GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning

Z.C. CASE NO.: 01-02

As Secretary to the Commission, I herby certify that on JAN 14 2008 copies of this Z.C. Notice of Final Rulemaking & Order No. 968A were mailed first class, postage prepaid or sent by inter-office government mail to the following:

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ATTESTED BY: Sharon S. Schellin
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01-02
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ZONING COMMISSION
District of Columbia
CASE NO.01-02
EXHIBIT NO.139

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
and
Z.C. ORDER NO. 968A
Z.C. Case No. 01-02
(Antenna Text Amendment)
January 8, 2007

The Zoning Commission for the District of Columbia (the "Commission"), pursuant to its authority under §§ 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code, 2001 Ed. § 6-641.01); having held a public hearing as required by § 3 of the Act (D.C. Official Code, 2001 Ed. § 6-641.03); and having referred the proposed amendments to the National Capital Planning Commission ("NCPC") for a 30-day period of review pursuant to § 492 of the District of Columbia Charter; hereby gives notice of the adoption of amendments to Chapters 1, 2, 4-9, 20, and 25 and the adoption of a new Chapter 27, Antenna and Antenna Towers, to the Zoning Regulations (Title 11 DCMR) of the District of Columbia and of conforming amendments to existing Zoning Regulations. The rules establish a revised and updated regulatory framework for regulating antennas on private property.

The Notice of Proposed Rulemaking was published in the *D.C. Register* ("*DCR*") on March 19, 2004 at 51 *DCR* 3118 for a 30-day notice and comment period. Comments were received. The Commission took final action to adopt the amendments at a public meeting on January 8, 2007. At that time, the Commission made non-substantive changes to the text as discussed later in this Order.

The final rulemaking is effective upon publication in the *D.C. Register.*

Background

In October 2000, the Council of the District of Columbia passed emergency and temporary legislation barring District agencies from issuing permits that permit the construction of antenna towers taller than 200 feet until spring 2001. The moratorium was to remain in place until the Mayor formulated a policy on the location and other parameters for construction of telecommunications structures

The Office of Planning ("OP") thereafter proposed changes to the Zoning Regulations regarding antenna towers and monopoles. The Commission determined that a broader review of all existing antenna regulations was necessary and asked OP to expand the review. The Commission then scheduled two roundtables to gather public comment.

Round Tables

The Commission held two roundtable sessions in February and March 2001, inviting the public at large to express their opinions and concerns about the existing antenna regulations. The roundtables were broadcast on D.C. Cablevision and consisted of approximately six hours of public testimony.

After the roundtables, the Commission invited those interested to participate in a working group with OP to work on proposed antenna and tower regulations. The Commission encouraged the legal representatives to invite technicians from the telecommunications industry to participate. The resulting group included both citizen and industry representatives. Industry firms represented by legal counsels were AT&T, Cellular One, Comcast Cable, Nextel, Sprint, Winstar, Verizon, and Verizon Wireless.

The District of Columbia Department of Consumer and Regulatory Affairs ("DCRA"), the District of Columbia Department of Health ("DOH"), and the District of Columbia Office of Cable Television ("OCT") also monitored the process and reviewed drafts of proposed regulations.

The antenna review group met on eight occasions between 2001 and 2002. On July 25, 2001, Dr. Robert F. Cleveland and Ed Maniple of the Federal Communications Commission ("FCC") Office of Engineering and Technology, and Mr. Evan Baranoff, FCC staff attorney met with the group and explained the radiofrequency ("RF") standards, the legal boundaries of local regulation of RF standards, and other exercises of local zoning regulations. In brief, the FCC staff indicated that:

- Local municipalities cannot set RF standards in excess of those established by the FCC [FCC publication: Local Official's Guide to RF, Appendix C (7) (B) (iv)];
- Local zoning regulations may not result in the prohibition of wireless service or the discrimination between service providers [FCC publication: Local Official's Guide to RF, Appendix C (7) (B) (i)];
- Local zoning regulations may be used to address the placement and construction of antennas [FCC publication: Local Official's Guide to RF, Appendix C (7) (A) (i)]; and
- FCC's RF limits apply cumulatively to all sources of RF emissions affecting a given area (i.e., collocation must consider all RF power from ALL antennas on a site) (FCC Publication: Local Official's Guide, page 6 and 8).

Set Down Proceeding and Public Hearings

OP submitted a report to the Commission on March 31, 2002. The Commission set the case down for public hearing at its regular meeting on April 9, 2002.

The Commission held a public hearing on October 17, 2002 that continued on October 21, 2002. Commission members present were Chairman Carol J. Mitten, Vice Chairman Anthony J. Hood, and Commissioners Peter G. May, John G. Parsons, and James H. Hannaham.

Purpose

The purpose of the text amendments is to accommodate the growing demand for telecommunication facilities and antennas; ensure antennas, antenna towers, and monopoles are located and constructed to minimize their visual and physical impacts on neighborhoods and the Nation's Capital; ensure compliance with FCC standards; ensure the placement, scale, and height of antennas, antenna towers, and monopoles are consistent with the intent and purposes of the various zone districts and the current § 2520 of 11DCMR (Regulation of Antennas); and require public hearing and special exception review of antenna towers and monopoles outside of the General Industrial (M) Zone District.

