

GOVERNMENT OF THE DISTRICT OF COLUMBIA
COMMISSIONER'S ADMINISTRATIVE INSTRUCTIONS
TITLE 2700--PROPERTY MANAGEMENT
CHAPTER 2750--USE OF AIRSPACE

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7-27-73

TITLE 2700 -- PROPERTY MANAGEMENT

CHAPTER 2750 -- USE OF AIRSPACE.

2750.1 INTRODUCTION

This administrative instruction establishes general procedures for administration of the District of Columbia Public Space Utilization Act (P.L. 90-598, 82 Stat 1166) which authorizes the Mayor-Commissioner to enter into leases for the rental of, or to use or permit the use of, the space above and below streets and alleys in the District of Columbia, under specified conditions.

2750.2 DEFINITIONS

- A. The Director is the Director of the Department of Economic Development, unless otherwise specified.
- B. Supportive material includes plans, elevations, sections, a description of the texture, material, and method of construction of the exterior walls, and a scale model, as set forth in Section 5 (3) of P.L. 90-598, and, as required, plans for the removal or relocation of publicly or privately-owned facilities in a street or alley under the jurisdiction of the Mayor-Commissioner.
- C. Application comprises both the request for a lease and the supportive material defined above.

2750.3 PRIVATE USE OF AIRSPACE

- A. Review of Proposals by Private Applicants. Upon receipt from a private lessee of an application for the use of airspace above or below a street or alley under the jurisdiction of the Mayor-Commissioner, the Director of Economic Development, as authorized and directed by Commissioner's Order 73- 168 of July 13, 1973, shall refer the application to the Director of the following agencies for review and recommendation:
 - 1. The Commission on Fine Arts when required by Sec. 5(4) of P.L. 90-598
 - 2. The Washington Metropolitan Area Transit Authority when any structure proposed to be constructed is located over space utilized or to be utilized for the construction and operation of the subway, as required by Section 5(5) of P.L. 90-598;
 - 3. The Office of Planning and Management, when the proposed use involves airspace within the area of a station stop of the Washington Metropolitan Area Transit Authority, or forms part of a larger neighborhood plan;
 - 4. The Department of Highways and Traffic;
 - 5. The Department of Environmental Services;
 - 6. Such other District, Federal and private agencies as appropriate. Agency comments and recommendations should be submitted to the Director within sixty days of referral.

B. Regulation by Zoning Commission. Upon receipt of the comments and recommendations of the agencies to which the application is referred, and pursuant to Section 5(2) of P.L. 90-598, the District of Columbia Zoning Commission, after holding a public hearing, shall determine the use to be permitted in such airspace, and establish regulations applicable to the use of such airspace, consistent with those applicable to the abutting privately-owned property, including limitations and requirements respecting the height of any structure to be erected in such airspace, offstreet parking and floor area ratios applicable to such structure, and easements of light, air, and access.

C. Agreement for Facilities Relocation. When required, the Director of the Department of Highways and Traffic shall coordinate preparation of a proposed agreement between the District of Columbia Government and the lessee for the removal or relocation of publicly or privately owned facilities in connection with the proposed airspace use. Such agreement shall be submitted to the Director.

D. Approval of Federal Highway Administration. When required, the Director of the Department of Highways and Traffic shall provide the necessary coordination with the Federal Highway Administration for the proposed use of airspace. The terms and conditions agreed upon, if any, shall be reported to the Director.

E. Preparation of Lease. The Director shall prepare the lease, assuring conformity with the requirements of Sections 3 through 11 of P.L. 92-598, and incorporating such rents, fees and other terms and conditions as the Director determines to be necessary and desirable, consulting as necessary with the D.C. Corporation Counsel, for execution by the Mayor-Commissioner.

F. Publication: The Director shall submit the proposed lease for publication in the D.C. Register in accordance with the D.C. Administrative Procedures Act, prior to its execution by the Mayor-Commissioner.

G. Removal of Structures and Restoration of Airspace: Upon the expiration or termination of an airspace lease, the Director shall determine whether any structure constructed in such airspace should be removed, or such airspace returned to its prior condition. Should the lessee fail to remove such structure or restore such airspace, the Director shall do so under the provisions of D.C. Code Section 5-506.

2750.4 PUBLIC USE OF AIRSPACE

A. Use by the Federal Government. The Director shall perform any reviews and enter into any necessary agreements with the Federal Government with regard to Federal plans to construct a structure over or under a street or alley, the title to which is in the District Government but where the Federal Government owns the abutting property, under section 3(4) of Public Law 92-598.

