



that apply to the structures, and the affordable housing requirements that are generated by either residential or non-residential uses.

Since the petition only sought changes to the text of the Zoning Regulations, and not the zoning map, the Commission’s decision to hear the petition did not change the *status quo*. Any building permit application that has or will be filed during the pendency of this proceeding will be reviewed in accordance with the Zoning Regulations now in place unless or until amendments are adopted and become effective.

As is always the case, the Commission reserves the right not to adopt any or all of the text proposed and testimony arguing for the retention of the existing rules or alternative proposals will be received and considered.

**SUMMARY OF PROPOSED AMENDMENTS AND ALTERNATIVES:**

Section	Summary Amendment
<b>Chapter 1 - DEFINITIONS</b>	
<b>199, Definitions</b>	<ul style="list-style-type: none"> <li>• Amend the definition for “Story” to remove the size limitation on a penthouse, beyond which it is considered a story.</li> <li>• Add a new definition for “Penthouse”</li> <li>• Add a new definition for “The Height Act”</li> </ul>
<b>Chapter 4 - RESIDENTIAL</b>	
<b>400.7</b>  HEIGHT OF BUILDINGS OR STRUCTURES (R)	<b>Penthouse Setback:</b> <ul style="list-style-type: none"> <li>• Provide clarification regarding when the 1:1 setback is required, including from a common lot line with a historic building or property, if the historic building is lower than the subject building. <u>The Zoning Commission also specifically invited comments regarding possible guidelines for special exception to grant relief from the penthouse setback requirements in these circumstances.</u></li> </ul> <p><i>Refer to illustrations of required setbacks below:</i></p>

Section	Summary Amendment
Example Illustrations of Penthouse Setback Requirements	
<p style="text-align: center;">Street</p> <p style="text-align: right;">Building Wall</p> <p style="text-align: left;">Property Line</p> <p style="text-align: left;">Adjacent Property</p> <p style="text-align: center;">Potential Penthouse Location</p> <p style="text-align: right;">20' typ.</p> <p style="text-align: right;">Street</p> <p style="text-align: center;">Alley</p>	
<p style="text-align: center;">Street</p> <p style="text-align: right;">Building Wall</p> <p style="text-align: left;">Property</p> <p style="text-align: left;">Street</p> <p style="text-align: center;">Potential Penthouse Location</p> <p style="text-align: center;">Potential Penthouse Location (i.e. a penthouse could be within this area)</p> <p style="text-align: center;">Potential Penthouse Location</p> <p style="text-align: right;">20' typ.</p> <p style="text-align: right;">Street</p> <p style="text-align: left;">Property Zoned C-2-B</p> <p style="text-align: center;">Property Zoned C-2-C</p> <p style="text-align: right;">Property Line</p> <p style="text-align: center;">Alley</p>	

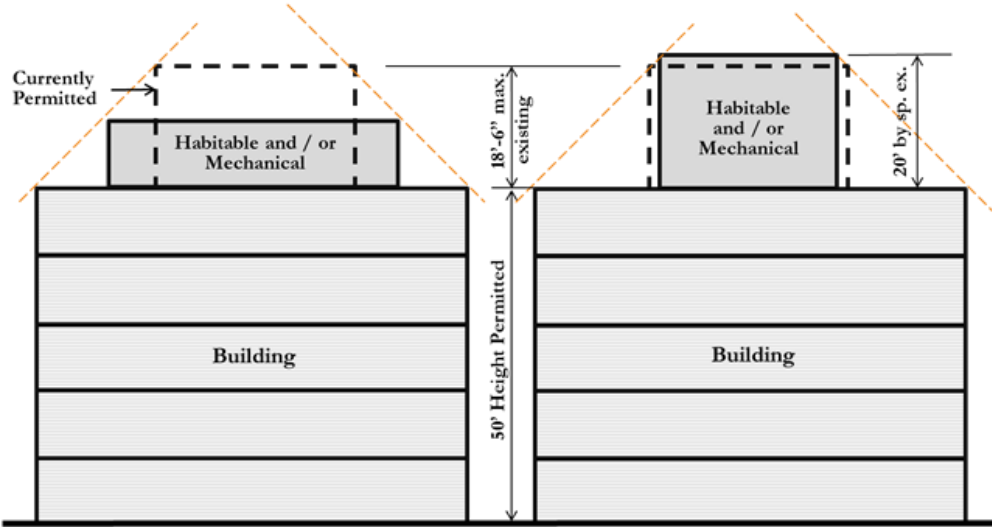


Section	Summary Amendment
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**Penthouse Height – Zones Allowing Buildings of 50’ or Less in Height:**

Alternative 1 – permit 10’ / 1 story

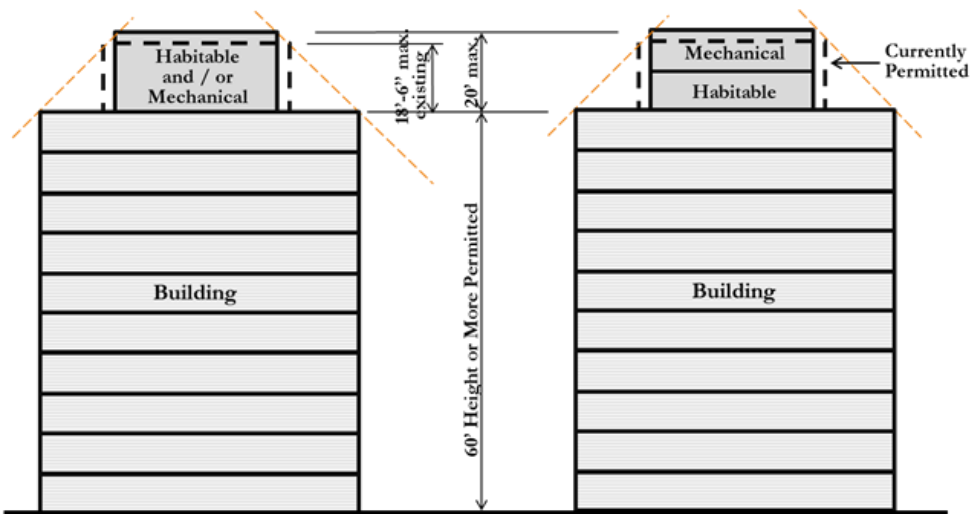
Alternative 2 – permit 10’ / 1 story by right;  
 20’ / 1 story by special exception



**Penthouse Height – Zones Allowing Buildings of 60’ or More in Height:**

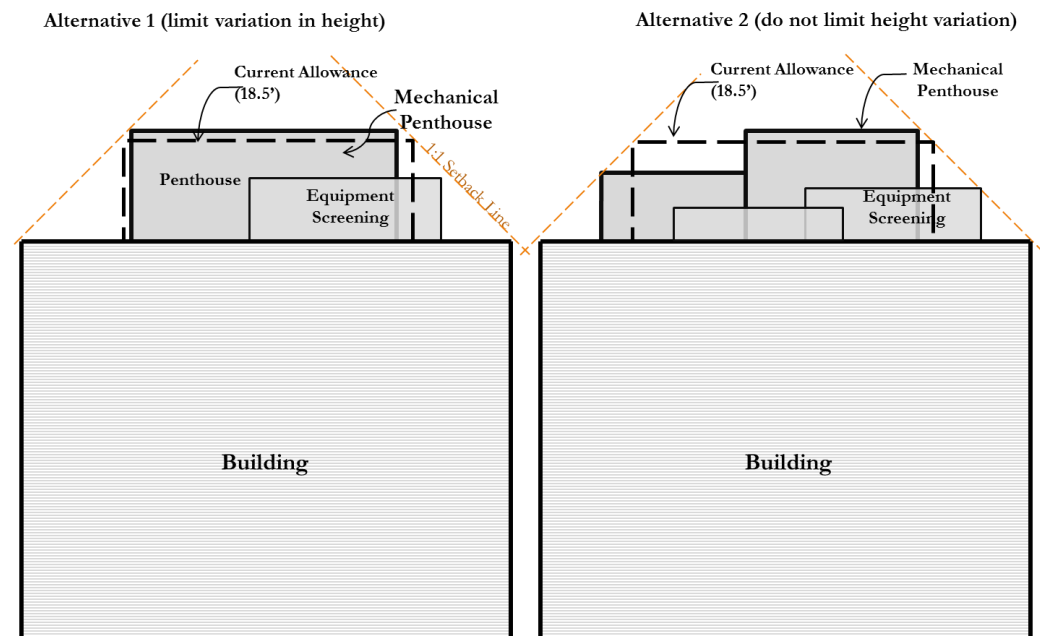
Alternative 1 – permit 20’ / 2 stories

Alternative 2 – permit 20’ / 1 story of  
 habitable space only, and one of  
 mechanical space above

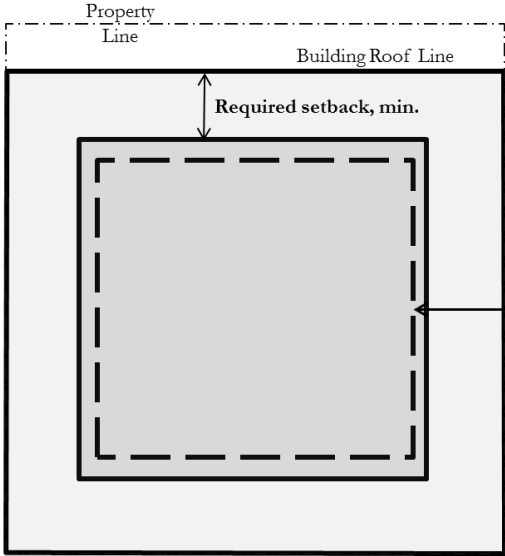
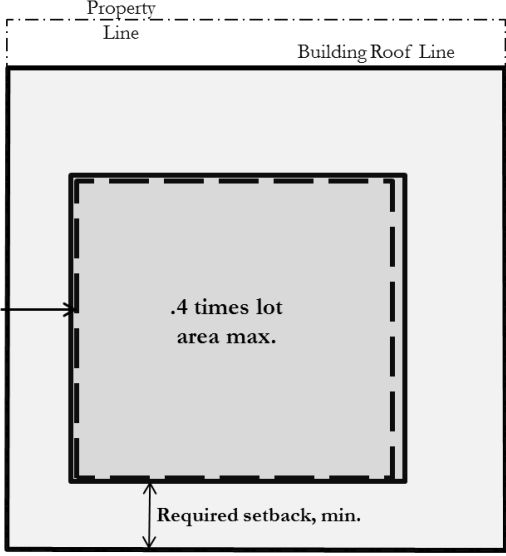


