

## **SUBTITLE A     AUTHORITY AND APPLICABILITY**

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# CHAPTER 1 INTRODUCTION TO TITLE 11

## 100 ENACTMENT AND TITLE

- 100.1 The Zoning Commission for the District of Columbia, pursuant to authority conferred by Congress under the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code §§ 6-641.01 to 6-641.15 (formerly codified at D.C. Code §§ 5-413 to 5-432 (1994 Repl. & 1999 Supp.))) (hereafter, the Zoning Act), after public notice and hearing prescribed by law, does hereby establish and adopt these regulations and the Zoning Maps accompanying them to supersede in full the zoning regulations and the "official height, area, and use atlases" previously in effect and that are hereby repealed.
- 100.2 Title 11 is organized into a series of subtitles consisting of the Zoning Regulations and the Administrative Regulations.
- 100.3 These regulations and the Zoning Maps (as originally adopted) became effective at **[INSERT DATE HERE]**.
- 100.4 The Zoning Regulations of the District of Columbia adopted May 12, 1958, as amended, shall continue in full force and effect as follows:
- (a) With respect to any construction or occupancy authorized under this title;
  - (b) With respect to any right accrued, any duty imposed, any offense committed, any penalty incurred, or any proceeding commenced under or by virtue of the regulations repealed; and
  - (c) With respect to any civil suit, action, or proceeding pending to enforce any right under the authority of the regulations repealed, any suit, action, or proceeding shall proceed with, and conclude under, the regulations in existence when the suit, action, or proceeding was instituted.
- 100.5 The long title of the Zoning Regulations, as adopted, shall be as follows:
- REGULATIONS CONTROLLING AND RESTRICTING THE HEIGHT, BULK, NUMBER OF STORIES, AND SIZE OF BUILDINGS AND OTHER STRUCTURES, THE OPEN SPACES AROUND THEM, THE DENSITY OF POPULATION, AND THE USES OF BUILDINGS, STRUCTURES, AND LAND IN THE DISTRICT OF COLUMBIA, AND FOR SAID PURPOSES DIVIDING THE DISTRICT OF COLUMBIA INTO ZONING DISTRICTS.
- 100.6 The regulations in this title shall be known and may be cited by the short title of the "Zoning Regulations of the District of Columbia."
- 100.7 Zoning shall be designated after public hearing in the manner prescribed by the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C.

Official Code §§ 6-641.01 to 6-641.15 (formerly codified at D.C. Code §§ 5-413 to 5-432 (1994 Repl. & 1999 Supp.))).

## **101 INTERPRETATION AND APPLICATION**

- 101.1 In their interpretation and application, the provisions of this title shall be held to be the minimum requirements adopted for the promotion of the public health, safety, morals, convenience, order, prosperity, and general welfare to:
- (a) Provide adequate light and air;
  - (b) Prevent undue concentration of population and the overcrowding of land; and
  - (c) Provide distribution of population, business and industry, and use of land that will tend to create conditions favorable to transportation, protection of property, civic activity, and recreational, educational, and cultural opportunities; and that will tend to further economy and efficiency in the supply of public services.
- 101.2 The regulations in this title and the Zoning Maps are designed with consideration of the:
- (a) Character of the respective zones;
  - (b) Suitability of each zone for the uses permitted in each zone under this title; and
  - (c) Encouragement of the stability of zones and of land values in those zones.
- 101.3 The provisions of this title shall govern whenever they:
- (a) Require larger setbacks, courtyards, or other open spaces;
  - (b) Require a lower height or bulk of buildings or a smaller number of stories;
  - (c) Require a greater percentage of lot to be unoccupied; or
  - (d) Impose other higher standards than are required in or under any statute or by any other municipal regulations.
- 101.4 The provisions of any statute or other municipal regulations shall govern whenever they:
- (a) Require larger setbacks, courtyards, or other open spaces;
  - (b) Require a lower height or bulk of buildings or a smaller number of stories;
  - (c) Require a greater percentage of lot to be unoccupied; or
  - (d) Impose higher standards than are required by this title.