Description of Text Amendments (New Chapter 27)

Title 11, Zoning, DCMR, regulates antennas and towers through various chapters and sections – definitions are in §199, the purpose of the existing antennas regulations is established in § 2520 and specific zone districts regulate the particular types and uses of antennas. The text amendments create a new Chapter 27 to unify the antenna, tower, and monopole regulations into one comprehensive chapter further strengthening the purpose of the regulations, and specifying appropriate zone districts for towers and monopoles. The new Chapter 27 also establishes matter-of-right uses, special exception uses, new definitions, and submittal information; ensures a public hearing review of towers and monopoles; provides for the reasonable expansion of antennas and wireless service; and guides the placement of antennas, antenna towers, and monopoles.

Regarding antennas, the text is structured to state that:

1) All antennas (other than broadcast antennas in residence zone districts) are allowed as matter-of-right;
2) Unless exempted, such antennas must comply with certain conditions depending upon whether they are placed on a roof, mounted on a building, or mounted on the ground;
3) Any antenna which cannot comply with the applicable location-based conditions must be approved by the BZA; and
4) Any exempted antenna, which does not comply with the specific conditions applicable to its class, becomes subject to the more stringent location-based conditions.

Regarding antenna towers and monopoles the text is structured to state that:

1) Towers and monopoles are allowed as a matter-of-right up to 120 feet in the M industrial zone;
2) Towers and monopoles are allowed as a special exception in the C-2, C-3, C-4, SP, CR, W, and CM Zone Districts with height to be determined by need; and
3) Towers and monopoles may not be permitted in the residential zone districts.

Relationship to the Comprehensive Plan

The Commission found that the new Chapter 27 is not inconsistent with the District elements of the Comprehensive Plan and balances many of the major themes of the Comprehensive Plan, including "stabilizing and improving the District's neighborhoods" (§ 102), "respecting and improving the physical characteristics of the District" (§ 106), "preserving the historic character of the District" (§ 108), "reaffirming and strengthening the District's role as the economic hub of the National Capital region" (§ 109), and "promoting enhanced public safety" (§ 110). The Commission agreed that the revised regulations balance the need to encourage new telecommunication technology with the sensitive historic and residential character of the city and its image as the nation's Capital.

Telecommunications Act

The Commission concluded that the proposed antenna regulations are consistent with § 332(c)(7)(A) of the federal 1996 Telecommunications Act:

> GENERAL AUTHORITY: Except as provided in this paragraph, nothing in this Act shall limit or affect the authority of a State or local government or instrumentality thereof over decisions regarding the placement, construction, and modification of personal wireless service facilities.

Proposed Rulemaking

The Commission deferred proposed action on November 18, 2002, and requested additional information regarding compliance with the federal Telecommunications Act, the issue of monopoles and towers in the (R) Residence zones versus other zones that permit residential uses, flexibility for some antennas, options for stealth structures, and other specific questions about the proposed text. The Commission received supplemental information from the Office of the Attorney General ("OAG") for the District of Columbia and OP, made several modifications based on public testimony and information from OAG and OP and took proposed action on February 24, 2003.

Referral to NCPC

The proposed rulemaking was referred to NCPC under the terms of § 492 of the District of Columbia Charter. NCPC, by report dated February 23, 2007, found that the proposed text amendment will neither adversely affect the federal interests, nor be inconsistent with the Federal Elements of the Comprehensive Plan for the National Capital.

Comments

Two written comments were filed in response to the advertised proposed action. The law firm of Cole, Raywid and Braverman, LLP, suggested amendments to allow use of light poles and other tall structures in public spaces, clarification that proposed treatments of cabinets and shelters apply only to those located outside an existing penthouse (§§ 2704.1(f) and 2705.1(e)), and requiring that OP's report specifically identify the criteria for their recommendation.

Other comments were received from the law firm of Jackson Campbell suggesting specific changes to the text that would increase the height of ground-mounted, roof-mounted and stealth antennas, existing towers when accommodating collocation of new antenna arrays, and monopoles; would reduce OP review time; would establish a default approval after 30 days despite required BZA public hearing; and would provide for replacement of non-conforming antennas.

Final Action

The Commission took final action to adopt the rulemaking at its regularly scheduled public meeting on January 8, 2007.

The Commission accepted two clarifications regarding cabinets and shelters (§§ 2704.1(f) and 2705.1(e)) and OP review criteria (§ 2711.3), but no substantive changes were made. The Commission declined to make height adjustments suggested by the law firm of Jackson Campbell, believing that the heights proposed by the Commission are appropriate to the development standards of the zone districts and the District as a whole and that no rational had been included in the comments to justify the increased heights. Because the Commission's jurisdiction does not extend to structures in the public space, it did not consider the comments pertaining to the use of such structures.

OAG has determined that this rulemaking meets its standards of legal sufficiency.

Based on the above, the Commission finds that the proposed amendments to the Zoning Regulations are in the best interests of the District of Columbia, consistent with the purpose of the Zoning Regulations and Zoning Act, and not inconsistent with the Comprehensive Plan for the National Capital.

