

TITLE 11 – ZONING

SUBTITLE A AUTHORITY AND APPLICABILITY

TITLE 11 – ZONING	A-1
SUBTITLE A AUTHORITY AND APPLICABILITY	A-1
CHAPTER 1 INTRODUCTION TO TITLE 11	A-2
100 ENACTMENT AND TITLE	A-2
101 INTERPRETATION AND APPLICATION.....	A-3
102 VESTED RIGHTS UNDER THE PREVIOUS 1958 ZONING REGULATIONS, AS AMENDED.	A-5
CHAPTER 2 ADMINISTRATIVE AND ZONING REGULATIONS	A-7
200 CODE ORGANIZATION	A-7
201 RELATIONSHIP OF GENERAL SUBTITLES TO LAND USE SUBTITLES	A-8
202 ZONE DISTRICTS.....	A-8
203 DEVELOPMENT STANDARDS	A-9
204 USE PERMISSIONS	A-9
205 ZONING MAP.....	A-9
206 ZONE BOUNDARY LINES.....	A-9
207 ZONE BOUNDARY LINE CROSSING A LOT.....	A-10
208 APPLICABILITY OF ZONING ON GOVERNMENT OWNED LAND.	A-11
209 RESTRICTIONS ON UNZONED LAND	A-12
210 AMENDMENTS	A-13
211 REFERRALS TO OTHER AGENCIES	A-14
CHAPTER 3 ADMINISTRATION AND ENFORCEMENT.....	A-15
300 AUTHORITY	A-15
301 BUILDING PERMITS	A-15
302 CERTIFICATES OF OCCUPANCY.....	A-20
303 COMPLIANCE WITH CONDITIONS IN ORDERS.....	A-23
304 DEVIATIONS AND MODIFICATIONS PERMITTED BY ZONING ADMINISTRATOR'S RULING	A-24
305 PENALTIES	A-27
CHAPTER 4 OTHER AUTHORITIES.....	A-28
400 ARCHITECTURAL REVIEW BY COMMISSION OF FINE ARTS	A-28
401 COMPREHENSIVE PLAN OF THE NATIONAL CAPITAL	A-28
402 CONGRESSIONAL LIMITATION ON BUILDING HEIGHTS	A-28
403 HEIGHTS OF BUILDINGS ADJACENT TO PUBLIC BUILDINGS	A-28
404 PENNSYLVANIA AVENUE PLAN.....	A-28

CHAPTER 1 INTRODUCTION TO TITLE 11

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 (hereafter, the Zoning Act), after public notice and hearing prescribed by law, does hereby establish and adopt these regulations (2016 Regulations) and the Zoning Maps accompanying them to supersede in full the zoning regulations and the Zoning Maps, as originally adopted on, and effective as of 12:01 a.m. May 12, 1958 (1958 Regulations), as amended, and that are hereby repealed.
- 100.2 Title 11 is organized into a series of subtitles consisting of the Zoning Regulations and the Administrative Regulations.
- 100.3 These regulations and the Zoning Maps (as adopted) became effective at 12:01 A.M. September 6, 2016.
- 100.4 The 1958 Regulations, as amended, shall continue in full force and effect as follows:
- (a) With respect to any construction or occupancy authorized under this title;
 - (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
 - (a) 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.
- 100.5 The long title of Title 11, 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.**
- 100.6 The regulations in this title shall be composed of the Zoning Regulations and the Administrative Regulations, and may be cited by the short title of the "Zoning Regulations of the District of Columbia."

100.7 Zoning shall be designated after public hearing in the manner prescribed by the Zoning Act).

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 zones;
- (b) Suitability of each zone for the uses permitted in each zone under this title;
- (c) Encouragement of the stability of zones and of land values in those zones; and
- (d) Requirement that zoning shall not be inconsistent with the Comprehensive Plan for the National Capital.