- 101.5 No building, structure, or premises shall be used, and no building, structure, or part of a building or structure shall be constructed, extended, moved, structurally altered, or enlarged except in conformity with this title.
- 101.6 Where a lot is divided, the division shall be effected in a manner that will not violate the provisions of this title for setbacks, courtyards, other open space, minimum lot width, minimum lot area, floor area ratio, percentage of lot occupancy, parking spaces, or loading berths applicable to that lot or any lot created.
- 101.7 If any section or provision of this title, or any boundary of any zone on the Zoning Maps adopted under this title, is decided by the courts to be unconstitutional or invalid, that decision shall not affect the validity of the regulations and the Zoning Maps as a whole or any part of the regulations or maps, other than the part determined to be unconstitutional or invalid.

## **CHAPTER 2 ADMINISTRATIVE AND ZONING REGULATIONS**

### **200 CODE ORGANIZATION**

200.1 Title 11 is organized into a series of subtitles consisting of the Zoning Regulations and the Administrative Regulations.

200.2 The Zoning Regulations consist of

- (a) Subtitle A, Authority;
- (b) Subtitle B, Definitions;
- (c) Subtitle C, General Rules;
- (d) Subtitle D, Residential House (R);
- (e) Subtitle E, Residential Flat (RF);
- (f) Subtitle F, Residential Apartment (RA);
- (g) Subtitle G, Mixed Use (MU);
- (h) Subtitle H, Neighborhood Mixed Use (NC)
- (i) Subtitle I, Downtown (D);
- (j) Subtitle J, Production, Distribution and Repair (PDR);
- (k) Subtitle K, Special Purpose;
- (l) Subtitle U, Uses; and
- (m) Subtitle W, Mapping

200.3 The Administrative Regulations consists of

- (a) Subtitle X, General Processes
- (b) Subtitle Y, Board of Zoning Adjustment; and
- (c) Subtitle Z, Zoning Commission.

200.4 The Land Use Subtitles are Subtitles D, E, F, G, H, I, J, K, U and W of this Title.

### **201 RELATIONSHIP OF GENERAL SUBTITLES TO LAND USE SUBTITLES**

201.1 The general regulations of Subtitle C are to be read in concert with the specific use category regulations of each Land Use Subtitle, including tables which identify use requirements, permissions, conditions, and exceptions specific to each zone.

201.2 The Land Use Subtitles are to be read and applied in addition to the regulations included as a part of:

- (a) Subtitle A, Authority;
- (b) Subtitle B, Definitions;
- (c) Subtitle C, General Rules; and
- (d) Subtitle U, Uses.

201.3 When a provision of a Land Use Subtitle modifies or supersedes a provision contained in Subtitle C General Rules, the Land Use Subtitle shall govern.

201.4 Where there is a conflict between a Land Use Subtitle and the regulations of Subtitle C, General Rules regarding the same regulatory topic, the Land Use Subtitle shall govern unless otherwise stated.

## **202 ZONE DISTRICTS**

202.1 For the purpose of this title the District of Columbia shall be divided into the following zone districts:

- (a) Residential (R), low density one household residential;
- (b) Residential Flat (RF), row dwelling zones for two to four units;
- (c) Residential Apartment (RA); general apartments;
- (d) Mixed Use (MU) and Neighborhood Mixed Use (NC); mixed use commercial-residential zones;
- (e) Downtown (D); central business and high density mixed use commercial-residential;
- (f) Production, Distribution and Repair (PDR); and
- (g) Special Purpose (S) zones for areas tied to a unique development plan.

202.2 Zone names are comprised of a series of characters:

- (a) The first letter(s) refers to the zone district.
- (b) The second number is a unique identifier for the specific zone.
- (c) The third letter, if applicable, specifies a residential requirement.

202.3 The zones shall be as shown, defined, and bounded on the Zoning Map.

202.4 Subtitle W, Mapping contains specific zone location information, including square and lot for certain zone districts with defined geographical boundaries.

## **203 DEVELOPMENT STANDARDS**

203.1 The Development Standards for a zone shall be determined by the combination of General Rules in Subtitle C, General Standards in each Land Use Subtitle, and zone-specific regulations as stated in the Development Standard tables and text in each Land Use Subtitle.

