Artists will be allowed to establish an apartment as an accessory use to a studio in an industrial zone. The requirement that the residential use be accessory should prevent the diversion of industrial-zoned land and structures to residential purposes. Such diversion should be limited, because the entry of residential uses into industrial zones creates pressures to protect the residential uses from the impact of the industrial ones which are intended to be the favored uses in those zones.

Artists will be allowed to establish studios in garages, and in buildings located on alley lots, under conditions that will preserve required parking, limit the scope and impact of the studio use, and not otherwise tend to divert the use of housing stock.

Some concern was expressed during the hearings about the principle of protecting residential zones from the intrusion of non-residential uses. This concern is reasonable, but taken too far would deprive the District of the diversity which inheres in and enriches the life of the city. Art is one element of this diversity that should be encouraged, with reasonable controls.

Concern was also expressed about the hazardous properties of certain of the materials which may be used by some artists. The Commission concludes that the District's fir fire and safety codes are the more practical and effective regulatory vehicles for dealing with these issues.

Similar concerns relate to noise which may accompany work in some media. Again, the District has a separate noise control ordinance. In addition, as one artist observed, to the extent that neither zoning nor other regulations can absolutely prevent all unreasonable impact of regulated activity, such is simply an element of the compromise of urban life. There will be a degree of noise, traffic, parking congestion, and general clamor as part of life in the city. Indeed, a certain level of these effects are at times generated to an unwelcome extent by the very use which is the most liberally permitted under the Zoning Regulations, that is, the single family dwelling.

Conversely, not every artist may reasonably expect to be accommodated by regulations which allow all flexibility which the muse would dictate. The regulations must work generally, not on the assumption or hope that, with no stated limit, "not too many" artists would use an excessive amount of floor area or garage space, or bring on an excessive number of apprentices.

The Commission notes that in Z.C. Case 86-29 it is amending the regulations to provide additional expanded opportunities for the location of artists' studios.

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The adopted rules and the above discussion respond to the concerns of Advisory Neighborhood Commission ("ANC") 2C, which expressed general support for the proposed amendments to encourage artists to remain in the District, and the support of ANC 1C for the artist "loft" concept in the industrial zones. The Commission believes that paragraph 2300.3(e) will protect against the diversion of off-street parking, and accordingly responds to the concern of ANC 1C about the use of garage space for studios.

The amended rules define the term "art gallery"; delete art galleries as permitted uses in the R-4 district; allow them by special exception in the R-5 district; and allow them as a matter of right in the SP zone.

The Commission believes that the amendments respond reasonably to the impact of art galleries in the R-4 and R-5 zones. The Commission is not persuaded that an art gallery is a hostile element in residential zones, simply because it is not classed as a residential use. An art gallery provides a benefit to city life that is not incompatible with the variety of residential structures that are allowed in the R-5 zone. The special exception process and standards will provide ample protection to adjacent and neighboring uses, and allow the retention of established galleries.

The definition of art gallery will clarify that the use is one that displays and sells objects of art. As defined in Webster's Unabridged Dictionary, an object of art is an "article of artistic worth". In spite of the element of subjectivity in this latter definition, it nonetheless serves to direct and limit the class of uses which can be established. The retention of art gallery as a matter of right use in an SP District is entirely consistent with the allowed and intended mix of uses in the SP zones. The Commission believes that the character of the R-5 and SP zones where galleries are now located will be preserved by continuing to allow galleries as uses which are permitted either as a special exception or as a matter-of-right.

The final rules, and the above discussion address the concerns of ANCs 1C and 2B that art galleries be deleted as matter of right uses in residential areas or R-4 and R-5 districts, and that the term art gallery be defined. In the notice of proposed rulemaking, the Commission proposed two alternative definitions of "art gallery". The Commission has determined to adopt the second proposed alternative, with one clarifying and non-substantive change. The alternative proposals had been that an art gallery's income must be either entirely or substantially derived from the sale and display of objects of art. The thrust of the latter proposal is more reasonable, but, in light of a comment of ANC 2B, the Commission has clarified the provision by substituting "more than fifty percent (50 %)" for "substantially".