101.3 The provisions of this title shall govern whenever they:

- (a) Require larger setbacks, 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 zone 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.
- 101.8 For the purpose of reference to zone districts in any statute or other municipal regulations not included within this title, the following cross references are offered.
- 101.9 The following zone districts are considered residential zone districts:
- (a) R, Residential House (single family);
 - (b) RF, Residential Flat;
 - (c) RA, Residential Apartment (multi-family);
 - (d) RC-1, Reed-Cooke (multi-family);
 - (e) CG-1 Capital Gateway (multi-family); and
 - (f) D-1 Downtown (multi-family).
- 101.10 The following zones districts are considered mixed-use zones, commercial zones, or special purpose zones:

- (a) ARTS, Mixed-Use Uptown Arts;
- (b) CG, Capital Gateway (except CG-1);
- (c) D, Downtown (except D-1);
- (d) HE, Hill East;
- (e) MU, Mixed-Use;
- (f) NC, Neighborhood Mixed-Use;
- (g) RC, Reed-Cooke (except RC-1);
- (h) SEFC, Southeast Federal Center;
- (i) StE, Saint Elizabeths East Campus;
- (j) USN, Union Station North; and
- (k) WR, Walter Reed.

101.11 Industrial zone districts are considered PDR, Production, Distribution, and Repair zone districts.

102 VESTED RIGHTS UNDER THE PREVIOUS 1958 ZONING REGULATIONS, AS AMENDED.

102.1 A project identified within this section shall be considered to have vested development rights (vested project) subject to the provisions and requirements of the 1958 Zoning Regulations, any conditions of approval, and subject to the conditions of Subtitle A §§ 102.4 through 102.7.

102.2 An application for a building permit that has been officially accepted by the Department of Consumer and Regulatory Affairs as being complete prior to the effective date of this title, if the building permit plans are consistent with the 1958 Regulations, shall be considered a vested project.

102.3 An application for a building permit filed on or after the effective date of this title shall be considered a vested project if the building permit plans are consistent with:

- (a) An unexpired approval of a first-stage, second-stage, or consolidated planned unit development; variance; special exception; campus plan; design review in the CG or SEFC zones; or concept design by the Historic

Preservation Review Board or Commission of Fine Arts; provided, the vote to approve occurred prior to the effective date of this title;

- (b) An unexpired approval of a variance, special exception, or design review in the CG or SEFC zones granted on or after the effective date of this title, for which a public hearing was held prior to the effective date of this title;
- (c) An unexpired approval of a first-stage, second-stage, or consolidated planned unit development that was granted after the effective date of this title, but which was set down for a public hearing prior to the effective date of this title; or
- (d) A large tract review completed prior to January 1, 2015.

102.4 An application to the Board of Zoning Adjustment or the Zoning Commission for a modification (other than a minor modification) to a vested project shall conform with the 2016 Regulations as the 2016 Regulations apply to the requested modification.

102.5 Any condition in an order of approval for a vested project identified within this section shall be considered binding despite any less restrictive requirements under the 2016 Regulations unless otherwise approved as a modification by the regulating authority.

102.6 A project that utilizes vested rights under the 1958 Regulations shall be subject only to the provisions of the 1958 Regulations, unless approved as a modification by the regulating authority.

102.7 An approved amendment to a vested project that includes a physical building or structural addition shall be subject to the regulations in effect at the time of issuance of a building permit.

SOURCE: Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016); Final Rulemaking & Order No. 08-06F published at 64 DCR 2783 (March 17, 2017).

CHAPTER 2 ADMINISTRATIVE AND ZONING REGULATIONS

200 CODE ORGANIZATION

200.1 Title 11 is organized into a series of subtitles consisting of the Zoning Regulations and the Administrative Regulations.

200.2 The Zoning Regulations consist of:

- (a) Subtitle B - Definitions, Use Categories, and Rules of Measurement;
- (b) Subtitle C - General Rules;
- (c) Subtitle D - Residential House (R) Zones;
- (d) Subtitle E - Residential Flat (RF) Zones;
- (e) Subtitle F - Residential Apartment (RA) Zones;
- (f) Subtitle G - Mixed-Use (MU) Zones;
- (g) Subtitle H - Neighborhood Mixed-Use (NC) Zones;
- (h) Subtitle I - Downtown (D) Zones;
- (i) Subtitle J - Production, Distribution, and Repair (PDR) Zones;
- (j) Subtitle K - Special Purpose Zones;
- (k) Subtitle U - Uses; and
- (l) Subtitle W - Specific Zone Boundaries.

200.3 The Administrative Regulations consist of:

- (a) Subtitle A - Authority and Applicability;
- (b) Subtitle X - General Procedures;
- (c) Subtitle Y - Board of Zoning Adjustment Rules of Practice and Procedure; and
- (d) Subtitle Z - Zoning Commission Rules of Practice and Procedure.