## **204 USE PERMISSIONS**

204.1 Use permissions are found in Subtitle U.

204.2 Subtitle B contains use definitions, use categories and use groups.

204.3 Use Permissions are indicated as follows:

- (a) Permitted (P) – All uses within the use group are permitted by-right;
- (b) Conditionally Permitted (C) – The use group, or specific uses therein, are permitted only if compliant with stated conditions;
- (c) Permitted as a Special Exception (S) – The use group, or specific uses therein, are permitted only as a special exception; or
- (d) Permitted as an Accessory Use (A) – The use group, or specific uses therein, are permitted only as accessory uses.

204.4 Unless explicitly stated, conditions or special exception requirements that limit specific uses within a use group do not preclude other uses within the same use group to be established without limitation.

## **205 ZONING MAP**

205.1 The official Zoning Map of the District of Columbia shall be the zoning map that is produced and maintained by the Office of Zoning effective on **[INSERT DATE HERE]**.

205.2 The zoning map shall be available for public access from the Office of Zoning, either on paper or electronically.

205.3 The official Zoning Map and all explanatory material on the map shall be incorporated by reference and made a part of this title.

205.4 In addition to the official Zoning Map, a printable electronic summary extract of the official Zoning map shall be prepared quarterly, published on the Office of Zoning's website, and made available to the public for printing upon request.

- 205.5 The electronic summary extract of the official Zoning Map shall not supersede the official Zoning Map, but shall be prepared for the purpose of guidance only.

## **206 ZONE BOUNDARY LINES**

- 206.1 The zone boundaries shall be shown on each section of the Zoning Map.
- 206.2 The scale of the Zoning Map and the dimensions entered on the map shall be shown on each section of the map to serve as guides.
- 206.3 Dimensioned zone boundaries showing on the Zoning Map are intended to coincide generally with lot lines. Where a dimensional boundary line coincides within one foot (1 ft.) or less with a lot line of a lot of record on **May 12, 1958**, that boundary line shall be construed to be the lot line at that location.
- 206.4 Whenever a portion of any zone is indicated as a strip paralleling an opened or unopened street, the width of this strip, unless delimited by lot lines or otherwise dimensioned, shall be assumed to be one hundred feet (100 ft.) measured at a right angle from the nearest street to which it is parallel and adjacent.
- 206.5 In all other cases, the zone boundary lines shall be intended to follow existing lot lines, the center lines of streets, alleys (including any closed streets or alleys not previously zoned), and natural water courses.
- 206.6 In the case of tidal water areas, the zone boundary shall be either the mean high water level or the established pierhead lines, whichever gives the greatest control.
- 206.7 In cases of disagreement or uncertainty existing as to the exact location of a zone boundary line, the Board of Zoning Adjustment, upon appeal filed in accordance with Subtitles Y and Z, shall determine the exact location of the boundary.

## **207 ZONE BOUNDARY LINE CROSSING A LOT**

- 207.1 When a zone boundary line divides a lot that was in single ownership on **May 12, 1958**, the permitted use and bulk of a structure located on that lot may be determined as follows:
- (a) The allowable bulk for the portion of the lot located in a lesser restrictive use zone may be increased by the bulk permitted on the portion of the lot located in a more restrictive use zone; provided, that no portion of any structure permitted on the lesser restricted portion of the lot shall be extended to the more restricted portion of the lot;
  - (b) The calculation for determining additional bulk shall include only that portion of the lot in the more restrictive use zone that is located within thirty-five feet (35 ft.) of the zone boundary line;

- (c) The additional bulk authorized in this section shall not exceed the maximum bulk permitted on the portion of the lot located in the lesser restrictive use zone;
- (d) For computation purposes, any portion of the lot located in an R-1 or R-2 zone shall be deemed to be limited to a floor area ratio (FAR) of four-tenths (0.4), any portion of the lot located in an R-3 zone shall be deemed to be limited to an FAR of six-tenths (0.6), and any portion of the lot located in an RF-1,2 or 3 (R-4) zone shall be deemed to be limited to an FAR of nine-tenths (0.9); and
- (e) Except for accessory open parking facilities permitted elsewhere in this title, the portion of the lot located in a more restrictive use zone shall be devoted only to required setbacks or courtyards or other open spaces.

