

# TITLE 11 - ZONING

## SUBTITLE U USE PERMISSIONS

<b>TITLE 11 - ZONING</b> .....	<b>U-1</b>
<b>SUBTITLE U USE PERMISSIONS</b> .....	<b>U-1</b>
CHAPTER 1 USE PERMISSIONS .....	U-3
100 GENERAL USE PROVISION .....	U-3
101 SPECIAL EXCEPTIONS USE PROVISIONS .....	U-3
CHAPTER 2 USE PERMISSIONS RESIDENTIAL HOUSE (R) ZONES .....	U-4
200 GENERAL USE PROVISION (R).....	U-4
201 MATTER-OF-RIGHT USES – R-USE GROUPS A, B, C, AND D .....	U-4
202 MATTER-OF-RIGHT USES – R-USE GROUPS A, B, AND C .....	U-5
203 SPECIAL EXCEPTION USES – R-USE GROUPS A, B, AND C .....	U-7
204 MATTER-OF-RIGHT USES – R-USE GROUP D .....	U-15
205 SPECIAL EXCEPTION USES – R-USE GROUP D .....	U-15
206-249 [RESERVED] .....	U-16
250 ACCESSORY USES (R).....	U-16
251 HOME OCCUPATION USES (R).....	U-17
252 REUSE OF FORMER PUBLIC SCHOOLS (R).....	U-23
253 ACCESSORY APARTMENT (R) .....	U-25
254 CORNER STORES .....	U-28
CHAPTER 3 USE PERMISSIONS RESIDENTIAL FLATS (RF) ZONES .....	U-32
300 GENERAL USE PROVISION (RF) .....	U-32
301 MATTER-OF-RIGHT USES (RF).....	U-32
302 - 309 [RESERVED] .....	U-36
310 ACCESSORY USES (RF).....	U-36
311 - 319 [RESERVED] .....	U-36
320 SPECIAL EXCEPTION USES (RF).....	U-36
321 ADDITIONAL USE RESTRICTIONS AND CONDITIONS.....	U-40
CHAPTER 4 USE PERMISSIONS RESIDENTIAL APARTMENT (RA) ZONES .....	U-41
400 GENERAL USE PROVISIONS (RA) .....	U-41
401 MATTER-OF-RIGHT USES (RA) .....	U-41
410 ACCESSORY USES (RA) .....	U-42
420 SPECIAL EXCEPTION USES (RA) .....	U-43
421 NEW RESIDENTIAL DEVELOPMENTS (RA-1 AND RA-6).....	U-46
422 ADDITIONAL USE RESTRICTIONS AND CONDITIONS (RA).....	U-47
CHAPTER 5 USE PERMISSIONS MIXED USE (MU) ZONES .....	U-48
500 GENERAL USE PROVISION FOR MU ZONES .....	U-48
501 MATTER-OF-RIGHT USES (MU) .....	U-48
502 MATTER-OF-RIGHT USES (MU-USE GROUP A).....	U-48
503 ACCESSORY USES (MU-USE GROUP A).....	U-49
504 SPECIAL EXCEPTION USES (MU-USE GROUP A).....	U-50

505	MATTER-OF-RIGHT USES (MU-USE GROUP B) .....	U-54
506	SPECIAL EXCEPTION USES (MU-USE GROUP B) .....	U-55
507	MATTER-OF-RIGHT USES (MU-USE GROUP C) .....	U-59
508	SPECIAL EXCEPTION USES (MU-USE GROUP C) .....	U-60
509	USES NOT PERMITTED (MU-USE GROUPS B AND C) .....	U-64
510	MATTER-OF-RIGHT USES (MU-USE GROUP D) .....	U-65
511	SPECIAL EXCEPTION USES (MU-USE GROUP D) .....	U-67
512	MATTER-OF-RIGHT USES (MU-USE GROUP E) .....	U-73
513	SPECIAL EXCEPTION USES (MU-USE GROUP E) .....	U-76
514	PROHIBITED USES (MU-USE GROUP E) .....	U-81
515	MATTER-OF-RIGHT USES (MU-USE GROUP F) .....	U-82
516	SPECIAL EXCEPTION USES (MU-USE GROUP F) .....	U-83
517	MATTER-OF-RIGHT USES (MU-USE GROUP G) .....	U-86
518	SPECIAL EXCEPTION USES (MU-USE GROUP G) .....	U-87
519	USES NOT PERMITTED (MU-USE GROUP G) .....	U-90
CHAPTER 6	USE PERMISSIONS FOR ALLEY LOT .....	U-92
600	MATTER-OF-RIGHT USES ON ALLEY LOTS (R, RF, AND RA) .....	U-92
601	SPECIAL EXCEPTION USES ON ALLEY LOTS (R, RF, AND RA) ....	U-93
602	USES ON ALLEY LOTS IN THE NONRESIDENTIAL ZONES .....	U-95
CHAPTER 7	USE PERMISSIONS MIXED-USE UPTOWN ARTS (ARTS) AND DOWNTOWN (D) ZONES .....	U-97
700	MATTER-OF-RIGHT USES (ARTS AND D) .....	U-97
CHAPTER 8	USE PERMISSIONS PRODUCTION, DISTRIBUTION, AND REPAIR (PDR) ZONES .....	U-100
800	GENERAL PROVISIONS (PDR) .....	U-100
801	MATTER-OF-RIGHT USES (PDR) .....	U-100
802	SPECIAL EXCEPTION USES (PDR) .....	U-104
803	ADDITIONAL USE RESTRICTIONS AND CONDITIONS (PDR) .....	U-116
804	STANDARDS OF EXTERNAL EFFECTS (PDR) .....	U-117
805	EXTERNAL EFFECTS PERMIT APPLICATIONS (PDR) .....	U-118
806	ALLEY LOT USES (PDR) .....	U-118

## **CHAPTER 1      USE PERMISSIONS**

### **100            GENERAL USE PROVISION**

- 100.1            This subtitle contains use permissions for R, RF, RA, MU, ARTS, D, and PDR zones.
- 100.2            Each zone category may be divided into separate use groups which include specific use limitations.
- 100.3            Use groups identify different zones within a zone category that share the same permissions, with or without conditions. The use groups are not interchangeable between zone categories unless stated.
- 100.4            The use and locations of antennas in any zones shall be governed by Subtitle C, Chapter 25.
- 100.5            Uses permitted within a penthouse shall be in accordance with Subtitle C § 1500.3.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2).

### **101            SPECIAL EXCEPTIONS USE PROVISIONS**

- 101.1            When special exception relief is permitted for a use not meeting the matter-of-right requirements for its use group, that special exception relief shall not be used to relieve a condition that prohibits a use or activity or places a limitation on a use or to permit a prohibited use or a use that is specifically identified as not permitted.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2); Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

## CHAPTER 2 USE PERMISSIONS RESIDENTIAL HOUSE (R) ZONES

### 200 GENERAL USE PROVISION (R)

200.1 This chapter contains uses permitted as a matter of right or as a special exception and, when applicable, uses that are not permitted in the R zones use groups.

200.2 Use groups for the R zones are as follows:

**TABLE U § 200.2 R-USE GROUPS:**

R-Use Group A	R-Use Group B	R-Use Group C	R-Use Group D
R-1-A, R-1-B R-6, R-7, R-8, R-9 R-11, R-12 R-14, R-15 R-19 R-21	R-2 R-10	R-3 R-13 R-17 R-20	R-16

200.3 In the R zones, non-residential business uses may be permitted as a home occupation subject to the conditions and regulations of a home occupation as defined in Subtitle U § 251. A home occupation is considered an accessory use.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2).

### 201 MATTER-OF-RIGHT USES – R-USE GROUPS A, B, C, AND D

201.1 The following uses in this section shall be permitted as a matter of right subject to any applicable conditions:

(a) A principal dwelling unit shall be permitted as follows:

- (1) In the R-Use Groups A and D, the principal dwelling unit shall be in a detached building;
- (2) In the R-Use Group B, the principal dwelling unit may be in either a detached or semi-detached building and
- (3) In the R-Use Group C, the principal dwelling unit may be in either a detached, semi-detached, or row building; and

(b) Clerical and religious group residences for no more than fifteen (15) persons;

SOURCE: Final Rulemaking & Order No. published at 63 DCR 2447 (March 4, 2016 – Part 2); Final Rulemaking & Order No. 17-02 published at 64 DCR 7259 (July 28, 2017); Final Rulemaking & Order No. 17-23 published at 66 DCR 2337 (February 22, 2019).

**MATTER-OF-RIGHT USES – R-USE GROUPS A, B, AND C**

202.1 The following uses shall be permitted as a matter of right in R-Use Groups A, B, and C subject to any applicable conditions:

- (a) Any use permitted as a matter of right in Subtitle U § 201;
- (b) Accessory uses, subject to Subtitle U § 250;
- (c) Agricultural – large uses, except for a private stable;
- (d) Agricultural – residential uses except for a private stable;
- (e) Car-sharing spaces on an unimproved lot, with no more than two (2) spaces permitted;
- (f) 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 provided the reconstruction shall be limited to the chancery site as it existed on February 23, 1990; and
  - (5) The reconstruction that is authorized by subparagraph (4) of this paragraph shall not be subject to the requirements of Subtitle C, Chapter 2;
- (g) Child development/elderly development center located in a District of Columbia public school or a public recreation center operated by the District of Columbia Government; provided, that written permission to use the premises shall have been granted by the Chancellor of the District of Columbia Public Schools or the Director of the managing government agency, respectively;

- (h) Emergency shelter of not more than four (4) persons, not including resident supervisors or staff and their families;
- (i) Government, local uses;
- (j) Health care facility for not more than six (6) persons not including resident supervisors or staff and their families. The facility may accommodate seven (7) to eight (8) persons, not including resident supervisors or staff and their families, provided there shall be no property containing an existing health care 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;
- (k) Institutional, religious-based uses, but not including rescue mission or temporary revival tents;
- (l) 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 sq. ft.) in area and subject to the requirements of Subtitle D, Chapter 50;
- (m) Public education buildings and structures, public recreation and community centers, and public libraries subject to the development standards of Subtitle C, Chapter 16;
- (n) Public schools, collocation of. 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 field, and these shared recreation 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;
- (o) Temporary buildings for the construction industry that is incidental to erection of buildings or other structures permitted by this section;
- (p) Temporary use of premises by fairs, circuses, or carnivals, subject to the provisions of Title 19 DCMR, Chapter 13 (Amusements, Parks, and Recreation);
- (q) Mass transit facility; and
- (r) Reuse of former District of Columbia public school subject to the conditions of Subtitle U § 252.

202.2 In R-Use Group C, a corner store shall be permitted as a matter of right subject to the conditions of Subtitle U § 254.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2); Final Rulemaking & Order No. 08-06G published at 64 DCR 22 (January 6, 2017); Final Rulemaking & Order No. 17-02 published at 64 DCR 7259 (July 28, 2017).

## **203 SPECIAL EXCEPTION USES – R-USE GROUPS A, B, AND C**

203.1 The following uses shall be permitted as a special exception in R-Use Groups A, B, and C, if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9 subject to applicable conditions of each section:

- (a) Accessory apartment that does not meet the requirements of Subtitle U § 253;
- (b) Chancery not meeting the conditions for a matter-of-right use, subject to disapproval by the Board of Zoning Adjustment pursuant to Subtitle X, Chapter 2;
- (c) Clerical and religious group residences in excess of fifteen (15) persons subject to the following conditions:
  - (1) The use shall not adversely affect the use of neighboring property; and
  - (2) The amount and arrangement of parking shall be determined adequate;
- (d) Community center building, park, playground, swimming pool, or athletic field, operated by a local community organization or association, subject to the following conditions:
  - (1) The use 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;
  - (2) The use shall not include retail sales to the general public but may charge a fee to members for services, which may include refreshments;
  - (3) The use shall not likely become objectionable in a R zone because of noise or traffic; and
  - (4) The use shall be reasonably necessary or convenient to the neighborhood in which it is proposed to be located;
- (e) Community-based institutional facilities subject to the following conditions:
  - (1) The use shall house no more than fifteen (15) persons, not including resident supervisors or staff and their families;

- (2) In the R-2, R-3, R-10, R-13, and R-17 zones there shall be no other lot containing a community-based institutional facility use in the same square or within a radius of five-hundred feet (500 ft.) from any portion of the lot; and
  - (3) In all other R-Use Groups A, B, and C there shall be no other lot containing a community-based institutional facility use in the same square or within a radius of one thousand feet (1,000 ft.) from any portion of the lot;
- (f) Continuing care retirement community, subject to the provisions of this paragraph:
- (1) The use shall include one or more of the following services:
    - (A) Dwelling units for independent living;
    - (B) Assisted living facilities; or
    - (C) A licensed skilled nursing care facility;
  - (2) If the use does not include assisted living or skilled nursing facilities, the number of residents shall not exceed eight (8);
  - (3) The use may include ancillary uses for the further enjoyment, service, or care of the residents;
  - (4) The use and related facilities shall provide sufficient off-street parking spaces for employees, residents, and visitors;
  - (5) The use, including any outdoor spaces provided, shall be located and designed so that it is not likely to become objectionable to neighboring properties because of noise, traffic, or other objectionable conditions; and
  - (6) The Board of Zoning Adjustment 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.
- (g) Daytime care uses subject to the following conditions:
- (1) 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;



- (2) Any off-site play area shall be located so as not to endanger individuals traveling between the play area and the center or facility;
  - (3) The Board of Zoning Adjustment 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; and
  - (4) 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 may be approved only when the Board of Zoning Adjustment 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;
- (h) Emergency shelter use for five (5) to fifteen (15) persons, not including resident supervisors or staff and their families, subject to the following conditions:
- (1) In R-Use Group 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 one thousand feet (1,000 ft.) from any portion of the property;
  - (2) In R-Use Groups B and C, 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;
  - (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;
  - (4) The proposed facility shall meet all applicable code and licensing requirements;
  - (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;
  - (6) The Board of Zoning Adjustment may approve more than one (1) emergency shelter in a square or within one thousand feet (1,000 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

- (7) The Board of Zoning Adjustment may approve a facility for more than fifteen (15) 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;
- (i) Health care facility use for nine (9) to three hundred (300) persons, not including resident supervisors or staff and their families, subject to the following conditions:
  - (1) In R-Use Group A, there shall be no other property containing a health care facility either in the same square or within a radius of one thousand feet (1,000 ft.) from any portion of the property;
  - (2) In R-Use Groups B and C, there shall be no other property containing a health care facility either in the same square or within a radius of five hundred feet (500 ft.) from any portion of the property;
  - (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;
  - (4) The proposed facility shall meet all applicable code and licensing requirements;
  - (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; and
  - (6) More than one (1) health care facility in a square or within the distances of (1) and (2) above may be approved 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;
- (j) Parking as a principal use, or accessory parking elsewhere than on the same lot as the principal use, subject to the following conditions:
  - (1) Parking garages shall not be permitted; parking spaces shall be in an open parking lot area or in an underground garage no portion of which, except for access, shall extend above the level of the adjacent finished grade;
  - (2) All parking shall meet the conditions of Subtitle C, Chapter 7;

- (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;
- (4) At least eighty percent (80%) of the parking surface shall be of pervious pavement;
- (5) Accessory parking shall not be accessory to “parking as a principal use”;
- (6) The applicant shall demonstrate the following:
  - (A) The 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;
  - (B) The present character and future development of the neighborhood will not be affected adversely; and
  - (C) The parking is reasonably necessary and convenient to other uses in the vicinity;
- (7) Parking as a principal use shall be subject to the following conditions:
  - (A) All parking shall be located in its entirety within two hundred feet (200 ft.) of an existing MU, NC, D, or PDR zone;
  - (B) The lot shall be contiguous to or separated only by an alley from a MU, NC, D, or PDR zone; and
  - (C) 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;
- (8) Accessory parking shall be subject to the following condition:
  - (A) All parking spaces shall be located in their entirety within two hundred feet (200 ft.) of the area to which they are accessory; and
  - (B) All parking spaces shall be contiguous to or separated only by an alley from the use to which they are accessory;

- (9) The Board of Zoning Adjustment may require that all or a portion of the parking spaces be reserved for the following:
  - (A) Residential parking;
  - (B) Unrestricted commercial parking;
  - (C) Accessory parking for uses within eight hundred feet (800 ft.); and
  - (D) Shared parking for different uses by time of day; conditioned on lighting to reduce impacts on adjoining properties;
- (10) In the R-19 and R-20 zones, no commercial parking lots shall be permitted; and
- (11) The application shall be referred to the District Department of Transportation for review and report;
- (k) Performing arts, live theatrical use of an existing theater or performance space in an institutional, educational, or performing arts building subject to the following conditions:
  - (1) The use shall not be organized for profit; and
  - (2) The use shall not likely become objectionable because of noise, hours of events, traffic, parking or other objectionable conditions;
- (l) Private schools and residences for teachers and staff of a private school, but not including a trade school, subject to the following conditions:
  - (1) 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;
  - (2) Ample parking space, but not less than that required by this title, shall be provided to accommodate the students, teachers, and visitors likely to come to the site by automobile; and
  - (3) After hearing all evidence, the Board of Zoning Adjustment may require additional parking to that required by this title;
- (m) Private stables shall be permitted as an accessory use subject to the following conditions:

- (1) It shall be set back a minimum of fifty feet (50 ft.) from all lot lines and 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;
  - (2) It shall be located and designed to create no condition objectionable to adjacent properties resulting from animal noise, odor, and/or waste; and
  - (3) The applicant shall demonstrate that any external yard will be fenced for the safe confinement of the animals;
- (n) Use of existing residential buildings and the land on which they are located by a nonprofit organization for the purposes of the nonprofit organization:
- (1) If the building is listed in the District of Columbia's Inventory of Historic Sites or, if the building is located within a district, site, area, or place listed on the District of Columbia's Inventory of Historic Sites;
  - (2) If the gross floor area of the building in question, not including other buildings on the lot, is ten thousand square feet (10,000 sq. ft.) or greater;
  - (3) The use of existing residential buildings and land by a nonprofit organization shall not adversely affect the use of the neighboring properties;
  - (4) The amount and arrangement of parking spaces shall be adequate and located to minimize traffic impact on the adjacent neighborhood;
  - (5) 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; and
  - (6) Any additions to the building or any major modifications to the exterior of the building or to the site shall require approval of the Board of Zoning Adjustment after review and recommendation by the Historic Preservation Review Board with comments about any 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;

- (o) Uses and programs conducted by a religious congregation or group of congregations, subject to the following conditions:
  - (1) The program shall not be organized for profit, but shall be organized exclusively for the promotion of the social welfare of the community;
  - (2) The part of the program conducted on the property shall be carried on within the existing place of worship building(s) or structure(s);
  - (3) The staff conducting the program shall be composed of persons, at least seventy-five percent (75%) of whom volunteer their time and services;
  - (4) The operation of the program shall be such that it is not likely to become objectionable in the R zones because of noise, traffic, parking, or other objectionable conditions;
  - (5) No signs or display indicating the location of the program shall be located on the outside of the building or the grounds; and
  - (6) Any authorization by the Board of Zoning Adjustment shall be limited to a period of three (3) years, but may be renewed at the discretion of the Board of Zoning Adjustment;
- (p) Utility uses subject to the following conditions:
  - (1) An electronic equipment facility shall not be permitted;
  - (2) Any requirements for setbacks, screening, or other safeguards that the Board of Zoning Adjustment deems necessary for the protection of the neighborhood; and
  - (3) Any new construction of a freestanding structure for use as an optical transmission node shall be built to appear compatible with surrounding construction, including exterior building material, fenestration, and landscaping and there shall be no advertisement on the structure; and
- (q) Any use within a District of Columbia former public school building that does not comply with the matter of right conditions of Subtitle U § 252 subject to the special exception conditions of Subtitle U § 252.