<p><b>411</b> PENTHOUSES (R)</p>	<p><b>Uses:</b></p> <ul style="list-style-type: none"> <li>• Allow habitable space within a penthouse only in those zones allowing a building height of</li> </ul>
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Section	Summary Amendment
<p>Note: The provisions of § 411 carry forward to all R, SP, CR, C, CM, M, and W zones</p>	<p>more than <u>40 feet</u>. For a building with a permitted height of <u>40 feet or less</u>, if a penthouse is permitted, allow a penthouse for rooftop access only.</p> <p>Alternative: Allow habitable space within a penthouse only in those zones allowing a building height of more than <u>50 feet</u>. For a building with a permitted height of <u>50 feet or less</u>, if a penthouse is permitted, allow penthouse for rooftop access only.</p> <p>Alternative: Allow specified uses within a penthouse only with special exception approval by the Board of Zoning Adjustment – such as nightclub, bar, lounge, restaurant.</p> <p><b>Enclosures:</b></p> <ul style="list-style-type: none"> <li>Retain the current requirement that all penthouses and mechanical equipment shall be placed in one enclosure.</li> </ul> <p>Alternative: Require that all penthouses and mechanical equipment must be placed in one enclosure, but permit emergency egress stairwells as required by the building code to be in a separate enclosure. <li>Retain requirement that the walls of an enclosed penthouse shall be of equal height above roof level, but permit screening walls for mechanical equipment not contained within a penthouse to be of a second, uniform height.</li> <p>Alternative: Delete requirement that penthouse walls be of equal height.</p> <p><i>Refer to illustration of penthouse wall height alternatives below:</i></p> </p>



Section	Summary Amendment
<p><b>411</b>            PENTHOUSES (R)</p>	<ul style="list-style-type: none"> <li>Retain requirement that the walls of an enclosed penthouse shall be vertical, but provide clarification language consistent with current interpretation of what is considered “vertical”. OP has suggested a maximum of 20% from vertical, but <u>alternative suggestions are solicited</u>.</li> </ul> <div data-bbox="646 541 1382 1052" data-label="Diagram"> <p>The diagram illustrates a building with a penthouse on its roof. The main building is a large rectangle labeled 'Building'. On top of it is a smaller, shaded rectangle labeled 'Penthouse'. The penthouse walls are shown with a slight inward slope. Two dashed lines extend from the top corners of the penthouse downwards, representing the 'Current Allowance' for the slope. An arrow points to the slope with the text: 'Slope of not more than 20% from vertical; cannot extend beyond setback line'. Another arrow points to the penthouse area with the text: 'Penthouse'.</p> </div> <p><b>Area:</b></p> <ul style="list-style-type: none"> <li>With regards to the provision that limits penthouse area to 1/3 the area of the roof below in zones, remove this limit for the R-5-A, C-1, and CM-1 zones, but retain it for the R-1 through R-4 zones and for the Capitol Interest Overlay zones.</li> <li>Exempt all enclosed penthouse space, habitable and non-habitable, from building FAR.        Alternative: Exempt enclosed mechanical space in a penthouse from building FAR, but provide a maximum exemption for habitable space - the 0.4 FAR exemption considered in ZRR.</li> </ul> <p><i>Refer to illustrations below:</i></p>

Section	Summary Amendment
<p><b>FAR</b></p> <div style="display: flex; justify-content: space-around;"> <div data-bbox="267 457 649 485" style="text-align: center;"> <p>Alternative 1 – no FAR limitation</p>  <p>Size of penthouse defined by setbacks</p> </div> <div data-bbox="894 457 1266 485" style="text-align: center;"> <p>Alternative 2 - .4 FAR limitation</p>  <p>Any amount greater than .4 FAR would count towards building FAR.</p> </div> </div>	
<p><b>411</b>          PENTHOUSES (R)</p>	<p><b>Special Exception Review of Area Requirements:</b></p> <ul style="list-style-type: none"> <li>• Add clarification that the type of “operating difficulties” that warrant special exception relief involve difficulties in meeting building code requirements for roof access and stairwell separation or elevator stack location to maximize efficiencies in lower floors and similar issues.</li> </ul> <p><b>Exemptions:</b></p> <ul style="list-style-type: none"> <li>• Add clarification that guardrails as required by the construction code would not be considered a penthouse.</li> </ul> <p><b>Stories:</b></p> <ul style="list-style-type: none"> <li>• Permit two stories within a penthouse, provided it would be permitted by the Height Act, except limit a penthouse to one story:             <ul style="list-style-type: none"> <li>• If located on the roof of a one-family dwelling or flat; or</li> <li>• Within any zone where the building height is limited to 50 feet maximum.</li> </ul> </li> </ul> <p>Alternative: Limit habitable penthouse space to one story in all zones, but allow a second story for non-habitable (mechanical) space in zones where a penthouse of 20 feet in height is permitted.</p>



Section	Summary Amendment
	<p><i>Refer to illustrations of alternatives for penthouse height and number of stories, above.</i></p> <p><b>PUD Modifications:</b></p> <ul style="list-style-type: none"> <li>For a building subject to a Zoning Commission PUD or Design Review approved prior to the adoption of these penthouse text amendments, permit a penthouse addition request to be filed and considered as a minor modification pursuant to the Commission’s consent calendar procedures (11 DCMR § 3030).</li> </ul>
<p><b>414</b> (new section)            AFFORDABLE HOUSING PRODUCTION REQUIREMENT GENERATED BY CONSTRUCTION OF PENTHOUSE NON-RESIDENTIAL GROSS FLOOR AREA</p>	<ul style="list-style-type: none"> <li>Establish a requirement for the provision of on-site or off-site affordable housing for any habitable penthouse <u>non-residential</u> space greater than 1,000 sq. ft. in area, generally consistent with the existing Housing Linkage requirement for new office space gained through a planned unit development (§ 2404.6). Extent of housing to be produced would be dependent upon the adjacency of development.</li> <li>Permit flexibility in the provision of the affordable housing off-site, or permit an in lieu contribution to a housing trust fund, consistent with the existing Housing Linkage requirement.</li> <li>Apply this requirement to new non-residential habitable space in all parts of the city.</li> </ul>
<p><b>Chapter 5 – SPECIAL PURPOSE DISTRICTS</b></p>	
<p><b>530</b>            HEIGHT (SP)</p>	<ul style="list-style-type: none"> <li>Provide clarification regarding when the 1:1 setback is required, including from a common lot line with a historic building or property, if the historic building is lower than the subject building.</li> <li>Limit height of a penthouse:               <ul style="list-style-type: none"> <li>to 10 feet maximum on the roof of a one-family dwelling or flat; and</li> <li>to 20 feet maximum for all other uses.</li> </ul> </li> </ul> <p>Alternative: Do not permit, by right, a penthouse of any height above a one-family dwelling or flat; allow a 10 foot penthouse only by special exception.</p>
<p><b>537</b>            ROOF STRUCTURES (SP)</p>	<ul style="list-style-type: none"> <li>Retain current provision that penthouse space, including any permitted habitable space, not count towards parking requirements for the building.</li> </ul> <p>Alternative: Continue to exempt mechanical space and communal recreation space within a penthouse from parking requirements, but apply parking requirements of the zone and use to other enclosed penthouse area, such as additional residential units, office, or retail space.</p>
<p><b>Chapter 6 – COMMERCIAL RESIDENTIAL DISTRICT</b></p>	
<p><b>630</b>            HEIGHT OF BUILDINGS OR</p>	<ul style="list-style-type: none"> <li>Provide clarification regarding when the 1:1 setback is required, including from a common lot line with a historic building or property, if the historic building is lower than the subject building.</li> </ul>

Section	Summary Amendment
STRUCTURES (CR)	<ul style="list-style-type: none"> <li>• Limit height of a penthouse: <ul style="list-style-type: none"> <li>• to 10 feet maximum on the roof of a one-family dwelling or flat; and</li> <li>• to 20 feet maximum for all other uses.</li> </ul> </li> </ul> <p>Alternative: Do not permit, by right, a penthouse of any height above a one-family dwelling or flat; allow a 10 foot penthouse only by special exception.</p>
<b>639</b> ROOF STRUCTURES (CR)	<ul style="list-style-type: none"> <li>• Retain current provision that penthouse space, including any permitted habitable space, not count towards parking requirements for the building.</li> </ul> <p>Alternative: Continue to exempt mechanical space and communal recreation space within a penthouse from parking requirements, but apply parking requirements of the zone and use to other enclosed penthouse area, such as additional residential units, office, or retail space.</p>
<b>Chapter 7 – COMMERCIAL DISTRICTS</b>	
<b>770</b> HEIGHT OF BUILDINGS OR STRUCTURES (C)	<ul style="list-style-type: none"> <li>• Provide clarification regarding when the 1:1 setback is required, including from a common lot line with a historic building or property, if the historic building is lower than the subject building.</li> <li>• Limit height of a penthouse: <ul style="list-style-type: none"> <li>• to 10 feet maximum on the roof of a one-family dwelling or flat;</li> <li>• to 10 feet maximum within the C-1, C-2-A, and overlay zones for which the maximum permitted building height is 50 feet or less; and</li> <li>• to 20 feet maximum for all other zones and uses.</li> </ul> </li> </ul> <p>Alternative: Do not permit, by right, a penthouse of any height above a single family dwelling or flat; allow a 10 foot penthouse only by special exception.</p>
<b>777</b> ROOF STRUCTURES (C)	<ul style="list-style-type: none"> <li>• Retain current provision that penthouse space, including any permitted habitable space, not count towards parking requirements for the building.</li> </ul> <p>Alternative: Continue to exempt mechanical space and communal recreation space within a penthouse from parking requirements, but apply parking requirements of the zone and use to other enclosed penthouse area, such as additional residential units, office, or retail space.</p>
<b>Chapter 8 – INDUSTRIAL DISTRICTS</b>	
<b>840</b> HEIGHT OF BUILDINGS OR STRUCTURES (C-M, M)	<ul style="list-style-type: none"> <li>• Provide clarification regarding when the 1:1 setback is required, including from a common lot line with a historic building or property, if the historic building is lower than the subject building.</li> <li>• Limit height of a penthouse:</li> </ul>

Section	Summary Amendment
	<ul style="list-style-type: none"> <li>to 10 feet maximum within the CM-1 zone where the maximum permitted building height is 40 feet; and</li> <li>to 20 feet maximum for all other CM and M zones.</li> </ul>
<b>845</b> ROOF STRUCTURES (C-M, M)	<ul style="list-style-type: none"> <li>Retain current provision that penthouse space, including any permitted habitable space, not count towards parking requirements for the building.</li> </ul> <p>Alternative: Continue to exempt mechanical space and communal recreation space within a penthouse from parking requirements, but apply parking requirements of the zone and use to other enclosed penthouse area, such as additional residential units, office, or retail space.</p>
<b>Chapter 9 – WATERFRONT DISTRICTS</b>	
<b>930</b> HEIGHT OF BUILDINGS OR STRUCTURES (W)	<ul style="list-style-type: none"> <li>Provide clarification regarding when the 1:1 setback is required, including from a common lot line with a historic building or property, if the historic building is lower than the subject building.</li> <li>Limit height of a penthouse:               <ul style="list-style-type: none"> <li>to 10 feet maximum on the roof of a one-family dwelling or flat;</li> <li>to 10 feet maximum within the W-0, W-1 and overlay zones for which the maximum permitted building height is 50 feet or less; and</li> <li>to 20 feet maximum for all other W zones and uses.</li> </ul> </li> </ul> <p>Alternative: Do not permit, by right, a penthouse of any height above a one-family dwelling or flat; allow a 10 foot penthouse only by special exception.</p>
<b>936</b> ROOF STRUCTURES (W)	<ul style="list-style-type: none"> <li>Retain current provision that penthouse space, including any permitted habitable space, not count towards parking requirements for the building.</li> </ul> <p>Alternative: Continue to exempt mechanical space and communal recreation space within a penthouse from parking requirements, but apply parking requirements of the zone and use to other enclosed penthouse area, such as additional residential units, office, or retail space.</p>
<b>Chapter 12 – CAPITOL INTEREST OVERLAY DISTRICT</b>	
<b>1203</b> HEIGHT, AREA, AND BULK REGULATIONS (CAP)	<ul style="list-style-type: none"> <li>Retain the existing 1:1 setback and the 10 foot maximum height limit for a penthouse.</li> <li>Limit penthouses to one story.</li> <li>Retain current provision that penthouse space, including any permitted habitable space, not count towards parking requirements for the building.</li> </ul> <p>Alternative: Continue to exempt mechanical space and communal recreation space within</p>