TITLE 2700--PROPERTY MANAGEMENT

B. Use by the District Government.

1. District-owned airspace: The Director shall coordinate reviews of proposed plans by the District Government to construct a structure over or under a street or alley, the title to which is in the District Government and where the District Government owns the abutting property.
2. Federally-owned airspace: Where title to a street or alley is in the U.S. Government, but the District Government owns the abutting property, the Director shall coordinate reviews of plans for district use of such property for conformity with the requirements of Section 12 of Public Law 90-598, including review by the National Capital Planning Commission and the Commission on Fine Arts, as necessary. The Director may do all things necessary to prepare, for execution by the Mayor-Commissioner, and to implement any agreement with the Attorney General of the United States, in conformity to Section 12(4) of P.L. 90-598.

Public Space Utilization Act (Air Rights Development)

The District of Columbia Public Space Utilization Act of 1968 (P.L. 90-558, 82 Stat 1166) permits the Mayor to enter into lease(s) with private parties or federal agencies for the rental or use of the space above or below streets and alleys in the District of Columbia, under specified conditions. This Act was used in 1977 to allow a developer to construct an office building in central Washington above and across a public alley. The Act's general requirements and the review process are outlined below. More detailed information about the administration of the Public Space Utilization Act is found in the District of Columbia Commissioner's Administrative Instructions, July 27, 1973, Transmittal Sheet No. 35, Title 2700, Chapter 2750 -- Use of Airspace.

The Act mandates that every air space lease contain provisions which stipulate:

- That the use of the airspace does not deprive other parties of light and air easements and access.
- That upon the lease's expiration or termination, the Mayor may require the removal of the airspace structure(s) at the lessee's expense.
- That all conditions of the lease will apply to the lessee's heirs, representatives, and assignees.
- That the lessee record the lease with the Recorder of Deeds.
- That the lessee pay all fees and rents and agree to all other necessary conditions as determined by the Mayor.
- That at least 15 feet clearance in the street or alley be provided.

Note: All airspace lessees must have fee simple ownership of all property abutting the airspace to be rented.

A review by the U.S. National Capital Planning Commission (NCPC) is a required part of this process.

A. Application

1. An applicant should apply for the rental or use of public airspace by letter, to the Administrator, Building and Land Regulation Administration, Department of Consumer and Regulatory Affairs (DCRA).
2. The letter must contain:
 - a. a request for a lease of public airspace.
 - b. supportive material including: plans; elevations; sections; description of the texture, material, and method of construction of the exterior walls; a scale model of any structure to be erected in the airspace; and, if required, plans for the required removal or relocation of publicly-owned or privately-owned facilities in a street or alley under the jurisdiction of the Mayor.
3. For the application to be expedited, it also should include:
 - a. a proposed lease.
 - b. a title insurance binder showing the ownership of property abutting the air space to be leased.

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- c. copies of a plat(s) recorded in the D.C. Surveyor's Office showing the affected property and public space.

Note: An applicant may wish to examine the Zoning Commission's files for information on the previous case approved under this process. (Case Number 76-72)

B. Pre-Filing Review

1. Once these materials have been received, the Building and Land Regulation Administration, DCRA, circulates them to various government agencies for their review, including:
 - a. the Commission of Fine Arts, if the project falls under the jurisdiction of the Old Georgetown or Shipstead-Luce Acts.
 - b. the Washington Metropolitan Area Transit Authority (WMATA), when the proposed structure is to be constructed over space currently used, or to be used for subway operations.
 - c. the Office of Planning (OP), when the project involves airspace at or near a WMATA Metro stop, or is part of a larger neighborhood plan.
 - d. the Department of Transportation (DOT) and the Department of Environmental Services (DES), for all applications. (These departments determine traffic and air ventilation requirements to minimize air pollution resulting from the proposed use.)
 - e. the Bureau of Engineering, Design and Research (DOT), which develops and approves all agreements between the District and lessee(s) pertaining to the relocation or removal of public or private facilities affected by the airspace proposal, such as alley realignments, relocation or drainage facilities, etc. (DOT also coordinates the development of an agreement between the District and the Federal Highway Administration for federally-assisted highways and streets.)
 - f. the National Capital Planning Commission (for all projects).
 - g. other District of Columbia, federal, and private agencies as required.
2. All agencies are required to submit to the Building and Land Regulation Administration, DCRA, their reviews within 60 days of referral.

C. Zoning Commission Approval

1. The application, with agency comments, is then referred to the Zoning Commission for review and approval. The Commission determines, after a public hearing, the use(s) to be permitted in the airspace as well as specific applicable regulations. These regulations may include limitations and requirement(s) pertaining to building height in the airspace, off-street parking, floor area ratios, and easements of light and air, as well as traffic access.
2. The procedures which are followed are those for map amendments, as previously discussed in the chapter. For more information, see Chapter 6 of Rules and Practice and Procedure of the Zoning Commission, Zoning Commission Order No. 300, Case No. 77-44,

October 11, 1979. These Rules may be obtained from the Publications Office.

