions of Chapter 26 of this title shall not apply.
- 3540.2 The purposes of this section are to:
- (a) Ensure the provision of a significant amount of affordable housing, including for very low-income households; and
 - (b) Ensure that the affordable housing is distributed throughout the WR zone.
- 3540.3 The FAR, lot occupancy, and height listed in the Development Standards for each WR zone shall serve as the maximum permitted density and building envelopes for buildings and structures, including for the provision of affordable units.
- 3540.4 For the entire WR zone, no less than four hundred and thirty-two (432) units of affordable housing shall be subject to affordable housing covenants that collectively result in compliance with §§ 3540.5 and 3540.6.
- 3540.5 Of the four hundred and thirty-two (432) units:
- (a) No less than one hundred and fourteen (114) rental units shall be reserved for and provided at rents affordable to households earning thirty percent (30%) or less of the Area Median Income (AMI);

- (b) No less than one hundred and thirty-nine (139) units shall be reserved for and provided at rents or sales prices affordable to households earning fifty percent (50%) of the AMI or less; and
- (c) No less than one hundred and seventy-nine (179) units shall be reserved for and provided at rents or sales prices affordable to households earning eighty percent (80%) of the AMI or less.

3540.6 A minimum amount of affordable units shall be provided in each zone, and in each multifamily building, according to the following table. The remaining affordable units may be located anywhere in the WR zone.

	Column A	Column B
Zone	Minimum Percentage of Residential Units to be Provided as Affordable Units in the Zone	Of the Units Prescribed in Column A, the Minimum Percentage to be Provided in Each Multifamily Building in the Zone
WR-1	8%	n/a
WR-2	8%	20%
WR-3	8%	12.5%
WR-4	8%	20%
WR-5	8%	25%
WR-7	8%	25%
WR-8	8%	25%

3540.7 At the expiration of the affordability control period established by its affordable housing covenant, each multifamily building within the WR-2 through WR-8 zones shall devote no less than eight percent (8%) of its units to affordable units, which shall remain affordable in accordance with § 3540.8 for so long as the multifamily building exists.

3540.8 At the expiration of the affordability control period established by its affordable housing covenant, each multifamily building within the WR-2 through WR-8 zones shall set aside fifty percent (50%) of affordable units for households earning fifty percent (50%) of the AMI or less and fifty percent (50%) of affordable units shall for households earning eighty percent (80%) of the AMI or less. The first affordable unit that becomes available after the expiration of the affordability control period and each additional odd number unit shall be set aside for households earning fifty percent (50%) of the AMI or less.

3540.9 At the expiration of all affordability control periods established by affordable housing covenants recorded against properties in the WR-1 zone, no less than eight percent (8%) of all units within the WR-1 zone shall be devoted to

affordable units, which shall remain affordable in accordance with § 3540.10 for so long as the units exists.

3540.10 At the expiration of all affordability control periods established by affordable housing covenants recorded against properties in the WR-1 zone, fifty percent (50%) of affordable units within the WR-1 zone shall be set-aside for households earning fifty percent (50%) of the AMI or less and fifty percent (50%) of affordable units shall be set aside for households earning eighty percent (80%) of the AMI or less. The first affordable unit that becomes available after the expiration of the affordability control period and each additional odd number unit shall be set aside for households earning fifty percent (50%) of the AMI or less.

3540.11 In the WR zone, each application for a building permit for a residential use shall include in tabular and map format a description of which affordable units have been provided to date and where, which affordable units have yet to be provided and where they are anticipated to be provided, and how the provisions of this section are being met.

3540.12 Pursuant to § 3104, the Board of Zoning Adjustment may hear and decide any requests for relief from §§ 3540.5–3540.6, subject to the application demonstrating that the purposes of § 3540.2 would still be met.

3541 GREEN AREA RATIO (WR)

3541.1 In the WR-2, WR-3, WR-4, WR-5, WR-7, and WR-8 zones, the GAR requirement is four-tenths (0.4), pursuant to Chapter 34 of this title.