200.4 The land use subtitles are Subtitles D, E, F, G, H, I, J, K, U, and W of this title.

201 RELATIONSHIP OF GENERAL SUBTITLES TO LAND USE SUBTITLES

- 201.1 The general regulations of Subtitle C are to be read in concert with the specific use category regulations of each land use subtitle, including tables which identify use requirements, permissions, conditions, and exceptions specific to each zone.
- 201.2 The land use subtitles are to be read and applied in addition to the regulations included as a part of:
- (a) Subtitle A - Authority and Applicability;
 - (b) Subtitle B - Definitions, Use Categories, and Rules of Measurement;
 - (c) Subtitle C - General Rules; and
 - (d) Subtitle U - Uses.
- 201.3 When a provision of a land use subtitle modifies or supersedes a provision contained in Subtitle C, the land use subtitle shall govern.
- 201.4 Where there is a conflict between a land use subtitle and the regulations of Subtitle C regarding the same regulatory topic, the land use subtitle shall govern unless otherwise stated.

202 ZONE DISTRICTS

- 202.1 For the purpose of this title, the District of Columbia shall be divided into the following zone districts:
- (a) Residential House (R) – low-density single dwelling unit residential;
 - (b) Residential Flat (RF) - row dwelling zones for two (2) to four (4) units;
 - (c) Residential Apartment (RA) - general apartments;
 - (d) Mixed-Use (MU) and Neighborhood Mixed-Use (NC) – mixed-use commercial-residential zones;
 - (e) Downtown (D) - central business and high-density mixed-use commercial-residential;
 - (f) Production, Distribution, and Repair (PDR); and
 - (g) Special Purpose zones for areas tied to a unique development plan.

- 202.2 The zones shall be as shown, defined, and bounded on the Zoning Map.
- 202.3 Subtitle W contains specific zone location information, including square and lot for certain zone districts with defined geographical boundaries.

203 DEVELOPMENT STANDARDS

- 203.1 The development standards for a zone shall be determined by the combination of the general rules in Subtitle C, general standards in each land use subtitle, and zone-specific regulations as stated in the development standard tables and text in each land use subtitle.

204 USE PERMISSIONS

- 204.1 Subtitle U contains use permissions for R, RF, RA, MU, ARTS, D and PDR zones. Use permissions for all other zones are contained in their respective subtitles.
- 204.2 Subtitle B contains use definitions, use categories, and use groups.

205 ZONING MAP

- 205.1 The official Zoning Map of the District of Columbia shall be the zoning map that is produced and maintained by the Office of Zoning effective on the effective date of this title.
- 205.2 The zoning map shall be available for public access from the Office of Zoning, either on paper or electronically.
- 205.3 The official Zoning Map and all explanatory material on the map shall be incorporated by reference and made a part of this title.
- 205.4 In addition to the official Zoning Map, a printable electronic summary extract of the official Zoning Map shall be prepared quarterly, published on the Office of Zoning's website, and made available to the public for printing upon request.
- 205.5 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.

206 ZONE BOUNDARY LINES

- 206.1 The zone boundaries shall be shown on each section of the Zoning Map.
- 206.2 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.

- 206.3 Dimensioned zone 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.
- 206.4 Whenever a portion of any zone 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.
- 206.5 In all other cases, the zone 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.
- 206.6 In the case of tidal water areas, the zone boundary shall be either the mean high water level or the established pierhead lines, whichever gives the greatest control.
- 206.7 In cases of disagreement or uncertainty existing as to the exact location of a zone boundary line, the Board of Zoning Adjustment, upon appeal filed in accordance with Subtitle Y, shall determine the exact location of the boundary.

207 ZONE BOUNDARY LINE CROSSING A LOT

- 207.1 When a zone 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 may be increased by the bulk permitted on the portion of the lot located in a more restrictive use zone; 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 that is located within thirty-five feet (35 ft.) of the zone 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;
 - (d) For computation purposes, any portion of the lot located in an R-1 or R-2 zone shall be deemed to be limited to a floor area ratio (FAR) of 0.4, any portion of the lot located in an R-3 zone shall be deemed to be limited to an FAR of 0.6, and any portion of the lot located in an RF-1, RF-2, or RF-3 zone shall be deemed to be limited to an FAR of 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 shall be devoted only to required setbacks or courts or other open spaces.