In consideration of the reasons set forth herein, the Commission hereby **APPROVES** the following amendments to Chapters 1, 2, 4-9, 20, and 25 and the adoption of new Chapter 27 as follows (deleted text is shown in strikethrough; new text is shown in bold except for Chapter 27):

1. CHAPTER 1. THE ZONING REGULATIONS. Amend § 199.1 to modify and add the following definitions: (New definitions are to be inserted in alphabetical order.)

Antenna - a device used to transmit or receive communications signals. This term encompasses transmitting and receiving elements, ~~and any tower and immediately related support and stabilizing elements,~~ and rotating or other directional mechanism.

Antenna, ~~commercial~~ broadcast - an antenna used for television and ~~commercial~~ radio broadcasting ~~by a profit or non-profit entity~~. The transmitting ~~broadcast~~ antenna may be affixed to a tower or to the top of a building. ~~In amplitude modulation (AM) radio service, the tower also acts as the antenna.~~

Antenna, dish - a bowl-shaped device for the reception and/or transmission of communication signals in a specific directional pattern.

Antenna, roof-mounted - any antenna and its necessary support structure, not including an antenna tower or monopole, that is attached to the roof of a building and which does not fall within the definition of a building mounted antenna.

Antenna tower - a lattice-type structure, guyed or self-supporting, used to support antennas for broadcasting, transmission, reception, or other utility equipment. Such structures shall not be deemed ground mounted antennas as that term is used in this chapter.

Antenna, building-mounted - any antenna and its necessary support structure, not including a tower or monopole, that is attached to the walls of, or integrated into a building, church steeple, cooling tower, elevator bulkhead, parapet, penthouse, fire tower, tank, water tower, or other similar structure.

Collocation - the use of a single mount, tower, monopole, or site by more than one antenna or telecommunications service provider.

Equipment cabinet or shelter - an enclosure housing only equipment related to the operation of an antenna located at the site and connected to the antenna by cable.

Monopole - a single, self-supporting pole-type structure, supporting a fixture designed to hold one or more antennas. Such structures shall not be deemed ground mounted antennas as that term is used in this chapter.

Mount - the necessary support structure to which an antenna is attached, not including antenna towers or monopoles.

Radio frequency radiation (RF radiation) - the propagation of energy through space in the form of waves or particles.

Stealth structure - a free standing structure, or an extension of a building the primary purpose of which is to enclose and screen antennas from view. Such structures may include, but are not limited to flag poles, tree poles, bell towers. Stealth antenna structures may include, but are not limited to, flag poles, light poles, fence supports, steeples, cupolas, artificial trees, and other appropriate architectural elements

Telecommunications service provider - any entity providing telecommunications services.

2. CHAPTER 2 RESIDENCE DISTRICT USE REGULATIONS

a. Add the following new § 201.2 to read:

201 USES AS A MATTER OF RIGHT (R)

201.2 ~~The following classes of antennas shall be permitted as a matter of right in an R-1 District, subject to the requirements for each class of antenna:~~

~~(a) No more than two (2) residential type UHF/VHF television and frequency modulation (FM) radio receiving Yagi antenna not to exceed eight feet (8 ft.) horizontally;~~

~~(b) No more than two (2) whip antennas not exceeding two and one-half inches (2½ in.) in diameter, with a mounted dimension no longer than twelve feet (12 ft.) in any direction, and located on a principal building;~~

~~(c) No more than one (1) residential type super high frequency antenna, not to exceed three feet (3 ft.) in any dimension, excluding the support element;~~

~~(d) One (1) or more antennas entirely enclosed on all sides within a building or by the penthouse walls or extensions of the penthouse walls. Those walls may include an opaque membrane covering a port in front of the antenna;~~

~~(e) One (1) or more antennas located entirely behind and no taller than the parapet walls; provided, that the parapet wall may include an opaque membrane covering a port in front of an antenna;~~

~~(f) One satellite earth station or one microwave terrestrial antenna with a diameter of no more than four feet (4 ft.), not taller than eight feet (8 ft.), located on the roof of a principal building, and set back from the edge of the roof a distance at least equal to its height above the roof. The principal building shall have a height of no less than fifty feet (50 ft.);~~

~~(g) A whip antenna mounted on a vehicle; and~~

~~(h) An antenna, other than a whip antenna, mounted on a vehicle located in a given square for not longer than one hundred and twenty (120) hours.~~

Antenna, subject to the standards and procedures which apply to the particular class of antenna or its location pursuant to chapter 27 of this title.

b. Delete existing §§ 201.2, 201.3, 201.4, 201.5 201.6, and 201.7 in their entirety.

c. Delete existing § 211, Antenna, Commercial Broadcast (R-1) in its entirety.

d. Delete existing § 212, Antenna, Other Than Commercial Broadcast Antenna (R-1) in its entirety.

3. CHAPTER 4 RESIDENCE DISTRICT: HEIGHT, AREA, AND DENSITY REGULATIONS

Amend § 411.15 to read as follows:

411.15 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**.