D. Execution of Lease

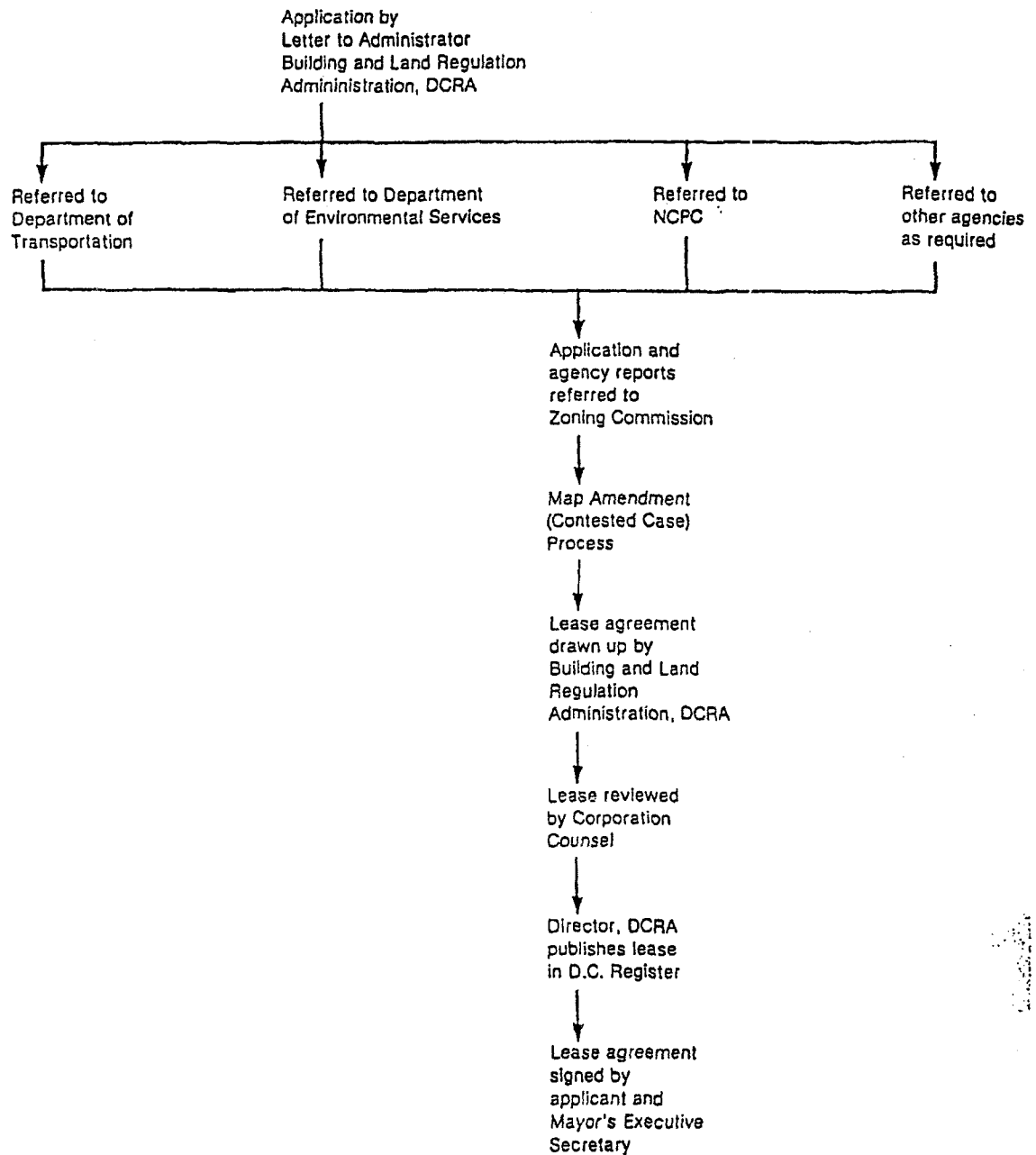
1. If the Zoning Commission grants approval to the airspace application, an official lease agreement is drawn up by the Building and Land Regulation Administration, DCRA. The lease agreement details the rents, fees, terms, and conditions mandated by the Zoning Commission. The draft agreement, submitted initially by the applicant, may be used to develop the final language of the lease.
2. The lease is reviewed by Corporation Counsel for any final changes that are required.
3. The director, DCRA, then publishes the proposed lease in the D.C. Register.
4. Once all of the parties have agreed to the language of the lease, it is signed by the applicant and by the Mayor's Executive Secretary.

Note: The provisions of this Act do not apply to the grounds of the U.S. Capitol, defined by G Street N.W. and N.E.; Third Street N.W. and S.W.; G Street S.W. and S.E.; and 11th Street N.E. and S.E.