207.2 If approved by the Board of Zoning Adjustment as a special exception under Subtitle X, the regulations applicable to that portion of a lot located in a lesser restrictive use zone 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; provided:

- (a) The extension shall be limited to that portion of the lot in the more restrictive use zone but not exceeding thirty-five feet (35 ft.);
- (b) In authorizing an extension, the Board of Zoning Adjustment shall require compliance with Subtitle A § 207.1(d);
- (c) The extension shall have no adverse effect upon the present character and future development of the neighborhood; and
- (d) The Board of Zoning Adjustment 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.

207.3 For the purpose of interpreting this section, the zones established in this title are listed in the following groups of decreasing use restrictions:

- (a) R and MU-11 zones;
- (b) RF, RA, MU-1, MU-2, MU-15, MU-16, and MU-23, D-2 zones, and RC-1;
- (c) MU-3 through MU-9, MU-17 through 21, MU-24 through MU-28, D-1, D-3 through D-7, NC zones, and ARTS-1 through ARTS-3, RC-2, and RC-3;
- (d) MU-10, MU-12, MU-13, MU-14, MU-22, and MU-29, and ARTS-4; and
- (e) PDR zones.

208 APPLICABILITY OF ZONING ON GOVERNMENT OWNED LAND

208.1 The following government properties shall not be considered included in any zone:

- (a) Properties owned by the Government of the United States and used for or intended to be used for a Federal public building or use;
- (b) 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)); and
- (c) Any District of Columbia governmental land or building uses that were either in existence or were substantially planned, documented, and invested in prior to May 23, 1990.

208.2 Any change or expansion in the use of land or buildings or any new construction or additions to buildings on the properties referenced in Subtitle A § 208.1(c) of this section shall be subject to zoning.

208.3 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.

208.4 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)).

208.5 All properties of the District of Columbia Government not otherwise exempt by this section shall be subject to zoning.

209 RESTRICTIONS ON UNZONED LAND

209.1 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 as may otherwise be authorized by the Zoning Commission as a map or text amendment.

209.2 Nothing in this chapter shall prevent either of the following:

- (a) Minor repairs and alterations to buildings and structures for which no building permit is required under the D.C. Construction Code Supplements; 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.

210 AMENDMENTS

- 210.1 As provided in the Zoning Act, the Zoning Commission may from time to time amend any part or all of the regulations in this title and the Zoning Maps adopted in this title.
- 210.2 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 Office of Planning;
 - (e) Any other department of the District of Columbia or Federal Government;
 - (f) An Advisory Neighborhood Commission; or
 - (g) Private persons.
- 210.3 [RESERVED]
- 210.4 The Director of the Office of Zoning 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.
- 210.5 The Director of the Office of Zoning 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.
- 210.6 Before adopting any proposed amendment to this title or the Zoning Maps, the Zoning Commission shall submit the proposed amendment to the 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 Subtitle A § 211.1, the Zoning Commission may proceed to take final action on the amendment.
- 210.7 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 Subtitle Z §§ 408 and 506.

210.8 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.

210.9 Notice of the hearing shall be given in accordance with Subtitle Z §§ 402 and 502. The Zoning Commission shall give additional notice of the hearing as it deems feasible and practicable.

210.10 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.

211 REFERRALS TO OTHER AGENCIES

211.1 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 or is requested by the Zoning Commission.

211.2 The period of time may be extended for an additional forty (40) days upon the mutual agreement of all agencies involved.

CHAPTER 3 ADMINISTRATION AND ENFORCEMENT

300 AUTHORITY

300.1 In accordance with § 11 of the Zoning Act, the Mayor shall administer and enforce the Zoning Regulations.

301 BUILDING PERMITS

301.1 Except as provided in Subtitle A §§ 301.5 and 301.7, a building permit shall not be issued for the proposed erection, construction, conversion, or alteration of any structure unless the plans for the erection, construction, conversion, or alteration fully conform to the provisions of this title.

301.2 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.

301.3 Except as provided in the building lot control regulations for Residence Districts in Subtitle C 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 § 9-101.05, 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 MU-11;
- (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 Subtitle K;
- (e) A structure in the USN zone to be constructed on an air rights lot that is not a lot of record; and
- (f) Buildings and structures approved as part of a campus or private school plan or medical campus plan.

301.4 Except as provided in Subtitle A §§ 301.9 through 301.13, 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 to the permit shall comply with the provisions of this title in effect on the date the permit is amended.