4. CHAPTER 5 SPECIAL PURPOSE DISTRICTS

a. Add the following new § 501.1 (i):

501 USES AS A MATTER OF RIGHT (SP)

501.1 (l) Antenna, subject to the standards and procedure which apply pursuant chapter 27 of this title.

b. Delete existing § 514, Antenna, Commercial Broadcast (SP) in its entirety.

c. Delete existing § 515, Antenna, Other Than Commercial Broadcast Antenna (SP) in its entirety.

d. Amend § 530 to read as follows:

530 HEIGHT

530.4 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 of that which this sections otherwise authorizes. **This section shall not be interpreted to bypass otherwise required special exception reviews.**

e. Add the following new § 535.12

534 REAR YARDS (SP)

534.12 Antennas, antenna towers and monopoles shall comply with the side yard requirements as specified in chapter 27.

f. Add the following new § 535.4:

535 SIDE YARDS (SP)

535.4 Antennas, antenna towers and monopoles shall comply with the side yard requirements as specified in chapter 27.

g. Renumber the existing § 535.4 to § 535.5

5. CHAPTER 6 MIXED USE DISTRICT (CR)

a. Amend § 601.1 to read as follows:

601 USES AS A MATTER OF RIGHT (CR)

601.1 (s) Antenna, subject to the standards and procedures which apply to the particular class of antenna pursuant to ~~§§ 201.1 through 201.7~~ **chapter 27 of this title**; and

b. Amend § 617.1 to read as follows:

617 ANTENNA TOWER AND MONOPOLE (CR)

617.1 ~~An antenna shall be permitted as a special exception in a CR District, if approved by the Board of Zoning Adjustment under § 3104 subject to the standards and procedures that apply to the particular class of antenna under §§ 211 or 212.~~ **If the Board considers that it is appropriate in furthering the objectives of the mixed use districts an antenna tower or monopole shall be permitted as a special exception in the CR district, if approved by the Board of Zoning Adjustment subject to the standards and procedures as specified in chapter 27 of this title.**

c. Amend § 630.3 to read as follows:

630 HEIGHT OF BUILDINGS OR STRUCTURES (CR)

630.3 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 of that which this sections otherwise authorizes. **This section shall not be interpreted to bypass otherwise required special exception reviews**.

d. Amend § 637.1 to read as follows:

637 SIDE YARDS (CR)

637.1 No side yard shall be required for any structure located in a CR district~~.~~**, except as may be otherwise established for ground mounted antennas.**

6. CHAPTER 7 COMMERCIAL DISTRICT (C):

a. Delete § 701.6 (g).

b. Delete § 701.7 through 701.9 in their entirety.

c. Amend § 721.2 (t) to read as follows:

721 USES AS A MATTER OF RIGHT (C-2)

721.2 (t) Radio or television broadcasting studio ~~and antenna tower in conjunction with the studio~~ **not including antenna tower or monopole**;

d. Delete §§ 741.6 and 741.7 in their entirety.

e. Amend § 770.3 to read as follows:

770 HEIGHT OF BUILDINGS OR STRUCTURES (C)

770.3 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 of that which this sections otherwise authorizes. **This section shall not be interpreted to bypass otherwise required special exception reviews.**

7. CHAPTER 8 INDUSTRIAL DISTRICT (C):

Amend § 840.2 to read as follows:

840 HEIGHT OF BUILDINGS OR STRUCTURES (C-M, M)

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 of that which this sections otherwise authorizes. **This section shall not be interpreted to bypass otherwise required special exception reviews.**

8. CHAPTER 9 WATERFRONT DISTRICTS

a. Amend § 901.1 (u) to read as follows:

901 USES AS A MATTER OF RIGHT (W)

901.1 (u) Antenna, subject to the standards and procedure which apply to the particular class of antenna pursuant to ~~§§ 201.2 through 201.7~~ **chapter 27 of this title**.

b. Amend § 914.1 to read as follows:

914 ANTENNA~~S~~ **TOWER AND MONOPOLE** (W)

914.1 If the Board considers that it is appropriate in furthering the objectives of the Waterfront Districts, an antenna **tower or monopole** shall be permitted as a special exception in the W districts, if approved by the Board of Zoning Adjustment subject to the standards and procedures as specified in chapter 27 of this title.

c. Amend § 930.2 to read as follows:

930 HEIGHT OF BUILDINGS OR STRUCTURES (W)

930.2 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 of that which this sections otherwise authorizes. **This section shall not be interpreted to bypass otherwise required special exception reviews or mayoral approvals.**

d. Delete § 2001.11 in its entirety.

e. Delete § 2503.5 in its entirety.

9. **CHAPTER 27 REGULATIONS OF ANTENNAS, ANTENNA TOWERS, AND MONOPOLES**

2700 PURPOSE

2700.1 The purposes of the regulation of antennas, antenna towers, and monopoles as a particular type of structure shall be as follows:

(a) The Zoning Commission has determined that certain antennas, antenna towers, and monopoles because of their size, shape, design, construction, or location, may affect the welfare or safety of the population and may detract from the streetscape, landscape, skyline, scenic beauty, or aesthetic interests of Washington, D.C., and its role as the Nation's Capital;

(b) The Zoning Regulations therefore regulate the size, height, construction, design, and location of antennas, antenna towers, and monopoles which have the greatest potential for adverse impact on the health, safety, and welfare of the population, and on neighborhood quality, and those which have the greatest potential for adverse impact on the scenic beauty of the Nation's Capital and the national monuments; and

(c) The principal types of antennas, antenna towers, and monopoles regulated are those that, because of their shape, size, or quantity, potentially have the greatest visual impact and include, by example, large satellite earth station antennas, certain microwave terrestrial antennas, monopoles, and antenna towers.