Section	Summary Amendment
	a penthouse from parking requirements, but apply parking requirements of the zone and use to other enclosed penthouse area, such as additional residential units, office, or retail space.
<b>Chapter 15 – MISCELLANEOUS OVERLAY DISTRICTS</b>	
<b>1563</b> HEIGHT, BULK, AND USE PROVISIONS (FT)	<ul style="list-style-type: none"> <li>• Retain the existing 80 foot height limit for buildings, including the penthouse.</li> <li>• Limit penthouses to one story.</li> </ul> <p>Alternative: Limit the number of stories for habitable space to one; allow a second story for mechanical equipment only, in zones that permit a 20 foot tall penthouse.</p>
<b>Chapter 16 – CAPITOL GATEWAY OVERLAY DISTRICT</b>	
<b>1613</b> PENTHOUSES (CG)	<ul style="list-style-type: none"> <li>• Clarify the applicability of §§ 400.7 and 411.</li> <li>• Exempt penthouse gross floor area from parking requirement calculations.</li> </ul> <p>Alternative: Exempt mechanical space and communal recreation space within a penthouse from parking requirements, but apply parking requirements of the zone and use to other enclosed penthouse area, such as additional residential units, office, or retail space.</p>
<b>Chapter 18 – SOUTHEAST FEDERAL CENTER OVERLAY DISTRICT</b>	
<b>1811</b> PENTHOUSES (SEFC)	<ul style="list-style-type: none"> <li>• Clarify the applicability of §§ 400.7 and 411.</li> <li>• Exempt penthouse gross floor area from parking requirement calculations.</li> </ul> <p>Alternative: Exempt mechanical space and communal recreation space within a penthouse from parking requirements, but apply parking requirements of the zone and use to other enclosed penthouse area, such as additional residential units, office, or retail space.</p>
<b>Chapter 19 – UPTOWN ARTS-MIXED USE OVERLAY DISTRICT</b>	
<b>1902</b> HEIGHT AND BULK (ARTS)	<ul style="list-style-type: none"> <li>• Retain the existing height limits for penthouses.</li> <li>• Limit penthouses to one story.</li> </ul> <p>Alternative: Limit the number of stories for habitable space to one; allow a second story for mechanical equipment only, in zones that permit a 20 foot tall penthouse.</p>
<b>Chapter 26 – INCLUSIONARY ZONING</b>	
<b>Chapter 26</b> INCLUSIONARY ZONING	<ul style="list-style-type: none"> <li>• Establish a requirement that area devoted partially or entirely to one or more dwelling units within a penthouse shall count towards the existing Inclusionary Zoning (IZ) set-aside requirement.</li> <li>• Apply this requirement to new habitable penthouse space in all parts of the city, including zones and areas of the city where IZ currently does not apply.</li> </ul> <p>Alternative: Increase the IZ requirement for habitable penthouse space by requiring that all of the affordable housing be provided at 50% AMI.</p>

Section	Summary Amendment
<b>Chapter 28 – HILL EAST</b>	
<b>2809</b> ROOFTOP PENTHOUSES (HE)	<ul style="list-style-type: none"> <li>Exempt penthouse gross floor area from parking requirement calculations.</li> </ul> Alternative: Exempt mechanical space and communal recreation space within a penthouse from parking requirements, but apply parking requirements of the zone and use to other enclosed penthouse area, such as additional residential units, office, or retail space.
<b>Chapter 29 – UNION STATION NORTH</b>	
<b>2906</b> ROOFTOP PENTHOUSES (USN)	<ul style="list-style-type: none"> <li>Clarify the applicability of §§ 400.7 and 411.</li> </ul>
<b>Chapter 33 – ST. ELIZABETHS</b>	
<b>3312</b> ROOF STRUCTURES (StE)	<ul style="list-style-type: none"> <li>Amend terms, and clarify the applicability of § 400.7.</li> </ul>

The following amendments to the Zoning Regulations are proposed. New text is shown in **bold underlined** type and text to be deleted is shown in **~~bold-strikethrough~~** type. Where no alternative text was requested by the Zoning Commission, the Alternative Text column is left blank.

Title 11 DCMR (Zoning) is proposed to be amended as follows:

*1. WITHIN THE ENTIRETY OF TITLE 11:*

- (a) Replace the term “roof structure” wherever it appears with “penthouse”, whether in singular or plural; and
- (b) Replace all references to the full or partial title of the Height Act of 1910, such as “the Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452; D.C. Official Code §§ 6-601.01 to 6-601.09”, “the Building Height Act of 1910, D.C. Official Code § 6-601.05(b) (formerly codified at D.C. Code § 5-405(b) (1994 Repl.))”, and “the act of June 1, 1910 (36 Stat. 452)” with the phrase “The Height Act”.

2. AMEND § 199, DEFINITIONS, AS FOLLOWS:

	ALTERNATIVE TEXT #1	ALTERNATIVE TEXT #2
199.1	<b><u>NEW DEFINITION:</u></b> <b><u>Height Act - Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452, as amended; D.C. Official Code §§ 6-601.01 to 6-601.09).</u></b>	
	<b><u>NEW DEFINITION:</u></b> <b><u>Penthouse – A structure on or above the roof of any part of a building. The term includes all structures previously regulated as “roof structures” by § 411 prior to [THE EFFECTIVE DATE OF THIS AMENDMENT] including roof decks and mechanical equipment.</u></b>	
	<b>Story</b> - the space between the surface of two (2) successive floors in a building or between the top floor and the ceiling or underside of the roof framing. The number of stories shall be counted at the point from which the height of the building is measured.  For the purpose of determining the maximum number of permitted stories, the term "story" shall not include cellars, <del>or stairway or elevator</del> penthouses, <del>or other roof structures</del> ; <b>provided, that the total area of all roof structures located above the top story shall not exceed one-third (1/3) of the total roof area.</b>	
	<b>Story, top</b> - the uppermost portion of any building or structure that is used for purposes other than <del>housing for mechanical equipment or stairway or elevator</del> penthouses. The term "top story" shall exclude architectural embellishment.	

3. AMEND CHAPTER 4, RESIDENCE DISTRICT: HEIGHT, AREA, AND DENSITY REGULATIONS, § 400, HEIGHT OF BUILDINGS OR STRUCTURES (R), AS FOLLOWS:

	ALTERNATIVE TEXT #1	ALTERNATIVE TEXT #2
	<b>CHAPTER 4 - RESIDENTIAL</b>	<b>CHAPTER 4 - RESIDENTIAL</b>
400.7	If <del>housing for mechanical equipment or a stairway or elevator</del> a penthouse is provided <del>on the roof of a building or structure</del> , it shall be erected or enlarged as follows:	<b><u>A penthouse shall not be permitted on a one-family dwelling or flat. As to all other uses and structures, if housing for mechanical equipment or a stairway or elevator</u></b> a penthouse is provided <del>on the roof of a building or structure</del> , it shall be erected or enlarged as follows:

	ALTERNATIVE TEXT #1	ALTERNATIVE TEXT #2
(a)	It shall meet the requirements of § 411;	
(b)	<p>It shall <del>be set back from all exterior walls a distance at least equal to</del> <u>provide a setback greater than or equal to</u> its height above the roof upon which it is located <u>from:</u></p> <p>(1) <u>Any wall facing a public street;</u></p> <p>(2) <u>Any wall facing a public alley;</u></p> <p>(3) <u>Any wall facing a court open to a public street;</u></p> <p>(4) <u>Any wall that provides a setback from a lot line that it faces;</u></p> <p>(5) <u>Any wall that abuts a lot line, and is taller than the greater of the adjacent property's existing or matter-of-right height; or</u></p> <p>(6) <u>Any wall on a lot line shared with a property containing a building or structure listed in the District of Columbia Inventory of Historic Sites or a building or structure certified in writing by the State Historic Preservation Officer as contributing to the character of the historic district in which it is located; except this setback is not required if the adjacent historic building is of equal or higher height;</u></p>	
(c)	<p>It shall not exceed <del>eighteen foot, six inch (18 ft., 6 in.),</del> <u>twenty feet (20 ft.)</u> in height above the roof upon which it is located, <u>except it shall not exceed a height of ten feet (10 ft.) in height above the roof upon which it is located:</u></p> <p>(1) <u>On a one-family dwelling or flat; or</u></p> <p>(2) <u>On a building in any zone in which the building height is limited to fifty feet (50') or less by right; and</u></p>	<p>It shall not exceed <del>eighteen foot, six inch (18 ft., 6 in.),</del> <u>twenty feet (20')</u> in height above the roof upon which it is located, <u>except it shall not exceed a height of ten feet (10') maximum on a building in any zone in which the building height is limited to fifty feet (50') or less by right;</u></p>
(d)	<p><u>For all buildings and structures,</u> mechanical equipment shall not extend above the <del>permitted eighteen foot, six inch (18 ft., 6 in.),</del> <u>maximum permitted</u> height of the <del>penthouse housing,</del> <u>as specified in paragraph (c) above.</u></p>	
400.8	<p><del>Housing for mechanical equipment, a stairway, or elevator penthouse may be erected to a height in excess of that authorized in the district in which it is located.</del></p>	

4. AMEND CHAPTER 4, RESIDENCE DISTRICT: HEIGHT, AREA, AND DENSITY REGULATIONS, § 411, ROOF STRUCTURES, AS FOLLOWS:

	ALTERNATIVE TEXT #1	ALTERNATIVE TEXT #2
411	<b>ROOF STRUCTURES (R) <u>PENTHOUSES (R)</u></b>	
411.1	<p><u>A penthouse permitted in this title shall comply with the conditions specified in this section.</u></p> <p><del>To exercise a reasonable degree of architectural control upon roof structures in all districts, housing for mechanical equipment, stairway and elevator penthouses, and, when not in conflict with An Act To Regulate the Height of Buildings in the District of Columbia, approved June 10, 1920 (36 Stat. 452; D.C. Official Code, §§ 6-601.01 to 6-601.09, on apartment building roofs, penthouses for (a) storage, showers, and lavatories incidental and accessory to roof swimming pools or communal recreation space located on that roof; and (b) other enclosed areas, within the area permitted as a roof structure, used for recreational uses accessory to communal rooftop recreation space, shall be subject to conditions and variable floor area ratio credit specified in this section.</del></p>	
<u>411.2</u>	<p>New provision:</p> <p><u>A penthouse may house mechanical equipment, stairway, and elevator overrides, or any use permitted within the zone in which the penthouse is located; except that it may house only mechanical equipment or stairway and elevator overrides:</u></p> <p>(a) <u>If the penthouse is located on a one-family dwelling or flat; or</u></p> <p>(b) <u>In any zone in which the building height is limited to forty feet (40 ft.) or less by right.</u></p>	<p>New provision:</p> <p><u>A penthouse may be used to house mechanical equipment, stairway, and elevator overrides, or any use permitted within the zone in which the penthouse is located, except as limited in § 411.2(c); except that it may house only mechanical equipment or stairway and elevator overrides:</u></p> <p>(a) <u>If the penthouse is located on a one-family dwelling or flat; or</u><sup>1</sup></p> <p>(b) <u>In any zone in which the building height is limited to fifty feet (50 ft.) or less by right; and</u></p>
		<p>(c) Notwithstanding whether the following uses are permitted in the zone in which they are located, if partially or fully located within a penthouse, they shall be permitted only as a special exception if approved by the Board of Zoning Adjustment under § 3104:</p> <p>(1) Nightclub;</p> <p>(2) Bar;</p>

<sup>1</sup> § 411.2(a) would be deleted if the Commission elects to not permit a penthouse on a single family dwelling or flat, as noted in the Alternative Text #2 for § 400.7(c).