203.2

In R-Use Group C, a corner store use not permitted as a matter of right pursuant to Subtitle U § 254, shall be permitted as a special exception subject to the conditions of Subtitle U § 254;

203.3 College or university use 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 if approved by the Zoning Commission subject to the conditions of Subtitle X, Chapter 1 and Subtitle Z.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2); Final Rulemaking & Order No. 17-01 published at 64 DCR 7254 (July 28, 2017).

## **204 MATTER-OF-RIGHT USES – R-USE GROUP D**

204.1 The following uses shall be permitted in the R-Use Group D zone:

- (a) Any use permitted as a matter of right in Subtitle U § 201; and
- (b) An existing non-residential use with a valid certificate of occupancy shall be considered a conforming use and may expand by not more than ten percent (10%) of its gross floor area as a matter of right under the provisions of the R-16 zone; provided, that the following requirements are met:
  - (1) No additional land area or subdivision of lots is involved in the expansion; and
  - (2) 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.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2).

## **205 SPECIAL EXCEPTION USES – R-USE GROUP D**

205.1 The uses in this section shall be permitted in the R-Use Group D zone if approved by the Board of Zoning Adjustment as a special exception under Subtitle X, Chapter 9, and subject to the provisions of this section:

- (a) Any non-residential use permitted as a matter of right in Subtitle U § 202;
- (b) A proposed expansion of an existing non-residential use in excess of ten percent (10%) of gross floor area, subject to the conditions of Subtitle U § 205.2; and
- (c) Any use permitted as a special exception in Subtitle U § 203.

205.2 The following conditions shall apply to any application for use as a special exception under this section:

- (a) The non-residential 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 (1) time; provided:
  - (1) The number of parking spaces provided shall be not less than the number required by Subtitle C, Chapter 7 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 condition;
  - (2) Parking spaces and driveways providing access to them shall not be located in a required side setback, 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 sixty inches (60 in.) high, or by evergreen hedges or evergreen growing trees that are thickly planted and maintained and are at least sixty inches (60 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.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2).

## **206-249 [RESERVED]**

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2).

## **250 ACCESSORY USES (R)**

250.1 The following accessory uses shall be permitted as a matter of right in all R zones subject to the associated conditions:

- (a) Two (2) boarders within the principal dwelling;
- (b) No more than two (2) car-sharing spaces, neither of which may be a space devoted to required parking;



- (c) Child development home or elderly day care home subject to the following conditions:
  - (1) The use shall be located in the principal residence of the caregiver;
  - (2) There shall be no more than one (1) sign or display, which shall not exceed one hundred forty-four square inches (144 sq. in.) in area;
  - (3) No stock in trade is kept nor any commodity sold upon the premises;
  - (4) No more than one (1) person who does not reside on the premises may be employed; and
  - (5) No mechanical equipment shall be used except such as is permissible for purely domestic or household purposes;
- (d) Home Occupation subject to the conditions of Subtitle U § 251; and
- (e) An accessory apartment subject to the conditions of Subtitle U § 253; and
- (f) Other accessory uses, buildings or structures customarily incidental to the uses permitted in R zones under the provisions of this section shall be permitted; including one (1) sale in the nature of a yard sale, garage sale, or home sales party may be held at a dwelling unit during a twelve (12) month period.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2); Final Rulemaking & Order No. 17-02 published at 64 DCR 7259 (July 28, 2017).

## **251 HOME OCCUPATION USES (R)**

251.1 The following uses shall be permitted as home occupations. The uses listed under this subsection shall include similar uses in each category subject to the same conditions and requirements of this chapter:

- (a) Business support and technology services;
- (b) The following daytime care uses:
  - (1) 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;
  - (2) Expanded child development home for between seven (7) and nine (9) individuals fifteen (15) years of age or less; provided:

- (A) No more than three (3) persons who are not a resident of the dwelling unit shall be engaged or employed;
  - (B) 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
  - (C) 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;
- (3) 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 Subtitle X and subject to the provisions of Subtitle U § 251.6; 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;
- (c) Cosmetologist, hair stylist, or barber;
  - (d) Cottage food business;
  - (e) Dressmaking, sewing, and tailoring;
  - (f) Home crafts, graphic arts, photography, and 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;
  - (g) Home office of a businessperson, non-profit organization, 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;
  - (h) Home office of a physician, dentist, or other health care or licensed medical professional; provided, there is no other medical or dental practice on the site;
  - (i) Home office of a scientist, clergyman, inventor, academician, licensed health care professional other than one provided for in paragraph (h) of this subsection, or other professional person;
  - (j) Lodging subject to the following conditions:
    - (1) The dwelling shall be owned and occupied as the principal residence of the operator(s);

- (2) The use shall not be permitted in a multiple dwelling building;
- (3) Breakfast shall be the only meal served, and served only to overnight guests;
- (4) The maximum number of sleeping rooms shall be two (2), except:
  - (A) Pursuant to Subtitle U § 251.6(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 Historic Preservation Office as contributing to the character of that historic district, the number of sleeping rooms may be increased to six (6); and
  - (B) The number of sleeping rooms permitted as a matter of right or as a special exception as set forth in this paragraph shall be reduced by one (1) for each person who rooms or boards in the dwelling for thirty (30) days or longer;
- (5) No cooking facilities shall be permitted in any of the rented rooms; and
- (6) 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;
- (k) A practitioner may perform and be paid for a service, even if the service results in the creation of a product;
- (l) Sales, subject to the following conditions:
  - (1) Items sold are directly associated with the home occupation;
  - (2) Five (5) sales in the nature of yard sales, garage sales, or home sales parties may be held at a dwelling as a matter of right during a twelve-month (12-month) period; one (1) additional sale for a total of six (6) may be permitted if approved by the Board of Zoning Adjustment pursuant to Subtitle U § 251.6; and
  - (3) General retail sales or sales to customers without appointments shall not be permitted;
- (m) Tutoring and instruction of not more than five (5) students at any one (1) time, including academic tutoring, dance, languages, culinary arts, and musical instrument and similar activities; and

- (n) A home occupation may be permitted in an accessory apartment subject to the following limitations:
  - (1) There shall be no more than six (6) visitors or clients per day;
  - (2) There shall be no related sales; and
  - (3) There shall be no lodging or overnight stays as part of the home occupation.

251.2 A Home Occupation Permit (HOP) shall be required prior to the practice of a home occupation and subject to the following requirements:

- (a) A HOP shall be obtained by the practitioner;
- (b) A HOP shall be granted only to a designated person or group of persons who reside at a residential address;
- (c) A HOP may not be transferred from one (1) person to another or from one (1) address to another;
- (d) A HOP shall require evidence of the property owner's concurrence for any HOP that involves employees, clients, customers or other non-residents to attend the property;
- (e) A HOP shall be issued without a public hearing if the requirements of this subsection are met, or after a public hearing by the Board of Zoning Adjustment pursuant to Subtitle U § 251.6 and Subtitle X;
- (f) If the Zoning Administrator determines that an application for a HOP appears to meet the conditions of this chapter, but is 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; and
- (g) In making the determination to refer the HOP to the Board of Zoning Adjustment, the Zoning Administrator may consider, but not be limited to, the cumulative impact of one (1) or more home occupations.

251.3 A home occupation shall comply 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 for lodging, and as provided in Subtitle U §§ 251.1(b) and 251.1(f), 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,

excluding basement or any accessory structure, shall be utilized for the home occupation;

- (c) All materials or finished products shall be stored within the floor area utilized for the home occupation or in a basement or accessory structure;
- (d) Except as provided in Subtitle U § 251.1(b), in no case shall more than two (2) persons who are not residents of the subject dwelling unit be permitted as employees of the home occupation except for the home office of a physician or dentist;
- (e) No interior structural alteration shall be permitted if it would make it difficult to return the premises to a use that is exclusively residential;
- (f) No operations related to the home occupation shall be conducted outside a structure, nor shall any storage or other unsightly condition be permitted outside a structure;
- (g) No equipment or process shall be utilized 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;
- (h) The use shall produce no noxious odors, vibrations, glare, or fumes that are detectable to normal sensory perception outside the subject home;
- (i) The use shall not produce a level of noise that exceeds the level normally associated with the category of dwelling or the immediate neighborhood;
- (j) No more than two (2) vehicles may be used in the practice of the home occupation;
- (k) 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;
- (l) Except for child development homes and 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;
- (m) If more than one (1) home occupation is practiced in a dwelling unit, the cumulative impact of all such home occupations shall not exceed any of the standards set forth in this chapter; and
- (n) The dwelling unit owner and the practitioner shall maintain the residential character and appearance of the dwelling unit and lot.

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

- (a) No more than one (1) exterior sign may be displayed on a dwelling or other building in which a home occupation is practiced, regardless of the number of home occupations permitted in the dwelling or building;
- (b) The sign shall not exceed one hundred forty-four square inches (144 sq. in.) in area;
- (c) The sign shall be flush-mounted;
- (d) The sign shall not be illuminated; and
- (e) The sign may state only the name of the practitioner and the type of home occupation.

251.5 Except as explicitly permitted by Subtitle U § 251.1, the following uses categories are prohibited as home occupations:

- (a) Animal sales, care, and boarding;
- (b) Entertainment, assembly, and performing arts;
- (c) Firearms sales;
- (d) Motor vehicle sales, service, or repair;
- (e) Production, distribution, and repair;
- (f) Retail sales;
- (g) Sexually-based business establishment; and
- (h) Waste-related services.

251.6 A home occupation that is neither permitted nor prohibited in this chapter may be permitted as a special exception by the Board of Zoning Adjustment under Subtitle X, subject to the following conditions:

- (a) The proposed use and related conditions shall be consistent with the purposes of this chapter and shall generally comply with the requirements of Subtitle U §§ 251.1 through 251.4, subject to specific findings and conditions of the Board of Zoning Adjustment in each case;
- (b) An applicant for a home occupation that is permitted by Subtitle U § 251.1 may request the Board of Zoning Adjustment to modify no more than two (2) of the conditions enumerated in Subtitle U §§ 251.3 and 251.4;

- (c) 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 Subtitle U §§ 251.3 and 251.4 shall be deemed a request for a variance; and
- (e) In considering any request for approval under this section, the Board of Zoning Adjustment shall determine that the request is consistent with the general purposes and intent of this chapter and 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 chapter.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2); Final Rulemaking & Order No. 08-06G published at 64 DCR 22 (January 6, 2017); Final Rulemaking & Order No. 08-06P published at 65 DCR 11927 (October 26, 2018).

## **252 REUSE OF FORMER PUBLIC SCHOOLS (R)**

- 252.1 The provisions of this section shall apply to uses within a building owned by the District of Columbia that formerly served as the location of a public school (former school building) in an R zone.
- 252.2 In the R-16 zones, the non-residential uses in a former school building shall be limited to ten percent (10%) of the gross floor area of the school as a matter of right.
- 252.3 The following uses shall be permitted as a matter of right within a former school building subject to the following conditions:
  - (a) Administrative offices of District of Columbia government agencies not part of the criminal justice system, provided:
    - (1) The use shall not extend outside the building unless accessory and incidental to the principal administrative use; and
    - (2) Any storage shall be fully enclosed;
  - (b) Arts uses as follows:
    - (1) Art center;
    - (2) Art incubator; or

- (3) Art or performing arts school, including, but not limited to, schools of dance, photography, filmmaking, music, writing, painting, sculpting, or printmaking;
- (c) Daytime care uses;
- (d) Community college uses, subject to the following conditions:
  - (1) The use shall not occupy more than fifty thousand square feet (50,000 sq. ft.) of building area;
  - (2) There shall be no external activities after 9:00 p.m.; and
  - (3) There shall be no use of the college space after 12:00 a.m.;
- (e) Community service use or uses provided:
  - (1) 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;
  - (2) The use shall not be a community-based institutional facility, part of the criminal justice system, or a substance abuse treatment facility; and
  - (3) There is no outdoor storage of materials;
- (f) Health care uses that meet the definition of a clinic provided the use shall not be a substance abuse treatment facility; and
- (g) Residential uses subject to the maximum number of dwelling units of the R zone in which the former school building is located.

252.4 The following uses shall be permitted as a temporary use as a matter of right within a former school building subject to the following conditions:

- (a) Temporary building for the construction industry that is incidental to erection of buildings or other structures permitted by this section for a period no longer than one (1) year; and
- (b) Temporary use of premises by fairs, circuses, or carnivals, upon compliance with the provisions of Title 19 DCMR, Chapter 13 (Amusements, Parks, and Recreation).

252.5 The following uses shall be permitted as a special exception within a former school building if approved by the Board of Zoning Adjustment under Subtitle X:

- (a) A use permitted by Subtitle U § 252.3 that does not meet one (1) or more of the applicable conditions or provisions;



(b) A government use or not-for-profit use not otherwise permitted by this section; and

(c) In the R-16 zone, any nonresidential use in excess of ten percent (10%).

252.6 Any expansion of a former school building housing a use permitted by this section shall be permitted as a special exception within a former school building if approved by the Board of Zoning Adjustment under Subtitle X.

252.7 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 of Zoning Adjustment deems necessary for the protection of the neighborhood.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2); Final Rulemaking & Order No. 17-02 published at 64 DCR 7259 (July 28, 2017).

## **253 ACCESSORY APARTMENT (R)**

253.1 One (1) accessory apartment may be established in an R zone, subject to the provisions of this section.

253.2 An accessory apartment shall be permitted in a principal dwelling or an accessory building as a matter of right in the R zones, except the R-19 or R-20 zones, subject to the provisions of this section.

253.3 An accessory apartment proposed in an accessory building not meeting the conditions of Subtitle U § 253.8 shall be permitted as a special exception if approved by the Board of Zoning Adjustment, subject to the provisions of this section.

253.4 In the R-19 or R-20 zone, an accessory apartment shall be permitted as a special exception in either a principal dwelling or an accessory building if approved by the Board of Zoning Adjustment, subject to the provisions of this section.

253.5 Either the principal dwelling or accessory apartment unit shall be owner-occupied for the duration of the accessory apartment use.

253.6 The total number of persons that may occupy the accessory apartment shall not exceed three (3), except in the R-19 or R-20 zone where the aggregate number of persons that may occupy the house, including the principal dwelling and the accessory apartment combined, shall not exceed six (6).

253.7 An accessory apartment located in the principal dwelling shall be subject to the following conditions:

(a) The house shall have a minimum of gross floor area, exclusive of garage space in the following zones:

**TABLE U § 253.7(a): MINIMUM GROSS FLOOR AREA:**

<b>Zones</b>	<b>Minimum GFA</b>
R-1-A R-1-B R-19	2,000 sq. ft.
R-2, R-3 R-10 R-13 R-17 R-20	1,200 sq. ft.

- (b) The accessory apartment unit may not occupy more than thirty-five percent (35%) of the gross floor area of the house;
- (c) Except as provided in Subtitle U § 253.7(d), if an additional entrance is created to a house it shall not be located on a wall of the house that faces a street; and
- (d) An additional entrance to a house in an R-3, R-13, R-17, or R-20 zone may be located on a wall of the house that faces a street provided it is below the main level of the house and if in a historic district, a determination by the appropriate body that the additional door is compatible with the character of the historic district.

253.8

An accessory apartment in an accessory building in an R zone, except the R-19 and R-20 zone, shall be permitted as a matter of right subject to the following conditions:

- (a) There shall be permanent access to the accessory building apartment;
- (b) The dwelling use of the accessory building shall be coterminous with the permanent access;
- (c) The permanent access shall be provided by one (1) of the following:
  - (1) A permanent passage, open to the sky, no narrower than eight feet (8 ft.) in width, and extending from the accessory building to a public street through a side setback or shared recorded easement between properties;
  - (2) Through an improved public alley with a minimum width of twenty-four feet (24 ft.) that connects to a public street; or
  - (3) The accessory building is within three hundred feet (300 ft.) of a public street accessible through an improved public alley with a minimum width of fifteen feet (15 ft.);

- (d) An accessory building that houses an apartment shall not be used simultaneously for any accessory use other than as a private vehicle garage, an artist studio, or storage for a dwelling unit on the lot;
- (e) An accessory building that houses an apartment shall not have a roof deck; and
- (f) An accessory apartment proposed within an accessory building that does not meet the conditions of this section shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, and subject the following conditions:
  - (1) The accessory building shall be located such that it is not likely to become objectionable to neighboring properties because of noise, traffic, parking, or other objectionable conditions; and
  - (2) Evidence that there are adequate public utilities for the health and safety of the residents.

253.9 An accessory apartment proposed in the R-19 and R-20 zones shall be subject to the restrictions of Subtitle U §§ 253.5 through 253.8 and the following conditions:

- (a) It shall only be permitted on the second story of a detached accessory building; and
- (b) Any balcony or projecting window shall not face a principal building in single household residential use; and provided the balcony is located entirely within the permitted footprint of the accessory building.