Other reviews which may be related to but are separate from the Air Rights Development Process are as follows:

- Land Subdivision Formation
- Street and Alley Changes
- Large Tract Reviews
- Commission of Fine Arts
- Historic Landmark/Historic District
- Urban Renewal
- Building Permit Process
- Public Space Permits
- Razing Permit
- Driveway Construction and Repair Permit
- Certificate of Occupancy

Air Rights Development



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DC ST § 10-1121.01

◉ Formerly cited as DC ST 1981 § 7-1031

District of Columbia Official Code 2001 Edition Currentness

Division I. Government of District.

Title 10. Parks, Public Buildings, Grounds, and Space. (Refs & Annos)

Subtitle III. Use of Public Space.

▣ Chapter 11. Rental and Utilization of Public Space.

▣ Subchapter II. Rental of Airspace.

→ § 10-1121.01. **Definitions.**

As used in this subchapter:

- (1) The term "Mayor" means the Mayor of the District of Columbia.
- (2) The term "District" means the District of Columbia.
- (3) The term "airspace" means the space above and below a street or alley under the jurisdiction of the Mayor.

CREDIT(S)

(Oct. 17, 1968, 82 Stat. 1166, Pub. L. 90-598, § 2.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 7-1031.

1973 Ed., § 7-941.

Change in Government

This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

LIBRARY REFERENCES

Key Numbers

DC ST § 10-1121.01

District of Columbia ☞21.
Municipal Corporations ☞679, 722.
Westlaw Topic Nos. 132, 268.

Encyclopedias

C.J.S. District of Columbia §§ 19 to 20.
C.J.S. Municipal Corporations §§ 1473 to 1503, 1542.

NOTES OF DECISIONS

In general 1

1. In general

Board of Zoning Adjustment was required to consider effects on surrounding neighborhood of street closings, pedestrian bridges and height restriction relief proposals in university's campus development plan, even though Board did not have jurisdiction to approve such proposals. D.C.Code 1981, §§ 7-421 to 7-435, 7-1031, 7-1032, 7-1034. Levy v. District of Columbia Bd. of Zoning Adjustment, 1990, 570 A.2d 739. Zoning And Planning ☞381.5

Board of Zoning Adjustment's failure to consider effects of proposed street closings, pedestrian bridges and relief from height restrictions in university's campus development plan rendered Board's findings inadequate and legally insufficient to support ultimate conclusions underlying approval of plan, requiring remand. D.C.Code 1981, §§ 7-421 to 7-435, 7-1031, 7-1032, 7-1034. Levy v. District of Columbia Bd. of Zoning Adjustrment, 1990, 570 A.2d 739. Zoning And Planning ☞439; Zoning And Planning ☞726

DC CODE § 10-1121.01

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DC ST § 10-1121.02

C Formerly cited as DC ST 1981 § 7-1032

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Title 10. Parks, Public Buildings, Grounds, and Space. (Refs & Annos)

Subtitle III. Use of Public Space.

Chapter 11. Rental and Utilization of Public Space.

Subchapter II. Rental of Airspace.

→ § 10-1121.02. Mayor's authority with respect to use of airspace.

The Mayor, in conformity with the comprehensive plan for the National Capital prepared under § 2-1003, may:

- (1) Enter into leases for the use of airspace in the District to an extent not inconsistent with the use, operation, and maintenance of, any street or alley;
- (2) Use airspace for such public purposes as are authorized by law;
- (3) Enter into agreements with the federal government for the purpose of receiving grants or other financial assistance under the federal programs in connection with the construction, use or operation of any structure in airspace; and
- (4) Enter into agreements with the federal government to enable the federal government to construct federal buildings in the space above and below any street or alley, title to which is in the District.

CREDIT(S)

(Oct. 17, 1968, 82 Stat. 1166, Pub. L. 90-598, § 3.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 7-1032.

1973 Ed., § 7-942.

Change in Government

This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of

DC ST § 10-1121.02


the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.


Miscellaneous Notes

District of Columbia Public Space Committee established: See Mayor's Order 83- 54, February 17, 1983.

LIBRARY REFERENCES

Key Numbers

District of Columbia  21.

Municipal Corporations  679, 722.
Westlaw Topic Nos. 132, 268.

Encyclopedias


C.J.S. District of Columbia §§ 19 to 20.



C.J.S. Municipal Corporations §§ 1473 to 1503, 1542.

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DC CODE § 10-1121.02

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DC ST § 10-1121.03

Formerly cited as DC ST 1981 § 7-1033

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Division I. Government of District.

Title 10. Parks, Public Buildings, Grounds, and Space. (Refs & Annos)

Subtitle III. Use of Public Space.

Chapter 11. Rental and Utilization of Public Space.

Subchapter II. Rental of Airspace.

→ § 10-1121.03. Terms and conditions to be included in leases.