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	ALTERNATIVE TEXT #1	ALTERNATIVE TEXT #2
		(3) Lounge; or (4) Restaurant. <sup>2</sup>
411.3	When located below, at the same roof level with, or above the top story of any building or structure, penthouses ( <del>as outlined in § 411.1</del> ) shall be subject to the provisions of §§ 400.7, 530.4, 630.4, 770.6, 840.3, or 930.3 when applicable, and to the conditions <b>and variable floor area ratio</b> specified in this section.	When located below, at the same roof level with, or above the top story of any building or structure, penthouses ( <del>as outlined in § 411.1</del> ) shall be subject to the provisions of §§ 400.7, 530.4, 630.4, 770.6, 840.3, or 930.3 when applicable, and to the conditions and variable floor area ratio specified in this section.
411.4	All <b>enclosed penthouses and mechanical equipment space</b> shall be placed in one (1) <b>enclosure structure</b> , and shall harmonize with the main structure in architectural character, material, and color.	All <b>enclosed penthouses and mechanical equipment space</b> shall be placed in one (1) <b>enclosure structure</b> , and shall harmonize with the main structure in architectural character, material, and color; <b>except that egress stairs required to meet building code requirements to a rooftop may be located in a separate structure or structures.</b>
411.5	When roof levels vary by one (1) floor or more or when separate elevator cores are required, there may be one (1) enclosure for each elevator core at each roof level.	
411.6	<b>Except as provided in § 411.7</b> , enclosing walls <del>from roof level shall: and shall rise vertically to a roof, except as provided in § 411.6.</del> (a) Be of equal height <u>above roof level, except that screening walls for mechanical equipment that is not contained within a penthouse shall be of a uniform height not greater than the maximum permitted height for a penthouse, but need not be the same height as any enclosed penthouse on the same roof;</u> and <del>shall</del> (b) Rise vertically, <u>with a slope of not greater than twenty percent (20%) from vertical,</u> to a roof; <del>except as provided in § 411.6.</del>	<b>Except as provided in § 411.7</b> , enclosing walls from roof level <u>shall be of equal height, and shall rise vertically, with a slope of not greater than twenty percent (20%) from vertical,</u> to a roof; <del>except as provided in § 411.6.</del>
411.7	<del>When A penthouse</del> consisting solely of mechanical equipment, <del>the equipment</del> shall be enclosed fully as prescribed in § 411.4 <del>3 and 411.5</del> , except that louvers may be provided. A roof over a cooling tower need not be provided when the tower is located at or totally below the top of enclosing walls.	
411.8	<del>Solely for the uses designated in this section, an increase of allowable floor area ratio of not more than thirty-seven hundredths (0.37) shall be permitted</del> <u>Gross floor area within a penthouse shall not be included in the calculation of a building’s permitted FAR.</u>	<del>Solely for the uses designated in this section,</del> An increase of allowable floor area ratio of not more than <del>thirty-seven hundredths (0.37)</del> <u>0.40 shall be permitted for habitable gross floor area located within a penthouse. Gross floor area within a penthouse devoted to mechanical uses, stair or</u>

<sup>2</sup> Under the Zoning Regulations Review (ZC Case 08-06A) Use Category provisions, this would read “Eating or Drinking Establishment.”

	ALTERNATIVE TEXT #1	ALTERNATIVE TEXT #2
		<u>elevator overrides, or communal recreation or support space shall not be included in the calculation of a building's permitted FAR.</u>
411.9	<p><del>Roof structures shall not exceed one-third (1/3) of the total roof area for those districts where there is a limitation on the number of stories.</del></p> <p><u>A penthouse shall not exceed one-third (1/3) of the total roof area if located:</u></p> <p>(a) <u>On a building within the R-1 through R-4 zones;</u>  <u>or</u>            (b) <u>On a building within the Capitol Interest Overlay District.</u></p>	
411.10	In addition to the floor area ratio allowed by § <del>411.8</del> , mechanical equipment owned and operated as a roof structure by a fixed right-of-way public mass transit system shall be permitted in addition to roof structures permitted in this section.	
411.10	Repealed	
411.11	<p><del>Where impracticable because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area that would tend to make full compliance unduly restrictive, prohibitively costly, or unreasonable,</del></p> <p><u>Except for the use restriction of § 411.2, the Board of Zoning Adjustment may grant special exceptions under § 3104 from the location, design, number, and all other aspects of such structure regulated under §§ 411.3 through 411.6, when applicable, and to approve the material of enclosing construction used if not in accordance with §§ 411.3 and 411.5 any of the requirements or limits of this section,</u> even if such structures do not meet the normal setback requirements of §§ 400.7, 530.5, 630.4, 770.6, 840.3, or 930.3, <u>upon a showing that:</u></p> <p>(a) <u>Operating difficulties such as meeting building code requirements for roof access and stairwell separation or elevator stack location to maximize efficiencies in lower floors;</u> size of building lot; or other conditions relating to the building or surrounding area make full compliance unduly restrictive, prohibitively costly or unreasonable;</p> <p>(b) The intent and purpose of this chapter and this title will not be materially impaired by the structure; <b>and</b></p> <p>(c) The light and air of adjacent buildings will not be affected adversely.</p>	

	ALTERNATIVE TEXT #1	ALTERNATIVE TEXT #2
411.12	<u>Deleted</u> <del>For purposes of this section, the rules of interpretation provided in §§ 411.13 through 411.17 shall be applicable.</del>	For purposes of this section, the rules of interpretation provided in §§ 411.13 through 411.17 shall be applicable.
411.13	<u>Deleted</u> <del>In computing the floor area ratio of a roof structure, the aggregate square footage of all levels or floors contained within a roof structure measuring six and one-half feet (6 1/2 ft.) or more in height shall be included in the total floor area ratio permitted.</del>	In computing the floor area ratio of a roof structure, the aggregate square footage of all levels or floors contained within a roof structure measuring six and one-half feet (6 1/2 ft.) or more in height shall be included in the total floor area ratio permitted.
411.14	<u>Deleted</u> <del>Areas within curtain walls without a roof used where needed to give the appearance of one (1) structure shall not be counted in floor area ratio, but shall be computed as a roof structure to determine if they comply with § 411.8.</del>	Areas within curtain walls without a roof used where needed to give the appearance of one (1) structure shall not be counted in floor area ratio, but shall be computed as a roof structure to determine if they comply with <u>§ 411.9</u> .
411.15	<del>For the administration of this section, mechanical equipment shall not include telephone equipment, radio, television, or electronic equipment of a type not necessary to the operation of the building or structure.</del> Antenna equipment cabinets and antenna equipment shelters shall be regulated by Chapter 27 of this title.	For the administration of this section, mechanical equipment shall not include telephone equipment, radio, television, or electronic equipment of a type not necessary to the operation of the building or structure. Antenna equipment cabinets and antenna equipment shelters shall be regulated by Chapter 27 of this title.
411.16	For purposes of this section, skylights, gooseneck exhaust ducts serving kitchen and toilet ventilating systems, <u>safety railings or guard rails required by the construction code</u> , and plumbing vent stacks shall not be considered as <del>roof structure penthouses</del> .	
411.17	<del>Roof structures</del> <u>Penthouses</u> less than four feet (4 ft.) in height above a roof or parapet wall shall not be subject to the requirements of this section.	
<u>411.18</u>	<u>A penthouse shall be limited to one (1) story maximum, except that, where not in conflict with the Height Act, two (2) stories shall be permitted where a penthouse of twenty feet (20 ft.) in height is permitted.</u>	<u>A penthouse shall be limited to one (1) story maximum, except that, where permitted by the Height Act, an additional story, for a total of two (2) stories maximum, shall be permitted solely for mechanical equipment in any zone or use where a penthouse of twenty feet (20 ft.) in height is permitted.</u>
<u>411.19</u>	<u>There shall be no limitation on the amount of gross floor area that may be occupied by a penthouse, although penthouse residential GFA is subject to the Inclusionary Zoning set-aside provisions of Chapter 26; and the construction of penthouse non-residential GFA in excess of one thousand square feet (1,000 sq. ft.) triggers the affordable housing production requirement as set forth in § 414.</u>	<u>Penthouse residential GFA is subject to the Inclusionary Zoning set-aside provisions of Chapter 26; and the construction of penthouse non-residential GFA in excess of one thousand square feet (1,000 sq. ft.) triggers the affordable housing production requirement as set forth in § 414.</u>

	ALTERNATIVE TEXT #1	ALTERNATIVE TEXT #2
<u>411.20</u>	<p><u>A request to add penthouse space to a building approved by the Zoning Commission as a planned unit development or through the design review requirements of Chapters 16, 18, 28, or 29 prior to (EFFECTIVE DATE OF THIS AMENDMENT) may be filed as a minor modification for placement on the Zoning Commission consent calendar, pursuant to § 3030 and the following provisions:</u></p> <p>(a) <u>The application shall include:</u></p> <p>(1) <u>A fully dimensioned copy of the PUD approved and the proposed roof-plan; and elevations as necessary to show the changes;</u></p> <p>(2) <u>A written comparison of the proposal to the zoning regulations; and</u></p> <p>(3) <u>Verification that the affected ANC has been notified of the request;</u></p> <p>(b) <u>The item not be placed on a consent calendar for a period of thirty (30) days minimum following the filing of the application; and</u></p> <p>(c) <u>The Office of Planning shall submit a report with recommendation a minimum of seven (7) days in advance of the meeting.</u></p>	

5. AMEND CHAPTER 4, RESIDENCE DISTRICT: HEIGHT, AREA, AND DENSITY REGULATIONS, BY ADDING A NEW § 414, AFFORDABLE HOUSING PRODUCTION REQUIREMENT GENERATED BY CONSTRUCTION OF PENTHOUSE NON-RESIDENTIAL GROSS FLOOR AREA, AS FOLLOWS:

	ALTERNATIVE TEXT #1	ALTERNATIVE TEXT #2
<u>414</u>	<u>AFFORDABLE HOUSING PRODUCTION REQUIREMENT GENERATED BY CONSTRUCTION OF PENTHOUSE NON-RESIDENTIAL GROSS FLOOR AREA</u>	
<u>414.1</u>	<u>The owner of a building proposing to construct more than one thousand square feet (1,000 sq. ft.) of penthouse gross floor area not associated with a residential use (penthouse non-residential GFA) shall produce or financially assist in the production of dwellings or multiple dwellings that are affordable to low-income households, as those households are defined by § 2601.1, in accordance with this section.</u>	
<u>414.2</u>	<u>For the purposes of this section, the term “penthouse non-residential GFA” shall mean all of the gross floor area of a penthouse not occupied by dwelling units,</u>	