253.10 Not more than two (2) of the requirements specified in this section may be modified or waived by the Board of Zoning Adjustment subject to the following limitations:

- (a) The owner-occupancy requirement of Subtitle U § 253.5 shall not be waived in any R zones;
- (b) Subtitle U § 253.6 shall not be modified or waived in the R-19 or R-20 zone; and
- (c) Any modification(s) approved shall not conflict with the intent of this section to maintain a single household residential appearance and character in the R zones.

253.11 In addition to Subtitle U § 253.10, the Board of Zoning Adjustment may approve as a special exception the inclusion of a balcony or projecting windows for the accessory apartment.

253.12 Any request to modify more than two (2) of the requirements of this subsection shall be deemed a request for a variance.

253.13 Prior to renting an accessory apartment in any zone, the property owner shall obtain a Residential Rental Business License from the Department of Consumer and Regulatory Affairs and the property shall be inspected for relevant housing code compliance.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2).

## **254 CORNER STORES**

254.1 A corner store shall only be permitted in the R-3, R-13, R-17, R-20, RF-1, RF-2, and RF-3 zones.

254.2 A corner store use shall be a retail, general service, arts design and creation, or eating and drinking establishment use subject to the provisions of this section.

254.3 **[RESERVED]**

254.4 **[RESERVED]**

254.5 The allowable total area for a corner store shall be one thousand-two hundred square feet (1,200 sq. ft.), not including cellar space, and shall be limited to the ground story and cellar or basement.

254.6 A corner store shall only be located as follows:

- (a) On a lot that is at the intersection of two (2) generally perpendicular streets;
- (b) Not within five hundred feet (500 ft.) of more than one (1) other lot with a corner store use defined as an eating and drinking establishment;
- (c) Not within five hundred feet (500 ft.) of more than three (3) other lots with a corner store use defined as retail, general service, or arts, design, and creation uses;
- (d) In the R-3, R-13, or R-17 zones, on an interior or through lot with a building that was built prior to May 12, 1958 for the purpose of a nonresidential use, as established by a certificate of occupancy, permit records or other historical documents accepted by the Zoning Administrator;
- (e) In the R-3, R-13, or R-17 zones, no nearer than five hundred feet (500 ft.) to a property line of a lot in a MU or NC zone;

- (f) In the R-20 zone, on an interior or through lot with a building that was built prior to May 12, 1958, for the purpose of a nonresidential use, and only if the building was used for a corner store use within the previous three (3) years established by a certificate of occupancy, permit records, or other historical documents accepted by the Zoning Administrator; and
- (g) In the R-20 zone, no nearer than seven hundred and fifty feet (750 ft.) to a property line of a lot in an MU or NC zone.

254.7 A corner store shall not be permitted:

- (a) On an alley lot;
- (b) On a lot or within a building containing more than one (1) dwelling unit or another corner store;
- (c) Within a building that is accessory to the principal building on the lot;
- (d) On an R zoned lot within Squares 1327 or 1350, 1351, 1352, or 1353 inclusive; or
- (e) In the R-20 zone, on an interior or through lot that has not been used for corner store uses for three (3) or more consecutive years shall not be deemed eligible for a corner store use.

254.8 There shall be no on-site cooking of food or installation of grease traps; however, food assembly and reheating is permitted in a corner store.

254.9 There shall be no sale of alcoholic beverages for on-site consumption in a corner store.

254.10 All storage of materials and trash shall occur within the building area devoted to the corner store. There shall be no external storage of materials or trash.

254.11 There shall be no on-site use or storage of dry cleaning chemicals in a corner store.

254.12 Only one (1) external sign may be displayed on the building's façade, provided that the sign is not illuminated and is flush-mounted.

254.13 A corner store for which the use is a fresh food market or grocery store devoted primarily to the retail sale of food shall be permitted as a matter of right subject to the following conditions:

- (a) The use shall meet the requirements of Subtitle U §§ 254.5 through 254.12;
- (b) The use shall not operate between 9:00 p.m. and 7:00 a.m.;

- (c) A minimum of forty percent (40%) of customer-accessible sales and display area shall be dedicated to the sale of a general line of food products intended for home preparation and consumption;
- (d) A minimum of twenty percent (20%) of retail space shall be dedicated to the sale of perishable goods that include dairy, fresh produce, fresh meats, poultry, fish and frozen foods; and
- (e) A maximum of fifteen percent (15%) of the gross floor area of the corner store located on the ground floor of the building may be devoted to the sale of alcohol for off-site consumption only when approved as a special exception.

254.14

A corner store use that is not permitted as a matter of right pursuant to Subtitle U § 254.13, shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the following conditions:

- (a) A corner store use shall be located so that it is not likely to become objectionable to neighboring property because of noise, traffic, deliveries, or other objectionable conditions;
- (b) The applicant shall demonstrate that the proposed corner store use will not detract from the overall residential character of the area and will enhance the pedestrian experience by providing within the application the following information:
  - (1) A demonstration of conformity to the provisions of Subtitle U §§ 254.5 through 254.12;
  - (2) A description of proposed uses, activities, goods sold, or services rendered, including:
    - (3) Proposed size and location within the principal building;
    - (4) Proposed number of employees at any one (1) time and in total;
    - (5) Proposed hours of operation;
    - (6) Proposed signage;
    - (7) Any proposed amplified music or other sound outside of the building containing the corner store use;
    - (8) Any outdoor seating associated with the corner store use;

- (9) Proposed parking number, location, and screening such that any parking shall be fully screened from all adjacent properties, streets and alleys;
- (10) Proposed location of all storage; and
- (11) Proposed location of trash storage and method and timing for removal;
- (c) Any alterations to the property proposed to accommodate the corner store use, including any grading changes, tree removal; or addition of retaining walls, patios, or pervious surfaces;
- (d) Any modifications to the building façade, including changes to window and door openings; and
- (e) The maximum sales area devoted to the sale of alcohol for off-site consumption shall be limited to a maximum of fifteen percent (15%) of the gross floor area of the ground floor of the corner store.

254.15 The Board of Zoning Adjustment may waive the location restrictions of Subtitle U §§ 254.6(b) and (c) provided the applicant adequately demonstrates that the proposed corner store use will:

- (a) Be neighborhood serving;
- (b) Not negatively impact the economic viability or vitality of an area zoned MU or NC that is closer than seven hundred and fifty feet (750 ft.) to an R-20 zone or five hundred feet (500 ft.) to any other R zone;
- (c) Not create a concentration of non-residential uses that would detract from the overall residential character of the area; and
- (d) Not result in undue impacts uses on residents of the area through the concentration of such.

254.16 Except as provided in Subtitle U §§ 254.13 and 254.14, an application not meeting the requirements of this section shall be deemed a variance, subject to the provisions of Subtitle X, Chapter 10.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2); Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

## CHAPTER 3 USE PERMISSIONS RESIDENTIAL FLATS (RF) ZONES

### 300 GENERAL USE PROVISION (RF)

- 300.1 This chapter contains use permissions and any applicable conditions in the RF zones.
- 300.2 In the RF zones, nonresidential business uses may be permitted as a home occupation use subject to the conditions and regulations of a home occupation as defined in Subtitle U § 251. A home occupation is considered an accessory use.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2).

### 301 MATTER-OF-RIGHT USES (RF)

- 301.1 The following uses shall be permitted as a matter of right in an RF zone subject to any applicable conditions:
- (a) Any use permitted in the R zones under Subtitle U §§ 201 and 202;
  - (b) Residential flats with a maximum number of principal dwelling units as follows:

**TABLE U § 301.1(b) MAXIMUM NUMBER OF PRINCIPAL DWELLING UNITS:**

RF Zone	Number of Principal Dwelling Units
RF-1	2
RF-2	2
RF-3	2
RF-4	3
RF-5	4

- (c) A permitted principal dwelling unit within an accessory building subject to the following conditions of:
  - (1) The accessory building was in existence on January 1, 2013;
  - (2) No expansion or addition may be made to the accessory building to accommodate an apartment except as a special exception;
  - (3) There shall be permanent access to the accessory building dwelling from a dedicated and improved right of way; and
  - (4) Permanent access shall be provided by one (1) of the following:
    - (A) An easement for a permanent passage, open to the sky, no narrower than eight feet (8 ft.) in width, and extending from the accessory building to a public street through a side



setback recorded in the land records of the District of Columbia;

- (B) Through an improved public alley with a minimum width of twenty-four feet (24 ft.) that connects to a public street; or
  - (C) On an improved alley no less than fifteen feet (15 ft.) in width and within a distance of three hundred (300) linear feet of a public street;
- (d) An accessory building that houses a principal dwelling unit shall not have a roof deck;
  - (e) An accessory building constructed as a matter-of-right after January 1, 2013, and that is located within a required setback shall not be used as, or converted to, a dwelling unit for a period of five (5) years after the approval of the building permit for the accessory building, unless approved as a special exception;
  - (f) An accessory building that houses a principal dwelling unit shall not be used simultaneously for any accessory use other than as a private vehicle garage for a dwelling unit on the lot, storage, or as an artist studio; and
  - (g) Any proposed expansion of an accessory building for residential purposes shall be permitted only as a special exception approval pursuant to Subtitle X, and shall be evaluated against the standards of this section.
  - (h) A boarding house subject to the following conditions:
    - (1) No more than eight (8) total persons shall live on the premises;
    - (2) Accommodations are not provided to transient guests who stay less than ninety (90) days at the premises;
    - (3) No sign is displayed on the premises;
    - (4) 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; and
    - (5) Cooking facilities are not provided in any individual unit;
  - (i) A corner store use subject to the matter-of-right conditions of Subtitle U § 254;

- (j) Any uses permitted within a District of Columbia former public school building subject to the matter-of-right conditions of Subtitle U § 252;
- (k) Medical care uses;
- (l) A multiple dwelling in Squares 2580, 2581, 2582, 2583, 2584, 2586W, 2587, or 2589, in existence as of December 14, 2015 with a valid certificate of occupancy, or a building permit application for a multiple dwelling that was officially accepted by DCRA as being complete prior to December 14, 2015, provided that the multiple dwelling shall not be expanded in gross floor area, lot occupancy, number of stories, building height, penthouse height, or number of units. Said multiple dwelling, however, may be repaired, renovated, remodeled, or structurally altered;
- (m) Child/elderly development center located in a building that was built as a place of worship and that has been used continuously as a place of worship since it was built; and
- (n) Child/elderly development center or adult day treatment facility, provided, that the use shall be limited to no more than sixteen (16) individuals, not including staff.

301.2 Conversion of an existing non-residential building or structure to an apartment house shall be permitted as a matter of right in an RF-1, RF-2, or RF-3 zone subject to the following conditions:

- (a) The building or structure to be converted is in existence 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 farther than ten feet (10 ft.) past the farthest rear wall of any adjoining principal residential building on any adjacent property;
- (e) A roof top architectural element original to the structure such as cornices, porch roofs, a turret, tower, or dormers shall not be removed or significantly altered, including shifting its location, changing its shape or increasing its height, elevation, or size. For interior lots, not including through lots, the roof top architectural elements shall not include identified roof top architectural elements facing the structure's rear lot line. For all other lots, the roof top architectural elements shall include identified rooftop architectural elements on all sides of the structure;

- (f) Any addition, including a roof structure or penthouse, shall not block or impede the functioning of a chimney or other external vent compliant with any District of Columbia municipal code on an adjacent property. A chimney or other external vent must be existing and operative at the date of the building permit application for the addition;
- (g) Any addition, including a roof structure or penthouse, shall not significantly interfere with the operation of an existing solar energy system of at least 2kW on an adjacent property unless agreed to by the owner of the adjacent solar energy system. For the purposes of this paragraph the following quoted phrases shall have the associated meaning:
  - (1) “Significantly interfere” shall mean an impact caused solely by the addition that decreases the energy produced by the adjacent solar energy system by more than five percent (5%) on an annual basis, as demonstrated by a comparative solar shading study acceptable to the Zoning Administrator;
  - (2) “Existing solar energy system” shall mean a solar energy system that is, at the time the application for the building permit for the adjacent addition is officially accepted as complete by the Department of Consumer and Regulatory Affairs or an application for zoning relief or approval for the adjacent addition is officially accepted as complete by the Office of Zoning, either:
    - (A) Legally permitted, installed, and operating; or
    - (B) Authorized by an issued permit; provided that the permitted solar energy system is operative within six (6) months after the issuance of the solar energy system permit not including grid interconnection delays caused solely by a utility company connecting to the solar energy system; and
- (h) An apartment house in an RF-1, RF-2, or RF-3 zone 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 Subtitle X, Chapter 9, and Subtitle U § 320.3.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2); Final Rulemaking & Order No. 16-08 published at 63 DCR 12366 (October 7, 2016); Final Rulemaking & Order No. 14-11B published at 64 DCR 4055 (April 28, 2017); Final Rulemaking & Order No. 08-06K published at 64 DCR 6117 (June 30, 2017); Final Rulemaking & Order No. 14-11E published at 64 DCR 8416 (August 25, 2017); Final Rulemaking & Order No. 17-20 published at 65 DCR 6596 (June 15, 2018).

### **302 - 309 [RESERVED]**

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2).

### **310 ACCESSORY USES (RF)**

310.1 The following accessory uses in this section shall be permitted as a matter of right in an RF zone subject to any applicable conditions:

- (a) Any accessory use permitted in the R zones under Subtitle U § 250;
- (b) Accessory parking spaces or an accessory parking garage subject to all the applicable provisions of Subtitle C, Chapter 7; and
- (c) Other accessory uses buildings or structures customarily incidental to the uses permitted in RF zones under the provisions of this chapter.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2).

### **311 - 319 [RESERVED]**

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2).

### **320 SPECIAL EXCEPTION USES (RF)**

320.1 The uses in this section shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9 subject to any applicable provisions of each section:

- (a) Any use or structure permitted under Subtitle U § 203 subject to any modification by this chapter.
- (b) 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, subject to the following conditions:
  - (1) 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;
  - (2) The use shall be reasonably necessary or convenient to the neighborhood in which it is proposed to be located; and

- (3) 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;
- (c) A corner store use in a RF-1, RF-2, or RF-3 zone not meeting the matter-of-right conditions of Subtitle U § 254, subject to the special exception conditions of Subtitle U § 254.14;
- (d) Parks and recreation uses not meeting the conditions of Subtitle C, Chapter 16 subject to the following conditions:
  - (1) A building housing such a use may be erected to a height not to exceed forty-five feet (45 ft.); and
  - (2) A public recreation and community center may be permitted a lot occupancy not to exceed forty percent (40%), if approved by the Board of Zoning Adjustment as a special exception pursuant to Subtitle C § 1610 and provided that the agency shows that the increase is consistent with agency policy of preserving open space; and
- (e) Any use permitted within a District of Columbia former public school building that does not comply with the matter-of-right conditions of Subtitle U § 252, subject to the special exception conditions of Subtitle X, Chapter 9.

320.2

Conversion of an existing residential building existing on the lot prior to May 12, 1958, to an apartment house shall be permitted as a special exception in an RF-1, RF-2, or RF-3 zone if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the following conditions:

- (a) 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 to a maximum height of forty feet (40 ft.) provided the additional five feet (5 ft.) is consistent with Subtitle U §§ 320.2(f) through 320.2(i);
- (b) The fourth (4<sup>th</sup>) dwelling unit and every additional even number dwelling unit thereafter shall be subject to the requirements of Subtitle C, Chapter 10, Inclusionary Zoning, including the set aside requirement set forth at Subtitle C § 1003.6;
- (c) There must be an existing residential building on the property at the time of filing an application for a building permit;
- (d) There shall be a minimum of nine hundred square feet (900 sq. ft.) of land area per dwelling unit;

- (e) An addition shall not extend farther than ten feet (10 ft.) past the farthest rear wall of any adjoining principal residential building on any adjacent property;
- (f) Any addition, including a roof structure or penthouse, shall not block or impede the functioning of a chimney or other external vent compliant with any District of Columbia municipal code on an adjacent property. A chimney or other external vent must be existing and operative at the date of the building permit application for the addition;
- (g) Any addition, including a roof structure or penthouse, shall not significantly interfere with the operation of an existing solar energy system of at least 2kW on an adjacent property unless agreed to by the owner of the adjacent solar energy system. For the purposes of this paragraph the following quoted phrases shall have the associated meaning:
  - (1) “Significantly interfere” shall mean an impact caused solely by the addition that decreases the energy produced by the adjacent solar energy system by more than five percent (5%) on an annual basis, as demonstrated by a comparative solar shading study acceptable to the Zoning Administrator; and
  - (2) “Existing solar energy system” shall mean a solar energy system that is, at the time the application for the building permit for the adjacent addition is officially accepted as complete by the Department of Consumer and Regulatory Affairs or an application for zoning relief or approval for the adjacent addition is officially accepted as complete by the Office of Zoning, either:
    - (A) Legally permitted, installed, and operating; or
    - (B) Authorized by an issued permit; provided that the permitted solar energy system is operative within six (6) months after the issuance of the solar energy system permit not including grid interconnection delays caused solely by a utility company connecting to the solar energy system;
- (h) A roof top architectural element original to the house such as cornices, porch roofs, a turret, tower, or dormers shall not be removed or significantly altered, including shifting its location, changing its shape or increasing its height, elevation, or size. For interior lots, not including through lots, the roof top architectural elements shall not include identified roof top architectural elements facing the structure’s rear lot line. For all other lots, the roof top architectural elements shall include identified rooftop architectural elements on all sides of the structure;

- (i) Any addition 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; and
  - (3) 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;
- (j) In demonstrating compliance with Subtitle U § 320.2(i) 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;
- (k) 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;
- (l) The Board of Zoning Adjustment may modify or waive not more than three (3) of the requirements specified in Subtitle U §§ 320.2(e) through § 320.2(h) provided, that any modification or waiver granted pursuant to this section shall not be in conflict with Subtitle U § 320.2(i); and
- (m) An apartment house in an RF-1, RF-2 or RF-3 zone, converted from a residential building prior to June 26, 2015, or converted pursuant to Subtitle A §§ 301.9, 301.10, or 301.11 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 Subtitle X, Chapter 9, and this section.

### 320.3

Conversion of a non-residential building or other structure to an apartment house and not meeting one (1) or more of the requirements of Subtitle U § 301.2, shall be permitted as a special exception in an RF-1, RF-2, or RF-3 zone if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9 subject to the following provisions:

- (a) No special exception relief shall be available from the requirements of Subtitle U § 301.2(a);
- (b) Any addition 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; and
  - (3) 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;
- (c) In demonstrating compliance with Subtitle U § 320.3(b) 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; and
- (d) 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 & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2); Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016); Final Rulemaking & Order No. 14-11A published at 63 DCR 10981 (August 26, 2016); Final Rulemaking & Order No. 14-11B published at 64 DCR 4055 (April 28, 2017); Final Rulemaking & Order No. 14-11E published at 64 DCR 8416 (August 25, 2017); Final Rulemaking & Order No. 08-06P published at 65 DCR 11927 (October 26, 2018).