207.2 If approved by the Board of Zoning Adjustment as a special exception under Y Chapter 8, the regulations applicable to that portion of a lot located in a lesser restrictive use zone that control the use, height, and bulk of structures and the use of land may be extended to that portion of the lot in a more restrictive use zone; provided:

- (a) The extension shall be limited to that portion of the lot in the more restrictive use zone but not exceeding thirty-five feet (35 ft.);
- (b) In authorizing an extension, the Board shall require compliance with A § 207.1(d);
- (c) The extension shall have no adverse effect upon the present character and future development of the neighborhood; and
- (d) The Board may impose requirements pertaining to design, appearance, screening, location of structures, lighting, or any other requirements it deems necessary to protect adjacent or nearby property.

207.3 For the purpose of interpreting this section, the zones established in this title are listed in the following groups of decreasing use restrictions:

- (a) R and MU-11 zones (R-1, R-2, R-3 and W-0);
- (b) RF, RA, MU-1, 2, 15, 16, and 23, D-2 zones, and RC-1 (R-4 through R-5E and SP);
- (c) MU-3 through 9, MU-17 through 21, MU-24 through 28, D-1, D-3 through 7, NC zones, and ARTS-1 through ARTS-3, RC-2 and RC-3 (C-1 through C-5);

(d) MU-12, 13 and 14, MU-10, 22, and 29, and ARTS-4 (W-1 through W-3 and CR); and

(e) PDR zones (CM-1 through CM-3 and M).

## **208 APPLICABILITY OF ZONING ON GOVERNMENT OWNED LAND**

208.1 The following government properties shall not be considered included in any zone:

(a) Properties owned by the Government of the United States and used for or intended to be used for a Federal public building or use;

(b) Properties owned by the Government of the District of Columbia in the Central Area (as set forth in D.C. Official Code § 2-1004(c) (formerly codified at D.C. Code § 1-2004(c) (1999 Repl.)); and

(c) Any District of Columbia governmental land or building uses that were either in existence or were substantially planned, documented and invested in prior to May 23, 1990.

208.2 Any change or expansion in the use of land or buildings or any new construction or additions to buildings on the properties referenced in § 208.1(c) of this section shall be subject to zoning.

208.3 Properties acquired by the government of the United States and properties in the Central Area acquired by the government of the District of Columbia which are intended to be used for public building or use shall become automatically unzoned.

208.4 District of Columbia public buildings in the Central Area shall be exempt from zoning but shall continue to require approval of the National Capital Planning Commission, pursuant to § 5(c) of the National Capital Planning Act of 1952, approved July 10, 1952 (66 Stat. 781, 788; D.C. Official Code §§ 2-1004(c) (formerly codified at D.C. Code § 1-2004(c) (1999 Repl.))).

208.5 All properties of the District of Columbia Government not otherwise exempt by this section shall be subject to zoning.

## **209 RESTRICTIONS ON UNZONED LAND**

209.1 No building permit or certificate of occupancy shall be issued nor proceeding instituted before the Board of Zoning Adjustment, nor shall any property in private ownership be used for any purpose until after the Zoning Commission has designated zoning for the property, except as may otherwise be authorized by the Zoning Commission as a map or text amendment.

209.2 Nothing in this chapter shall prevent either of the following:

- (a) Minor repairs and alterations to buildings and structures for which no building permit is required under the District of Columbia Construction and Building Code; or
- (b) A caretaker from residing on property formerly owned by the Government of the United States, or property in the Central Area formerly owned by the Government of the District of Columbia, for which zoning has not been designated, for the purpose of maintaining and preventing the deterioration of the premises.

## **210 AMENDMENTS**

210.1 As provided in the Zoning Act, the Zoning Commission for the District of Columbia may from time to time amend any part or all of the regulations in this title and the Zoning Maps adopted in this title.

210.2 Amendments to this title or the Zoning Maps may be proposed by any of the following:

- (a) The owner of property for which amendments are proposed;
- (b) The Zoning Commission;
- (c) The National Capital Planning Commission;
- (d) The D.C. Office of Planning;
- (e) Any other department of the District or federal government;
- (f) An Advisory Neighborhood Commission; or
- (g) Private persons.

210.3 Reserved.

210.4 The Director of the Office of Zoning shall adopt a form of application, and establish the number of copies, the required supporting data to accompany each application, and the time and manner of filing all applications.