	ALTERNATIVE TEXT #1	ALTERNATIVE TEXT #2
	<u>mechanical equipment, stairway, or elevator overrides.</u>	
<u>414.3</u>	<u>The requirements of this section shall not apply to properties owned by the District government or the Washington Metropolitan Area Transit Authority and used for government or public transportation purposes.</u>	
<u>414.4</u>	<u>Qualifying residential uses include one-family dwellings, flats, multiple-family dwellings, including apartment houses, rooming houses, and boarding houses, but shall not include transient accommodations, all as defined in § 199.1.</u>	
<u>414.5</u>	<u>If the owner constructs or rehabilitates the required housing, the provisions of §§ 414.6 through 414.10 shall apply.</u>	
<u>414.6</u>	<u>The gross square footage of new or rehabilitated housing shall equal:</u> <u>(a) Not less than one-fourth (1/4) of the proposed penthouse non-residential gross square area if the required housing is situated on an adjacent property;</u> <u>(b) Not less than one-third (1/3) of the proposed penthouse non-residential gross square area if the location of the required housing does not comply with paragraph (a) of this subsection, but is nonetheless within the same Advisory Neighborhood Commission area as the property, or if it is located within a Housing Opportunity Area as designated in the Comprehensive Plan; and</u> <u>(c) Not less than one-half (1/2) of the proposed penthouse non-residential gross square area if the location of the required housing is other than as approved in paragraphs (a) and (b) above.</u>	
<u>414.7</u>	<u>If the housing is provided as new construction, the average square feet of gross floor area per dwelling or per apartment unit shall be not less than eight hundred and fifty square feet (850 sq. ft.); provided, that no average size limit shall apply to rooming houses, boarding houses, or units that are deemed single-room occupancy housing.</u>	
<u>414.8</u>	<u>For purposes of this section, the word "rehabilitation" means the substantial renovation of housing for sale or rental that is not habitable for dwelling purposes because it is in substantial violation of the Housing</u>	

	ALTERNATIVE TEXT #1	ALTERNATIVE TEXT #2
	<u>Regulations of the District of Columbia (14 DCMR).</u>	
<u>414.9</u>	<u>In the case of rental housing, the required housing shall be maintained as affordable dwelling units for not less than twenty (20) years beginning on the issuance date of the first certificate of occupancy for the residential development, or if for a one-family dwelling the effective date of the first lease agreement.</u>	
<u>414.10</u>	<u>If the required housing is provided for home ownership shall be the housing shall be maintained as affordable dwelling units for not less than twenty (20) years beginning on the issuance date of the first certificate of occupancy for the residential development, or if for a one-family dwelling the effective date of the first sales agreement.</u>	
<u>414.11</u>	<u>No certificate of occupancy shall be issued for the owner's building to permit the occupancy of penthouse non-residential gross floor area until a certificate of occupancy has been issued for the housing required pursuant to this section.</u>	
<u>414.12</u>	<u>If the owner instead chooses to contribute funds to a housing trust fund, as defined in § 2499.1, the provisions of §§ 414.13 through §414.16 shall apply.</u>	
<u>414.13</u>	<u>The contribution shall be equal to one-half (1/2) of the assessed value of the proposed penthouse non-residential gross floor area for office use.</u>	
<u>414.14</u>	<u>The assessed value shall be the fair market value of the property as indicated in the property tax assessment records of the Office of Tax and Revenue no earlier than thirty (30) days prior to the date of the building permit application to construct the penthouse non-residential gross floor area</u>	
<u>414.15</u>	<u>The contribution shall be determined by dividing the assessed value per square foot of land that comprises the lot upon which the building is or will be located by the maximum permitted non-residential FAR and multiplying that amount times the penthouse non-residential gross square feet to be constructed.</u>	
<u>414.16</u>	<u>Not less than one-half (1/2) of the required total financial contribution shall be made prior to the issuance of a building permit for construction of the penthouse non-residential gross floor area, and the balance of the total financial contribution shall be made prior to the issuance of a certificate of occupancy for any or all of the building's penthouse non-residential gross floor area.</u>	

6. AMEND CHAPTER 5, SPECIAL PURPOSE DISTRICTS, § 530, HEIGHT, AS FOLLOWS:

	ALTERNATIVE TEXT #1	ALTERNATIVE TEXT #2
530.4	Spires, towers, domes, pinnacles or minarets serving as architectural embellishments, penthouses <del>over elevator shafts</del> , ventilator shafts, antennas, chimneys, smokestacks, or fire sprinkler tanks may be erected to a height in excess of that which this section otherwise authorizes. This section shall not be interpreted to bypass otherwise required special exception reviews.	
530.5	If <del>housing for mechanical equipment or a stairway or elevator</del> a penthouse is provided on the roof of a building or structure, it shall be erected or enlarged as follows:	<u>A penthouse shall not be permitted on a one-family dwelling or flat. As to all other uses and structures, if housing for mechanical equipment or a stairway or elevator a penthouse is provided on the roof of a building or structure, it shall be erected or enlarged as follows:</u>
(a)	It shall meet the requirements of § 411;	
(b)	It shall <del>be set back from all exterior walls a distance at least equal to</del> <u>provide a setback greater than or equal to</u> its height above the roof upon which it is located <u>from:</u> <u>(1) Any wall facing a public street;</u> <u>(2) Any wall facing a public alley;</u> <u>(3) Any wall facing a court open to a public street;</u> <u>(4) Any wall that provides a setback from a lot line that it faces;</u> <u>(5) Any wall that abuts a lot line, and is taller than the greater of the adjacent property's existing or matter-of-right height; or</u> <u>(6) Any wall on a lot line shared with a property containing a building or structure listed in the District of Columbia Inventory of Historic Sites or a building or structure certified in writing by the State Historic Preservation Officer as contributing to the character of the historic district in which it is located; except this setback is not required if the adjacent historic building is of equal or higher height;</u>	
(c)	It shall not exceed <del>eighteen foot, six inch (18 ft., 6 in.),</del> <u>twenty feet (20 ft.)</u> in height above the roof upon which it is located, <u>except it shall not exceed a height of ten feet (10 ft.) in height above the roof upon</u>	It shall not exceed <del>eighteen foot, six inch (18 ft., 6 in.),</del> <u>twenty feet (20 ft.)</u> in height above the roof upon which it is located, <u>except it shall not exceed a height of ten feet (10 ft.)</u>

	ALTERNATIVE TEXT #1	ALTERNATIVE TEXT #2
	<p><u>which it is located:</u></p> <p>(1) <u>On a one-family dwelling or flat; or</u></p> <p>(2) <u>On a building in any zone in which the building height is limited to fifty feet (50 ft.) or less by right; and</u></p>	<p><u>maximum on a building in any zone in which the building height is limited to fifty feet (50 ft.) or less by right; and</u></p>
(d)	<p><u>For all buildings and structures,</u> mechanical equipment shall not extend above the <del>permitted eighteen foot, six inch (18 ft., 6 in.),</del> <u>maximum permitted</u> height of the <del>penthouse housing,</del> <u>as specified in paragraph (c) above.</u></p>	
530.6	<p>Deleted</p> <p><del>Housing for mechanical equipment or a stairway or elevator penthouse may be erected to a height in excess of that authorized in the district in which it is located.</del></p>	
530.7	<p><del>Where required by the Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452, as amended; D.C. Official Code §§ 6-601.01 to 6-601.09 (formerly codified at D.C. Code §§ 5-401 to 5-409 (1994 Repl. &amp; 1999 Supp.))),</del></p> <p><u>Pursuant to the Height Act, a penthouse may be erected to a</u> height in excess of that permitted <del>shall be</del> if authorized by the Mayor <u>or his or her designee and subject to the setback back and other restrictions stated in the Act.</u></p>	

7. AMEND CHAPTER 5, SPECIAL PURPOSE DISTRICTS, § 537, ROOF STRUCTURES, AS FOLLOWS:

	ALTERNATIVE TEXT #1	ALTERNATIVE TEXT #2
537	<b><u>ROOF STRUCTURES PENTHOUSES (SP)</u></b>	
537.1	The provisions of § 411 shall also regulate <del>roof structures</del> <u>penthouses</u> in CR Districts.	
537.2	The gross floor area of <del>roof structures</del> <u>penthouses</u> permitted under this section shall not be counted in determining the amount of off-street parking as required elsewhere in this title.	The gross floor area of <del>roof structures</del> <u>mechanical space, stair or elevator overruns, or communal recreation space within a penthouses</u> permitted under this section shall not be counted in determining the amount of off-street parking as required elsewhere in this title.



8. AMEND CHAPTER 6 MIXED USE (COMMERCIAL RESIDENTIAL) DISTRICTS, SECTION 630 HEIGHT OF BUILDINGS OR STRUCTURES (CR) AS FOLLOWS:

	ALTERNATIVE TEXT #1	ALTERNATIVE TEXT #2
630.3	Spires, towers, domes, pinnacles, or minarets serving as architectural embellishments, penthouses <del>over elevator shafts</del> , ventilator shafts, antennas, chimneys, smokestacks, or fire sprinkler tanks may be erected to a height in excess of that which this sections otherwise authorizes. This section shall not be interpreted to bypass otherwise required special exception reviews.	
630.4	If <del>housing for mechanical equipment or a stairway or elevator</del> a penthouse is provided on the roof of a building or structure, it shall be erected or enlarged as follows:	<u>A penthouse shall not be permitted on a one-family dwelling or flat. As to all other uses and structures, if housing for mechanical equipment or a stairway or elevator a penthouse is provided on the roof of a building or structure, it shall be erected or enlarged as follows:</u>
(a)	It shall meet the requirements of § 411;	
(b)	It shall <del>be set back from all exterior walls a distance at least equal to</del> <u>provide a setback greater than or equal to</u> its height above the roof upon which it is located <u>from:</u> <u>(1) Any wall facing a public street;</u> <u>(2) Any wall facing a public alley;</u> <u>(3) Any wall facing a court open to a public street;</u> <u>(4) Any wall that provides a setback from a lot line that it faces;</u> <u>(5) Any wall that abuts a lot line, and is taller than the greater of the adjacent property's existing or matter-of-right height; or</u> <u>(6) Any wall on a lot line shared with a property containing a building or structure listed in the District of Columbia Inventory of Historic Sites or a building or structure certified in writing by the State Historic Preservation Officer as contributing to the character of the historic district in which it is located; except this setback is not required if the adjacent historic building is of equal or higher height;</u>	
(c)	It shall not exceed <del>eighteen foot, six inch (18 ft., 6 in.), twenty feet (20 ft.)</del> in height above the roof upon which it is located, <u>except it shall not exceed a height of ten feet (10 ft.) in height above the roof upon which it is located:</u>	It shall not exceed <del>eighteen foot, six inch (18 ft., 6 in.), twenty feet (20 ft.)</del> in height above the roof upon which it is located, <u>except it shall not exceed a height of ten feet (10 ft.) maximum on a building in any zone in</u>

	ALTERNATIVE TEXT #1	ALTERNATIVE TEXT #2
	(1) <u>On a one- family dwelling or flat; or</u> (2) <u>On a building in any zone in which the building height is limited to fifty feet (50 ft.) or less by right; and</u>	<u>which the building height is limited to fifty feet (50 ft.) or less by right; and</u>
(d)	<u>For all buildings and structures,</u> mechanical equipment shall not extend above the <del>permitted eighteen foot, six inch (18 ft., 6 in.),</del> <u>maximum permitted</u> height of the <u>penthouse housing, as specified in paragraph (c) above.</u>	
630.5	<del>Housing for mechanical equipment or a stairway or elevator penthouse may be erected to a height in excess of that authorized in the district in which located.</del>	

9. AMEND CHAPTER 6, MIXED USE (COMMERCIAL RESIDENTIAL) DISTRICTS, § 639, ROOF STRUCTURES (CR), AS FOLLOWS:

	ALTERNATIVE TEXT #1	ALTERNATIVE TEXT #2
639	<b>ROOF STRUCTURES PENTHOUSES (SP)</b>	
639.1	The provisions of § 411 shall also regulate <del>roof structures</del> <u>penthouses</u> in SP Districts.	
639.2	The gross floor area of <del>roof structures</del> <u>penthouses</u> permitted under this section shall not be counted in determining the amount of off-street parking as required elsewhere in this title.	The gross floor area of <del>roof structures</del> <u>mechanical space, stair or elevator overruns, or communal recreation space within a penthouses</u> permitted under this section shall not be counted in determining the amount of off-street parking as required elsewhere in this title.