301.5 If an application for a type of building permit enumerated in Subtitle A § 301.6 is filed when the Zoning Commission has pending before it a proceeding to consider an amendment of the zone 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 one (1) of the building permit applications listed in Subtitle A § 301.6 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 Subtitle A § 301.4. The application shall be accompanied by any fee that is required, and by the plans and other information required by Subtitle A § 301.2, 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 classification of the site pursuant to the final decision of the Zoning Commission in the proceeding, or if the case is pending, in accordance with either the most restrictive zone classification being considered for the site or, if more restrictive, the site's current zone classification;
- (c) For purposes of paragraph (b) of this subsection, the phrase "zone 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 to amend the Zoning Regulations or Zoning Maps filed by an owner of property pursuant to Subtitle Z of this title.

301.6 For the purposes of Subtitle A § 301.5, the term "building permit" refers to the following types of permits:

- (a) A permit for new construction, including constructing, adding to or moving a building or structure;
- (b) A permit to erect or replace an awning, canopy, tent, or other membrane structure, or similar structures as a principal structure;

- (c) A permit to erect a radio, television, or other telecommunications tower as a principle structure; or
- (d) A permit for a change of use or occupancy, increase in load or modification of floor layout of the building or structure.

301.7 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 the vote was taken to approve the application; provided, that all applications for building permits shall be accompanied by the plans and other information required by Subtitle A § 301.2, which shall be sufficiently complete to permit processing without substantial change or deviation.

301.8 A building permit issued in accordance with Subtitle A §§ 301.4 through 301.6, and §§ 301.9 through 301.11 shall not be renewable if permitted to lapse, unless it is reprocessed in accordance with all provisions of this title.

301.9 Notwithstanding Subtitle A § 301.4, 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 an RF zone shall be processed, and any work authorized by the permit may be carried to completion pursuant to the provisions of the RF 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 Commission of Fine Arts; and
 - (3) The vote to approve the variance, special except, 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.

301.10 Notwithstanding Subtitle A § 301.4, 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 an RF zone shall be processed, and any work authorized by the building permit may be carried to completion pursuant to the provisions of the RF 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.

301.11 Notwithstanding Subtitle A § 301.4 and except as provided in Subtitle A § 301.12, 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 an RF zone shall be processed, and any work authorized by the building permit may be carried to completion pursuant to the provisions of the RF 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 expired 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 2015, and the application for the variance, special exception, design, or concept design was filed prior thereto.

301.12 Notwithstanding Subtitle A § 301.11, an applicant for a building permit described in Subtitle A § 301.11 may choose to have its building permit application processed in accordance with the RF 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.

301.13 Notwithstanding Subtitle A § 301.4, a building permit application (including a foundation-to-grade permit application) (the Application) for construction involving any penthouse other than as restricted in Subtitle C § 1500.4 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: Final Rulemaking & Order No. 14-13B published at 63 DCR 9533 (July 15, 2016).

302 CERTIFICATES OF OCCUPANCY

302.1 Except as provided in Subtitle A §§ 302.2, 302.7, 302.8, and 302.9, 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 Codes Supplement, Title 12 DCMR.

302.2 Certificates of occupancy shall not be required for the following:

- (a) Separate dwelling units in a building with multiple dwelling units, or offices in an office building, if a certificate of occupancy is issued for the entire structure; or
- (b) A single dwelling unit.

302.3 Except in the case of a place of worship, 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.

302.4 If a building permit application for the erection or alteration of a structure is submitted, 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 Subtitle A § 302.5.

302.5 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 through 6-703.09), 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.

302.6 Any certificate of occupancy issued under the terms of Subtitle A §§ 302.4 or 302.5 shall be subject to compliance with regulations adopted pursuant to the Means of Egress Law.

302.7 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 Subtitle A § 302.8;
- (b) Except as otherwise provided in Subtitle A § 302.11, 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 Subtitle Z 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.

302.8 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.

302.9 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.

302.10 Certificates of occupancy issued in accordance with Subtitle A §§ 302.7, 302.8, or 302.9 shall not be renewable if permitted to lapse unless processed in accordance with all provisions of this title.

302.11 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 Subtitle A § 301;
- (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.