3542 PLANNED UNIT DEVELOPMENTS (WR)

3542.1 A planned unit development (PUD) in the WR zone shall be subject to the following provisions in addition to the provisions of Chapter 24 of this title:

- (a) The minimum area required for a proposed PUD shall be fifteen thousand square feet (15,000 sq. ft.);
- (b) In the WR-1, WR-5, WR-6, WR-7, and WR-8 zones, the height, number of stories, and FAR provided in the relevant zone's development standards table shall serve as the maximum permitted for a PUD; and
- (c) In the WR-2, WR-3, and WR-4 zones, the maximum height and FAR limits for PUDs in the WR zone shall be the following:
 - (1) For the WR-2 zone, the limits on height, number of stories and FAR provided in the development standards table in § 3502 may be increased by no more than ten feet (10 ft.), one (1) story, and twenty percent (20%) FAR;
 - (2) For the WR-3 zone, the limits on height, number of stories and FAR provided in the development standards table in § 3503 may

be increased by no more than ten feet (10 ft.), one (1) story, and twenty percent (20%) FAR; and

- (3) For the WR-4 zone, the limits on height, number of stories and FAR provided in the development standards table in § 3504 may be increased by no more than ten feet (10 ft.), one (1) story, and twenty percent (20%) FAR.

3543 SPECIAL EXCEPTION RELIEF (WR)

3543.1 Except for § 3503.10 or as provided elsewhere in this chapter, relief from any section of this chapter may be heard and decided by the Board of Zoning Adjustment as a special exception. In addition to the general special exception criteria of § 3104, the Board of Zoning Adjustment must find that the request for relief is consistent with the purposes of the WR zone.

3544– 3589 [RESERVED]

3590 USE GROUPS

3590.1 When used in this chapter, the following use categories shall have the following meanings:

(a) Agriculture, large:

- (1) The on-site cultivation, or maintenance of plants, or the breeding or keeping of animals and livestock intended for personal use or eventual sale or lease off-site. Typical products of an agricultural use include produce, field crops, flowers, ornamental crops, livestock, poultry, honeybees, or other animal husbandry; and
- (2) Examples include, but are not limited to: farm, truck garden, beekeeping, greenhouse, dairy, or horticultural nursery; and
- (3) Exceptions: This use group does not include the customary landscaping of yards, residential gardening, or household pets;

(b) Agricultural, residential:

- (1) The on-site cultivation, or maintenance of plants, or keeping of small domestic animals intended for personal use, sale on-site, or eventual sale off-site. Typical products of a residential agricultural use include produce, garden crops, flowers, and honeybees. This use group does not include the customary landscaping of yards, keeping of household pets, or the breeding or housing of large breed animals; and

- (2) Examples include, but are not limited to: small-scale truck garden, beekeeping, greenhouse, or community gardens;
- (c) Animal Sales, Care, and Boarding:
 - (1) The on-site sale, medical care, or short-term boarding of animals for a fee. These uses may include licensed veterinary practices such as medicine, surgery, or dentistry for animals, or the provision of animal services such as grooming, training, or care-taking;
 - (2) Examples include, but are not limited to: pet shop, veterinary clinic or hospital, pet grooming establishment, dog day care center, animal boarding facility, animal sales establishment, or animal shelter: and
 - (3) Exceptions: This use group does not include uses which would typically fall within the Agriculture use categories or the selling of a litter of a domestic pet;
- (d) Antennas - A structure conducting, transmitting, or receiving communication signals. This use group encompasses the portions of the structure responsible for signal transmission and reception, any associated towers, immediately-related support and stabilizing elements, and rotating or other directional mechanisms; and Examples include, but are not limited to: commercial broadcast antenna, mobile telecommunication antenna, microwave dish, satellite earth station, whip, or yagi antennas;
- (e) Arts Design and Creation:
 - (1) The on-site design, rehearsal, or creation of visual, auditory, or performance art. This use may encompass work space for artists, artisans, or craftsmen practicing fine arts or applied arts or crafts, and may include the sale of items created on the site;
 - (2) Examples include, but are not limited to: artist studio, artisan production including kiln-firing, metal-working, wood-working, furniture making and glass-blowing arts, or photographic studio; and
 - (3) Exceptions: This use group does not include uses which would typically fall within the Entertainment, Assembly, and Performing Arts; Educational; or Sexually-based Business Establishment use groups;
- (f) Basic Utilities:

- (1) The commercial or governmental generation, transmission, distribution, or storage of energy, water, stormwater, cable, or telecommunication-related information. This use commonly takes the form of infrastructure services which are provided city-wide;
 - (2) Examples include, but are not limited to: electrical sub-station, telephone exchange, optical transmission node, electronic equipment facility, sewer plant, water treatment plant, methods and facilities for renewable energy generation, or utility pumping station; and
 - (3) Exceptions: This use group does not include uses which would typically fall within the Antennas or Waste-related Services use groups;
- (g) Chancery:
- (1) The principal offices of a foreign mission used for diplomatic or related purposes, and annexes to such offices (including ancillary offices and support facilities), including the site and any building on such site that is used for such purposes; and
 - (2) Exceptions: This use group does not include uses which would typically fall within the Office or Residential use groups, such as an ambassador's residence or embassy staff residence building;
- (h) Community-based Institutional Facility:
- (1) A use providing court-ordered monitored care to individuals who have a common need for treatment, rehabilitation, assistance, or supervision in their daily living; have been assigned to the facility; or are being detained by the government, other than as a condition of probation;
 - (2) Examples include, but are not limited to: adult rehabilitation home, youth rehabilitation home, or detention or correctional facilities that do not fall within the Large-Scale Government use group; and
 - (3) Exceptions: This use group does not include uses which more typically would fall within the Emergency Shelter or Large-Scale Government use group. This use group also does not include Residential or Medical Care uses that were previously defined as community residence facilities, health care facilities, substance abuser's homes, or youth residential care homes; and
- (i) Daytime Care:

- (1) The non-residential licensed care, supervision, counseling, or training, for a fee, of individuals who are not related by blood, adoption, or marriage to the caregiver, and who are present on the site for less than 24 hours per day;
 - (2) Examples include, but are not limited to: an adult day treatment facility, child care centers and programs, pre-schools, nursery schools, before-and-after school programs, or elder care centers and programs; and
 - (3) Exceptions: This use group does not include uses which more typically fall within the Health Care, or Parks and Recreation use groups. This use does not refer to home-based care given by parents, guardians, or relatives of the individuals requiring care which does not require a Certificate of Occupancy;
- (j) Eating and Drinking Establishments:
- (1) The sale of food, alcoholic drinks, or refreshments prepared on the premises and sold to customers for consumption on or off the premises;
 - (2) Examples include, but are not limited to: prepared food shop, restaurant, fast food restaurant, or fast food drive-through; within these defined terms, uses may also include but are not limited to bar, café, cafeteria, cocktail lounge, coffee shop, delicatessen, ice cream parlor, or nightclub; and
 - (3) Exceptions: This use group does not include uses which more typically would fall within the Sexually-based Business Establishment use group;
- (k) Education, College/University - An institution of higher educational or academic learning providing facilities for teaching and research, offering courses of general or specialized study leading to a degree, and authorized to grant academic degrees; This use may include accessory athletic and recreational areas, dormitories, cafeterias, ancillary commercial uses, multiple academic and administrative buildings, or sports facilities;
- (l) Education, Private:
- (1) An educational, academic, or institutional use with the primary mission of providing education and academic instruction that provides District or state mandated basic education or educational uses. These uses may include accessory play and athletic areas, dormitories, cafeterias, recreational, or sports facilities; and