10. AMEND CHAPTER 7, COMMERCIAL DISTRICTS, § 770, HEIGHT OF BUILDINGS OR STRUCTURES (C), AS FOLLOWS:

	ALTERNATIVE TEXT #1	ALTERNATIVE TEXT #2
770	<b>HEIGHT OF BUILDINGS OR STRUCTURES (C)</b>	
770.3	Spires, towers, domes, pinnacles or minarets serving as architectural embellishments, penthouses <del>over elevator shafts,</del> ventilator shafts, antennas, chimneys, smokestacks, or fire sprinkler tanks may be erected to a height in excess of that which this sections otherwise authorizes. This section shall not be interpreted to bypass otherwise required special exception reviews.	
770.6	If <del>housing for mechanical equipment or a stairway or elevator</del> <u>a penthouse</u> is provided on the roof of a building or structure, it shall be erected or enlarged as follows:	<u>A penthouse shall not be permitted on a one-family dwelling or flat. As to all other uses and structures, if housing for mechanical</u>

	ALTERNATIVE TEXT #1	ALTERNATIVE TEXT #2
		<del>equipment or a stairway or elevator</del> a penthouse is provided <del>on the roof of a building or structure</del> , it shall be erected or enlarged as follows:
(a)	It shall meet the requirements of § 411;	
(b)	It shall <del>be set back from all exterior walls a distance at least equal to</del> <b>provide a setback greater than or equal to</b> its height above the roof upon which it is located <b>from:</b> <u>(1) Any wall facing a public street;</u> <u>(2) Any wall facing a public alley;</u> <u>(3) Any wall facing a court open to a public street;</u> <u>(4) Any wall that provides a setback from a lot line that it faces;</u> <u>(5) Any wall that abuts a lot line, and is taller than the greater of the adjacent property's existing or matter-of-right height; or</u> <u>(6) Any wall on a lot line shared with a property containing a building or structure listed in the District of Columbia Inventory of Historic Sites or a building or structure certified in writing by the State Historic Preservation Officer as contributing to the character of the historic district in which it is located; except this setback is not required if the adjacent historic building is of equal or higher height;</u>	
(c)	In the C-5 (PAD) District, it shall be set back from that portion of the perimeter of the roof fronting on a street a minimum distance equal to twice the height of the <del>roof structure</del> <b>penthouse</b> above the roof upon which it is located; and	
(d)	It shall not exceed <del>eighteen foot, six inch (18 ft., 6 in.), twenty feet (20 ft.)</del> in height above the roof upon which it is located, <b>except it shall not exceed a height of ten feet (10 ft.) in height above the roof upon which it is located:</b> <u>(1) On a one- family dwelling or flat; or</u> <u>(2) On a building in any zone in which the building height is limited to fifty feet (50 ft.) or less by right; and</u>	It shall not exceed <del>eighteen foot, six inch (18 ft., 6 in.), twenty feet (20 ft.)</del> in height above the roof upon which it is located, <b>except it shall not exceed a height of ten feet (10 ft.) maximum on a building in any zone in which the building height is limited to fifty feet (50 ft.) or less by right; and</b>
(e)	<b>For all buildings and structures,</b> mechanical equipment shall not extend above the <del>permitted eighteen foot, six inch (18 ft., 6 in.), maximum permitted</del> height of the <b>penthouse housing, as</b>	

	ALTERNATIVE TEXT #1	ALTERNATIVE TEXT #2
	<u>specified in paragraph (d) above.</u>	
770.7	<b>Deleted</b> <del>Housing for mechanical equipment or a stairway or elevator penthouse may be erected to a height in excess of that authorized in the district in which it is located.</del>	
770.8	Where required by <del>the Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452, as amended; D.C. Official Code §§ 6-601.01 to 6-601.09 (formerly codified at D.C. Code §§ 5-401 to 5-409 (1994 Repl. &amp; 1999 Supp.))</del> <b>The Height Act</b> , a height in excess of that permitted shall be authorized by the Mayor.	
770.9	The height permitted for a building eligible for the additional density permitted pursuant to § 771.4 shall be that permitted by <del>the Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452, as amended; D.C. Official Code §§ 6-601.01 to 6-601.09)</del> <b>The Height Act</b> .	

11. AMEND CHAPTER 7, COMMERCIAL DISTRICTS, § 777, ROOF STRUCTURES (C), AS FOLLOWS:

	ALTERNATIVE TEXT #1	ALTERNATIVE TEXT #2
<b>777</b>	<b>ROOF STRUCTURES <u>PENTHOUSES</u> (C)</b>	
777.1	The provisions of § 411 shall also regulate <del>roof structures</del> <b><u>penthouses</u></b> in the Commercial Districts.	
777.2	The gross floor area of <del>roof structures</del> <b><u>penthouses</u></b> permitted under this section shall not be counted in determining the amount of off-street parking as required elsewhere in this title.	The gross floor area of <del>roof structures</del> <b>mechanical space, stair or elevator overruns, or communal recreation space within a <u>penthouses</u></b> permitted under this section shall not be counted in determining the amount of off-street parking as required elsewhere in this title.

12. AMEND CHAPTER 8, INDUSTRIAL DISTRICTS, § 840, HEIGHT OF BUILDINGS OR STRUCTURES (C-M, M), AS FOLLOWS:

	ALTERNATIVE TEXT #1	ALTERNATIVE TEXT #2
<b>840</b>	<b>HEIGHT OF BUILDINGS OR STRUCTURES (C-M, M)</b>	
840.2	Spires, towers, domes, pinnacles or minarets serving as architectural embellishments, penthouses over elevator shafts, ventilator shafts, antennas, chimneys, smokestacks, or fire sprinkler tanks may be erected to a height in excess	

	ALTERNATIVE TEXT #1	ALTERNATIVE TEXT #2
	of that which this section otherwise authorizes. This section shall not be interpreted to bypass otherwise required special exception reviews.	
840.3	If <del>housing for mechanical equipment or a stairway or elevator</del> a penthouse is provided on the roof of a building or structure, it shall be erected or enlarged as follows:	
(a)	It shall meet the requirements of § 411;	
(b)	It shall <del>be set back from all exterior walls a distance at least equal to</del> <b>provide a setback greater than or equal to</b> its height above the roof upon which it is located <b>from:</b> <ol style="list-style-type: none"> <li><b><u>(1) Any wall facing a public street;</u></b></li> <li><b><u>(2) Any wall facing a public alley;</u></b></li> <li><b><u>(3) Any wall facing a court open to a public street;</u></b></li> <li><b><u>(4) Any wall that provides a setback from a lot line that it faces;</u></b></li> <li><b><u>(5) Any wall that abuts a lot line, and is taller than the greater of the adjacent property's existing or matter-of-right height; or</u></b></li> <li><b><u>(6) Any wall on a lot line shared with a property containing a building or structure listed in the District of Columbia Inventory of Historic Sites or a building or structure certified in writing by the State Historic Preservation Officer as contributing to the character of the historic district in which it is located; except this setback is not required if the adjacent historic building is of equal or higher height;</u></b></li> </ol>	
(c)	It shall not exceed <del>eighteen foot, six inch (18 ft., 6 in.), twenty feet (20 ft.)</del> in height above the roof upon which it is located, <b><u>except it shall not exceed a height of ten feet (10 ft.) in height above the roof upon which it is located on a building in any zone in which the building height is limited to fifty feet (50 ft.) or less by right; and</u></b>	
(d)	<b><u>For all buildings and structures,</u></b> mechanical equipment shall not extend above the <del>permitted eighteen foot, six inch (18 ft., 6 in.), maximum permitted</del> height of the penthouse housing, <b><u>as specified in paragraph (c) above.</u></b>	
840.4	<del>Deleted</del> <b><u>Housing for mechanical equipment or a stairway or elevator penthouse may be erected to a height in excess of that authorized in the District in which it is located.</u></b>	

	ALTERNATIVE TEXT #1	ALTERNATIVE TEXT #2
840.5	<del>Where required by the Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452, as amended; D.C. Official Code §§ 6-601.01 to 6-601.09 (formerly codified at D.C. Code §§ 5-401 to 5-409 (1994 Repl. &amp; 1999 Supp.)), Pursuant to The Height Act, a penthouse may be erected to a</del> height in excess of that permitted <del>shall be</del> if authorized by the Mayor <del>or his or her designee and subject to the setback back and other restrictions stated in the Act.</del>	

13. AMEND CHAPTER 8, INDUSTRIAL DISTRICTS, § 845 ROOF STRUCTURES (C-M, M), AS FOLLOWS:

	ALTERNATIVE TEXT #1	ALTERNATIVE TEXT #2
845	<del>ROOF STRUCTURES</del> <b>PENTHOUSES</b> (C-M, M)	
845.1	Section 411 shall be applicable to <del>roof structures</del> <b>penthouses</b> in the Industrial Districts.	
845.2	The gross floor area of <del>roof structures</del> <b>penthouses</b> permitted under § 411 shall not be counted in determining the amount of off-street parking required elsewhere in this title.	The gross floor area of <del>roof structures</del> <b>mechanical space, stair or elevator overruns, or communal recreation space within a penthouses</b> permitted under this section shall not be counted in determining the amount of off-street parking as required elsewhere in this title.