2700.2 Consistent with these purposes, the construction of new towers or monopoles shall only be permitted subject to certain placement and construction standards.

2701 CERTIFICATION OF FCC COMPLIANCE FOR TRANSMITTING ANTENNAS.

2701.1 No application for a building permit for a transmitting antenna may be considered completed unless it is accompanied by a certification evidencing that the proposed transmitting antenna will comply with the radio frequency ("RF") radiation guidelines adopted by the Federal Communications Commission and the health and safety regulations adopted by the Occupational Safety and Health Administration.

2701.2 The certification shall be signed by a licensed engineer qualified in RF engineering and shall include the following required information:

(a) The maximum RF radiation to be generated by the proposed antenna or antennas;

(b) The means used to determine the RF levels;

(c) The exact legal name, address of principal place of business, and telephone number of the applicant, certifying engineer, and property owner; and

(d) A site plan, and roof plan if applicable, drawn to scale showing the location of the proposed antennas and all existing antennas on the site, roof, tower, or monopole.

2702 MATTER OF RIGHT ANTENNAS

2702.1 All antennas that comply with the applicable provisions of this chapter e permitted as a mater of right in all zone districts, except broadcast antennas, which shall not be permitted in residence districts (R).

2702.2 No signs of any kind, including advertisements, may be placed on any antenna, unless necessary for the safety of the public.

2703 GROUND MOUNTED ANTENNAS

2703.1 All ground mounted antennas, except those regulated by § 2706 or exempted by § 2707, shall comply with the following conditions:

(a) In any Residence (R), Special Purpose (SP), Mixed Use (CR), or Waterfront (W) zone district only one antenna may be located per lot and may not exceed a mounted height of twelve feet (12 ft.) at its highest point above the ground on which it is located;

(b) In any Commercial (C) or Industrial (CM or M) zone district an antenna may not exceed a mounted height of twenty feet (20 ft.) at its highest point above the ground on which it is located;

(c) The antenna shall be located in either the rear yard or the side yard of the principal building on the lot, except that in the case of a corner lot no antenna may be located in the yard between the principal building structure and a street;

(d) Each part of the antenna shall be removed from all lot lines by a minimum distance of ten feet (10 ft.);

(e) Each antenna installation shall be located or screened such that its visibility is minimized to the greatest practical extent from any:

(1) Public park that is within the Central Employment Area;
(2) Street that the lot abuts;
(3) Public spaces;
(4) Navigable waterways;

(5) Historic landmarks; or
(6) National monuments.

(f) The antenna, to the greatest practical extent, shall be constructed of materials and colors that blend with the surroundings; and

(g) The antenna installation shall be as small as is practical for its intended use.

2703.2 The term "ground" as used in §§ 2703.2 (a) and (b) does not include artificially elevated terrain such as berms or planter boxes but may include graded lawns, terraced landscapes that are formed from the natural grade, and at-grade patios.

2703.3 A proposed ground mounted antenna that does not comply with the above requirements or numeric limit may be permitted through the special exception process set forth in § 2712.

2704 ROOF-MOUNTED ANTENNAS

2704.1 All roof-mounted antennas, except those regulated by § 2706 or exempted by § 2707, shall comply with the following conditions:

(a) Each part of an antenna shall be removed from each edge of the roof a minimum distance equal to its total mounted height above the roof;

(b) An antenna may not exceed a total mounted height of twelve feet (12 ft.) above the roof;

(c) Each antenna installation shall be located or screened such that its visibility from public spaces, navigable waterways, historic landmarks, and national monuments is minimized to the greatest practical extent;

(d) An antenna shall be constructed of materials and colors that blend with the surroundings to the greatest practical extent;

(e) Antennas mounted on roofs with outdoor recreation space shall be secured from unauthorized access for a minimum distance of ten feet (10 ft.), by a fence or screen at least five feet (5 ft.) in height; and

(f) Any related equipment cabinet or shelter that is not internal to the building or penthouse shall be:

(1) Constructed of materials and colors that blend with the building or penthouses; and
(2) Located to reduce its visibility from public space to the greatest practical extent.

2704.2 A proposed roof-mounted antenna that does not comply with the above requirements may be permitted through the special exception process set forth in § 2712.