303 COMPLIANCE WITH CONDITIONS IN ORDERS

- 303.1 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 of Zoning Adjustment or the Zoning 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, design review, or planned unit development.
- 303.2 If the order of the Board of Zoning Adjustment or the Zoning Commission conditions the issuance of a building permit or certificate of occupancy upon the recordation of a covenant, then, for purposes of Subtitle A §§ 303.4 and 303.5, 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.
- 303.3 If a building permit or certificate of occupancy has been issued under the authority of a decision of the Board of Zoning Adjustment to approve a special exception or variance, then for purposes of Subtitle A §§ 303.4 and 303.5, 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.
- 303.4 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.
- 303.5 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.

304 DEVIATIONS AND MODIFICATIONS PERMITTED BY ZONING ADMINISTRATOR'S RULING

304.1 The deviations from the Zoning Regulations and modifications to approved plans permitted by this section shall not be applicable for any calculation or for determining compliance with Subtitle U §§ 301.2 or 320.2.

304.2 The Zoning Administrator is authorized to permit the following deviations from the Zoning Regulations for building permits that are not otherwise authorized by an approved order of the Zoning Commission or the Board of Zoning Adjustment, if the Zoning Administrator, pursuant to Subtitle A § 304.3, 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, maximum percentage of lot occupancy, and area standards of courts;
- (b) Deviations not to exceed the lesser of two percent (2%) or twelve inches (12 in.) of the linear requirements governing minimum lot width;
- (c) Deviations not to exceed the lesser of ten percent (10%) or twelve inches (12 in.) of the linear requirements governing minimum rear yard, minimum side yard, and court width; and
- (d) Deviations not to exceed two percent (2%) of the linear frontage limitation for eating/drinking establishments in Subtitle K § 811.9(a).

304.3 The Zoning Administrator shall consider the following issues, as applicable, in determining whether any deviation will impair the purpose of the applicable regulations pursuant to Subtitle A § 304.2:

- (a) The light and air available to neighboring properties shall not be unduly affected;
- (b) The privacy of neighboring properties shall not be unduly compromised;
- (c) The level of noise in the neighborhood shall not be unduly increased;
- (d) The use and enjoyment of neighboring properties shall not be unduly compromised;
- (e) No trees which would otherwise be protected by this title or other District of Columbia regulation, shall be damaged or removed; and

- (f) The general scale and pattern of buildings on the subject street frontage and the neighborhood shall be maintained consistent with the development standards of this title.

304.4 An applicant for a building permit seeking a deviation permitted by Subtitle A § 304.2 shall submit a written request to the Zoning Administrator that is signed by the property owner and that includes a comprehensive list identifying the type and extent of all proposed deviations and a written statement explaining how the requested deviations comply with Subtitle A §§ 304.2 and 304.3.

304.5 For building permits that are authorized by an approved order of the Zoning Commission, the Zoning Administrator, following receipt of a request made pursuant to Subtitle A § 304.6, is authorized to permit only the following minor modifications to approved plans if the Zoning Administrator determines that the proposed modification is consistent with the intent of the Zoning Commission in approving the application and the Zoning Commission did not also grant the same area of relief:

- (a) A change not to exceed two percent (2%) in height, percentage of lot occupancy, or gross floor area of any building that is the direct result of structural or building code requirements;
- (b) A change not to exceed two percent (2%) in the number of dwelling units, hotel rooms, institutional rooms, or gross floor area to be used for commercial or accessory uses within the approved square footage;
- (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.

304.6 An applicant for a building permit seeking a modification to approved plans permitted by Subtitle A § 304.5 shall submit a written request to the Zoning Administrator that is signed by the property owner and that includes a comprehensive list identifying the type and extent of all proposed modifications to the approved plans and a written statement explaining how the requested modifications comply with Subtitle A § 304.5. The applicant shall, at the same time, serve a complete copy of the request, including any supporting plan documents, on all parties to the applicable case, including but not limited to the affected ANC(s).

304.7 The Zoning Administrator shall report to the Zoning Commission, and at the same time shall report to all parties to the applicable case, including but not limited to, the affected ANC(s), any modification approved under Subtitle A § 304.5. No modified building permit shall be issued for forty-five (45) days after a report is

sent to the Zoning Commission. If prior to the expiration of this time period the Zoning Commission decides that the modification exceeded the scope of a minor modification, the Zoning Administrator shall not approve the building permit, but shall instruct the applicant to seek a modification pursuant to Subtitle Z §§ 703 or 704, as applicable.