Any lease of airspace entered into under this subchapter shall provide:

- (1) That such airspace shall not be used to deprive any real property not owned by the lessee of easements of light, air, and access;
- (2) For a clearance of at least 15 feet between the recorded grade of a street or alley and the lowest portion of any structure (other than supporting columns) constructed over such street or alley;
- (3) That upon the expiration or termination of the lease of airspace the Mayor may require (at the expense of the lessee or his successor in interest) the removal of any structure constructed or erected in such airspace and the restoration of such airspace to its condition prior to the construction or erection of such structure;
- (4) That all the rights, duties, terms, conditions, agreements, and covenants set forth and contained in such lease shall run with the abutting real property owned by the lessee and shall apply to the lessee, his heirs, legal representatives, successors, and assignees;
- (5) That the lessee shall, at his expense, record a copy of the lease in the Office of the Recorder of Deeds of the District of Columbia;
- (6) For the payment of such rents and fees, and the posting of such bond or such other security, by the lessee, as the Mayor determines to be necessary or desirable; and
- (7) For such other terms and conditions as the Mayor determines to be necessary or desirable.

CREDIT(S)

(Oct. 17, 1968, 82 Stat. 1166, Pub. L. 90-598, § 4.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

DC ST § 10-1121.03

1981 Ed., § 7-1033.

1973 Ed., § 7-943.

Change in Government

This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

CROSS REFERENCES

Section References

This section is referred to in § 10-1121.11.

LIBRARY REFERENCES

Key Numbers

District of Columbia ↪21.

Municipal Corporations ↪679, 722.

Westlaw Topic Nos. 132, 268.

Encyclopedias

C.J.S. District of Columbia §§ 19 to 20.

C.J.S. Municipal Corporations §§ 1473 to 1503, 1542.

DC CODE § 10-1121.03

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DC ST § 10-1121.04

C Formerly cited as DC ST 1981 § 7-1034

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Title 10. Parks, Public Buildings, Grounds, and Space. (Refs & Annos)

Subtitle III. Use of Public Space.

Chapter 11. Rental and Utilization of Public Space.

Subchapter II. Rental of Airspace.

→ § 10-1121.04. Execution of airspace leases.

The Mayor may execute a lease of airspace under this subchapter if:

- (1) The lessee of the airspace has a fee simple title to the real property abutting such airspace and the lease is for airspace which lies only within the frontages of such abutting real property which are directly opposite;
- (2) The Zoning Commission of the District of Columbia, after public hearing and after securing the advice and recommendations of the National Capital Planning Commission, has determined the use to be permitted in such airspace and has established regulations applicable to the use of such airspace consistent with regulations applicable to the abutting privately owned property, including limitations and requirements respecting the height of any structure to be erected in such airspace, offstreet parking and floor area ratios applicable to such structure, and easements of light, air, and access;
- (3) The lessee has submitted to the Mayor, for his review and approval, plans, elevations, sections, a description of the texture, material, and method of construction of the exterior walls, and a scale model, of any structure to be erected in such airspace;
- (4) The Mayor with respect to any structure proposed to be constructed in an area subject to §§ 6-611.01 and 6-611.02, or §§ 6-1201 to 6-1205 has submitted to the Commission of Fine Arts for its review and recommendations, plans, elevations, sections, a description of the texture, material, and method of construction of the exterior walls, and a scale model, of any such structure; and
- (5) The Mayor, with respect to any structure proposed to be constructed over space utilized or to be utilized for the construction and operation of the subway of the Washington Metropolitan Area Transit Authority, has submitted to the Authority for its review and recommendations the plans, elevations, sections, and a scale model of any such structure.

CREDIT(S)

(Oct. 17, 1968, 82 Stat. 1167, Pub. L. 90-598, § 5.)

HISTORICAL AND STATUTORY NOTES

DC ST § 10-1121.04

Prior Codifications

1981 Ed., § 7-1034.

1973 Ed., § 7-944.

Change in Government

This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.


CROSS REFERENCES


Section References

This section is referred to in § 10-1121.11.

LIBRARY REFERENCES

Key Numbers

District of Columbia  21.

Municipal Corporations  679, 722.

Westlaw Topic Nos. 132, 268.

Encyclopedias


C.J.S. District of Columbia §§ 19 to 20.

C.J.S. Municipal Corporations §§ 1473 to 1503, 1542.

NOTES OF DECISIONS



In general 1

1. In general

Board of Zoning Adjustment was required to consider effects on surrounding neighborhood of street closings, pedestrian bridges and height restriction relief proposals in university's campus development plan, even though Board did not have jurisdiction to approve such proposals. D.C.Code 1981, §§ 7-421 to 7-435, 7-1031, 7-1032, 7-1034. Levy v. District of Columbia Bd. of Zoning Adjustment, 1990, 570 A.2d 739. Zoning And Planning  381.5

Board of Zoning Adjustment's failure to consider effects of proposed street closings, pedestrian bridges and relief from height restrictions in university's campus development plan rendered Board's findings inadequate and legally insufficient to support ultimate conclusions underlying approval of plan, requiring remand. D.C.Code 1981, §§ 7-

DC ST § 10-1121.04

421 to 7-435, 7-1031, 7-1032, 7-1034. Levy v. District of Columbia Bd. of Zoning Adjustment, 1990, 570 A.2d 739.
Zoning And Planning 439; Zoning And Planning 726

DC CODE § 10-1121.04

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DC ST § 10-1121.05

Formerly cited as DC ST 1981 § 7-1035

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Title 10. Parks, Public Buildings, Grounds, and Space. (Refs & Annos)

Subtitle III. Use of Public Space.