210.5 The Director of the Office of Zoning may from time to time amend the form of application, number of copies, the required supporting data, and the time and manner of filing by announcing at a public hearing and posting a notice of the change in the Office of Zoning without any advance notice and without amending the provisions of this title.

- 210.6 Before adopting any proposed amendment to this title or the Zoning Maps, the Zoning Commission shall submit the proposed amendment to the D.C. Office of Planning for opinion or report; provided, that if the Office of Planning fails to transmit its opinion or report to the Zoning Commission within the period specified in A § 211.1, the Zoning Commission may proceed to take final action on the amendment.
- 210.7 Before adopting any proposed amendment to this title or the Zoning Maps, the Zoning Commission shall hold a public hearing on the proposed amendment in accordance with Z §§ 408 and 506.
- 210.8 Notice of the time and place of each public hearing shall be published at least thirty (30) days in advance of the hearing.
- 210.9 The hearing notice shall include a general summary of the proposed amendment to this title and the boundaries of any territory included in the proposed amendment to the Zoning Map.
- 210.10 The Zoning Commission shall give additional notice of the hearing as it deems feasible and practicable.
- 210.11 The public hearing may be adjourned from time to time. If the time and place of the adjourned hearing is publicly announced when the hearing is adjourned, no further notice of the adjourned hearing needs to be published.
- 210.12 Any amendment to this title or the Zoning Maps shall require the favorable vote of not less than a majority of the full membership of the Zoning Commission.

## **211 REFERRALS TO OTHER AGENCIES**

- 211.1 Where the provisions of this title provide for the referral of an application to another public agency for review and report, a period of forty (40) days from the date of the submission shall be allowed, unless a different period is stated specifically in this title or is requested by the Zoning Commission.
- 211.2 The period of time may be extended for an additional forty (40) days upon the mutual agreement of all agencies involved.

## **CHAPTER 3 ADMINISTRATION AND ENFORCEMENT**

### **300 AUTHORITY**

300.1 In accordance with § 11 of the Zoning Act, the Mayor shall administer and enforce the Zoning Regulations.

### **301 BUILDING PERMITS**

301.1 Except as provided in A §§ 301.5 and 301.7, a building permit shall not be issued for the proposed erection, construction, conversion, or alteration of any structure unless the plans of and for the erection, construction, conversion, or alteration fully conform to the provisions of this title.

301.2 To determine compliance with the provisions of this title, each application for a building permit shall be accompanied by any of the following that is deemed necessary:

- (a) Scaled drawings showing the:
  - (1) Exact shape, topography, and dimensions of the lot to be built upon;
  - (2) Plan, elevation, and location by dimensions of all existing and proposed structures, and the proposed use of those structures;
  - (3) Parking and loading plans and the basis for computation of those plans; and
  - (4) Other information necessary to determine compliance with this title; and
- (b) An official building plat, in duplicate, prepared by the Surveyor of the District of Columbia, upon which the applicant shall indicate in ink and to the same scale dimensions:
  - (1) All existing and proposed structures;
  - (2) The number, size, and shape of all open parking spaces, open loading berths, and approaches to all parking and loading facilities; and
  - (3) Other information necessary to determine compliance with the provisions of this title.

301.3 Except as provided in the building lot control regulations for Residence Districts in C Chapter 4 and § 5 of An Act to amend an Act of Congress approved March 2, 1893, entitled “An Act to provide a permanent system of highways in that part of the District of Columbia lying outside of cities,” and for other purposes, approved June 28, 1898 (30 Stat. 519, 520, as amended; D.C. Official Code, 2001

Ed. § 9-101.05 (formerly codified at D.C. Code § 7-114 (1995 Repl.))), a building permit shall not be issued for the proposed erection, construction, or conversion of any principal structure, or for any addition to any principal structure, unless the land for the proposed erection, construction, or conversion has been divided so that each structure will be on a separate lot of record; except a building permit may be issued for:

- (a) Buildings and structures related to a fixed right-of-way mass transit system approved by the Council of the District of Columbia;
- (b) Boathouse, yacht club, or marina that fronts on a public body of water, is otherwise surrounded by public park land, and is zoned MU-11 (W-0);
- (c) Any combination of commercial occupancies separated in their entirety, erected, or maintained in a single ownership shall be considered as one (1) structure;
- (d) Trapeze school and aerial performing arts center to be constructed pursuant to K Chapter 2;
- (e) A structure in the USN zone to be constructed on an air rights lot that is not a lot of record; and
- (f) Buildings and structures approved as part of campus or private school plan.