## **321            ADDITIONAL USE RESTRICTIONS AND CONDITIONS**

- 321.1            This section shall modify uses of this chapter otherwise permitted as a matter of right or as a special exception.
- 321.2            In the RF-3 zones, the following uses shall not be permitted as a matter of right or as a special exception:
- (a)            Parking lot; provided, that a parking lot in existence on May 31, 1985 may continue subject to any conditions of the zone;
  - (b)            Public utility pumping station;
  - (c)            Storage of wares and goods on an alley lot; and
  - (d)            Telecommunications facility.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2).



## **CHAPTER 4 USE PERMISSIONS RESIDENTIAL APARTMENT (RA) ZONES**

### **400 GENERAL USE PROVISIONS (RA)**

400.1 This chapter contains use permissions and any applicable conditions in the RA zones.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2).

### **401 MATTER-OF-RIGHT USES (RA)**

401.1 The following uses shall be permitted as a matter of right subject to any applicable conditions:

- (a) Any use permitted in the RF zones under Subtitle U § 301, except corner stores;
- (b) Private clubs with sleeping accommodations;
- (c) Child Development Center;
- (d) Except for the RA-1 and RA-6 zones:
  - (1) Multiple dwellings provided that in an apartment house, accommodations may be provided only to residents who stay at the premises a minimum of one (1) month; and
  - (2) Hotel 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; and
  - (3) A continuing care retirement community; and
- (e) 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.
- (f) Elderly development center or adult day treatment facility provided, that the use shall be limited to no more than twenty-five (25) individuals not including staff.

401.2 A chancery is a permitted use in RA-4, RA-5, RA-10, or RA-11 zones, subject to disapproval by the Board of Zoning Adjustment in accordance with the requirements of Subtitle X, Chapter 2 of this title.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2); Final Rulemaking & Order No. 08-06K published at 64 DCR 6117 (June 30, 2017); Final Rulemaking & Order No. 17-01 published at 64 DCR 7254 (July 28, 2017); Final Rulemaking & Order No. 17-20 published at 65 DCR 6596 (June 15, 2018).

## **402-409 [RESERVED]**

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2).

## **410 ACCESSORY USES (RA)**

410.1 The following accessory uses shall be permitted as a matter of right subject to the associated conditions:

- (a) Any accessory use permitted in the R zones under Subtitle U § 250;
- (b) Accessory parking spaces or an accessory parking garage subject to all the applicable provisions of Subtitle C, Chapter 7;
- (c) 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;
- (d) Commercial adjuncts as accessory uses to a hotel containing one hundred (100) or more rooms or suites shall be permitted in an RA zones, provided:
  - (1) The total area within the hotel devoted to function rooms, exhibit space, and commercial adjuncts shall not be increased;
  - (2) There shall be no direct entrance to the function rooms, exhibit space, and commercial adjuncts from the outside of the building;

- (3) No part of the adjunct or the entrance to the adjunct shall be visible from a sidewalk; and
- (4) No sign or display indicating the existence of the adjuncts shall be visible from the outside of the building;
- (e) A home occupation use subject to the conditions and regulations of a home occupation as defined in Subtitle U § 251, and subject to the following conditions:
  - (1) No more than four (4) clients or visitors per day shall be allowed; and
  - (2) No person who is not a resident of the dwelling unit shall be engaged or employed in the home occupation; and
- (f) Other accessory uses buildings or structures customarily incidental to the uses permitted in RA zones under the provisions of this section; and
- (g) An accessory community dining room within an apartment house solely for the use of tenants and their guests.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2).

## **411-419 [RESERVED]**

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2).

## **420 SPECIAL EXCEPTION USES (RA)**

420.1 The following uses shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to any applicable provisions of each section:

- (a) Any use or structure permitted under Subtitle U § 320 except as modified by this section;
- (b) Art gallery or museum subject to the following conditions:
  - (1) The art gallery or museum 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;
  - (2) The Board of Zoning Adjustment shall consider, and regulate, if necessary, the anticipated frequency, number of attendees, and other characteristics of show openings or other group gatherings;

- (3) Adequate off-street parking shall be provided to accommodate occupants, employees, and visitors likely to come to the gallery by automobile;
  - (4) The proposed use shall not adversely affect the present character or future development of the surrounding area; and
  - (5) The Board of Zoning Adjustment 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;
- (c) A corner store shall not be permitted within the RA zones;
- (d) Commercial adjuncts to a hotel containing less than one hundred (100) rooms or suites subject to the following conditions:
- (1) The total area within the hotel devoted to function rooms, exhibit space, and commercial adjuncts shall not be increased;
  - (2) There shall be no direct entrance to the adjunct from the outside of the building;
  - (3) No part of the adjunct or the entrance to the adjunct shall be visible from a sidewalk;
  - (4) No sign or display indicating the existence of the adjunct shall be visible from the outside of the building; and
  - (5) 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;
- (e) A drive-through accessory to any use shall not be permitted;
- (f) 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:
- (1) 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.
  - (2) There shall be adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility;

- (3) The proposed facility shall meet all applicable code and licensing requirements;
  - (4) 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;
  - (5) 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
  - (6) 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;
- (g) Nonresidential adjunct uses as an accessory use within an apartment house, consisting of the sale of foods, drugs, and sundries and personal services designed to serve the tenants' daily living needs subject to the following conditions:
- (1) The adjuncts authorized under this paragraph shall be limited to the main floor of the building or below;
  - (2) There shall be no direct entrance to the adjunct from the outside of the building;
  - (3) No part of the adjunct or the entrance to the adjunct shall be visible from a sidewalk;
  - (4) No sign or display indicating the existence of the adjunct shall be visible from the outside of the building;
  - (5) The center of the principal entrance of the apartment house shall be more than one-fourth (1/4) mile walking distance from the nearest MU, NC or PDR zone;
  - (6) Uses authorized under this section may also be permitted within an interior patio or other type of open ground level area subject to the restrictions of paragraph (a) through (d) of this section;
  - (7) In considering an application under this paragraph, the Board of Zoning Adjustment shall give consideration to the following:

- (A) The proximity of MU and NC zones;
  - (B) The adequacy and convenience of parking spaces existing in or for the MU and NC zones;
  - (C) The adequacy and scope of commodities and services provided within those MU and NC zones; 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; and
- (h) A parking garage constructed as a principal use on a lot other than an alley lot in an RA-5 zone subject to the following conditions:
- (1) The use shall comply with all provisions of Subtitle C, Chapter 23 of this title;
  - (2) 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;
  - (3) The Board of Zoning Adjustment 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; and
  - (4) Before taking final action on an application for the use, the Board of Zoning Adjustment shall submit the application to the D.C. Department of Transportation for review and report; and
- (i) In the RA-1 and RA-6 zones, a continuing care retirement community subject to the conditions of Subtitle U § 203.1(f), except for 203.1(f)(3).

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2); Final Rulemaking & Order No. 17-01 published at 64 DCR 7254 (July 28, 2017).

## **421 NEW RESIDENTIAL DEVELOPMENTS (RA-1 and RA-6)**

421.1 In the RA-1 and RA-6 zones, 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 Subtitle X, in accordance with the standards and requirements in this section.

- 421.2 The Board of Zoning Adjustment shall refer the application to the relevant District of Columbia agencies for comment and recommendation as to the adequacy of the following:
- (a) Existing and planned area schools to accommodate the numbers of students that can be expected to reside in the project; and
  - (b) Public streets, recreation, and other services to accommodate the residents that can be expected to reside in the project.
- 421.3 The Board of Zoning Adjustment shall refer the application to the 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 surrounding neighborhood, and the relationship of the proposed project to public plans and projects.
- 421.4 In addition to other filing requirements, the developer shall submit to the Board of Zoning Adjustment with the application a site plan and set of typical floor plans and elevations, grading plan (existing and final), landscaping plan, and plans for all new rights-of-way and easements.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2).

## **422 ADDITIONAL USE RESTRICTIONS AND CONDITIONS (RA)**

- 422.1 This section shall modify uses of this chapter otherwise permitted as a matter of right or as a special exception.
- 422.2 In the RA-7 zones, the following uses shall not be permitted as a matter of right or as a special exception:
- (a) Parking lot; provided, that a parking lot in existence on May 31, 1985 may continue subject to any conditions of the zone;
  - (b) Public utility pumping station;
  - (c) Storage of wares and goods on an alley lot; and
  - (d) Telecommunications facility.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2).

## CHAPTER 5 USE PERMISSIONS MIXED USE (MU) ZONES

### 500 GENERAL USE PROVISION FOR MU ZONES

500.1 This chapter contains use permissions and any applicable conditions in the MU zones.

500.2 Use groups for the MU zones are as follows:

**TABLE U § 500.2 MU-USE GROUPS**

MU-Use Group A	MU-Use Group B	MU-Use Group C	MU-Use Group D	MU-Use Group E	MU-Use Group F	MU-Use Group G
MU-1 MU-2 MU-15, MU-16 MU-23	MU-11	MU-12, MU-13 MU-14 CG-5 CG-6 CG-7	MU-3	MU-4, MU-5 MU-6 MU-17, MU-18 MU-19 MU-24, MU-25 MU-26, MU-27 CG-2	MU-7, MU-8 MU-9 MU-20, MU-21 MU-28 CG-3 MU-30	MU-10 MU-22 MU-29 CG-4

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2); Final Rulemaking & Order No. 17-04 published at 64 DCR 7264 (July 28, 2017).

### 501 MATTER-OF-RIGHT USES (MU)

501.1 The uses in this section shall be permitted as a matter of right in any MU zone except the MU-11 zone, subject to any applicable conditions.

501.2 Any use permitted as a matter of right in any R, RF, or RA zone shall be permitted as a matter of right in the MU, except the MU-11 zone.

501.3 Other accessory uses that are customarily incidental and subordinate to the principal uses permitted in this chapter shall be permitted.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2).

### 502 MATTER-OF-RIGHT USES (MU-USE GROUP A)

502.1 In addition to the uses permitted by Subtitle U § 501, the following uses shall be permitted in MU-Use Group A as a matter of right subject to any applicable conditions:

- (a) Arts, design, and creation of the visual arts, including classes, subject to the following conditions:
  - (1) All operations and storage of materials shall occur inside the building; and



- (2) Sales of art work produced by the occupants of the studio shall be permitted within the studio;
- (b) Car-sharing spaces, none of which may be a required parking space for any use on site;
- (c) Continuing care retirement community;
- (d) Daytime care;
- (e) General institutional;
- (f) Office use, including chancery, shall be permitted as a matter of right as a replacement for office use authorized by a validly issued certificate of occupancy prior to January 29, 1999;
- (g) Local government;
- (h) Medical care;
- (i) Parks and recreation;
- (j) Private school, including kindergarten, elementary, secondary;
- (k) Trade or any other school;
- (l) Utilities limited to only telephone exchange, electric substation using non-rotating equipment, and natural gas regulator station; and
- (m) Art gallery and museum.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2); Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016); Final Rulemaking & Order No. 18-09 published at 66 DCR 74 (January 4, 2019).

## **503 ACCESSORY USES (MU-USE GROUP A)**

503.1 Retail and general service uses shall be permitted as accessory uses and appropriate adjuncts to an apartment house or hotel, subject to the following conditions:

- (a) The uses shall be oriented for the service and convenience of the tenants or guests of the building;
- (b) There shall be no direct entrance to the commercial establishment from the outside of the building;
- (c) There shall be no direct entrance to the commercial establishment from the outside of the building; and

- (d) No sign or display indicating the existence of the adjunct shall be visible from the outside of the building.

503.2 A child development home or an expanded child development home shall be permitted as an accessory use in MU-Use Group A 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.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2).

## **504 SPECIAL EXCEPTION USES (MU-USE GROUP A)**

504.1 The following uses shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to any applicable provisions of each section:

- (a) Chancery use, subject to disapproval by the Board of Zoning Adjustment in accordance with Subtitle X;
- (b) College or university use 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 subject to the conditions of Subtitle X;
- (c) 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:
  - (1) There shall be no other property containing a CBIF for seven (7) or more persons in the same square;
  - (2) 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;
  - (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;
  - (4) The proposed facility shall meet all applicable code and licensing requirements;

- (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; and
  - (6) 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;
- (d) Emergency shelter for five (5) to twenty-five (25) persons, not including resident supervisors or staff and their families subject to the conditions of Subtitle U § 504.1 (c), CBIF;
  - (e) Institutional, religious program uses, subject to the following conditions:
    - (1) The part of the program conducted on the property shall be carried on within the existing place of worship building(s) or structure(s);
    - (2) The operation of the program shall be such that it is not likely to become objectionable in the zone because of noise and traffic;
    - (3) No sign or display indicating the location of the program shall be located on the outside of the building or the grounds; and
    - (4) Any authorization by the Board of Zoning Adjustment shall be limited to a period of three (3) years, but may be renewed at the discretion of the Board of Zoning Adjustment;
  - (f) Lodging for any number of guests, subject to the following conditions:
    - (1) The height, bulk, and design of the lodging use shall be in harmony with existing uses and structures on neighboring property;
    - (2) To ensure that the height, bulk, and design is in harmony with existing uses and structures on neighboring property, the Board of Zoning Adjustment 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;
    - (3) The approval of the lodging use shall result in a balance of residential, office, and lodging uses in the applicable zones in the vicinity of the lodging use;

- (4) 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;
  - (5) The lodging use shall be located within one thousand three hundred feet (1,300 ft.) of the Central Employment Area or a Metrorail station as measured from the entrance of the lodging use 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;
  - (6) The Board of Zoning Adjustment may require more or less off-street parking spaces and loading berths than required by this title to accommodate the activities of the lodging use, so as to avoid unduly impacting parking or traffic on the surrounding streets; and
  - (7) The location and design of driveways, access roads, and other circulation elements of the lodging use shall be located to avoid dangerous or other objectionable traffic conditions;
- (g) 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, subject to the following conditions:
- (1) The use, height, bulk, and design shall be in harmony with existing uses and structures on neighboring property; and
  - (2) The use shall not create dangerous or other objectionable traffic conditions;
- (h) Parking, as an accessory use located elsewhere than on the same lot as the principal use, subject to the following conditions:
- (1) The total number of parking spaces provided for the principal use shall not exceed the minimum number of spaces required for the principal use;
  - (2) 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) Restricted size of lot caused by adverse adjoining ownership or substantial improvements adjoining or on the lot;
    - (B) Unusual topography, grades, shape, size, or dimensions of the lot;

- (C) The lack of an alley or the lack of appropriate ingress or egress through existing or proposed alleys or streets; or
  - (D) Traffic hazards caused by unusual street grades or other conditions; and
- (3) 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;
- (i) Parking garages, subject to the following conditions:
- (1) The use and all related facilities shall be located and designed so that they are not likely to become objectionable to adjoining and nearby property because of noise, traffic, or other objectionable conditions;
  - (2) The present character and future development of the neighborhood shall not be affected adversely by the use;
  - (3) The parking garage 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;
  - (4) The parking provided shall be within eight hundred feet (800 ft.) of the use to be served, and shall be necessary to that use; and
  - (5) Minor services for users of the garage such as hand-washing, polishing, interior detailing, tire inflation, and battery charging and electric vehicle charging stations shall be permitted as accessory uses within a permitted parking garage;
- (j) Retail, service (general), and eating and drinking establishment uses subject to the following conditions:
- (1) The properties are in the MU-2 or MU-23 zone district;
  - (2) The properties are those located south of M Street, N.W. and N.E.;
  - (3) The uses shall be located on or below the ground floor of the building;
  - (4) The uses shall not include a drive-through; and
  - (5) 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; and

- (k) Utility uses other than those permitted as a matter of right, subject to the following conditions:
  - (1) A use is determined necessary in the public interest by the Public Service Commission;
  - (2) Any requirements for setbacks, screening, or other safeguards that the Board of Zoning Adjustment deems necessary for the protection of the neighborhood; and
  - (3) Any new construction of a freestanding structure for use as an optical transmission node shall be built to appear compatible with surrounding construction, including exterior building material, fenestration, and landscaping, and there shall be no advertisement on the structure.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2).

## **505 MATTER-OF-RIGHT USES (MU-USE GROUP B)**

505.1 The uses in this section shall be permitted in MU-Use Group B as a matter of right subject to any applicable conditions.

505.2 The following marine 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;
- (e) Seasonal or occasional market for produce, arts, and crafts, with non-permanent structures;
- (f) Floating homes within a permitted marina or 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 marina or yacht club; and
- (g) A home occupation within a floating home.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2).

## 506

## SPECIAL EXCEPTION USES (MU-USE GROUP B)

### 506.1

The following uses shall be permitted as a special exception in the MU-11 if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to any applicable provisions of each section and the requirements of Subtitle U §§ 506.3 through 506.8:

- (a) Boathouse, subject to the following conditions:
  - (1) A boathouse may include rest rooms, showers, locker rooms, kitchen, exercise area, boat storage and maintenance, coach's office, one (1) caretaker's residence pursuant to Subtitle U § 506.1(b), rowing tank, dock, and related functions; and one (1) or more motorized safety launches for coaches are allowed for supervision of rowing practice and water safety;
  - (2) A demonstration that the boathouse and associated structures:
  - (3) Will be designed to enhance the visual and recreational opportunities offered along the waterfront;
  - (4) 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;
  - (5) Will be located so as not likely to become objectionable to surrounding and nearby property because of noise, traffic, or parking; and
  - (6) One (1) or more motorized safety launches for coaches are allowed for supervision of rowing practice and water safety;
- (b) Caretaker's residence subject to the following conditions:
  - (1) The caretaker's residence shall be located within the principal building and exclusively for the use of the facility's caretaker and immediate family; and
  - (2) If the caretaker's residence is larger than one thousand two hundred square feet (1,200 sq. ft.), it shall occupy no more than twenty percent (20%) of the total area of the principal building;
- (c) Floating homes within a permitted marina or yacht club with a proposed maximum density of floating home berths in excess of fifty percent (50%) of the total number of berths in the marina or yacht club;
- (d) Marina, which may also include the following as accessory uses:

- (1) An office for the operation of the marina;
  - (2) Boat launching;
  - (3) The sale of marine fuels;
  - (4) Minor repairs and maintenance to boats and marine engines;
  - (5) The rental of boats; and
  - (6) Retail sales of supplies and services for small pleasure and commercial vessels;
- (e) Parking, for uses within this chapter that are located elsewhere than on the lot on which the use is located:
- (1) The parking spaces will be located to furnish reasonable and convenient parking for patrons of the principal building;
  - (2) 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; and
  - (3) 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;
- (f) Retail;
- (g) Arts, design, and creation uses;
- (h) Entertainment, assembly, and performing arts uses; and
- (i) Yacht club provided the applicant shall demonstrate that the yacht club and associated facilities:
- (1) Will be primarily for the use of the members of the yacht club, except that the yacht club may provide transient berths;
  - (2) Will be located so as not likely to become objectionable to surrounding and nearby property because of noise, traffic, or parking; and
  - (3) 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.