304.8 No building permit that requires the approval of a minor modification pursuant to Subtitle A § 304.5 may be issued during a forty-five (45) day period that begins on the date of a report made pursuant to Subtitle A § 304.7 unless the Zoning Commission advises the Zoning Administrator that it concurs that the modification is permitted by Subtitle A § 304.5.

304.9 Any modification proposed to approved plans pursuant to Subtitle A § 304.5 that cannot be approved by the Zoning Administrator shall be submitted to and approved by the Zoning Commission pursuant to Subtitle Z §§ 703 or 704, as applicable.

304.10 For building permits that are authorized by an order of the Board of Zoning Adjustment (the Order), the Zoning Administrator, following receipt of a request made pursuant to Subtitle A § 304.11, is authorized to permit modifications to approved plans in addition to those modifications specifically authorized pursuant to flexibility granted by the Order if the Zoning Administrator determines that the proposed modifications are consistent with the intent of the Board of Zoning Adjustment and the modifications would not:

- (a) Violate any condition of approval included in the Order;
- (b) Increase, expand, or extend any area of relief granted by the Order;
- (c) Create any need for new relief;
- (d) Change a principal use from that approved in the Order;
- (e) Increase the number of stories;
- (f) Increase by more than two percent (2%) the building gross floor area, the percentage of lot occupancy, building height, or penthouse height; provided that the permitted increase of two percent (2%) or less must be the direct result of structural or building code requirements;
- (g) Increase by more than two percent (2%) the number of dwelling units, hotel rooms, or institutional rooms within the approved square footage; or
- (h) Increase or decrease by more than two percent (2%) the number of parking or loading spaces depicted on the approved plans.

- 304.11 An applicant for a building permit seeking a modification to approved plans permitted by Subtitle A § 304.10 shall submit a written request to the Zoning Administrator that is signed by the property owner and that includes a comprehensive list identifying the type and extent of all proposed modifications to the approved plans and a written statement explaining how the requested modifications comply with Subtitle A § 304.10. The applicant shall at the same time serve a complete copy of the request, including any supporting plan documents, on all parties to the applicable case, including but not limited to, the affected ANC(s).
- 304.12 The Zoning Administrator shall send written notification of any modifications approved pursuant to Subtitle A § 304.10 to all parties to the applicable case, including, but not limited to, the affected ANC(s). The written notice shall be sent no later than seven (7) days after the date of the approval.
- 304.13 Any modifications proposed to approved plans that cannot be approved by the Zoning Administrator pursuant to Subtitle A § 304.10 shall be submitted to and approved by the Board of Zoning Adjustment pursuant to Subtitle Y §§ 703 or 704 as applicable.

SOURCE: Final Rulemaking & Order No. 08-06D published at 63 DCR 10620 (August 19, 2016); Final Rulemaking & Order No. 08-06F published at 64 DCR 2791 (March 17, 2017).

305 PENALTIES

- 305.1 As provided in § 10 of the Zoning Act, 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.
- 305.2 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.
- 305.3 Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this subchapter, or any rules or regulations issued under the authority of these sections, pursuant to Chapter 18 of Title 2 of the District of Columbia Official Code.

CHAPTER 4 OTHER AUTHORITIES

400 ARCHITECTURAL REVIEW BY COMMISSION OF FINE ARTS

400.1 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), 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 through 1207), shall be subject to the architectural review established by those acts and administered by the Commission of Fine Arts.

401 COMPREHENSIVE PLAN OF THE NATIONAL CAPITAL

401.1 The Zoning Commission is charged with preparing, adopting, and subsequently amending the Zoning Regulations and Zoning Map in a means not inconsistent with the Comprehensive Plan for the National Capital area.

402 CONGRESSIONAL LIMITATION ON BUILDING HEIGHTS

402.1 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, as amended (36 Stat. 452; D.C. Official Code §§ 6-601.01 through 6-601.09).

403 HEIGHTS OF BUILDINGS ADJACENT TO PUBLIC BUILDINGS

403.1 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 Height Act, 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), as amended.)

404 PENNSYLVANIA AVENUE PLAN

404.1 In addition to any controls established in this title, any building or structure within the boundaries of the Pennsylvania Avenue Sub-Area delineated in Subtitle I shall be subject to the Pennsylvania Plan [Pennsylvania Avenue Development Corporation (PADC) Plan, October 1974, as amended.]