- (2) Exceptions: This use group does not include uses which more typically would fall within the Daytime Care, Public Education, or College/University Education use group. This use group also does not include the home schooling of children in a dwelling by their parent, guardian, or private tutor;
- (m) Education, Public:
 - (1) Public or public charter schools at the elementary, middle, junior high, or high school level; these uses may include accessory athletic areas, dormitories, cafeterias, recreational, or sports facilities; and
 - (2) Exceptions: This use group does not include uses which more typically would fall within the Daytime Care, Private Education, or College/University Education use group. This group also does not include the home schooling of children in a dwelling by their parent, guardian, or private tutor;
- (n) Emergency Shelter - A use providing thirty (30) days or less of temporary housing to indigent, needy, homeless, or transient individuals. Emergency Shelter uses may also provide ancillary services such as counseling, vocational training, or similar social and career assistance;
- (o) Entertainment, Assembly, and Performing Arts:
 - (1) A use involving facilities designed primarily for public assembly that enables patrons to experience visual, auditory, performance, or literary arts; attend sporting events or conferences; or to participate in active leisure activities. These uses may be characterized by activities and structures that draw large numbers of people to specific events or shows;
 - (2) Examples include, but are not limited to: bowling alley, miniature golf, movie theatre, concert hall, museum, or stadium; and
 - (3) Exceptions: This use group does not include uses which more typically would fall within the Arts Design and Creation, Sexually-based Business Establishment, or Parks and Recreation use groups;
- (p) Firearm Sales:
 - (1) A use engaged in the on-site sale, lease, or purchase of firearms or ammunition. This use group has been established to identify those uses which offer sales of goods whose impacts are incompatible with the intended health, safety, and welfare of other uses of land; and

- (2) Examples include, but are not limited to: gun store, ammunition sales, pawn shop carrying guns, or weaponry store;
- (q) Government, Large:
- (1) A use involving services owned, managed, or provided by a governmental entity and associated with providing regional or wider services;
 - (2) Examples include, but are not limited to: airports, jails, truck dispatch facilities, or police/fire training facilities; and
 - (3) Exceptions: This use group does not include uses which more typically would fall within the Motor-Vehicle-related or Transportation Infrastructure use groups;
- (r) Government, Local:
- (1) A use involving services owned, managed, or provided by local government and associated with providing neighborhood-scaled services to meet the community needs of the directly adjacent areas;
 - (2) Examples include, but are not limited to: public community centers, police stations, libraries, or fire stations; and
 - (3) Exceptions: This use group does not include large-scale government uses with a regional or larger service area or uses which more typically would fall within the Large-Scale Government, Emergency Shelter, Parks and Recreation, or Motor Vehicle-related use group. It also does not include administrative offices of local government agencies, when those office functions meet the definition of the Office use group;
- (s) Institutional, General:
- (1) A non-governmental use involving the public assembly of people or provision of services for social or cultural purposes and which may include uses of a public, nonprofit, or charitable nature generally providing local service on-site to people of a local community;
 - (2) Examples include, but are not limited to: private clubs, private community centers, private libraries, non-profits, or social service providers; and
 - (3) Exceptions: This use group does not include uses which more typically would fall within the Religious-Based Institutional;

Chancery; Education; Entertainment, Assembly, and Performing Arts; Local Government; Service; Office; or Parks and Recreation use groups;

(t) Institutional – Religious-Based:

- (1) A non-governmental use involving the public assembly of people or provision of services for religious purposes and which may include related services or uses fundamental to the religious mission;
- (2) Examples include, but are not limited to: churches, synagogues, temples, mosques, other places of worship, and related religious schools; and
- (3) Exceptions: This use group does not include uses which more typically would fall within the General Institutional; Chancery; Education; Entertainment, Assembly, and Performing Arts; Local Government; Service; Office; or Parks and Recreation use groups;

(u) Lodging:

- (1) A use providing customers with temporary housing for an agreed upon term of less than thirty (30) consecutive days; any use where temporary housing is offered to the public for compensation, and is open to transient rather than permanent guests;
- (2) Examples include, but are not limited to: hotels, motels, inns, or bed and breakfast establishments; and
- (3) Exceptions: This use group does not include uses which more typically would fall within the Emergency Shelter or Residential use group;

(v) Marine:

- (1) A use in which proximity to the waterfront constitutes an integral aspect of its function; or uses which depend upon access to the water for their effectuality. This use group includes activities associated with water and marine-based travel, movement, storage, and related activities;
- (2) Examples include, but are not limited to: marina, boathouse, boat launch, dock or pier, boat repair facility, water taxi facility, or water facilities; and
- (3) Exceptions: This use group does not include uses which more typically would fall within the Motor Vehicle-related use group;

(w) Medical Care:

- (1) A use involving the on-site licensed provision of medical diagnosis, treatment, or prevention of illness or disease of humans. These facilities may provide medical or surgical care to patients or offer overnight care;
- (2) Examples include, but are not limited to: dentist, doctor, optician, hospitals, clinics, or medical offices. This use group also includes any facility that meets the definition for and is licensed as a skilled care facility or intermediate nursing care facility under the District of Columbia Health Care and Community Residence Facility, Hospice and Home Care Licensure Act of 1983, as amended, D.C Code § 32-1301 *et seq.* (1993 Repl. Vol.); and
- (3) Exceptions: This use group does not include uses which more typically would fall within the Community-based Institutional Facility or Emergency Shelter use group;

(x) Motor Vehicle-related:

- (1) A use engaging primarily in the on-site sale, rental, service, maintenance, or refueling of motor vehicles or their components. These uses include the sale, installation or repair of parts, components, accessories, or fuel for motor vehicles;
- (2) Examples include, but are not limited to: gasoline service station, auto repair facility, carwash, automobile sales, boat sales, or motorcycle sales; and
- (3) Exceptions: This use group does not include uses which more typically would fall within the Retail or Parking use group;

(y) Office:

- (1) A use engaging primarily in on-site administrative, business, professional, research, or laboratory-based activities. These uses are characterized by activities in an office setting that focus on the provision of off-site sale of goods or on-site information-based services, usually by professionals;
- (2) Examples include, but are not limited to: real estate agency, law firm, accounting firm, advertising agency, stockbrokerage firm, or laboratory; and
- (3) Exceptions: This use group does not include uses which more typically would fall within the Health Care; Education; Local

Government; Retail; Production, Distribution, and Repair; Financial Service; or Chancery use group;

(z) Parking:

- (1) A use involving the on-site short or long-term storage of motor vehicles, including surface lots or within structures, when such motor vehicle storage is not provided as accessory parking for another use;
- (2) Examples include, but are not limited to: public parking lot, public parking garage, or private garage; and
- (3) Exceptions: This use group does not include parking that is accessory to another use;

(aa) Parks and Recreation:

- (1) A use involving publicly accessible passive or active open space or a structure or facility under the jurisdiction of a public agency that is used for community recreation activities;
- (2) Examples include, but are not limited to: Public plazas, parks, outdoor recreation, community gardens; Areas devoted to recreational activities such as picnicking, boating, fishing, bicycling, tennis, or swimming; Classes and services relating to health and wellness, culture, arts and crafts, or education; and Structures or other recreation facilities such as auditorium, multi-purpose room, gymnasium, meeting space, open space, playground, playing court, golf course, playing field, or swimming pool, with associated accessory uses such as kitchen facilities; and
- (3) Exceptions: This use group does not include private recreation centers such as a commercial gymnasium, or uses which more typically would fall within the Entertainment, Assembly, and Performing Arts; Arts Design and Creation; Health Care; or Service use group;

(bb) Production, Distribution, and Repair:

- (1) A use involving the on-site production, distribution, repair, assembly, processing, or sale of materials, products, technology, or goods intended for a wholesale, manufacturing, or industrial application. Uses may include firms that provide centralized services or logistics for retail uses, and wholesale goods establishments commonly selling to businesses in bulk. These uses typically have little contact with the public;