- 506.2 Off-street parking spaces shall be provided in the amount and manner specified in Subtitle C.
- 506.3 With respect to any special exception use under consideration in the MU-11 zone, the Zoning 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 areas:
- (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 Zoning 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 setback or court requirements as otherwise prescribed in this title. The Zoning Commission shall have the option to approve a greater decrease if the subject property is surrounded by National Park Service lands.
- 506.4 When applying for special exception under this section an applicant shall also demonstrate:
- (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 Subtitle C, Chapter 11, unless doing so would result in an infeasible project and would hinder furtherance of the objectives of the MU-11 zone;
  - (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.

506.5 An applicant for a special exception under this section shall provide the following information:

- (a) A survey plan showing:
  - (1) Existing vertical contours at two-foot (2-ft.) intervals;
  - (2) The one hundred (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;
  - (3) Existing vegetation, including a listing of most abundant species; and
  - (4) All existing disturbed areas, including the locations of utilities, paved areas, streets, culverts, storm water management systems, and bridges;
- (b) A proposed site plan showing:
  - (1) 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;
  - (2) Suitable open space treatment of a waterfront setback area, as required in Subtitle C, Chapter 11, 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;
  - (3) Proposed grading, including a calculation of the amount of cutting from and filling to natural grade;
  - (4) Proposed landscaping, including riverbank treatment/restoration; and
  - (5) The location and design of fencing, gates, screening, exterior lighting, and signage;

- (c) A parking plan showing:
  - (1) The location and design of parking spaces, access driveways, and other impervious surface landscaping;
  - (2) The location and design of emergency vehicle access to all buildings, structures, and active public spaces; and
  - (3) For boathouse, marina, and yacht club facilities, a parking management plan for special events (such as regattas); and
- (d) A description of activities proposed to be conducted at the site.

506.6 Before commencement of a public hearing on an application for any special exception in the MU-11 zoning district, the Zoning Commission or Board of Zoning Adjustment shall refer the application to the Office of Planning for coordination, review, and report. The application shall include reports and recommendations from the Departments of Energy and Environment and Transportation and all other appropriate agencies.

506.7 A report submitted by the Office of Planning under this section. shall specifically address the environmental impact of the proposed use, as that impact is identified by the Department of Energy and Environment; 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.

506.8 Any use listed in Subtitle C § 509, USES NOT PERMITTED (MU-USE GROUPS B AND C), shall not be permitted by special exception.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2); Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016); Final Rulemaking & Order No. 08-06G published at 64 DCR 22 (January 6, 2017).

## **507 MATTER-OF-RIGHT USES (MU-USE GROUP C)**

507.1 In addition to the uses permitted by Subtitle U § 501, and unless specifically prohibited by Subtitle U § 509, the following uses shall be permitted in MU-Use Group C as a matter of right subject to any applicable conditions:

- (a) Any use within the following use categories:
  - (1) Agricultural, both residential and large;
  - (2) Arts design and creation, including an artist live-work studio;
  - (3) Art gallery and museum;
  - (4) Daytime care;

- (5) Eating and drinking establishments, except a drive-through operation shall not be permitted;
  - (6) Emergency shelter for not more than four (4) persons, not including resident supervisors or staff and their families;
  - (7) Group instruction center or studio;
  - (8) Local government uses;
  - (9) Institutional uses, both general and religious;
  - (10) Lodging;
  - (11) Marine;
  - (12) Medical care facilities, including hospice care;
  - (13) Office uses, including chanceries;
  - (14) Parks and recreation;
  - (15) Retail;
  - (16) Service uses, both financial and general; and
  - (17) Theater, either private or public, for the purpose of entertainment, assembly, and performing arts; and
- (b) Other accessory uses customarily incidental and subordinate to the uses permitted by this section.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2); Final Rulemaking & Order No. 08-06G published at 64 DCR 22 (January 6, 2017).

## **508 SPECIAL EXCEPTION USES (MU-USE GROUP C)**

508.1 Unless specifically prohibited by Subtitle U § 509, the following uses shall be permitted in MU-Use Group C if approved by the Board of Zoning Adjustment as a special exception under Subtitle X, Chapter 9, subject to the following conditions:

- (a) College or university use 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, subject to the conditions of Subtitle X;
- (b) Community-based institutional facilities for one (1) to twenty (20) persons, not including resident supervisors or staff and their families;

- (c) Education (private) uses, subject to the following conditions:
  - (1) The facility shall be designed to enhance the visual and recreational opportunities offered by the waterfront; and
  - (2) 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;
- (d) Emergency shelter for five (5) to twenty-five (25) persons, not including resident supervisors or staff and their families;
- (e) Entertainment, assembly, and performing arts uses, subject to the following conditions:
  - (1) The use shall not be within twenty-five feet (25 ft.) of a residentially zoned or used property unless separated by a public street or public alley; and
  - (2) Soundproofing to the extent deemed necessary for the protection of adjoining and nearby property shall be required;
- (f) Medical care uses subject to the following conditions:
  - (1) The facility shall be designed to enhance the visual and recreational opportunities offered by the waterfront;
  - (2) 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;
  - (3) There shall be a demonstrated need for the facility;
  - (4) The applicant shall submit to the Board of Zoning Adjustment a detailed plan for the hospital or clinic and accessory facilities which 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;
- (g) Miscellaneous uses, subject to the following conditions:

- (1) The Board of Zoning Adjustment finds that the use is appropriate in furthering the objectives of the waterfront areas;
  - (2) The facility shall be designed to enhance the visual and recreational opportunities offered by the Waterfront;
  - (3) The use shall not adversely affect the present character or future development of the neighborhood; and
  - (4) No dangerous or otherwise objectionable traffic conditions shall result from the establishment of the use;
- (h) Parking subject to a temporary surface parking lot accessory to the Ballpark shall be permitted on Squares 664E, 707, 708, 708E, 708S, or 744S, in accordance with Subtitle C § 718. In the event that the cumulative parking limit established in Subtitle C § 718.2 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 MU-13 zone if approved by the Board of Zoning Adjustment pursuant to Subtitle C § 718.7;
- (i) Production, distribution, and repair uses, subject to the following conditions:
- (1) The facility shall be designed to enhance the visual and recreational opportunities offered by the waterfront;
  - (2) The use shall comply with the standards of external effects and shall have no adverse effects on other uses on the same or adjoining properties;
  - (3) The use shall not result in dangerous or otherwise objectionable traffic conditions;
  - (4) There shall be adequate off-street parking for trucks and other service vehicles; and
  - (5) There shall be no outdoor storage of materials;
- (j) Utility uses, subject to the following conditions:
- (1) Any requirements for setbacks, screening, or other safeguards that the Board of Zoning Adjustment deems necessary for the protection of the neighborhood; and
  - (2) Any new construction of a freestanding structure for use as an optical transmission node shall be built to appear compatible with surrounding construction, including exterior building material,

fenestration, and landscaping, and there shall be no advertisement on the structure;

- (k) Veterinary office, hospital, or boarding hospital subject to the following conditions:
- (1) A veterinary hospital or 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(j)(1);
  - (2) No more than fifty percent (50%) of the gross floor area of the veterinary boarding hospital may be devoted to the boarding of animals;
  - (3) The veterinary hospital or veterinary boarding hospital shall be located and designed to create no objectionable conditions to adjacent properties resulting from animal noise, odor, or waste;
  - (4) The veterinary hospital or veterinary boarding hospital shall not abut an existing residential use or a residential zone; unless the existing residential use is in a mixed-use building and the applicant demonstrates that:
    - (A) The building was designed and constructed or will be re-designed and renovated to mitigate noise to limit negative impacts on residential units that the use will abut, including the use of acoustical tiles, caulking to seal penetrations made in floor slabs for pipes, and spray-on noise insulation;
    - (B) The windows and doors of the space devoted to the veterinary hospital or veterinary boarding hospital use shall be kept closed, and all doors facing a residential use will be solid core;
    - (C) Animal waste shall be placed in closed waste disposal containers located in enclosed areas or away from abutting or confronting residential windows and doors; and shall be collected by a waste disposal company at least weekly;
    - (D) Odors will be controlled by means of an air filtration system or an equivalently effective odor control system; and
    - (E) Floor finish material, areas intended to be wet, and wall finish materials measured a minimum of forty-eight inches (48 in.) from the floor, shall be impervious and washable;

- (5) External yards or other external facilities for the keeping of animals shall not be permitted; and
- (6) Pet grooming, the sale of pet supplies, and incidental boarding of animals as necessary for convalescence, are permitted as accessory uses; and
- (7) The Board of Zoning Adjustment may impose additional requirements as it deems necessary to protect adjacent or nearby properties; and
- (l) Any use permitted as a matter of right in MU-Use Group C that does not comply with the required conditions for MU-Use Group C may apply for permission as a special exception, except for a drive-through operation as a principal or accessory use.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2); Final Rulemaking & Order No. 18-02 published at 65 DCR 12148 (November 2, 2018).

## **509 USES NOT PERMITTED (MU-USE GROUPS B AND C)**

509.1 The following uses shall not be permitted in MU-Use Groups B and C as a matter of right or as a special exception:

- (a) Any establishment that has as a principal use the administration of massages that is not part of a health facility;
- (b) Automobile or motorcycle sales or repairs;
- (c) Car wash;
- (d) Carting, express, moving, or hauling terminal or yard;
- (e) Chemical manufacturing, storage, or distribution;
- (f) Drive-through operation as either a principal or accessory use;
- (g) Enameling, plating, or painting (except artist's studio) as a principal use;
- (h) Firearms retail sales establishment;
- (i) Gasoline service station;
- (j) Material salvage;
- (k) Outdoor advertising or billboard;
- (l) Outside material storage;



- (m) Packing or crating operation;
- (n) Parking Lot:
  - (1) Except a temporary surface parking lot permitted pursuant to Subtitle C § 718; or
  - (2) Other than as permitted as a special exception in the MU-11 District in Subtitle U § 506.3;
- (o) Smelting or rendering; and
- (p) Sexually-oriented business establishment.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2); Final Rulemaking & Order No. 08-06G published at 64 DCR 22 (January 6, 2017).

## **510 MATTER-OF-RIGHT USES (MU-USE GROUP D)**

510.1 The following uses shall be permitted in MU-Use Group D as a matter-of-right subject to any applicable conditions:

- (a) Any use permitted as a matter of right in any R, RF, or RA zone and any use permitted as a matter of right for MU-Use Group A;
- (b) Agricultural, both residential and large;
- (c) Arts design and creation, including an artist live-work studio;
- (d) Art gallery and museum;
- (e) College or university uses, except that a use that would otherwise not be permitted as a matter of right but for the university or college shall not be permitted;
- (f) Daytime care uses;
- (g) Eating and drinking establishment uses, except for:
  - (1) A drive-through or drive-in operation and a food delivery service shall not be permitted;
  - (2) A prepared food shop in Square 5912 shall have no limitation on seats; and
  - (3) A fast food establishment shall not be permitted in the MU-3 zone except for 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;

- (h) Emergency shelter for not more than four (4) persons, not including resident supervisors or staff and their families;
- (i) Entertainment, assembly, and performing arts uses shall be permitted as a matter of right, except for a bowling alley;
- (j) Gasoline service station with a valid certificate of occupancy that has not been replaced by another use with a valid certificate of occupancy;
- (k) Gasoline service station as an accessory use to a parking garage or public storage garage; 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;
- (l) Group instruction center or studio;
- (m) Institutional uses, general, and religious;
- (n) Local government except a Driver's License Road Test Facility;
- (o) Lodging;
- (p) Marine;
- (q) Medical care facilities, including hospice care;
- (r) Office uses, including chanceries;
- (s) Optical transmission node;
- (t) Parking garage, which may include a car wash and interior detailing, as a permitted accessory use within the permitted parking garage;
- (u) Parks and recreation;
- (v) Retail, except for large format retail;
- (w) Service uses, both financial and general, subject to the following limitations:
  - (1) The use does not involve installation of automobile accessories; and

- (2) A laundry or dry cleaning facility shall not exceed twenty-five hundred square feet (2,500 sq. ft.) of gross floor area;
- (3) An indoor storage facility not exceeding twenty-five hundred square feet (2,500 sq. ft.) of gross floor area; and
- (x) Other accessory uses customarily incidental and subordinate to the uses permitted by this section.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2); Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016); Final Rulemaking & Order No. 08-06G published at 64 DCR 22 (January 6, 2017); Final Rulemaking & Order No. 17-02 published at 64 DCR 7259 (July 28, 2017); Final Rulemaking & Order No. 17-20 published at 65 DCR 6596 (June 15, 2018).

## **511 SPECIAL EXCEPTION USES (MU-USE GROUP D)**

511.1 The following uses in this section shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the provisions of this section.

- (a) College or university uses that would otherwise not be permitted as a matter of right within the zone, subject to the conditions of Subtitle X;
- (b) Community-based institutional facilities for one (1) to twenty (20) persons, not including resident supervisors or staff and their families;
- (c) [DELETED];
- (d) Emergency shelter for five (5) to fifteen (15) persons, not including resident supervisors or staff and their families, subject to the following conditions:
  - (1) There shall be no other property containing an emergency shelter for seven (7) or more persons in the same square, or within a radius of five hundred feet (500 ft.) from any portion of the property;
  - (2) There shall be adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility;
  - (3) The proposed shelter shall meet all applicable code and licensing requirements;
  - (4) The shelter shall not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area; and
  - (5) The Board of Zoning Adjustment may approve more than one (1) emergency shelter facility in a square or within five hundred feet

(500 ft.) from the property 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;

- (e) Entertainment, assembly, and performing arts uses, except a bowling alley shall not be permitted, subject to the following conditions:
  - (1) The use shall not be within twenty-five feet (25 ft.) of a residentially zoned property unless separated by a street or alley; and
  - (2) Soundproofing to the extent deemed necessary for the protection of adjoining and nearby property shall be required;
- (f) Gasoline service station to be established or enlarged, subject to the following conditions:
  - (1) The station shall not be located within twenty-five feet (25 ft.) of a residential zone or unless separated from the residential zone by a street or alley;
  - (2) The operation of the use shall not create dangerous or other objectionable traffic conditions; and
  - (3) 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;
- (g) Parking, for uses within this chapter that are located elsewhere than on the lot on which the use is located but within the square in which the principal use is located;
- (h) Prepared food shop eating and drinking establishment uses with more than eighteen (18) seats for patrons;
- (i) Retail uses otherwise permitted with conditions that do not comply with the conditions;
- (j) Retail, large format, subject to the following conditions:
  - (1) The development standards and design guidelines contained within this section apply to all new large format retail establishments with single tenant space of fifty thousand (50,000) gross square feet or greater;

- (2) The use shall be located so that it is not likely to become objectionable to adjoining and nearby property because of noise, traffic, parking, loading, deliveries, lighting, trash compacting and collection, hours of operation, or otherwise objectionable conditions;
- (3) Sufficient automobile parking, but not less than that required in Subtitle C, Chapter 7, shall be provided to accommodate the employees and customers;
- (4) An application under this section shall include the following information:
  - (A) A general site and development plan, indicating the proposed use, location, dimensions, number of stories, and height of building;
  - (B) A study of site characteristics and conditions;
  - (C) A description of existing topography, soil conditions, vegetation and drainage consisting of written material, plats, maps and photographs;
  - (D) Proposed topography including street grades and other grading contours;
  - (E) Identification of mature trees to remain and percent of site to be covered by impervious surface;
  - (F) Proposed drainage and sewer system and water distribution;
  - (G) Proposed treatment of existing natural features, such as steep slopes, ravines, natural watercourses;
  - (H) Proposed method of solid waste collection;
  - (I) Estimated water consumption (gallons per year);
  - (J) A transportation study, containing the following:
    - (1) Proposed circulation plan, including the location of vehicular and pedestrian access ways, other public space and the location and number of all off-street parking and loading spaces, loading berths and service delivery spaces;

- (2) Estimated number and type of trips assumed to be generated by project, and assumed temporal and directional distribution;
  - (3) Traffic management requirements (lights, stop signs, one-way streets, etc.);
  - (4) Relationship of the proposed project to the mass transit system (nearest bus stops and routes, nearest Metrorail stations, etc.); and
  - (5) Vehicular trip generation, trip assignment and before-and-after capacity analyses and level of service at critical intersections; and
  - (6) Any other information needed to fully understand the final building proposed for the site;
- (7) An applicant requesting approval under this section must demonstrate that the proposed use, building, or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will:
- (A) Be in context with the surrounding street patterns;
  - (B) Minimize unarticulated blank walls adjacent to public spaces through facade articulation, materials, display windows, entries, and other architectural efforts; and
  - (C) Will not result in light spillage off the site;
- (8) Where additional stores or individual uses are located within a large format retail use, each such store shall have at least one (1) exterior customer entrance;
- (9) The following list should be considered as guidelines for the design of large format retail buildings:
- (A) Building design shall incorporate architectural features and patterns to provide visual interest;
  - (B) Exterior walls shall feature projections and recesses;
  - (C) Building roofs shall incorporate pitched rooflines and detailed roofing materials;

- (D) Building materials shall include stone, wood, brick, glass, and metal in keeping with the surrounding architectural context;
  - (E) Entryways shall be well-marked and engaging and provide connection via wide sidewalks to primary streets and parking;
  - (F) Building design shall incorporate sustainable measures to include solar energy, geothermal heating and cooling, and use of permeable paving for surface parking areas; and
  - (G) Landscaping shall be provided in the rear and side yards to screen and limit visibility of storage areas;
- (10) This section shall not apply to the following:
- (A) Large format retail that would occupy a planned unit development approved as of the effective date of this title; or
  - (B) Large format retail that would occupy a project with a completed review under the large tract review regulations (Title 10-B DCMR, Chapter 23) as of the effective date of this title; except that a modification to a completed large tract review that would result in a project with fifty thousand square feet (50,000 sq. ft.) or more of retail use shall also require approval under this section prior to certificate of occupancy for a use meeting the definition of large format retail;
- (k) Service uses permitted as a matter of right with conditions that do not comply with the conditions;
  - (l) Utilities uses, subject to the requirements for setbacks, screening, or other requirements as the Board of Zoning Adjustment deems necessary for the protection of neighboring or adjacent property; and
  - (m) Veterinary office or hospital, or veterinary boarding hospital subject to the following conditions:
    - (1) A veterinary hospital or 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(j)(1);
    - (2) No more than fifty percent (50%) of the gross floor area of the veterinary hospital may be devoted to the boarding of animals;

- (3) The veterinary hospital or veterinary boarding hospital shall be located and designed to create no objectionable conditions to adjacent properties resulting from animal noise, odor, or waste;
- (4) The veterinary hospital or veterinary boarding hospital shall not abut an existing residential use or a residential zone;
  - (A) The building was designed and constructed or will be re-designed and renovated to mitigate noise to limit negative impacts on residential units that the use will abut, including the use of acoustical tiles, caulking to seal penetrations made in floor slabs for pipes, and spray-on noise insulation;
  - (B) The windows and doors of the space devoted to the veterinary hospital or veterinary boarding hospital use shall be kept closed, and all doors facing a residential use will be solid core;
  - (C) Animal waste shall be placed in closed waste disposal containers located in enclosed areas or away from abutting or confronting residential windows and doors; and shall be collected by a waste disposal company at least weekly;
  - (D) Odors will be controlled by means of an air filtration system or an equivalently effective odor control system; and
  - (E) Floor finish material, areas intended to be wet, and wall finish materials measured a minimum of forty-eight inches (48 in.) from the floor, shall be impervious and washable;
- (5) External yards or other external facilities for the keeping of animals shall not be permitted;
- (6) Pet grooming, the sale of pet supplies, and incidental boarding of animals as necessary for convalescence, are permitted as accessory uses; and
- (7) The Board of Zoning Adjustment may impose additional requirements as it deems necessary to protect adjacent or nearby properties.