2705 BUILDING-MOUNTED ANTENNAS

2705.1 All building mounted antennas, except those regulated by § 2706 or exempted by § 2707, shall comply with the following conditions:

(a) The top of the antenna shall not extend above the top of the wall, or roof of the building or structure to which it is mounted;

(b) Each antenna installation shall be located or screened such that its visibility from public spaces, navigable waterways, historic landmarks, and national monuments is minimized to the greatest practical extent;

(c) An antenna shall be constructed of materials and colors that blend with the surroundings to the greatest practical extent or shall be screened and/or painted to blend with the surface to which the antenna is attached;

(d) A building-mounted antenna placed on a roof structure with a rooftop outdoor recreation space shall be secured from unauthorized access for a minimum vertical distance of ten feet (10 ft.); and

(e) Any related equipment cabinet or shelter that is not internal to the building or penthouse shall be:

(1) Constructed of materials and colors that blend with the building or penthouses; and

(2) Located to reduce its visibility from public space to the greatest practical extent.

2705.2 A proposed building mounted antenna that does not comply with the above requirements may be permitted through the special exception process set forth in § 2712.

2706 ANTNENNAS LOCATED IN STEALTH STRUCTURES

2706.1 Antennas located in stealth structures may be permitted provided the following conditions are met:

(a) The proposed stealth design provides adequate screening of the antennas;

(b) The proposed structure is not out of scale with the subject property taking into account the size, setbacks, topography, and underlying use of the property;

(c) The primary use of the subject property is not single-family residential or a community based residential facility;

(d) The ground equipment of the proposed antenna be landscaped, fenced, or otherwise screened;

(e) The diameter of a stealth flag pole shall not exceed thirty inches (30 in.) at its base; and

(f) The height of a ground-mounted stealth structure shall be permitted, by right, to a height of eighty feet (80 ft.) in all residential zone districts and one hundred twenty feet (120 ft.) in all other zone districts.

2706.2 Any proposed antenna to be located in a stealth structure that does not comply with the above requirements may be permitted through the special exception process set forth in § 2712.

2707 EXEMPTED ANTENNAS

2707.1 The requirements of §§ 2703 through 2706 shall not apply to any antenna that is:

(a) Entirely enclosed within a building but is not the primary use within the building;

(b) Entirely enclosed on all sides by a roof structure, penthouse, or an extension of penthouse walls; this subsection shall not be interpreted to permit penthouses or roof structures in excess of the height limitations for roof structures;

(c) Located entirely behind and no taller than the parapet walls; or

(d) No taller than eighteen inches (18 in.) in height and necessary for the implementation of expanded 911 or emergency communications.

2707.2 For the purposes of § 2707.1, penthouse and parapet walls may include an opaque membrane covering a port in front of the antenna that screens the antenna, blends with the wall and allows the antenna to operate.

2707.3 The requirements of §§ 2703 through 2706 shall not apply to the following classes of antennas. The number to the right indicates the maximum number of antennas within a class that may be placed on a building or located on a lot, as is applicable:

Residential type uhf/vhf television and frequency modulation (fm) radio receiving Yagi antenna located on the roof of a principal building, not to exceed eight feet (8 ft.) horizontally.	2
Whip antennas not exceeding two and one- half inches (2½ in.) in diameter, with a mounted dimension (Except that no longer than twelve feet(12 ft.) in any direction, and there located on a principal building, shall be no numeric limit on the number whip antennas that are dedicated to the provision of emergency services to the District of Columbia.)	2
Residential type super high frequency antenna located on the roof of a principal building, not to exceed three feet (3 ft.) in any dimension, excluding the support element.	1
Dish antenna located on the roof of a principal building with a diameter of no more than four feet (4 ft.), not taller than eight feet (8 ft.) as measured from the roof surface on which it is mounted, and set back from the edge of the roof a distance at least equal to its height above the roof. The principal building shall have a height of no less than twenty-five feet (25 ft.).	1

Whip antenna mounted on a vehicle on private property. 1

2707.4 A proposed antenna which does not comply with the above requirements or numeric limitation set forth in § 2707.3 may be permitted subject to the requirements of §§ 2703 through 2706.

2708 ANTENNA MOUNTED ON ANTENNA TOWERS AND MONOPOLES

2708.1 Antennas may be mounted as a matter of right on an antenna tower or monopole that:

(a) Is located in a General Industry (M) Zone District;

(b) Was approved by, and constructed in accordance, with an order of the Board of Zoning Adjustment; or

(c) Was constructed in accordance with a building permit issued prior to December 21, 2007.

2708.2 An antenna shall not be mounted on an antenna tower or monopole if, as a result of its installation:

(a) The size of the antenna tower or monopole is increased; or

(b) The appearance of the antenna tower or monopole is changed in a manner that adversely impacts the surrounding area.

2708.3 A transmitting antenna shall not be placed lower than fifty feet (50 ft.) above the base of the antenna tower or monopole.

2708.4 An antenna proposed to be mounted on an antenna tower or monopole that does not comply with the above requirements may be permitted through the special exception process set forth in § 2712.

2709 ANTENNA TOWERS AND MONOPOLE IN GENERAL INDUSTRY DISTRICTS (M) (MATTER OF RIGHT)

2709.1 An antenna tower or monopole, either alone or in conjunction with a studio or in conjunction with the erection, alteration, or use of buildings for transmission or reception equipment, shall be permitted in General

Industry zone districts (M) as a matter of right; provided, the antenna tower or monopole complies with the conditions set forth in this section.

2709.2 An antenna tower or monopole shall be set back a minimum horizontal distance equal to its total height as measured from the ground, from any residentially developed or zoned property.