- (2) Examples include, but are not limited to: manufacturing facility, concrete plant, asphalt plant, material salvage, hauling or terminal yard, chemical storage or distribution, outdoor material storage, acetylene gas manufacturing, fertilizer manufacturing, rock quarrying, warehouse, ground shipping facility, or wholesale sales; and
- (3) Exceptions: This use group does not include uses which more typically would fall within the Retail, Service, or Waste-related Services use group;

(cc) Residential:

- (1) A use offering habitation on a continuous basis of at least thirty (30) days. The continuous basis is established by tenancy with a minimum term of a month or property ownership. This use group also includes residential facilities that provide housing and supervision for persons with disabilities, which may include twenty-four (24)-hour on-site supervision, lodging, and meals for individuals who require supervision within a structured environment, and which may include specialized services such as medical, psychiatric, nursing, behavioral, vocational, social, or recreational services;
- (2) Examples include, but are not limited to: single dwelling unit, multiple dwelling units, community residence facilities, retirement homes, rooming units, substance abusers' home, youth residential care home, assisted living facility, floating homes, or other residential uses; and
- (3) Exceptions: This use group does not include uses which more typically would fall within the Lodging, Education, or Community-based Institutional Facility use groups;

(dd) Retail:

- (1) A use engaging primarily in the on-site sale of goods, wares, or merchandise directly to the consumer or persons without a resale license. These uses include goods commonly sold to individuals in small quantities for their direct use;
- (2) Examples include, but are not limited to: shop, appliance, computer, drug, jewelry, fabric, department, large format, or grocery stores; clothing or gift boutiques; or pawn and antique shops; and
- (3) Exceptions: This use group does not include wholesale goods commonly sold to businesses in bulk, corner store use, or uses

which more typically would fall within the Arts Design and Creation; Eating and Drinking Establishments; Automobile-related; Firearm Sales; Marine; Production, Distribution, and Repair; or Sexually-based Business Establishment use groups;

(ee) Service, Financial:

- (1) A use engaging primarily in the provision of banking, loan, mortgage or other similar financial services;
- (2) Examples include, but are not limited to: banks, credit unions, or mortgage companies; and
- (3) Exceptions: This use group does not include uses which more typically would fall within the Office use group;

(ff) Service, General:

- (1) A use engaging primarily in the contracting of work that does not necessarily result in a tangible commodity. These uses may provide personal services or provide small-scale product repair or services for consumer and business goods on-site. Service uses which provide services off-site are typically Office uses;
- (2) Examples include, but are not limited to: appliance repair, fitness center, yoga studio, shoe repair, tailor, hair salon and barber, or parcel delivery service; and
- (3) Exceptions: This use group does not include uses which more typically would fall within the Eating and Drinking Establishments; Entertainment, Assembly, and Performing Arts; Local Government; Parks and Recreation; Animal Care and Boarding; Motor Vehicle-related; Accommodation; Daytime Care Facility; Health Care; Sexually-based Business Establishment; Arts Design and Creation; Marine; or Waste-related Services use groups;

(gg) Sexually-based Business Establishment:

- (1) A use involving goods, services, or live performances that are characterized by their emphasis on matter depicting, describing, or related to specified sexual activities. Specified sexual activities include, but are not limited to: acts of sexual stimulation or arousal including human genitals in a discernibly turgid state, human masturbation, sexual intercourse, sodomy, or bestiality; or any erotic touching of human genitals, pubic region, buttock, or breast. This use group has been established to identify those uses which offer services or goods whose sexually-oriented impacts are

incompatible with the intended health, safety, and welfare of other uses of land; and

- (2) Examples include, but are not limited to: sexually-themed bookstores, newsstands, theatres, or amusement enterprises;

(hh) Transportation Infrastructure:

- (1) A use involving structures or conveyances designed for individual mode or multimodal public transportation purposes. These uses may include land or facilities for the movement or storage of transportation system components;
- (2) Examples include, but are not limited to: streetcar or bus passenger depots, transportation rights-of-way, Metro stations, mass transit stations, bus stops, bicycle paths, bus transfer stations, accessways, airports, bicycle facilities, multi-use paths, pedestrian connections, or streets; and
- (3) Exceptions: This use group does not include uses which more typically would fall within the Basic Utilities use group; and

(ii) Waste-related Services:

- (1) A use involving the collection, transportation, recycling, or disposal of refuse either on-site or at a transfer station. This use group may include the collection of sanitary wastes or uses that produce goods or energy from wastes; and
- (2) Examples include, but are not limited to: composting facility, incinerator, solid waste handling facility, or non-intensive recycling facility. Unless otherwise noted, these terms have the same meaning as defined in the Solid Waste Facility Permit Act of 1995, effective February 27, 1996 (D.C. Law 11-94, as amended;

D.C. Official Code §§ 8-1051 to 8-1063).

3591 USES – RULES FOR INTERPRETATION

3591.1 This Section establishes rules for assigning and codifying use groups and use categories and regulations for the operation of temporary uses.

3591.2 The following rules shall be used to determine a use group:

- (a) Use groups describe activities being performed on-site that have similar functions, physical characteristics, impacts, or operational behaviors;

- (b) All individual uses shall be included in at least one (1) use group. On- and off-site activities associated with a use may cause that use to be included in more than one (1) group;
- (c) A principal use may have one (1) or more accessory uses;
- (d) The Zoning Administrator shall determine the category or categories for a use, based on consistency with § 3590;
- (e) The following may be considered when determining the appropriate group or groups for a use:
 - (1) The description of the activity or activities in relationship to the definition of each use category;
 - (2) The relative amount of site or floor space and equipment devoted to each activity;
 - (3) The relative amounts of sales from each activity;
 - (4) The customer type for each activity;
 - (5) The relative number of employees in each activity;
 - (6) The typical hours of operation;
 - (7) The building and site arrangement;
 - (8) The number and type of vehicles used;
 - (9) The relative number of vehicle trips generated by the activity;
 - (10) How the use is advertised;
 - (11) How the use is licensed;
 - (12) Similarities in function to the examples and exceptions listed for each use group; and
- (f) The activities, functions, physical characteristics, and impacts of a use on a property may not change unless that change has been determined by the Zoning Administrator to be consistent with that use group or a different use group permitted within the applicable zone.

3591.3

When a site contains more than one (1) use and these uses fall within different use groups, each use is subject only to the regulations of the applicable use group.

3591.4 If a use is determined to fall into more than one (1) use group, the use is subject to the regulations for all applicable use groups. If this results in conflicting conditions or criteria, the most stringent conditions shall be met.

3591.5 Accessory uses shall conform to the following rules:

- (a) Any use allowed as a permitted use in a zone shall be allowed as an accessory use within that zone;
- (b) Any use allowed only with conditions in a zone shall be allowed as an accessory use within that zone, subject to all applicable conditions; and
- (c) Accessory uses:
 - (1) Shall be allowed only when associated with permitted or conditionally permitted uses; and
 - (2) Shall meet all of the conditions of the appropriate use group.

3591.6 Temporary uses shall conform to the following rules:

- (a) Any use allowed as a permitted use in a zone shall be allowed as a temporary use within that zone;
- (b) Any use allowed only with conditions in a zone shall be allowed as a temporary use within that zone, subject to all applicable conditions; and
- (c) Temporary uses:
 - (1) Shall have the time period of the allowance established on the Certificate of Occupancy but shall not exceed five (5) years; and
 - (2) Shall not result in the erection of any new permanent structures, although existing permanent structures may be used for a temporary use.

SOURCE: Final Rulemaking and Order No. 14-22 published at 62 DCR 12168 (September 4, 2015).