511.2 Any use permitted as a matter of right in MU-Use Group D that does not comply with the required conditions for MU-Use Group D may apply for permission as a special exception, except uses involving the installation of automobile accessories or fast food establishments.



SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2); Final Rulemaking & Order No. 17-20 published at 65 DCR 6596 (June 15, 2018); Final Rulemaking & Order No. 18-02 published at 65 DCR 12148 (November 2, 2018).

## **512 MATTER-OF-RIGHT USES (MU-USE GROUP E)**

512.1 The following uses shall be permitted in MU-Use Group E as a matter of right subject to any applicable conditions:

- (a) Uses permitted as a matter of right in any R, RF, and RA zones, and all uses permitted as a matter of right for MU-Use Group D of this chapter, unless otherwise modified by Subtitle U §§ 513 and 514;
- (b) College or university uses, except that in the MU-4 zone, a use that would otherwise not be permitted as a matter of right but for the university or college shall not be permitted;
- (c) [DELETED];
- (d) Eating and drinking establishment uses, subject to the following conditions:
  - (1) A fast food establishment or food delivery service shall not be permitted within the MU-4, MU-17, MU-24, MU-25, MU-26, and MU-27 zones;
  - (2) A fast food establishment or food delivery service in all other MU-Use Group E zones, subject to the following conditions:
    - (A) No part of the lot on which the use is located shall be within twenty-five feet (25 ft.) of a residential zone, unless separated therefrom by a street or alley;
    - (B) If any lot line of the lot abuts an alley containing a zone district boundary line for a residential zone, 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;
    - (C) 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 residential zone;
    - (D) The use shall not include a drive-through; and

- (E) Subparagraphs (A) and (B) shall not apply to a fast food establishment located in Square 5912;
- (3) A prepared food shop in a MU-4, MU-17, MU-24, MU-25, MU-26, and MU-27 zone shall be limited to eighteen (18) seats for patrons;
- (e) Education uses, private:
- (f) Entertainment, assembly, and performing arts uses, except that a bowling alley shall be subject to the following conditions:
  - (1) The use shall not be within twenty-five feet (25 ft.) of a residentially zoned property unless separated by a street or alley; and
  - (2) Soundproofing to the extent deemed necessary for the protection of adjoining and nearby property shall be required;
- (g) Firearms retail sales establishments, except that no portion of the establishment shall be located within three hundred feet (300 ft.) of:
  - (1) Any R, RF, RA, MU-1 or MU-2 zone; or
  - (2) A place of worship, public or private school, public library, or playground;
- (h) Gasoline service station as an accessory use to a parking garage or public storage garage; 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;
  - (3) Signs or displays indicating the existence of the accessory use shall not be visible from the outside of the garage; and
  - (4) The use shall not be permitted in the MU-4, MU-17, MU-25, and MU-27 zones;
- (i) Optical transmission node;
- (j) Retail uses, except for a large format retail use, subject to the off-premises beer and wine sales accessory use in the grocery store located in Square 2572, Lot 36, may continue, provided that it shall not occupy more than two thousand seventy-eight square feet (2,078 sq. ft.) of the store's gross floor area;

- (k) Service (general) uses subject to the following conditions:
  - (1) A laundry or dry cleaning facility shall not exceed twenty-five hundred square feet (2,500 sq. ft.) of gross floor area; and
  - (2) In the MU-4, MU-17, MU-25, and MU-27 zones, uses involving the installation of automobile accessories shall not be permitted; and
- (l) An animal boarding use located in a basement or cellar space subject to the following:
  - (1) The use shall not be located within twenty-five feet (25 ft.) of a lot within an R, RF, or RA zone. 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 an R, RF, or RA zone. 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 not solid core;
  - (4) No animals shall be permitted in an external yard on the premises;
  - (5) Animal waste shall be placed in a 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; and
- (m) Automobile, truck, boat, or marine sales; and
- (n) Other accessory uses customarily incidental and subordinate to the uses permitted by this section.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2); Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016); Final Rulemaking & Order No. 08-06G published at 64 DCR 22 (January 6, 2017); Final Rulemaking & Order No. 08-06H published at 64 DCR

## **513 SPECIAL EXCEPTION USES (MU-USE GROUP E)**

513.1 The following uses shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the provisions of this section:

- (a) Animal care and animal sales uses, subject to the following conditions:
  - (1) When located in a nonresidential building or on a property not zoned residential, the use shall not abut nor be closer than twenty-five feet (25 ft.) to any property line of an existing residential use or a residential zone;
  - (2) When located in a mixed-use building, the use shall not be on the same floor as a residential use and shall be horizontally separated from any residential use by at least one (1) floor of nonresidential use;
  - (3) The use shall be located and designed to create no objectionable conditions to adjacent properties resulting from animal noise, odor, or waste; and shall utilize industry standard sound-absorbing materials, such as acoustical floor and ceiling panels, acoustical concrete and masonry, and acoustical landscaping;
  - (4) External yards or other external facilities for the keeping of animals shall not be permitted, except that an Animal Shelter may have external yards or other external facilities for the keeping of animals which shall be entirely located a minimum of two hundred feet (200 ft.) from an existing residential use or residential zone; and
  - (5) 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. 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;
- (b) Emergency shelter for five (5) to twenty-five (25) persons, not including resident supervisors or staff and their families, subject to the following standards and requirements:
  - (1) There shall be no other property containing an emergency shelter for seven (7) or more persons in the same square or within a radius of five hundred feet (500 ft.) from any portion of the subject property;

- (2) There shall be adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility;
  - (3) The proposed facility shall meet all applicable code and licensing requirements;
  - (4) 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;
  - (5) 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 finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations; and
  - (6) The Board of Zoning Adjustment may approve an emergency shelter 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;
- (c) Fast food establishments or food delivery service eating and drinking establishments in the MU-4, MU-17, MU-25, and MU-27 zones, subject to the following conditions:
- (1) No part of the lot on which the use is located shall be within twenty-five feet (25 ft.) of a R, RF, or RA zone, 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 residential zone, 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;
  - (3) 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 residential zone;
  - (4) The use shall not include a drive-through;

- (5) 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;
  - (6) The use shall provide sufficient off-street parking, but not less than that required by Subtitle C, Chapter 7 to accommodate the needs of patrons and employees;
  - (7) The use shall be located and designed so as to create no dangerous or otherwise objectionable traffic conditions; and
  - (8) The Board of Zoning Adjustment 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;
- (d) Gasoline service station to be established or enlarged, or a repair garage not including body and fender work, subject to the following conditions:
- (1) The station shall not be located within twenty-five feet (25 ft.) of a residential zone or unless separated from the residential zone by a street or alley;
  - (2) The operation of the use shall not create dangerous or other objectionable traffic conditions; and
  - (3) Required parking spaces may be arranged so that not all spaces are 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;
- (e) Massage establishment that has as a principal use the administration of massages subject to the following conditions:
- (1) The establishment shall be compatible with other uses in the area;
  - (2) 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
  - (3) The establishment shall not have an adverse impact on religious, educational, or other institutional facilities located in the area;
- (f) Motorcycle sales and repair;

- (g) Parking, for uses within this chapter that are located elsewhere than on the lot on which the use is located but within the square in which the principal use is located;
- (h) Retail uses otherwise permitted with conditions that do not comply with the conditions;
- (i) Retail, large format, subject to the conditions of Subtitle U § 511.1(j);
- (j) Service uses that are permitted with conditions, that do not comply with the prescribed conditions;
- (k) Utilities uses, subject to the requirements for setbacks, screening, or other requirements, as the Board of Zoning Adjustment deems necessary for the protection of neighboring or adjacent property;
- (l) Veterinary office or hospital, or veterinary boarding hospital subject to the following conditions:
  - (1) A veterinary hospital or 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(j)(1);
  - (2) No more than fifty percent (50%) of the gross floor area of the veterinary hospital may be devoted to the boarding of animals;
  - (3) The veterinary hospital or veterinary boarding hospital shall be located and designed to create no objectionable conditions to adjacent properties resulting from animal noise, odor, or waste;
  - (4) The veterinary hospital or veterinary boarding hospital shall not abut an existing residential use or a residential zone; unless the existing residential use is in a mixed-use building and the Applicant demonstrates that:
    - (A) The building was designed and constructed or will be re-designed and renovated to mitigate noise to limit negative impacts on residential units that the use will abut, including the use of acoustical tiles, caulking to seal penetrations made in floor slabs for pipes, and spray-on noise insulation;
    - (B) The windows and doors of the space devoted to the veterinary hospital or veterinary boarding hospital use shall be kept closed, and all doors facing a residential use will be solid core;
    - (C) Animal waste shall be placed in closed waste disposal containers located in enclosed areas or away from abutting

or confronting residential windows and doors; and shall be collected by a waste disposal company at least weekly;

(D) Odors will be controlled by means of an air filtration system or an equivalently effective odor control system; and

(E) Floor finish material, areas intended to be wet, and wall finish materials measured a minimum of forty-eight inches (48 in.) from the floor, shall be impervious and washable;

(5) External yards or other external facilities for the keeping of animals shall not be permitted;

(6) Pet grooming, the sale of pet supplies, and incidental boarding of animals as necessary for convalescence, are permitted as accessory uses; and

(7) The Board of Zoning Adjustment may impose additional requirements as it deems necessary to protect adjacent or nearby properties;

(m) Animal boarding uses not meeting the conditions of Subtitle U § 512.1(l), subject to the following:

(1) The animal boarding use shall take place entirely within an enclosed building;

(2) 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;

(3) 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;

(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 waste disposal company at least weekly;



- (6) Odors shall be controlled by means of an air filtration system or an equivalently effective odor control system;
  - (7) Floor finish material, and wall finish materials measured a minimum of forty-eight inches (48 in.) from the floor, shall be impervious and washable;
  - (8) External yards or other exterior facilities for the keeping of animals shall not be permitted; and
  - (9) 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; and
- (n) Any use permitted as a matter of right in MU-Use Group E that does not comply with the required conditions for MU-Use Group E may apply for permission as a special exception except firearms retail sales establishments.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2); Final Rulemaking & Order No. 08-06H published at 64 DCR 22 (January 6, 2017); Final Rulemaking & Order No. 18-02 published at 65 DCR 12148 (November 2, 2018).

## **514 PROHIBITED USES (MU-USE GROUP E)**

- 514.1 This section prohibits uses otherwise permitted by this chapter as a matter of right or as a special exception.
- 514.2 In the MU-24 and MU-26 zones, the following uses are prohibited:
- (a) Car wash;
  - (b) Automobile or truck sales;
  - (c) Automobile rental agency;
  - (d) Boat or other marine sales;
  - (e) Drive-in restaurant;
  - (f) Electric substation or natural gas regulator station;
  - (g) Gasoline service station as a principal or an accessory use;

- (h) Installation of automobile accessories;
- (i) Motorcycle sales and repairs;
- (j) Parcel delivery service;
- (k) Parking lot, parking garage, or public storage garage; and
- (l) Public utility pumping station.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2).

## **515 MATTER-OF-RIGHT USES (MU-USE GROUP F)**

515.1 The following uses shall be permitted in MU-Use Group F as a matter of right, subject to any applicable conditions:

- (a) Uses permitted as a matter of right in any R, RF, and RA zones and all uses permitted as a matter of right for MU-Use Group E of this chapter;
- (b) Amusement enterprise;
- (c) 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;
- (d) Community-based institutional facilities;
- (e) [DELETED];
- (f) Eating and drinking establishments with no restrictions;
- (g) Emergency shelter;
- (h) Laundry or dry cleaning establishment, not exceeding five thousand square feet (5,000 sq. ft.) of gross floor area;
- (i) Motorcycle sales and repair, only in MU-9 zone 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 R, RF, or RA zone or MU-1 or MU-2 zone;
- (j) Printing, lithographing, or photoengraving establishment, with no limitation on gross floor area;

- (k) 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; or
  - (2) The EEF use is located below ground floor;
- (l) In the MU-9 zone, any establishment that has as a principal use the administration of massages, provided that no portion of the establishment shall be located within two hundred feet (200 ft.) of a R, RF, or RA zone; and
- (m) In the MU-30 zone, a gasoline service station provided no portion of the structure or premises shall be located within twenty-five feet (25 ft.) of a R, RF or RA zone unless separated from that R, RF, or RA zone by a street or alley; and
- (n) Other accessory uses customarily incidental and subordinate to the uses permitted by this section.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2); Final Rulemaking & Order No. 17-04 published at 64 DCR 7264 (July 28, 2017); Final Rulemaking & Order No. 17-20 published at 65 DCR 6596 (June 15, 2018).

## **516 SPECIAL EXCEPTION USES (MU-USE GROUP F)**

516.1 The following uses shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the provisions of this section:

- (a) Retail, large format, subject to the conditions of Subtitle U § 511.1(j);
- (b) Sexually-oriented business establishment in the MU-9, MU-21, or MU-30 zone, subject to the following conditions:
  - (1) No portion of the establishment shall be located within six hundred feet (600 ft.) of a R, RF, RA, MU-1, MU-2, MU-15, MU-16, or MU-23 zone;
  - (2) 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. Official Code § 5-410 (1994 Repl.)));

- (3) No portion of the establishment shall be located within three hundred feet (300 ft.) of any other sexually-oriented business establishment;
  - (4) There shall be no display of goods or services visible from the exterior of the premises;
  - (5) The establishment shall be compatible with other uses in the area;
  - (6) 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
  - (7) The establishment shall not have an adverse impact on religious, educational, or governmental facilities located in the area;
- (c) Public utility pumping station, subject to any requirements pertaining to setbacks or screening, or other requirements the Board of Zoning Adjustment deems necessary for the protection of adjacent or nearby property;
- (d) Enlargement of an existing laundry or dry cleaning establishment that contains more than five thousand square feet (5,000 sq. ft.) of gross floor area, subject to the provisions of this paragraph:
- (1) Any noise or odor shall not adversely affect the neighborhood;
  - (2) Dangerous or otherwise objectionable traffic conditions shall not be created; and
  - (3) The Board of Zoning Adjustment 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;
- (e) An Electronic Equipment Facility (EEF) that does not qualify as a matter-of-right use under Subtitle U § 515.1(k) subject to the requirements of this paragraph:
- (1) 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 Subtitle X, Chapter 3;
  - (2) An applicant shall demonstrate, in addition to the requirements Subtitle X, Chapter 9 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;

- (3) In evaluating whether an EEF will have any of the adverse impacts described in Subtitle U § 516.1(e)(2), the Board of Zoning Adjustment 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) Inability of the EEF to be adapted in the future for permitted uses; and
  - (4) The Board of Zoning Adjustment 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;
- (f) Where not permitted as a matter of right, any establishment that has as a principal use the administration of massages, subject to the following conditions:
- (1) No portion of the establishment shall be located within two hundred feet (200 ft.) of an R, RF, or RA zone;
  - (2) The establishment shall be compatible with other uses in the area;
  - (3) 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
  - (4) The establishment shall not have an adverse impact on religious, educational, or governmental facilities located in the area.
- (g) Where not permitted as a matter of right, a gasoline service station to be established or enlarged, or a repair garage not including body and fender work, subject to the following conditions:
- (1) The station shall not be located within twenty-five feet (25 ft.) of a residential zone;

- (2) The operation of the use shall not create dangerous or other objectionable traffic conditions; and
  - (3) Required parking spaces may be arranged so that not all spaces are 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; and
- (h) Any use permitted as a matter of right in MU-Use Group F that does not comply with the required conditions for Use Group F may apply for permission as a special exception, except firearms retail sales establishments.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2); Final Rulemaking & Order No. 17-04 published at 64 DCR 7264 (July 28, 2018).