14. AMEND CHAPTER 9, WATERFRONT DISTRICTS, § 930, HEIGHT OF BUILDINGS OR STRUCTURES (W), AS FOLLOWS:

	ALTERNATIVE TEXT #1	ALTERNATIVE TEXT #2
930.2	Spires, towers, domes, pinnacles or minarets serving as architectural embellishments, penthouses <del>over elevator shafts</del> , ventilator shafts, antennas, chimneys, smokestacks, or fire sprinkler tanks may be erected to a height in excess of that which this section otherwise authorizes. This section shall not be interpreted to bypass otherwise required special exception reviews or mayoral approvals.	
930.3	If <del>housing for mechanical equipment or a stairway or elevator</del> a penthouse is provided on the roof of a building or structure, it shall be erected or enlarged as follows:	<del>A penthouse shall not be permitted on a one-family dwelling or flat. As to all other uses and structures,</del> if <del>housing for mechanical equipment or a stairway or elevator</del> a penthouse is provided <del>on the roof of a building or structure</del> , it shall be erected or enlarged as follows:

	ALTERNATIVE TEXT #1	ALTERNATIVE TEXT #2
(a)	It shall meet the requirements of § 411;	
(b)	<p>It shall <del>be set back from all exterior walls a distance at least equal to</del> <u>provide a setback greater than or equal to</u> its height above the roof upon which it is located <u>from:</u></p> <ol style="list-style-type: none"> <li><u>(1) Any wall facing a public street;</u></li> <li><u>(2) Any wall facing a public alley;</u></li> <li><u>(3) Any wall facing a court open to a public street;</u></li> <li><u>(4) Any wall that provides a setback from a lot line that it faces;</u></li> <li><u>(5) Any wall that abuts a lot line, and is taller than the greater of the adjacent property's existing or matter-of-right height; or</u></li> <li><u>(6) Any wall on a lot line shared with a property containing a building or structure listed in the District of Columbia Inventory of Historic Sites or a building or structure certified in writing by the State Historic Preservation Officer as contributing to the character of the historic district in which it is located; except this setback is not required if the adjacent historic building is of equal or higher height;</u></li> </ol>	
(c)	<p>It shall not exceed <del>eighteen foot, six inch (18 ft., 6 in.), twenty feet (20 ft.)</del> <u>in height above the roof upon which it is located, except it shall not exceed a height of ten feet (10 ft.) in height above the roof upon which it is located:</u></p> <ol style="list-style-type: none"> <li><u>(1) On a one- family dwelling or flat; or</u></li> <li><u>(2) On a building in any zone in which the building height is limited to fifty feet (50 ft.) or less by right; and</u></li> </ol>	<p>It shall not exceed <del>eighteen foot, six inch (18 ft., 6 in.), twenty feet (20 ft.)</del> <u>in height above the roof upon which it is located, except it shall not exceed a height of ten feet (10 ft.) maximum on a building in any zone in which the building height is limited to fifty feet (50 ft.) or less by right; and</u></p>
(d)	<p><u>For all buildings and structures,</u> mechanical equipment shall not extend above the <del>permitted eighteen foot, six inch (18 ft., 6 in.), maximum permitted</del> <u>permitted</u> height of the <del>penthouse housing, as specified in paragraph (d) above.</del></p>	
930.4	<p><del>Deleted</del>  <del>Housing for mechanical equipment or a stairway or elevator penthouse may be erected to a height in excess of that authorized in the district in which it is located.</del></p>	
930.5	<p><del>Roof structures</del> <b>Penthouses</b> less than ten feet (10 ft.) in height above a roof or parapet wall of a structure in the W-0 District on Kingman Island shall not be subject to the requirements of this section when the top of the <del>roof</del></p>	

	ALTERNATIVE TEXT #1	ALTERNATIVE TEXT #2
	<del>structure penthouse</del> is below maximum building height prescribed for the W-0 District.	

15. AMEND CHAPTER 9, WATERFRONT DISTRICTS, § 936, ROOF STRUCTURES (W), AS FOLLOWS:

	ALTERNATIVE TEXT #1	ALTERNATIVE TEXT #2
936	<b><del>ROOF STRUCTURES PENTHOUSES</del></b> (W)	
936.1	The provisions of § 411 shall apply to <del>roof structure penthouses</del> in the Waterfront Districts.	
936.2	The gross floor area of <del>roof structure penthouses</del> permitted under this section shall not be counted in determining the required number of off-street parking spaces or loading berths as specified elsewhere in this title.	The gross floor area of <del>roof structures mechanical space, stair or elevator overruns, or communal recreation space within a penthouses</del> permitted under this section shall not be counted in determining the amount of off-street parking as required elsewhere in this title.

16. AMEND CHAPTER 12, CAPITOL INTEREST OVERLAY DISTRICT, § 1203, HEIGHT, AREA, AND BULK REGULATIONS, AS FOLLOWS:

	ALTERNATIVE TEXT #1	ALTERNATIVE TEXT #2
1203.1	Except as specified in § 1203.2 and in Chapters 20 through 25 of this title, the height of buildings or structures in the CAP Overlay District shall not exceed forty feet (40 ft.) or three (3) stories in height.	
1203.2	The height of buildings or structures as specified in § 1203.1 may be exceeded in the following instances:	
(a)	A spire, tower, dome, minaret, pinnacle, or penthouse <del>over elevator shaft</del> may be erected to a height in excess of that authorized in § 1203.1; and	
(b)	If erected or enlarged as provided in § 411, <del>housing for mechanical equipment or a stairway or elevator penthouse</del> may be erected to a height in excess of that authorized in the zone district in which located; provided that: <ol style="list-style-type: none"> <li>(1) <del>the housing</del> <u>It meets the setback requirements of § 400.7; is set back from all lot lines of the lot upon which the structure is located a distance equal to its height above the roof of the top story; and</u></li> <li>(2) <del>In any case, a roof structure-</del> <u>It</u> shall not exceed ten feet (10 ft.) <u>and one story</u> in height above the roof upon which it is located.</li> </ol>	



	ALTERNATIVE TEXT #1	ALTERNATIVE TEXT #2
1203.4	<b>All provisions of § 411 shall also apply to roof structures in the CAP Overlay District.</b> The gross floor area of <del>roof structure</del> <b>penthouses</b> permitted under this subsection shall not be counted in determining the amount of off-street parking as required elsewhere in this title.	The gross floor area of <del>roof structures</del> <b>mechanical space, stair or elevator overruns, or communal recreation space within a penthouses</b> permitted under this section shall not be counted in determining the amount of off-street parking as required elsewhere in this title.
1203.5	<b>A penthouse shall not exceed one-third (1/3) of the total roof area.</b>	

*17. AMEND CHAPTER 15, MISCELLANEOUS OVERLAY DISTRICTS, FT TOTTEN OVERLAY, § 1562, HEIGHT, BULK, AND USE PROVISIONS (FT), AS FOLLOWS:*

	ALTERNATIVE TEXT #1	ALTERNATIVE TEXT #2
1563.4	The maximum height and bulk of a new building for a newly established use in the underlying CR District shall be 5.0 floor area ratio and eighty-feet (80 ft.) in height, inclusive of a <b><u>penthouse which shall be limited to one (1) story</u></b> <del>roof structure</del> .	The maximum height and bulk of a new building for a newly established use in the underlying CR District shall be 5.0 floor area ratio and eighty-feet (80 ft.) in height, inclusive of a <b><u>penthouse which shall be limited to one (1) story; roof structure, except that an additional story, for a total of two (2) stories maximum, shall be permitted within the penthouse solely for mechanical equipment.</u></b>
1563.5	Buildings proposed to have a height in excess of sixty-five feet (65 ft.) shall provide special architectural features, roof parapet detailing, and design consideration of <del>roof top and</del> <b>penthouses structures</b> to ensure that the views and vistas from the historic fortification of Fort Totten are not degraded or obstructed. The D.C. Office of Planning shall review and provide a report with recommendation.	<b><u>A penthouse, where permitted, shall be limited to one (1) story maximum.</u></b>

*18. AMEND CHAPTER 16, CAPITOL GATEWAY OVERLAY DISTRICT, TO ADD A NEW § 1613, ROOF STRUCTURES (CG), AS FOLLOWS:*

	ALTERNATIVE TEXT #1	ALTERNATIVE TEXT #2
<b><u>1613.1</u></b>	<b><u>The provisions of §§ 411 and 400.7 shall apply to penthouses in the CG District.</u></b>	
<b><u>1613.2</u></b>	<b><u>The gross floor area of penthouses permitted under this section shall not be counted in determining the amount of off-street parking that is required by Chapter 21.</u></b>	<b><u>The gross floor area of penthouse mechanical space, stair or elevator overruns, or communal recreation space permitted under this section shall not be counted in determining the amount of off-street parking that is required by Chapter 21.</u></b>

19. AMEND CHAPTER 18, SOUTHEAST FEDERAL CENTER OVERLAY DISTRICT, TO ADD A NEW § 1811, ROOF STRUCTURES (SEFC), AS FOLLOWS:

	ALTERNATIVE TEXT #1	ALTERNATIVE TEXT #2
<u>1811.1</u>	<u>The provisions of §§ 411 and 400.7 shall apply to penthouses in the SEFC District.</u>	
<u>1811.2</u>	<u>The gross floor area of penthouses permitted under this section shall not be counted in determining the amount of off-street parking that is required by Chapter 21.</u>	<u>The gross floor area of penthouse mechanical space, stair or elevator overruns, or communal recreation space permitted under this section shall not be counted in determining the amount of off-street parking that is required by Chapter 21.</u>

20. AMEND CHAPTER 19, UPTOWN ARTS-MIXED USE (ARTS) OVERLAY DISTRICT, § 1902, HEIGHT AND BULK, AS FOLLOWS:

	ALTERNATIVE TEXT #1	ALTERNATIVE TEXT #2
1902.1	In the underlying C-3-A District, a building may be constructed in excess of the height limit of sixty-five feet (65 ft.), up to a maximum height of seventy-five feet (75 ft.); provided:	
(a)	No <del>roof structure penthouse</del> permitted by this title shall exceed a height of eighty-three and one-half feet (83.5 ft.) above the measuring point used for the building, <u>or exceed one (1) story</u> ; and	No <del>roof structure penthouse</del> permitted by this title shall exceed a height of eighty-three and one-half feet (83.5 ft.) above the measuring point used for the building, <u>or exceed one (1) story; except that an additional story, for a total of two (2) stories maximum, shall be permitted within the penthouse solely for mechanical equipment</u> ; and

21. AMEND CHAPTER 26, INCLUSIONARY ZONING, § 2602, APPLICABILITY AS FOLLOWS:

	ALTERNATIVE TEXT #1	ALTERNATIVE TEXT #2
2602.1	Except as provided in § 2602.3, the requirements and incentives of this chapter shall apply to developments that:	
(a)	Are mapped within the R-2 through R-5-D, C-1 through C-3-C, USN, CR, SP, StE, and W-1 through W-3 Zone Districts, unless exempted pursuant to § 2602.3;	
(b)	Have ten (10) or more dwelling units (including off-site inclusionary units; and	

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	<b>ALTERNATIVE TEXT #1</b>	<b>ALTERNATIVE TEXT #2</b>
(c)	Are either:	
(1)	New multiple-dwellings;	
(2)	New one-family dwellings, row dwellings, or flats constructed concurrently or in phases on contiguous lots or lots divided by an alley, if such lots were under common ownership at the time of construction; or	
(3)	An existing development described in subparagraph (a) or (b) for which a new addition will increase the gross floor area of the entire development by fifty percent (50%) or more; or	
(d)	<b><u>Provide new residential habitable space within a penthouse, except that this requirement shall not apply to:</u></b> <b>(1) <u>penthouse space accessory to residential rooftop recreation purposes; and</u></b> <b>(2) <u>penthouse space for a single family dwelling or flat, in any zone.</u></b>	
2602.3	This chapter shall not apply to:	
(a)	Hotels, motels, inns, or dormitories;	
(b)	Housing developed by or on behalf of a local college or university exclusively for its students, faculty, or staff;	
(c)	Housing that is owned or leased by foreign missions exclusively for diplomatic staff;	
(d)	Rooming houses, boarding houses, community-based residential facilities, single room occupancy developments; or	
(e)	Any development financed, subsidized, or funded in whole or in part by the federal or District government and administered by the Department of Housing and Community Development (DHCD), the District of Columbia Housing Finance Agency, or the District of Columbia Housing Authority and that meets the requirements set forth in § 2602.7	
2602.4	<b><u>Except for projects described in § 2602.1(d),</u></b> this chapter shall <b><u>also</u></b> not apply to properties located in any of the following areas:	
(a)	The Downtown Development or Southeast Federal Center Overlay Districts;	
(b)	The Downtown East, New Downtown, North Capitol, Southwest, or Capitol South Receiving Zones on February 12, 2007;	

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	<b>ALTERNATIVE TEXT #1</b>	<b>ALTERNATIVE TEXT #2</b>
(c)	The W-2 zoned portions of the Georgetown Historic District;	
(d)	The R-3 zoned portions of the Anacostia Historic District;	
(e)	The C-2-A zoned portion of the Naval Observatory Precinct District; and	
(f)	The Eighth Street Overlay.	