Chapter 11. Rental and Utilization of Public Space.

Subchapter II. Rental of Airspace.

→ § 10-1121.05. Removal or relocation of public or private facilities.

The District shall not pay the cost of any removal or relocation of publicly or privately owned facilities in a street or alley in connection with the construction of a structure in airspace leased under this subchapter. No such facilities may be removed or relocated unless the Mayor has approved all arrangements for such removal or relocation.

CREDIT(S)

(Oct. 17, 1968, 82 Stat. 1167, Pub. L. 90-598, § 6.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 7-1035.

1973 Ed., § 7-945.

Change in Government

This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

CROSS REFERENCES


Section References


This section is referred to in § 10-1121.11.

DC ST § 10-1121.05

LIBRARY REFERENCES

Key Numbers

District of Columbia  21.

Municipal Corporations  679, 722.

Westlaw Topic Nos. 132, 268.

Encyclopedias

C.J.S. District of Columbia §§ 19 to 20.

C.J.S. Municipal Corporations §§ 1473 to 1503, 1542.

DC CODE § 10-1121.05

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DC ST § 10-1121.06

Formerly cited as DC ST 1981 § 7-1036

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Title 10. Parks, Public Buildings, Grounds, and Space. (Refs & Annos)

Subtitle III. Use of Public Space.

Chapter 11. Rental and Utilization of Public Space.

Subchapter II. Rental of Airspace.

→ § 10-1121.06. Applicability of zoning and other laws.

Zoning laws and regulations and other laws and regulations applicable to the construction, use, and occupancy of buildings and premises, including building, electrical, plumbing, housing, health, and fire regulations, shall be applicable to structures constructed in airspace.

CREDIT(S)

(Oct. 17, 1968, 82 Stat. 1167, Pub. L. 90-598, § 7.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 7-1036.

1973 Ed., § 7-946.


CROSS REFERENCES


Section References

This section is referred to in § 10-1121.11.

LIBRARY REFERENCES

Key Numbers

District of Columbia  21.

Municipal Corporations  679, 722.

Westlaw Topic Nos. 132, 268.

Encyclopedias

C.J.S. District of Columbia §§ 19 to 20.

DC ST § 10-1121.06

C.J.S. Municipal Corporations §§ 1473 to 1503, 1542.

DC CODE § 10-1121.06

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DC ST § 10-1121.07

Formerly cited as DC ST 1981 § 7-1037

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Title 10. Parks, Public Buildings, Grounds, and Space. (Refs & Annos)

Subtitle III. Use of Public Space.

Chapter 11. Rental and Utilization of Public Space.

Subchapter II. Rental of Airspace.

→ § 10-1121.07. Airspace and structures erected thereon deemed real property for purpose of taxation, water and sewer charges; exemptions.

For the purposes of this subchapter, airspace and structures constructed or erected in airspace shall be deemed to be real property and shall be liable to assessment, taxation, and water and sewer service charges by the District from the beginning of the term or period of such lease. For the purposes of real property assessments and taxation, the value of airspace, other than any structure constructed or erected in airspace, shall be its fair market value. No tax or assessment shall be levied with respect to airspace or structures in airspace:

- (1) Occupied exclusively by the federal government or the District government; or
- (2) Occupied and used by 1 or more organizations which, under § 47-1002, are exempt from real property taxation.

CREDIT(S)

(Oct. 17, 1968, 82 Stat. 1167, Pub. L. 90-598, § 8.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 7-1037.

1973 Ed., § 7-947.

CROSS REFERENCES

Section References

This section is referred to in § 10-1121.11.

LIBRARY REFERENCES

DC ST § 10-1121.07

Key Numbers

District of Columbia ↪21.
Municipal Corporations ↪679, 722.
Westlaw Topic Nos. 132, 268.

Encyclopedias

C.J.S. District of Columbia §§ 19 to 20.
C.J.S. Municipal Corporations §§ 1473 to 1503, 1542.

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DC ST § 10-1121.08

Formerly cited as DC ST 1981 § 7-1038

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Subtitle III. Use of Public Space.

Chapter 11. Rental and Utilization of Public Space.

Subchapter II. Rental of Airspace.

→ § 10-1121.08. Deposit of rents, fees, taxes, assessments, sewer and water charges; payment of expenditures.