## **517 MATTER-OF-RIGHT USES (MU-USE GROUP G)**

517.1 The following uses shall be permitted in MU-Use Group G as a matter of right subject to any applicable conditions:

- (a) Uses permitted as a matter of right in any R, RF, and RA zones, and all uses permitted as a matter of right for MU-Use Group F of this chapter, unless required as a special exception in Subtitle U § 518 or not permitted by Subtitle U § 519;
- (b) 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
- (c) Notwithstanding Subtitle U § 519, the following parking uses shall be permitted:
  - (1) A 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 MU-10 zone, in accordance with Subtitle C § 718. In the event that the cumulative parking limit established in Subtitle C § 718.2 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 MU-10 zone, shall be permitted as a special exception if approved by the Board of Zoning Adjustment pursuant to Subtitle C § 718.7; and

- (2) 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:
- (3) 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 five (5)-year period renewable by the Zoning Commission; and
- (4) 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 three (3)-year period renewable by the Zoning Commission.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2).

## **518 SPECIAL EXCEPTION USES (MU-USE GROUP G)**

518.1 The following uses shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the provisions of this section:

- (a) Automobile or motorcycle sales or repair subject to the provisions of this section:
  - (1) The use 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;
  - (2) The use shall not result in dangerous or otherwise objectionable traffic conditions;
  - (3) The use and all its accessory facilities, including automobile storage, shall be located within a building;
  - (4) No portion of a building use for vehicle sales or repair shall be used within fifty feet (50 ft.) of a R, RF, RA MU-1, MU-2, MU-15, MU-16, or MU-23 zone; and
  - (5) The Board of Zoning Adjustment 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;

- (b) An antenna tower or monopole;
- (c) Bowling alley, subject to the provisions of this section:
  - (1) Bowling alley use shall not be within twenty-five feet (25 ft.) of a residential zone unless separated from such district by a street or alley; and
  - (2) Soundproofing to the extent deemed necessary for the protection of adjoining and nearby property shall be required;
- (d) Building service trade, including, but not limited to, plumber, electrician, exterminator, or air conditioning mechanic;
- (e) 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, subject to the conditions of Subtitle X;
- (f) Emergency shelter for five (5) to twenty-five (25) persons, not including resident supervisors or staff and their families, subject to the standards and conditions of Subtitle U § 203.1(h);
- (g) Experimental research or testing laboratory;
- (h) 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 conditions of Subtitle U § 203.1(k);
- (i) Hospital or clinic use, if the Board of Zoning Adjustment considers that this use is appropriate in furthering the objectives of the zone, subject to the provisions of this section:
  - (1) 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;
  - (2) There shall be a demonstrated need for the facility;
  - (3) The applicant shall submit to the Board of Zoning Adjustment 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;



- (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; and
  - (C) Before taking final action on an application for hospital or clinic use, the Board of Zoning Adjustment shall refer the application to the 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 and the District Department of Transportation;
- (j) Light manufacturing, processing, fabricating, or milling, subject to the provisions of this section:
- (1) The use shall comply with the standards of external effects for PDR zones and shall have no adverse effects on other uses on the same or adjoining properties;
  - (2) The use shall not result in dangerous or otherwise objectionable traffic conditions;
  - (3) There shall be adequate off-street parking for trucks and other service vehicles;
  - (4) There shall be no outdoor storage of materials; and
  - (5) The Board of Zoning Adjustment 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;
- (k) A Metropolitan Police Department vehicle maintenance facility or equestrian unit, subject to the condition that it be located so that it is not likely to become objectionable to adjoining or nearby property because of noise or fumes;
- (l) Retail, large format, subject to the conditions of Subtitle U § 511.1(j);
- (m) Utilities, subject to the provisions of this section:
- (1) 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; and
- (2) The Board of Zoning Adjustment may impose any requirements for setbacks, screening, or other safeguards that it deems necessary for protection of the neighborhood;
- (n) Warehouse or wholesaler use; and
- (o) Other uses neither identified as permitted or not permitted, subject to the provisions of this section:
  - (1) The use shall not adversely affect the present character and future development of the neighborhood;
  - (2) No dangerous or otherwise objectionable traffic conditions shall result from the establishment of the use; and
  - (3) The Board of Zoning Adjustment 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.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2); Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

## **519 USES NOT PERMITTED (MU-USE GROUP G)**

519.1 The following uses shall be specifically prohibited in MU-Use Group G:

- (a) Any establishment that has as a principal use the administration of massages;
- (b) Any industrial use prohibited in an PDR zone;
- (c) Any use first permitted in the PDR zone;
- (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 operation as either a principal or accessory use;
- (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 Subtitle U § 517.1(c);
- (p) Sexually-oriented business establishment;
- (q) Smelting or rendering; and
- (r) Animal care and boarding except for a veterinary office or hospital.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2).

## CHAPTER 6 USE PERMISSIONS FOR ALLEY LOT

### 600 MATTER-OF-RIGHT USES ON ALLEY LOTS (R, RF, AND RA)

600.1 The following uses shall be permitted as a matter-of-right on an alley lot in the R, RF, and RA zones subject to any applicable conditions:

- (a) Agricultural, both residential and large;
- (b) Artist studio subject to the following conditions:
  - (1) Occupancy of the building shall be limited to one (1) artist and one (1) apprentice for each four hundred and fifty square feet (450 sq. ft.) of gross floor area of a building on an alley lot;
  - (2) All operations and storage of materials shall occur inside the building;
  - (3) Incidental sales of art work produced by the occupants of the studio shall be permitted within the studio; and
  - (4) The artist may teach one (1) or more apprentices;
- (c) Camping by the owner of an alley lot on the alley lot in a tent, wagon, van, automobile, truck, or trailer, subject to the following conditions:
  - (1) The use shall be located so that it is not likely to become objectionable to adjoining and nearby property because of noise, traffic, parking, lighting, sanitation, or otherwise objectionable conditions;
  - (2) Open fires shall not be permitted; and
  - (3) The use shall not be for more than two (2) consecutive weeks and no more than one (1) month per calendar year;
- (d) Parking subject to the following conditions:
  - (1) Surface parking spaces for use by residents of the square;
  - (2) Not more than two (2) car-sharing spaces; and
  - (3) Parking garage on a lot not containing another use shall meet the following conditions:

- (A) No more than two (2) motor vehicles may be housed on the lot;
  - (B) The building may not exceed four hundred fifty square feet (450 sq. ft.); and
  - (C) The building shall open directly onto an alley; and
- (e) Residential dwelling, provided that the use shall be limited to one (1) dwelling unit on an alley lot, subject to the following limitations:
- (1) The alley lot is wholly within an R-3, R-13, or R-17 zone, an RF zone, or an RA zone;
  - (2) A residential dwelling may not be constructed or other building converted for a dwelling unit unless there is a minimum of four hundred and fifty square feet (450 sq. ft.) of lot area;
  - (3) The alley lot has access to an improved public street as follows:
    - (A) Through an improved alley or alleys twenty-four feet (24 ft.) or more in width; or
    - (B) Through an improved alley no less than fifteen feet (15 ft.) in width and within three hundred (300) linear feet of an improved public street;
  - (4) The residential dwelling shall meet all building code requirements for a permanent residential structure; and
  - (5) If the Zoning Administrator or other authorized building official determines that the access from a proposed dwelling on an alley lot is insufficient to provide the intended public safety, hygiene or other building code requirement, the application for the residential dwelling shall be referred to the Board of Zoning Adjustment.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2).

**601 SPECIAL EXCEPTION USES ON ALLEY LOTS (R, RF, AND RA)**

601.1 The following uses shall be permitted on an alley lot in the R, RF, and RA zones, as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to any specific provisions of each section:

- (a) No camp or any temporary place of abode in any tent, wagon, van, automobile, truck, or trailer of any description shall be permitted on an

alley lot when not accompanied by the property owner, unless approved as a special exception subject to the following conditions:

- (1) The use shall be located so that it is not likely to become objectionable to adjoining and nearby property because of noise, traffic, parking, lighting, sanitation, or otherwise objectionable conditions;
  - (2) Open fires shall not be permitted; and
  - (3) The use shall not be approved for more than two (2) consecutive weeks and no more than one (1) month per calendar year;
- (b) Parking uses not meeting the matter of right standards, provided that a publicly operating parking area use shall be subject to the following conditions:
- (1) Any use authorized in this section shall not be likely to become objectionable because of noise, traffic, or number of employees; and
  - (2) 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;
- (c) Residential use not meeting the matter-of-right requirements of Subtitle U § 600.1(e), provided that the use shall be limited to one (1) dwelling unit on an alley lot, subject to the following conditions:
- (1) The alley lot is not wholly or partially within the R-1-A, R-1-B, or R-2 zones;
  - (2) A building may not be constructed or converted for a dwelling unit unless there is a minimum of four hundred and fifty (450) square feet square feet of lot area;
  - (3) The alley lot connects to an improved public street through an improved alley or system of alleys that provides adequate public safety, and infrastructure availability; and
  - (4) The Board of Zoning Adjustment shall consider relevant agency comments concerning:
    - (A) Public safety, including any comments from the Fire and Emergency Medical Service Department and the Metropolitan Police Department;

- (B) Water and sewer services, including any comments from the Water and Sewer Authority, especially the Department of Permit Operations;
  - (C) Waste management, including any comments from the Department of Public Works; and
  - (D) Traffic and parking, including any comments from the District Department of Transportation; and
- (5) An applicant shall submit or arrange for the submission of agency comments to the official case record. If no agency submission occurs, an applicant shall instead describe any communications with relevant agencies; and
- (d) Storage of wares or goods on an alley lot provided that the use shall be limited to the following:
- (1) No storage use authorized in this section shall be located in a building containing more than twenty-five hundred square feet (2,500 sq. ft.) of gross floor area;
  - (2) Any use authorized in this section shall not be likely to become objectionable because of noise, traffic, or number of employees;
  - (3) The alley upon which the use is to be located shall be readily negotiable by any truck necessary for the proposed operation; and
  - (4) 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 the use is located.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2).

## **602 USES ON ALLEY LOTS IN THE NONRESIDENTIAL ZONES**

- 602.1 Any matter-of-right use permitted within a zone in which an alley lot is located other than an R, RA, or RF zone shall be permitted as a matter of right use on the alley lot, subject to the same conditions or limitations.
- 602.2 Any special exception use permitted within the zone in which the alley lot is located shall be permitted as a special exception use on the alley lot, subject to the same conditions or limitations.
- 602.3 Any use not permitted within the zone in which the alley lot is located shall not be permitted on the alley lot, subject to any conditions or limitations.

602.4 Any use permitted as a matter of right pursuant to Subtitle U § 602.1 that does not comply with the required conditions for the matter-of-right use may apply for permission as a special exception.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2).



## **CHAPTER 7 USE PERMISSIONS MIXED-USE UPTOWN ARTS (ARTS) AND DOWNTOWN (D) ZONES**

### **700 MATTER-OF-RIGHT USES (ARTS and D)**

- 700.1 This chapter contains uses permitted as a matter of right in the ARTS and D zones.
- 700.2 In the ARTS-1 and ARTS-2 zones, the arts uses of this chapter shall be permitted as a matter of right in addition to the MU-Use Group E standards of Subtitle U, Chapter 5, subject to the limitations and conditions of this chapter.
- 700.3 In the ARTS-3 zone, the arts uses of this chapter shall be permitted as a matter of right in addition to the MU-Use Group F standards of Subtitle U, Chapter 5, subject to the limitations and conditions of this chapter.
- 700.4 In the ARTS-4 zone, the arts uses in this chapter shall be permitted as a matter of right in addition to the MU-Use Group G standards of Subtitle U, Chapter 5, subject to the limitations and conditions of this chapter.
- 700.5 In the D zone, the use permissions are as set forth in Subtitle I, Chapter 3.
- 700.6 The following uses are permitted as a matter of right in the ARTS and D zones subject to any applicable conditions:
- (a) Art exhibition areas, curated by an art gallery, professional curator or other qualified professional, subject to the following provisions:
    - (1) The area accounts for no more than five percent (5%) of the 0.5 FAR or 0.5 FAR equivalent;
    - (2) The area is open to the public during normal business hours at least five (5) days per week and fifty (50) weeks per year;
    - (3) Exhibitions change at least four (4) times per year with the exception that not more than twenty percent (20%) of the art works may be a permanent exhibition; and
    - (4) There are at least two (2) public sales of the exhibitions or a majority of the total art works displayed on an annual basis;
  - (b) Artisan production use group:
    - (1) Architectural production;
    - (2) Glass working;
    - (3) Jewelry making;

- (4) Metalworking; and
- (5) Woodworking, including furniture manufacture;
- (c) Arts-retail use group:
  - (1) Art gallery;
  - (2) Art services, including but not limited to set design and restoration of artworks;
  - (3) Art supplies store;
  - (4) Bookstores;
  - (5) Musical instruments store;
  - (6) Recordings store;
  - (7) Picture framing shop;
  - (8) Printmaking shop, digital print or scanning lab; and
  - (9) Traditional darkroom and photographic supply sales;
- (d) Artist living and production use group:
  - (1) Artist live-work space;
  - (2) Artist studio; and
  - (3) Multi-artist live-work space;
- (e) Design use group:
  - (1) Architecture;
  - (2) Computer system and software design;
  - (3) Fashion design;
  - (4) Graphic design;
  - (5) Interior architecture and design;
  - (6) Landscape design; and
  - (7) Product and industrial design;
- (f) Eating and drinking establishments;

- (g) Education and multi-function use group:
  - (1) Art center;
  - (2) Art incubator;
  - (3) Art or performing arts school, including but not limited to schools of dance, photography, filmmaking, music, writing, painting, sculpting, or printmaking; and
  - (4) Library;
- (h) Multi-media media studio;
- (i) Museum; and
- (j) Performing arts use group:
  - (1) Administrative offices of arts organizations;
  - (2) Cabaret;
  - (3) Movie theater;
  - (4) Dinner theater;
  - (5) Legitimate theater;
  - (6) Performing arts ticket office or booking agency; and
  - (7) Theater, assembly hall, auditorium, concert hall, public hall, or other performing arts space, including rehearsal and/or pre-production space.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2); Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016); Final Rulemaking & Order No. 08-06P published at 65 DCR 11927 (October 26, 2018).

## **CHAPTER 8 USE PERMISSIONS PRODUCTION, DISTRIBUTION, AND REPAIR (PDR) ZONES**

### **800 GENERAL PROVISIONS (PDR)**

- 800.1 This chapter contains use permissions and any applicable conditions in the PDR zones.
- 800.2 Uses permitted in the PDR zones are either permitted as a matter of right or as a special exception, subject to approval by the Board of Zoning Adjustment.
- 800.3 Uses are permitted as either principal or accessory uses. Accessory uses customarily incidental to a use permitted as a matter of right shall be permitted, unless otherwise restricted in this chapter, and subject to any conditions associated with the use as a principal use.
- 800.4 Regardless of the permissions and in addition to any restrictions or conditions of this chapter, the limitations of Subtitle U § 803 shall apply to properties within one hundred feet (100 ft.) of a residential zone.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2).

### **801 MATTER-OF-RIGHT USES (PDR)**

- 801.1 The following uses shall be permitted in a PDR zone as a matter of right, subject to any applicable conditions:
- (a) Agricultural uses;
  - (b) Animal Sales, Care, and Boarding uses subject to the following conditions:
    - (1) 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; or
    - (2) Animal Shelter subject to the following conditions:
      - (A) The use shall utilize industry standard sound-absorbing materials, such as acoustical floor and ceiling panels, concrete and masonry, and acoustical landscaping;
      - (B) The use shall not be located within twenty-five feet (25 ft.) of a lot within an R, RA, RF, RC-1, CG-1, or D-1 zone. 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 an R, RF, or RA zone. 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

(C) Outdoor runs and external yards for the exercise of animals shall be permitted, subject to the following requirements:

(i) No animals shall be permitted in outdoor runs or external yards between the hours of 8:00 p.m. and 7:00 a.m.;

(ii) External yards and outdoor runs shall be enclosed with fencing or walls for the safe confinement of 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;

(iii) No more than three (3) animals shall be permitted within any exterior yard or outdoor run at a time; and

(iv) No part of an outdoor run or exercise yard shall be located within two hundred feet (200 ft.) of an existing residential use or residence zone;

(D) All animal waste shall be kept in closed waste disposal containers and shall utilize a qualified waste disposal company to collect and dispose of all animal waste at least weekly;

(E) 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; and

(F) The use shall meet the Standards of External Effects in Subtitle U § 804;

(c) Arts, design, and creation uses;

(d) Chancery;

(e) College or university uses;

(f) Community-based institutional facility;

- (g) Daytime care;
- (h) Eating and drinking establishments are permitted as a matter of right, provided no part of the establishment contains a live performance, night club or dance venue;
- (i) Education uses, private and public;
- (j) Emergency shelter for not more than four (4) persons, not including resident supervisors or staff and their families;
- (k) Firearm sales uses are permitted as a matter of right, provided no part of the establishment shall be located within three hundred feet (300 ft.) of the following:
  - (1) An R, RF, or RA zone;
  - (2) Parks and recreation use;
  - (3) Places of worship;
  - (4) Public or private schools; or
  - (5) Public libraries;
- (l) Government uses, local and large scale;
- (m) Health care;
- (n) Institutional uses, general and religious;
- (o) Lodging;
- (p) Marine;
- (q) Motor vehicle-related sales and repair, provided the use is not within two hundred feet (200 ft.) of any R, RA, or RF zone or residential development;
- (r) Office;
- (s) Parking;
- (t) Parks and recreation;
- (u) Production, distribution, and repair uses are permitted as a matter of right, subject to compliance with the Standards of External Effects in Subtitle U § 804, except for the following prohibited uses or activities:

- (1) Acetylene gas manufacture;
  - (2) Bone products manufacture;
  - (3) Calcium carbide manufacture;
  - (4) Curing, tanning, or storage of hides;
  - (5) Excavation or quarrying of rock for commercial purpose;
  - (6) Fertilizer manufacture;
  - (7) Manufacture or storage of ammunition, explosives, firearms, or military equipment (this condition does not apply to the storage of ammunition or firearms incidental to a use in the firearm sales category);
  - (8) Manufacturing, processing, mixing, storing, or distributing concrete or asphalt, or the materials that are used to make concrete or asphalt;
  - (9) Refining or manufacture of bituminous products other than asphalt;
  - (10) Rubber products manufacture or treatment;
  - (11) Slaughter or rendering of animals; or
  - (12) Steel furnace, blast furnace, bloom furnace, coke oven, or rolling mill;
- (v) Residential uses are limited to the following list of conditions:
- (1) An apartment unit for the use of a caretaker, watchman, or janitor employed on the premises;
  - (2) An apartment unit that is integrated with and accessory to an artist studio, provided that occupancy of the apartment shall be limited to the artist using the studio portion of the premises and the household of the artist; and
  - (3) A residential dwelling existing on May 12, 1958, provided, any addition to or enlargement of the dwelling shall not result in a lot occupancy of greater than sixty percent (60%);
- (w) Retail uses, except large format retail;
- (x) Service uses are permitted as a matter of right, provided that if the use offers massage services, the use shall either:

- (1) Be a licensed massage establishment under the provisions of D.C. Official Code § 47-2811; or
  - (2) Only offer massage services provided by massage therapists with a professional license issued pursuant to Title 17 DCMR;
- (y) Transportation infrastructure;
- (z) Utilities (basic) uses are permitted as a matter-of-right; however, if the use is an electronic equipment facility that exceeds twenty-five percent (25%) of the gross floor area of a building located on site:
- (1) The building shall not be located within eight hundred feet (800 ft.) of an established or planned Metrorail station; and
  - (2) The building shall not be located within one thousand two hundred fifty feet (1,250 ft.) of the edge of a river as measured at mean high tide;
- (aa) Waste incineration, including for conversion to energy subject to the Standards of External Effects in Subtitle U § 804, and the use shall not be permitted on any lot located in whole or in part within one hundred feet (100 ft.) of a residential zone;
- (bb) Wholesale or storage establishment, including open storage, except a junk yard.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2); Final Rulemaking & Order No. 08-06E published at 63 DCR 10932 (August 26, 2016).