301.4 Any construction authorized by a permit may be carried to completion pursuant to the provisions of this title in effect on the date that the permit is issued, subject to the following conditions:

- (a) The permit holder shall begin construction work within two (2) years of the date on which the permit is issued; and
- (b) Any amendment to the permit shall comply with the provisions of this title in effect on the date the permit is amended.

301.5 If an application for a type of building permit enumerated in A § 301.6 is filed when the Zoning Commission has pending before it a proceeding to consider an amendment of the zone classification of the site of the proposed construction, the processing of the application and the completion of work pursuant to the permit shall be governed as follows:

- (a) If one of the building permit applications listed in paragraph (b) of this subsection is filed on or before the date on which the Zoning Commission makes a decision to hold a hearing on the amendment, the processing of the application and completion of the work shall be governed by A § 301.4. The application shall be accompanied by any fee that is required, and by the plans and other information required by A § 301.2, which shall be sufficiently complete to permit processing without substantial change or deviation, and by any other plans and information that are required to

permit complete review of the entire application under any applicable District of Columbia regulations;

- (b) If the application is filed after the date on which the Zoning Commission has made a decision to hold a hearing on the amendment, the application may be processed, and any work authorized by the permit may be carried to completion, only in accordance with the zone classification of the site pursuant to the final decision of the Zoning Commission in the proceeding, or if the case pending in accordance with either the most restrictive zone classification being considered for the site or, if more restrictive, the site's current zone classification;
- (c) For purposes of paragraph (c) of this section, the phrase "zone classification being considered for the site" shall include any zone district classification that the Zoning Commission has decided to notice for adoption and the zone district classification that is in effect on the date the application is filed;
- (d) The limitation in paragraph (c) of this subsection shall not prevent the issuance of a building permit that is necessary in an emergency to protect the public health or safety; and
- (e) The limitation in paragraph (c) of this subsection shall not apply to a decision to hold a hearing on an application that is filed by an owner of property to amend the text or maps of this title.

301.6 For the purposes of A §301.5 the term "building permit" refers to the following types of permits:

- (a) 12 DCMR A § 105.1.4(1) – New construction, including constructing, adding to or moving a building or structure;
- (b) 12 DCMR A § 105.1.4(7) – Erect or replace an awning, canopy, tent or other membrane structure, or similar structures as a principal structure;
- (c) 12 DCMR A § 105.1.4(9) – Erect a radio, television or other telecommunications tower as a principle structure; or
- (d) 12 DCMR A § 105.1.4(13) – Change of use or occupancy, increase in load or modification of floor layout of the building or structure.

301.7 All applications for building permits authorized by orders of the Board of Zoning Adjustment may be processed in accordance with the Zoning Regulations in effect on the date those orders are promulgated; provided, that all applications for building permits shall be accompanied by the plans and other information required by A § 301.2, which shall be sufficiently complete to permit processing without substantial change or deviation.

301.8 A building permit issued in accordance with A §§ 301.4 through 301.6 shall not be renewable if permitted to lapse, unless it is reprocessed in accordance with all provisions of this title.

## **302 CERTIFICATES OF OCCUPANCY**

302.1 Except as provided in A §§ 302.2, 302.7, 302.8, 302.9, no person shall use any structure, land, or part of any structure or land for any purpose until a certificate of occupancy has been issued to that person stating that the use complies with the provisions of this title and the D.C. Construction Code, Title 12 DCMR.

302.2 Certificates of occupancy shall not be required for the following:

- (a) Separate dwelling units in a building with multiple dwelling units, or offices in an office building, if a certificate of occupancy is issued for the entire structure; or
- (b) A single household dwelling;

302.3 Except in the case of a place of worship, all certificates of occupancy shall be conspicuously posted in or upon the premises to which they apply so that they may be seen readily by anyone entering the premises.

302.4 If a building permit application for the erection or alteration of a structure is submitted, a certificate of occupancy for that structure shall not be issued until the erection or alteration is completed to the point of availability of occupancy for use, except as provided in A § 302.5.