(a) Except as provided by subsection (b) of this section, all collections, including rents and fees, received by the District under this subchapter shall be deposited in the Treasury of the United States in a trust fund, from which may be paid, in the same manner as is provided by law for other expenditures of the District, such expenditures as are necessary to carry out the purposes of this subchapter, including necessary expenses connected with the operation, maintenance, and disposition of property coming into the possession of the District by reason of a default under a lease entered into under this subchapter. The unobligated balance in such trust fund in excess of \$100,000 as of the end of any fiscal year shall be deposited in the Treasury to the credit of such special funds or the General Fund of the District in such proportions as the Mayor may determine.

(b) Taxes (including payments in lieu of taxes), special assessments, and sanitary sewer and water service charges shall be deposited directly to the respective funds to which such revenues are normally deposited.

CREDIT(S)

(Oct. 17, 1968, 82 Stat. 1168, Pub. L. 90-598, § 9.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 7-1038.

1973 Ed., § 7-948.

Change in Government

This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also

DC ST § 10-1121.08

pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

CROSS REFERENCES

Section References

This section is referred to in § 10-1121.11.

LIBRARY REFERENCES

Key Numbers

District of Columbia ↪21.

Municipal Corporations ↪679, 722.

Westlaw Topic Nos. 132, 268.

Encyclopedias

C.J.S. District of Columbia §§ 19 to 20.

C.J.S. Municipal Corporations §§ 1473 to 1503, 1542.

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DC ST § 10-1121.09

Formerly cited as DC ST 1981 § 7-1039

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→ § 10-1121.09. Restoration of airspace upon expiration or termination of lease.

If, upon the expiration or termination of a lease of airspace under this subchapter: (1) the Mayor determines that any structure constructed or erected in such airspace should be removed or such airspace should be restored to its condition prior to the construction or erection of such structure; and (2) the lessee or his successor in interest, upon the request of the Mayor, fails, after a reasonable time, to remove such structure or to restore such airspace to its condition prior to the construction or erection of such structure; the Mayor may remove such structure and restore such airspace. The cost of such removal and restoration shall be assessed against the abutting properties as a tax. Such tax shall be collected in the manner prescribed by § 6-806, for the collection of amounts assessed as a tax under that section.

CREDIT(S)

(Oct. 17, 1968, 82 Stat. 1168, Pub. L. 90-598, § 10.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 7-1039.

1973 Ed., § 7-949.

Change in Government

This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

CROSS REFERENCES


DC ST § 10-1121.09


Section References

This section is referred to in § 10-1121.11.

LIBRARY REFERENCES

Key Numbers

District of Columbia  21.

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Encyclopedias

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C.J.S. Municipal Corporations §§ 1473 to 1503, 1542.

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DC ST § 10-1121.10

Formerly cited as DC ST 1981 § 7-1040

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Subtitle III. Use of Public Space.

Chapter 11. Rental and Utilization of Public Space.

Subchapter II. Rental of Airspace.

→ § 10-1121.10. Regulations authorized; penalties.

(a) The Council of the District of Columbia shall, after public hearing, promulgate such regulations as may be necessary to carry out this subchapter.

(b) Any regulations promulgated under this subchapter may provide for the imposition of a fine of not more than \$300, or imprisonment of not more than 90 days, or both, for any violation of such regulations. Prosecution for violations of such regulations shall be conducted in the name of the District by the Corporation Counsel.

(c)(1) The Mayor shall:

(A) Give any person violating a regulation promulgated under this subchapter notice of such violation; and

(B) Set a date by which such person shall comply with such regulation.

(2) Each day after such date during which there is a failure to comply with such regulation shall be a separate offense.

(d) The Mayor may maintain an action in the Superior Court of the District of Columbia to enjoin the continuing violation of any regulation adopted, under the authority of this subchapter, by the Council of the District of Columbia or by the Zoning Commission.

(e) Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this subchapter, or any rules or regulations issued under the authority of this subchapter, pursuant to Chapter 18 of Title 2. Adjudication of any infraction of this subchapter shall be pursuant to Chapter 18 of Title 2.

CREDIT(S)

(Oct. 17, 1968, 82 Stat. 1168, Pub. L. 90-598, § 11; July 29, 1970, 84 Stat. 571, Pub. L. 91-358, title I, § 155(c)(27); Oct. 5, 1985, D.C. Law 6-42, § 428, 32 DCR 4450.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

DC ST § 10-1121.10

1981 Ed., § 7-1040.

1973 Ed., § 7-950.

Legislative History of Laws

Law 6-42, the "Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985," was introduced in Council and assigned Bill No. 6-187, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6- 60 and transmitted to both Houses of Congress for its review.

Change in Government

This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.



CROSS REFERENCES

Section References

This section is referred to in § 10-1121.11.

LIBRARY REFERENCES

Key Numbers

District of Columbia  21.
Municipal Corporations  679, 722.
Westlaw Topic Nos. 132, 268.