**22. AMEND CHAPTER 26, INCLUSIONARY ZONING, § 2603, SET-ASIDE REQUIREMENTS, AS FOLLOWS:**

	<b>ALTERNATIVE TEXT #1</b>	<b>ALTERNATIVE TEXT #2</b>
2603.1	An inclusionary development for which the primary method of construction does not employ steel and concrete frame structure located in an R-2 through an R-5-B District or in a C-1, C-2-A, W-0 or W-1 District shall devote the greater of 10% of the gross floor area being devoted to residential use <b><u>including floor area devoted to new residential habitable space within a penthouse included in a project described in § 2602.1(d)</u></b> , or seventy-five percent (75%) of the bonus density being utilized for inclusionary units.	
2603.2	An inclusionary development of steel and concrete frame construction located in the zone districts stated in § 2603.1 or any development located in a C-2-B, C-2-C, C-3, CR, R-5-C, R-5-D, R-5-E, SP, USN, W-2 or W-3 District shall devote the greater of 8% of the gross floor area being devoted to residential use <b><u>including floor area devoted partially or entirely to new residential habitable space within a penthouse consistent with § 2602.1(d)</u></b> , or fifty percent (50%) of the bonus density being utilized for inclusionary units.	
2603.3	Inclusionary developments located in R-3 through R-5-E, C-1, C-2-A, StE, W-0, and W-1 Districts shall set aside 50% of inclusionary units for eligible low-income households and 50% of inclusionary units for eligible moderate-income households. The first inclusionary unit and each additional odd number unit shall be set aside for low-income households.	
2603.4	Developments located in CR, C-2-B through C-3-C, USN, W-2 through W-3, and SP Districts shall set aside 100% of inclusionary units for eligible moderate-income households.	
<b><u>2603.5</u></b>	<b><u>n/a</u></b>	<b><u>Notwithstanding §§ 2603.3 and 2603.4, new residential habitable space within a penthouse</u></b>

	ALTERNATIVE TEXT #1	ALTERNATIVE TEXT #2
		<b><u>consistent with § 2602.1(d), shall set aside one hundred percent (100%) of inclusionary units for eligible low income households.</u></b>
2603.6	The Mayor or the District of Columbia Housing Authority shall have the right to purchase up to twenty-five percent (25%) of inclusionary units <b><u>required by this chapter</u></b> in a for-sale inclusionary development in accordance with such procedures as are set forth in the Act.	
2603.7	Notwithstanding § 2603.5, nothing shall prohibit the Mayor or the District of Columbia Housing Authority to acquire title to inclusionary units <b><u>required by this chapter</u></b> in a for-sale inclusionary development if any of the following circumstances exist:	
(a)	There is a risk that title to the units will be transferred by foreclosure or deed-in-lieu of foreclosure, or that the units' mortgages will be assigned to the Secretary of the U.S. Department of Housing and Urban Development; or	
(b)	Title to the units has been transferred by foreclosure or deed-in-lieu of foreclosure, or the units' mortgages have been assigned to the Secretary of the U.S. Department of Housing and Urban Development.	
2603.8	An inclusionary development for which the primary method of construction does not employ steel and concrete frame structure located in a StE District shall devote no less than ten percent (10%) of the gross floor area being devoted to residential use for inclusionary units.	
2603.9	An inclusionary development of steel and concrete frame construction located in a StE District shall devote no less than eight percent (8%) of the gross floor area being devoted to residential use in a StE District.	

*23. AMEND CHAPTER 26, INCLUSIONARY ZONING, § 2604, BONUS DENSITY, AS FOLLOWS:*

	ALTERNATIVE TEXT #1	ALTERNATIVE TEXT #2
2604.1	Inclusionary developments subject to the provisions of this Chapter, except those located in the StE District, may construct up to twenty percent (20%) more gross floor area than permitted as a matter of right ("bonus density"), subject to all other zoning requirements (as may be modified herein) and the limitations established by <b><u>The Height Act, the Act to Regulate the Height of Buildings in the District of Columbia, approved June</u></b>	Inclusionary developments subject to <del>the provisions of this Chapter § 2603.1 or § 2603.2,</del> except those located in the StE District, may construct up to twenty percent (20%) more gross floor area than permitted as a matter of right ("bonus density"), subject to all other zoning requirements (as may be modified herein) and the limitations established by <b><u>The Height</u></b>

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	<del>1, 1910 (36 Stat. 452; D.C. Official Code § 6-601.01, et seq. (2001 Ed.)).</del>	<del>Act. the Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452; D.C. Official Code § 6-601.01, et seq. (2001 Ed.)).</del>
2604.2	Inclusionary developments in zoning districts listed in the chart below may use the following modifications to height and lot occupancy in order to achieve the bonus density:  <i>(table unchanged)</i>	

*24. AMEND CHAPTER 26, INCLUSIONARY ZONING, § 2608, APPLICABILITY DATE ,AS FOLLOWS:*

	<b>ALTERNATIVE TEXT #1</b>	<b>ALTERNATIVE TEXT #2</b>
2608.2	The provisions of this chapter shall not apply to any building approved by the Zoning Commission pursuant to Chapter 24 if the approved application was set down for hearing prior to March 14, 2008.	<u>With the exception of new habitable residential space within a penthouse approved by the Zoning Commission pursuant to §411.20</u> , the provisions of this chapter shall not apply to any building approved by the Zoning Commission pursuant to Chapter 24 if the approved application was set down for hearing prior to March 14, 2008.

*25. AMEND CHAPTER 27, REGULATIONS OF ANTENNAS, ANTENNA TOWERS, AND MONOPOLES, § 2707, EXEMPTED ANTENNAS, AS FOLLOWS:*

	<b>ALTERNATIVE TEXT #1</b>	<b>ALTERNATIVE TEXT #2</b>
2707.1	The requirements of §§ 2703 through 2706 shall not apply to any antenna that is:	
(b)	Entirely enclosed on all sides by a <del>roof structure,</del> penthouse, or an extension of penthouse walls; this subsection shall not be interpreted to permit penthouses <del>or roof structures</del> in excess of the <u>permitted</u> height <u>above a roof; limitations for roof structures;</u>	

*26. AMEND CHAPTER 27, REGULATIONS OF ANTENNAS, ANTENNA TOWERS, AND MONOPOLES, § 2715, EQUIPMENT CABINET OR SHELTER, AS FOLLOWS:*

	<b>ALTERNATIVE TEXT #1</b>	<b>ALTERNATIVE TEXT #2</b>
2715.2	If an antenna equipment cabinet or shelter is provided on the roof of a building or structure, it shall be erected or enlarged subject to the following:	
(d)	It shall be placed only on a roof of a principal structure and may not be permitted on a roof of <del>any other roof</del>	

	ALTERNATIVE TEXT #1	ALTERNATIVE TEXT #2
	<del>structure or a</del> penthouse.	

27. AMEND CHAPTER 28, HILL EAST (HE) DISTRICT, § 2809, ROOF STRUCTURES, AS FOLLOWS:

	ALTERNATIVE TEXT #1	ALTERNATIVE TEXT #2
2809.1	The provisions of §§ 411 and 400.7 shall apply to <del>roof structures</del> <u>penthouses</u> in the HE District.	
2809.2	The gross floor area of <del>roof structures</del> <u>penthouses</u> permitted under this section shall not be counted in determining the amount of off-street parking that is required by Chapter 21.	The gross floor area of <del>roof structure</del> <u>penthouse mechanical space, stair or elevator overruns, or communal recreation space</u> permitted under this section shall not be counted in determining the amount of off-street parking that is required by Chapter 21.

28. AMEND CHAPTER 29, UNION STATION NORTH (USN) DISTRICT, § 2906, ROOFTOP PENTHOUSES, AS FOLLOWS:

	ALTERNATIVE TEXT #1	ALTERNATIVE TEXT #2
<b>2906</b>	<b>ROOFTOP PENTHOUSES</b>	
2906.1	Rooftop penthouses <del>not intended for human occupation, such as penthouses over mechanical equipment, a stairway, or an elevator shaft</del> shall be erected or enlarged pursuant to <del>§ 770.6 through 770.8</del> <u>§§ 400.7 and 411.</u>	
2906.2	<del>Such a penthouse shall not exceed eighteen feet, six inches (18 ft., 6 in.), in height above the roof upon which it is located. Mechanical equipment shall not extend above the permitted eighteen foot, six inch (18 ft., 6 in.), height of the housing.</del>	
2906.3	<del>A penthouse not intended for human occupancy may be erected to a height in excess of that authorized in the USN District subject to the provisions of the Height Act.</del>	
2906.4	<del>Spires, towers, domes, pinnacles, or minarets serving as architectural embellishments, ventilator shafts, antennas, chimneys, smokestacks, or fire sprinkler tanks may be erected to a height in excess of that which this section otherwise authorizes.</del>	

29. AMEND CHAPTER 33, SAINT ELIZABETHS EAST CAMPUS (StE) DISTRICT, § 3312, ROOF STRUCTURE, AS FOLLOWS:

	ALTERNATIVE TEXT #1	ALTERNATIVE TEXT #2
3312	<b><u>ROOF STRUCTURE PENTHOUSES</u></b>	
3312.1	<del>Rooftop</del> <b><u>A</u></b> penthouse <del>not intended for human occupation, such as penthouses over mechanical equipment, a stairway or an elevator shaft</del> shall be erected or enlarged pursuant to <b><u>§§ 400.7 and</u></b> 411 of this title.	

Proposed amendments to the Zoning Regulations and Map of the District of Columbia are authorized pursuant to the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797; D.C. Official Code § 6-641.01 *et seq.*)

The public hearing on this case will be conducted as a rulemaking in accordance with the provisions of § 3021 of the District of Columbia Municipal Regulations, Title 11, Zoning. The Commission will impose time limits on testimony presented to it at the public hearing.

All individuals, organizations, or associations wishing to testify in this case should file their intention to testify in writing. Written statements, in lieu of personal appearances or oral presentations, may be submitted for inclusion in the record.

Information should be forwarded to the Secretary of the Zoning Commission, Office of Zoning, Suite 210, 441 4<sup>th</sup> Street, N.W., Washington, D.C. 20001. Please include the number of the particular case and your daytime telephone number. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

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**ANTHONY J. HOOD, MARCIE I. COHEN, ROBERT E. MILLER, PETER G. MAY, AND MICHAEL G. TURNBULL ----- ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA, BY SARA A. BARDIN, DIRECTOR, AND BY SHARON SCHELLIN, SECRETARY TO THE ZONING COMMISSION.**