302.5 Where an alteration to a structure is required by law in order to effect compliance with regulations adopted pursuant to the Means of Egress Law, approved December 24, 1942 (56 Stat. 1083, as amended; D.C. Official Code §§ 6-703.03 to 6-703.09 (2001)), a certificate of occupancy for that structure may be issued prior to the alteration; provided, that the use of the structure for which a certificate of occupancy is desired, if a new use, is not one that would require a greater amount of egress or fire protection facilities under the Means of Egress Law than is required for the use existing prior to the alteration.

302.6 Any certificate of occupancy issued under the terms of A §§ 302.4 or 302.5 shall be subject to compliance with regulations adopted pursuant to the Means of Egress Law.

302.7 If an application for a certificate of occupancy is filed when the Zoning Commission has pending before it a proceeding to consider an amendment of the zone district classification of the site of the proposed use, the processing of the application, and the establishment of the occupancy, shall be governed as follows:

- (a) If the application is filed on or before the date on which the Zoning Commission makes a decision to hold a hearing on the amendment, the processing of the application and completion of the work shall be governed by A § 302.8;
- (b) Except as otherwise provided in A § 302.11, if the application is filed after the date on which the Zoning Commission has made a decision to hold a hearing on the amendment, the application may be processed, and any use authorized by the certificate of occupancy may be established and maintained only in accordance with the most restrictive provision of the zone district classifications being considered for the site or in accordance with the zone district classifications of the site pursuant to the final decision of the Zoning Commission in the proceeding;
- (c) For purposes of paragraph (b) of this subsection, the phrase "zone district classifications being considered for the site" shall include any zone district classification that the Zoning Commission has decided to notice for adoption and the zone district classification that is in effect on the date the application is filed;
- (d) The limitation in paragraph (b) of this subsection shall not apply to a decision to hold a hearing on an application to amend the Zoning Regulations or Zoning Maps filed by an owner of property pursuant to Subtitle Z of this title; and
- (e) The limitation in paragraph (b) of this subsection shall not apply to an application for a certificate of occupancy that only changes the identity of the owner or occupant and that does not change a use authorized by a certificate of occupancy that was issued either before the decision to hold a hearing on the amendment or pursuant to paragraph (a) of this subsection.

302.8 Any use that is authorized by a certificate of occupancy may be established and continued pursuant to the terms of the certificate and the provisions of this title in effect on the date that the certificate is issued, subject to the following conditions:

- (a) The use shall be designated on the certificate of occupancy in terms of a use classification that is established by this title;
- (b) The use shall be established within six (6) months of the date on which the certificate is issued; and
- (c) Any amendment of the use authorized by the certificate shall comply with the provisions of this title in effect on the date that the certificate is amended.

302.9 Applications for certificates of occupancy authorized by orders of the Board of Zoning Adjustment may be processed in accordance with the Zoning Regulations in effect on the date the orders were promulgated; provided, that all applications

for certificates of occupancy shall be accompanied by information sufficiently complete to permit processing without substantial change or deviation.

302.10 Certificates of occupancy issued in accordance with A §§ 302.7, 302.8, or 302.9 shall not be renewable if permitted to lapse unless processed in accordance with all provisions of this title.

302.11 This subsection shall govern the issuance of a certificate of occupancy for the use of a structure, or part thereof, if the establishment of the use is dependent upon the erection, construction, conversion, or alteration of the structure, or part thereof; provided:

- (a) The use authorized shall be designated as a proposed use at the time of application for the building permit on which the use depends;
- (b) A building permit shall be issued in compliance with A § 301;
- (c) At the time of issuance of the building permit that is required by this subsection, the proposed use shall be designated in a provisional certificate of occupancy; and
- (d) The use designated in the provisional certificate of occupancy shall comply with all provisions of this title in effect on the date on which the building permit required by this subsection is issued.

### **303 COMPLIANCE WITH CONDITIONS IN ORDERS**

303.1 The provisions of this section shall apply when a building permit or certificate of occupancy has been issued under the authority of an order of the Board of Zoning Adjustment or the Zoning Commission, and the order of the Board or Commission sets forth any condition to the issuance of the building permit or certificate of occupancy, or to the approval of a variance, special exception, or planned unit development.