Encyclopedias

C.J.S. District of Columbia §§ 19 to 20.
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Subtitle III. Use of Public Space.

Chapter 11. Rental and Utilization of Public Space.

Subchapter II. Rental of Airspace.

→ § 10-1121.11. Federal and District governments authorized to construct airspace structures.

The federal government and District government are each authorized, without regard to the requirements of §§ 10-1121.03 through 10-1121.10, to construct any structure in airspace, subject to the following conditions:

- (1) The government proposing to construct any structure in airspace shall have fee simple title to real property abutting such real property;
- (2) The airspace to be occupied by such structure shall be only within the frontages of the real property abutting such airspace which are directly opposite;
- (3) The airspace to be occupied by such structure shall not be used to deprive any real property, not owned by the federal government or District government, of its easements of light, air, or access;
- (4) The construction of any such structure by the District government across a street or alley, the title to which is in the United States, shall be in accordance with an agreement between the Mayor and the Attorney General of the United States, subject to such terms and conditions as the Attorney General and the Mayor agree to include in the agreement;
- (5) Section 6-641.15 shall apply to the construction of any structure in such airspace by the federal government and, to the extent required by subsection (c) of § 2-1004, to the construction of any structure in such airspace by the District government;
- (6) Plans for the construction of any structure in such airspace by the federal government or the District government shall be subject to review by the National Capital Planning Commission in accordance with § 2-1004;
- (7) The construction of any such structure by the federal government or the District government shall be subject to the recommendations of the Commission of Fine Arts to the extent required by §§ 6-611.01 and 6-611.02 or §§ 6-1201 to 6-1205.

CREDIT(S)

(Oct. 17, 1968, 82 Stat. 1169, Pub. L. 90-598, § 12.)

DC ST § 10-1121.11

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 7-1041.

1973 Ed., § 7-951.


Change in Government

This section originated at a time when local government powers were delegated to the District of Columbia Council and to a Commissioner of the District of Columbia. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

LIBRARY REFERENCES

Key Numbers

District of Columbia  21.

Municipal Corporations  679, 722.

Westlaw Topic Nos. 132, 268.

Encyclopedias

C.J.S. District of Columbia §§ 19 to 20.

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Subtitle III. Use of Public Space.

Chapter 11. Rental and Utilization of Public Space.

Subchapter II. Rental of Airspace.

→ § 10-1121.12. Actions to recover use of leased airspace.

If the federal government or the District government brings an action to recover the use of airspace leased under this subchapter, the government having title to the street or alley over or under which such airspace is located shall pay to the lessee of such airspace the fair market value of the remainder of his leasehold interest in such airspace. If the federal government recovers the use of airspace over or under a street to which it has title, the District government shall pay to the federal government an amount equal to the rents and fees received by the District government for the rental of such airspace or an amount equal to the fair market value of the remainder of the leasehold interest in such airspace, whichever is smaller.

CREDIT(S)

(Oct. 17, 1968, 82 Stat. 1170, Pub. L. 90-598, § 13.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 7-1042.


1973 Ed., § 7-952.


Delegation of Authority

Delegation of authority pursuant to D.C. Law 11-76, the "Rental of Public Structures in Public Space Temporary Act of 1995", see Mayor's Order 96-8, January 31, 1996 (43 DCR 615).

LIBRARY REFERENCES

Key Numbers

District of Columbia 21.

Municipal Corporations 679, 722.

Westlaw Topic Nos. 132, 268.

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Encyclopedias

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DC ST § 10-1121.13

Formerly cited as DC ST 1981 § 7-1043

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Subtitle III. Use of Public Space.

Chapter 11. Rental and Utilization of Public Space.

Subchapter II. Rental of Airspace.

→ § 10-1121.13. Area exempted from provisions of subchapter.

This subchapter shall not apply to airspace within the area in the District bounded on the north by G Street Northeast and Northwest, on the south by G Street Southeast and Southwest, on the east by 11th Street Northeast and Southeast, and the west by 3rd Street Southwest and Northwest.

CREDIT(S)

(Oct. 17, 1968, 82 Stat. 1170, Pub. L. 90-598, § 14.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 7-1043.

1973 Ed., § 7-953.

Delegation of Authority

Delegation of authority pursuant to D.C. Law 11-138, the "Rental of Public Structures in the Public Space Emergency Act of 1995", see Mayor's Order 95- 117, September 12, 1995.


CROSS REFERENCES


Section References

This section is referred to in § 10-1141.02.

LIBRARY REFERENCES

Key Numbers

District of Columbia  21.

Municipal Corporations  679, 722.

DC ST § 10-1121.13

Westlaw Topic Nos. 132, 268.

Encyclopedias

C.J.S. District of Columbia §§ 19 to 20.

C.J.S. Municipal Corporations §§ 1473 to 1503, 1542.

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