2709.3 Except as provided above, each part of an antenna tower or monopole shall be removed from each lot line a minimum distance equal to the greater of twenty feet (20 ft.); or a distance of at least one-third (1/3) of the total mounted height;

2709.4 The height of an antenna tower or monopole shall not exceed the maximum height permitted for structures plus thirty feet (30 ft.) as a matter of right. Any antenna tower or monopole in excess of this height may be permitted if approved by the Board of Zoning Adjustment subject to the conditions of § 2712, subject to § 2709.5.

2709.5 Any antenna tower or monopole with a height in excess of that permitted by the act of June 1, 1910 (36 Stat. 452), as amended, shall not be permitted, unless the height is approved by the Mayor or his or her designee.

2709.6 A written statement shall be provided agreeing to design the proposed antenna tower or monopole for at least three (3) antenna arrays and to make the array space available on a commercial basis for collocation by any telecommunications service provider whenever unused by the initial telecommunications service provider(s) or the owner.

2709.7 No signs of any kind, including advertisements, may be placed on an antenna tower or monopole, its equipment cabinet or its equipment shelter, unless necessary for the safety of the public.

2710 ANTENNA TOWERS AND MONOPOLES AS PART OF A CAMPUS PLAN

2710.1 An antenna tower or monopole may be permitted, subject to and as a part of an approved campus plan as may be required in any zone district, subject to the special exception standards of §§ 2712.1 and 2712.2.

2710.2 No advertising, special art, or campus identification may be placed on an antenna tower or monopole, its equipment cabinet, or its equipment shelter.

2711 OFFICE OF PLANNING REPORT

2711.1 The Zoning Administrator shall not take final action on an application to permit an antenna tower, a monopole, or an antenna not exempted by § 2707 until a report is received from the Office of Planning or thirty (30) days have passed since the application was submitted to the director of the Office of Planning, whichever occurs first.

2711.2 The director of the Office of Planning and the Zoning Administrator may agree to lengthen the time period indicated in § 2711.1, but in no event shall the review period exceed sixty (60) days.

2711.3 The report of the Office of Planning shall provide specific criteria and information sufficient to enable the Zoning Administrator to determine whether the antenna complies with the applicable requirements of this chapter.

2712 ANTENNAS SUBJECT TO BZA APPROVAL – GENERAL

2712.1 An application for special exception approval shall include the following written and graphic documentation:

(a) A map of area to be served by the new antenna;

(b) A map and explanation of the area being inadequately served that necessitates installation of the proposed antenna;

(c) A map indicating the location of any other antennas and related facility sites providing service by the applicant, and any antenna tower or monopole of any provider, within a two mile radius, including public space, of the proposed antenna site, with identified heights above grade;

(d) A site, and roof plan if applicable, showing all structures and antennas on site;

(e) Elevation drawings of the structure and proposed antennas from all four directions;

Zoning Adjustment in accordance with § 3104 of this title and subject to the provisions of this section, in the zone districts specified in § 2713.4.

2713.4 An antenna tower may be permitted as a special exception use in the following zone districts:

(a) C-2 through C-4 commercial districts;

(b) SP, special purpose districts;

(c) CM, commercial-light manufacturing districts;

(d) CR, mixed use district; and

(e) W, waterfront districts.

2713.5 The location, height, and other characteristics of an antenna tower or monopole shall be:

(a) Consistent with the purpose of this chapter;

(b) Designed and available for collocation by other service providers;

(c) Located so the visual impacts are minimized to the greatest practical extent, from neighboring property and adjacent public space, or appropriately screened by landscaping or other techniques to minimize the visibility of the antenna tower or monopole; and

(d) Designed and constructed to preserve existing trees to the greatest practical extent.

2713.6 If an applicant is unable to meet the requirements of § 3104, the Board of Zoning Adjustment may nevertheless grant the application if the applicant demonstrates that:

(a) There is a significant gap in wireless service;

(b) The proposed antenna tower or monopole will fill this gap;

(c) No other mounting options are available;

(d) The site is the only location from which the gap can be filled or, if other sites are available, the antenna tower or monopole at the proposed location will generate the least adverse impacts;

(e) That the height and other physical design characteristics of the proposed antenna tower or monopole do not exceed those which are minimally necessary to fill the gap in wireless service;

(f) That it is using the least intrusive means to provide wireless service necessary to fill the gap in such service; and

(g) That its proposed antenna tower and monopole, even when supporting all possible collocators, will be in full compliance with Federal Communication Commission cumulative and individual RF emission levels.

2713.7 Any antenna tower or monopole with a proposed height in excess of that permitted by the Act of June 1, 1910 (36 Stat. 452), as amended, shall not be permitted, unless the height is approved by the Mayor or his or her designee.

2713.8 An antenna tower or monopole shall be set back a minimum horizontal distance equal to its total height as measured from the ground, from any residentially developed or zoned property.

2713.9 Each part of an antenna tower or monopole shall be removed from each lot line the greater of the following:

(a) Twenty feet (20 ft.); or

(b) A distance of at least one-third (1/3) of the total constructed height.