## **802 SPECIAL EXCEPTION USES (PDR)**

802.1 The following uses shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the provisions of this section:

- (a) Animal sales, care, and boarding uses not meeting the conditions of matter-of-right of Subtitle U § 801.1(b), subject to the following conditions:
  - (1) Animal uses, including animal boarding, pet grooming establishments, pet shops, veterinary boarding hospitals, and animal shelters shall be subject to the following:
    - (A) The use shall be located and designed to create no objectionable conditions 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 property shall not abut a residential use or residential zone;
  - (D) External yards or other exterior facilities for the keeping of animals shall not be permitted; and
  - (E) The Board of Zoning Adjustment may impose additional requirements as it deems necessary to protect adjacent or nearby properties;
- (2) Any use that trims or cleans domestic pets for a fee shall also be permitted to engage in the sale of pet supplies as an accessory use; and
  - (3) Any use that boards animals as an independent line of business in association with a veterinary hospital for reasons other than convalescence shall be subject to the following additional criteria:
    - (A) The use 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 use may be devoted to the boarding of animals; and
    - (C) Pet grooming, the sale of pet supplies, and incidental boarding as necessary for convalescence, are permitted as accessory uses. Any business engaged in the sale of dogs, cats, birds, tropical fish and/or other domesticated pets, as permitted by the D.C. Official Code § 8-1808(h)(1), including related supplied and equipment;
- (b) Eating and drinking establishments with a live performance, night club or dance venue, subject to the following conditions:
    - (1) The use shall be located and designed so that it is not likely to become objectionable to neighboring property because of noise, traffic, parking, loading, number of attendees, waste collection, or other objectionable conditions;
    - (2) The property shall not abut a residential use or residential zone;

- (3) There is no property containing a live performance, night club or dance venue either in the same square or within a radius of one thousand feet (1,000 ft.) from any portion of the subject property;
  - (4) External performances or external amplification shall not be permitted; and
  - (5) The Board of Zoning Adjustment may impose additional requirements as it deems necessary to protect adjacent or nearby residential properties, including but not limited to:
    - (A) Soundproofing;
    - (B) Limitations on the hours of operation; and
    - (C) Expiration on the duration of the special exception approval;
- (c) Emergency shelter not meeting the conditions of Subtitle U § 801.1(j), subject to the following conditions:
- (1) There shall be a maximum limit of three hundred (300) persons, not including resident supervisors or staff and their families, provided that for facilities over one hundred and fifty (150) persons 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 there is no other reasonable alternative to meet the program needs of that area of the District;
  - (2) There shall be no other property containing an emergency shelter use for five (5) or more persons in the same square or within a radius of one thousand feet (1,000 ft.) from any portion of the property;
  - (3) The use shall not be located within one thousand feet (1,000 ft.) of a waste-related services use; and
  - (4) The use shall not be permitted in the PDR-3, PDR-4, or PDR-7 zones;
- (d) Entertainment, assembly, and performing arts uses, subject to the following conditions:
- (1) The use shall be located and designed so that it is not likely to become objectionable to neighboring property because of noise, traffic, parking, loading, number of attendees, waste collection, or other objectionable conditions;

- (2) The property shall not abut a residential use or residential zone;
  - (3) There is no property containing a live performance, night club or dance venue either in the same square or within a radius of one thousand (1,000 ft.) from any portion of the subject property;
  - (4) External performances or external amplification shall not be permitted; and
  - (5) The Board of Zoning Adjustment may impose additional requirements as it deems necessary to protect adjacent or nearby residential properties, including but not limited to:
    - (A) Soundproofing;
    - (B) Limitations on the hours of operation; and
    - (C) Expiration on the duration of the special exception approval;
- (e) Production, distribution, and repair uses that involve the excavation of clay, sand, or gravel for commercial purposes, or the manufacturing, processing, mixing, storing, or distributing of concrete or asphalt, or the materials that are used to make concrete or asphalt, subject to the following conditions:
- (1) The use shall meet the Standards of External Effects in Subtitle U § 804;
  - (2) No portion of the facility, including the land used by such facility, shall be located within two hundred feet (200 ft.) of a residential, parks and recreation, retail, office, institutional, or local government use, or a R, RF, or RA zone;
  - (3) 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 a Residential use;
  - (4) No truck dumping or picking up excavation, concrete or asphalt, or related materials, shall park, stand, or queue for the facility along any public right-of-way, and the location of the facility shall provide access from a paved street with a road base capable of withstanding anticipated load limits;
  - (5) Any facility located within five hundred feet (500 ft.) of a residential zone 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;

- (6) The facility shall be enclosed on all sides by an opaque screen, fence, or wall at least ten feet (10 ft.) in height. The use of barbed wire or razor wire that is visible from residential zones or public space is prohibited;
- (7) The side of the facility facing public space, residential, parks and recreation, retail, office, institutional, or local government uses shall contain a landscaped area of evergreen trees measuring a minimum of eight feet (8 ft.) in height, which shall be maintained in a healthy growing condition;
- (8) The application shall contain:
  - (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 and 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; and
- (9) The Office of Zoning shall submit the application to the 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, Health, and Energy and Environment, and if a historic district or historic landmark is involved, the Historic Preservation Office;
- (f) Repair of automobiles (any devoted use), including body work, in a PDR-1, PDR-2, PDR-5, or PDR-6 zone within two hundred feet (200 ft.) of a residential zone or residential development, subject to the following conditions:

- (1) The use shall meet the Standards of External Effect in Subtitle U § 804;
  - (2) All vehicles shall be parked or stored completely on the site but shall not be located within any required buffer area or yard adjacent to a residential zone;
  - (3) No vehicles shall be parked in such a manner as to block or impede the flow of vehicular, pedestrian or bicycle traffic along public rights-of-way around, adjacent or neighboring the site; and
  - (4) All lighting of the site shall be arranged and shielded to reduce glare and avoid light spill onto any adjacent residential property;
- (g) Service uses not meeting the conditions of Subtitle U § 801.1(x) or whose principal use is the administration of massages, subject to the following conditions:
- (1) 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
  - (2) The Board of Zoning Adjustment may impose additional requirements as it deems necessary to protect adjacent or nearby residential properties, including but not limited to:
    - (A) Limitations on the hours of operation; and
    - (B) Expiration on the duration of the special exception approval;
- (h) Utilities (basic) uses not meeting the conditions of Subtitle U § 801.1(z); however, if the use is an electronic equipment facility (EEF), the Board of Zoning Adjustment shall consider:
- (1) How the facility, as a consequence of its design, operation, low employee presence, or proximity to other EEFs, will not inhibit future revitalization of the neighborhood, reduce the potential for vibrant streetscapes, deplete street life, or inhibit pedestrian movement;
  - (2) The impact of the facility on other relevant factors, including the following:
    - (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 or elimination of existing officially proposed pedestrian or vehicular routes; and
  - (D) Inability of the EEF to be adapted in the future for permitted uses;
- (3) The economic development potential of the area in which the facility is proposed to be established, giving greater weight to these factors if the facility is to be located in proximity to an existing or proposed Metrorail station or along a pedestrian corridor;
  - (4) The economic benefits the proposed facility will have on adjacent properties, including the potential for increased business activity within the neighborhood, if that activity will foster economic development; and
  - (5) The design appearance, landscaping, parking and other such requirements it deems necessary to protect adjacent property and to achieve an active, safe, and vibrant street life; and
- (i) Waste-related service uses not permitted under Subtitle U § 801.1(aa), but not including hazardous waste, subject to the following conditions:
    - (1) Regardless of use, the facility shall comply with the following:
    - (2) The use shall meet the Standards of External Effects in Subtitle U § 804.
    - (3) Vehicular access shall be provided from a paved street with a road base capable of withstanding anticipated load limits;
    - (4) Truck access or queuing to the site shall not be provided adjacent to any residential zone;
    - (5) Truck access, parking, standing or queuing to the facility shall not be provided 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 residential uses;
    - (6) Parking space shall be provided on-site for each commercial vehicle operated by the facility;
    - (7) 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;

- (8) If the facility serves the public, all parking and queuing space shall be provided on-site to accommodate projected peak demand;
- (9) All uses other than a solid waste handling facility:
  - (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 an existing residential use or residential zone;
  - (B) The facility shall be enclosed on all sides by an opaque fence or wall at least ten feet (10 ft.) high;
  - (C) Any side of the facility facing a public right-of-way or residential zone shall be landscaped;
  - (D) The site shall be maintained free of litter, trash, debris, and any other non-recyclable materials;
  - (E) All storage of waste or recycled materials shall be contained in sturdy containers or enclosures that are fully covered, secured, and maintained in good condition and approved by the Fire and Emergency Medical Services Department;
  - (F) All storage of waste or recycled materials shall not be located outside the facility structures so that it is visible above the height of a required fence or wall;
  - (G) If the facility is located within five hundred feet (500 ft.) of a residential zone, it shall not be in operation between 7:00 p.m. and 7:00 a.m. or any time on Sunday. Hours of operation shall include the arrival and departure of trucks and delivery and removal of materials and equipment; and
  - (H) The facility shall be administered by on-site personnel during the hours the facility is open;
- (10) A solid waste handling facility:
  - (A) 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;

- (B) 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;
- (C) 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 residential zone or located within fifty feet (50 ft.) of any adjacent property used as a parks and recreation use, retail, office, institutional, or local government use;
- (D) 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 unless the Board of Zoning Adjustment finds that the applicant has demonstrated by substantial evidence that the use of rail is not practically, economically, or physically feasible;
- (E) In determining whether to grant a special exception, the Board of Zoning Adjustment 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; and
- (F) 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 of Zoning Adjustment only during the pendency of the Board of Zoning Adjustment's consideration of an application. In the event the Board of Zoning Adjustment denies the application, the continued operation of the facility shall be unlawful. In the event the Board of Zoning Adjustment grants an application, it may provide the applicant a reasonable time in which to construct the facility as approved by the Board of Zoning Adjustment; and



(11) The applicant shall provide credible evidence to the Board of Zoning Adjustment 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:

(A) An indication of the site and description of land uses within one-quarter (1/4) of a mile of the site;

(B) 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;

(C) 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;

(D) A plan for preventing and controlling offensive noises, odors, and rodents and other disease vectors;

(E) 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; and

(F) 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 (2012 Repl.)).

(j) Retail, large format, subject to the following conditions:

(1) The development standards and design guidelines contained within this section apply to all new large format retail establishments with single tenant space of fifty thousand (50,000) gross square feet or greater;

(2) The use shall be located so that it is not likely to become objectionable to adjoining and nearby property because of noise, traffic, parking, loading, deliveries, lighting, trash compacting and

collection, hours of operation, or otherwise objectionable conditions;

- (3) Sufficient automobile parking, but not less than that required in Subtitle C, Chapter 7, shall be provided to accommodate the employees and customers;
- (4) An application under this section shall include the following information:
  - (A) A general site and development plan, indicating the proposed use, location, dimensions, number of stories, and height of building;
  - (B) A study of site characteristics and conditions;
  - (C) A description of existing topography, soil conditions, vegetation and drainage consisting of written material, plats, maps and photographs;
  - (D) Proposed topography including street grades and other grading contours;
  - (E) Identification of mature trees to remain and percent of site to be covered by impervious surface;
  - (F) Proposed drainage and sewer system and water distribution;
  - (G) Proposed treatment of existing natural features, such as steep slopes, ravines, natural watercourses;
  - (H) Proposed method of solid waste collection;
  - (I) Estimated water consumption (gallons per year);
  - (J) A transportation study, containing the following:
    - (i) Proposed circulation plan, including the location of vehicular and pedestrian access ways, other public space and the location and number of all off-street parking and loading spaces, loading berths and service delivery spaces;
    - (ii) Estimated number and type of trips assumed to be generated by project, and assumed temporal and directional distribution;

- (iii) Traffic management requirements (lights, stop signs, one-way streets, etc.);
  - (iv) Relationship of the proposed project to the mass transit system (nearest bus stops and routes, nearest Metrorail stations, etc.);
  - (v) Vehicular trip generation, trip assignment and before-and-after capacity analyses and level of service at critical intersections; and
  - (vi) Any other information needed to fully understand the final building proposed for the site;
- (5) An applicant requesting approval under this section must demonstrate that the proposed use, building, or structure, including the siting, architectural design, site plan, landscaping, sidewalk treatment, and operation, will:
- (A) Be in context with the surrounding street patterns;
  - (B) Minimize unarticulated blank walls adjacent to public spaces through facade articulation, materials, display windows, entries, and other architectural efforts; and
  - (C) Not result in light spillage off the site;
- (6) Where additional stores or individual uses are located within a large format retail use, each such store shall have at least one (1) exterior customer entrance;
- (7) The following list should be considered as guidelines for the design of large format retail buildings:
- (A) Building design shall incorporate architectural features and patterns to provide visual interest;
  - (B) Exterior walls shall feature projections and recesses;
  - (C) Building roofs shall incorporate pitched rooflines and detailed roofing materials;
  - (D) Building materials shall include stone, wood, brick, glass, and metal in keeping with the surrounding architectural context;

- (E) Entryways shall be well-marked and engaging and provide connection via wide sidewalks to primary streets and parking;
  - (F) Building design shall incorporate sustainable measures to include solar energy, geothermal heating and cooling, and use of permeable paving for surface parking areas; and
  - (G) Landscaping shall be provided in the rear and side yards to screen and limit visibility of storage areas;
- (8) This section shall not apply to the following:
- (A) Large format retail that would occupy a planned unit development approved as of September 5, 2016; or
  - (B) Large format retail that would occupy a project with a completed review under the large tract review regulations (Title 10-B DCMR, Chapter 23) as of September 6, 2016; except that a modification to a completed large tract review that would result in a project with fifty thousand square feet (50,000 sq. ft.) or more of retail use shall also require approval under this section prior to certificate of occupancy for a use meeting the definition of large format retail.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2); Final Rulemaking & Order No. 08-06O published at 65 DCR 66 (June 1, 2018).

### **803            ADDITIONAL USE RESTRICTIONS AND CONDITIONS (PDR)**

803.1            Any use not permitted by conditions, special exception, or as an accessory use in this subtitle shall be deemed to be not permitted.

803.2            Regardless of the permissions, and in addition to any restrictions or conditions of this chapter, the following uses shall not be permitted on any lot located in whole or in part within one hundred feet (100 ft.) of a residential zone:

- (a) Any establishment that has as a principal use the administration of massages;
- (b) Car wash as a principal use;
- (c) 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;
- (d) Chemical manufacturing, storage, or distribution;

- (e) Drive-through operation as either a principal or accessory use;
- (f) Enameling, plating, or painting (except an artist's studio), as a principal use;
- (g) Firearms retail sales establishments as a principal or an accessory use;
- (h) Gasoline service station;
- (i) Material salvage;
- (j) Outdoor advertising or billboard as a principal use;
- (k) Outdoor material storage processing, fabricating, or repair, whether a principal or accessory use;
- (l) Packing or crating operations as a principal use;
- (m) Parking lot;
- (n) Sexually-oriented business establishment;
- (o) Smelting or rendering; and
- (p) Incinerator.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2).

## **804 STANDARDS OF EXTERNAL EFFECTS (PDR)**

- 804.1 Any use established in a PDR zone that is not permitted in any non-PDR zone and any uses accessory to those uses shall be operated so as to fully comply with the applicable environmental standards and requirements of Title 20 DCMR, Environment.
- 804.2 The volume of sound inherently and recurrently generated shall not exceed the maximum permissible sound levels established in Title 20 DCMR, Chapter 27, Noise Control, and Chapter 28, Maximum Noise Levels, at any point along the boundaries of the zone district in which the use is located.
- 804.3 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.
- 804.4 No noxious, toxic, or corrosive fumes or gases shall be permitted to escape or to be discharged from any use permitted in a PDR zone.
- 804.5 No objectionable amounts of cinders, dust, or fly-ash shall be permitted to escape or to be discharged from any use permitted in a PDR zone.

- 804.6 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.
- 804.7 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.
- 804.8 The use of barbed or razor wire adjacent to any residentially zoned land shall be prohibited.
- 804.9 Any back-up generators or power systems shall be either:
- (a) Fully enclosed within the principal structure; or
  - (b) Located no closer than two hundred feet (200 ft.) from the nearest residentially zoned land or residential development.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2).

## **805 EXTERNAL EFFECTS PERMIT APPLICATIONS (PDR)**

- 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 subject to Subtitle U § 804, 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 Subtitle U § 804 and any information necessary to evidence compliance with Subtitle U § 804.
- 805.2 A site plan approved under this section shall become a part of the building permit or certificate of occupancy.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2).

## **806 ALLEY LOT USES (PDR)**

- 806.1 Uses that are permitted in the PDR zones are allowed on alley lots, subject to the satisfaction of all related conditions, and as further limited in Subtitle U § 806.2.
- 806.2 Residential uses shall not be permitted.

SOURCE: Final Rulemaking & Order No. 08-06A published at 63 DCR 2447 (March 4, 2016 – Part 2).