2713.10 The Board of Zoning Adjustment shall submit the application to the D.C. Office of Planning for review and report.

2713.11 The applicant shall provide written and/or graphic documentation of the following:

(a) The area to be served by the proposed new antenna tower or monopole;

(b) The area being inadequately served;

(c) A map indicating the location of any other antenna or related facility sites providing service by the applicant within a two mile radius, including public space, of the proposed site;

(d) Other towers or monopoles within a two-mile radius of the proposed site with identified heights above grade;

(e) An explanation of why the applicant cannot collocate on an existing tower or monopole;

(f) A written statement agreeing to permit the collocation by other service providers on a commercial basis on an antenna tower;

(g) A written statement agreeing to design a proposed monopole for at least three (3) antenna arrays and to make the array space available on a commercial basis for collocation by any telecommunications service provider whenever unused by the initial telecommunications service provider(s);

(h) The topographic conditions of the area to be served;

(i) The relative height of the antenna tower or monopole to the tops of surrounding trees within one-quarter mile radius of the proposed site as they presently exist;

(j) The proposed appearance of the antenna tower or monopole, including exterior finish;

(k) A maintenance plan explaining how the property manager will control ice build-up, falling ice, and potential falling debris; the plan should also address how inoperative antennas will be removed; and

(l) Other information as may be necessary for impact assessment of the antenna tower or monopole.

2713.12 In addition to any other conditions deemed necessary to mitigate potential adverse impacts, the Board of Zoning Adjustment may impose conditions relating to operation, location, screening, collocation, or other requirements as it shall deem necessary to protect adjacent and nearby property, neighborhood character, and the image of the city as the nation's

capital, consistent with the general purpose and intent of this chapter and may require the removal of any on-site inoperable or unauthorized antenna as a condition to the approval.

2713.13 No signs of any kind, including advertisements, may be placed on an antenna tower or monopole, its equipment cabinet, or its equipment shelter, unless necessary for the safety of the public.

2714 NON-CONFORMING ANTENNAS

2714.1 A non-conforming antenna shall not be altered, modernized, or otherwise replaced, except in conformity with all provisions of this title.

2714.2 If a non-conforming antenna stops functioning, a temporary replacement antenna may be installed, subject to the following conditions:

(a) A permanent replacement antenna cannot be installed as a matter of right;

(b) The temporary installation shall be permitted for one (1) year; and

(c) The cost of the temporary replacement shall not be considered by the Board of Zoning Adjustment as a basis for approval of a special exception to install a conforming replacement.

2714.3 Within three (3) months after the nonconforming antenna stops functioning, the owner or occupant of the land or structure on which the antenna is installed shall apply for a special exception to install a longer term replacement.

2714.4 An antenna that was legally permitted prior to the date of adoption of this chapter shall be considered a conforming antenna.

2714.5 This section does not apply to antenna towers, monopoles, or antenna support structures.

2715 EQUIPMENT CABINET OR SHELTER

2715.1 If an antenna equipment cabinet or shelter is provided on the ground, it shall be subject to the following:

(a) It shall be regulated as an accessory building subject to any applicable criteria within each zone district; and

(b) It shall harmonize with the main structure in architectural character, material, and color.

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:

(a) It shall be set back from all exterior walls a distance at least equal to its height above the roof upon which it is located;

(b) It shall harmonize with the main structure in architectural character, material, and color;

(c) It shall not exceed eighteen feet six inches (18 ft. 6 in.) in height above the roof upon which it is located; and

(d) It shall be placed only on a roof of a principal structure and may not be permitted on a roof of any other roof structure or penthouse.

2715.3 The Board of Zoning Adjustment may waive one or more of the requirements of § 2715.2 for good cause shown in accordance with § 3104.

2716 REMOVAL OF ANTENNAS, ANTENNA TOWERS MONOPOLES AND RELATED EQUIPMENT

2716.1 Antennas, antenna towers, monopoles, equipment cabinets, or equipment shelters shall be removed at the expense of the property owner if they have not been used for a period of one year. A one-year extension may be granted by the Board of Zoning Adjustment to this requirement for good cause shown.

The Zoning Commission took action at its public meeting of February 24, 2003, to **APPROVE** the proposed rulemaking by a vote of **5-0-0** (Carol J. Mitten, John G. Parsons, Anthony J. Hood, Peter G. May, and James H. Hannaham to approve).

This Order was **ADOPTED** by the Zoning Commission at its public meeting of January 8, 2007, by a vote of **3-0-2** (Anthony J. Hood, Carol J. Mitten, and John G. Parsons to adopt; Michael J. Turnbull and Gregory N. Jeffries having not participated, not voting).

In accordance with the provisions of 11 DCMR § 3028.9, this Order shall become effective upon publication in the *D.C. Register*, that is, on JAN - 4 2008.

ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION

JERRILY R. KRESS, FAIA
DIRECTOR
OFFICE OF ZONING

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
AND
Z.C. ORDER NO. 968A
Z.C. Case No. 01-02
(Antenna Text Amendment)
January 8, 2007

The full text of this Zoning Commission Order is published in the "Final Rulemaking' section of this edition of the *D.C. Register*.