303.2 If the order of the Board or Commission conditions the issuance of a building permit or certificate of occupancy upon the recordation of a covenant, then, for purposes of A §§ 303.4 and 303.5, each term and condition in the covenant shall be treated as a condition to the issuance of the building permit or the certificate of occupancy.

303.3 If a building permit or certificate of occupancy has been issued under the authority of a decision of the Board to approve a special exception or variance, then for purposes of A §§ 303.4 and 303.5, each condition to the approval of the special exception or variance shall be treated as a condition to the issuance of the building permit or certificate of occupancy.

303.4 Any person who owns, controls, occupies, maintains, or uses any building, structure, or land, or any part of any building, structure, or land, shall at all times

comply with any condition to the issuance of the certificate of occupancy for the building, structure, or land, or part thereof.

- 303.5 Any person who erects, constructs, reconstructs, alters, converts, owns, controls, occupies, maintains, or uses any building, structure, or any part of any building or structure shall at all times comply with any condition to the issuance of the building permit for the building, structure, or part thereof.

## **304 DEVIATIONS AND MODIFICATIONS PERMITTED BY ZONING ADMINISTRATOR'S RULING**

- 304.1 The Zoning Administrator is authorized to permit the following deviations, for building permits that are not otherwise authorized by an approved order of the Zoning Commission, if the Zoning Administrator determines that the deviation or deviations will not impair the purpose of the otherwise applicable regulations:

- (a) Deviations not to exceed two percent (2%) of the area requirements governing minimum lot area, lot occupancy, and areas of courtyards and roof structures;
- (b) Deviations not to exceed the greater of two percent (2%) or twelve (12) inches of the linear requirements governing minimum lot width;
- (c) Deviations not to exceed the greater of ten percent (10%) or twelve (12) inches of the linear requirements governing minimum rear setback, side setback, courtyard dimensions, and roof structure setback requirements, provided that all deviations of roof structure setback requirements comply with the Height Act; and
- (d) Deviations not to exceed two percent (2%) of the linear frontage limitation for eating/drinking establishments in K § 811.7.

- 304.2 The Zoning Administrator shall consider the following issues, as applicable, in determining any deviation will not impair the purpose of the otherwise applicable regulations:

- (a) The light and air available to neighboring properties shall not be unduly affected;
- (b) The privacy of neighboring properties shall not be unduly compromised;
- (c) The level of noise in the neighborhood shall not be unduly increased;
- (d) The use and enjoyment of neighboring properties shall not be unduly compromised;
- (e) No trees which would otherwise be protected by this title or other District regulation, shall be damaged or removed; and

- (f) The general scale and pattern of buildings on the subject street frontage and the neighborhood shall be maintained consistent with the development standards of this title.
- 304.3 For building permits that are authorized by an approved order of the Zoning Commission and the Board of Zoning Adjustment, the Zoning Administrator is authorized to permit the minor modifications listed in A § 304.4 if the Zoning Administrator determines that the proposed modification is consistent with the intent of the Commission in approving the application.
- 304.4 The following minor modifications to approved plans shall be permitted unless the Zoning Commission and the Board of Zoning Adjustment have already granted modifications for the same area of relief:
  - (a) Deviations not to exceed two percent (2%) in the height, percentage of lot occupancy, or gross floor area of any building that is the direct result from structural or building code requirements;
  - (b) Deviations not to exceed two percent (2%) in the number of residential units, hotel rooms, institutional rooms, or gross floor area to be used for commercial or accessory uses within the approved square footage;
  - (c) Deviations not to exceed two percent (2%) in the number of parking or loading spaces; and
  - (d) The relocation of any building within five feet (5 ft.) of its approved location, for reasons of unforeseen subsoil conditions or adverse topography.
- 304.5 For building permits that are authorized by an approved order of the Zoning Commission the Zoning Administrator shall report to the Commission any modification approved under A § 304.4. No modified building permit shall be issued for forty-five (45) days after a report is sent to the Commission. If prior to the expiration of this time period the Commission decides that the modification exceeded the scope of a minor modification the Zoning Administrator shall not approve the building permit, but shall instruct the applicant to seek a modification pursuant to the appropriate procedures of this title.
- 304.6 No building permit that requires the approval of a minor modification may be issued during a forty-five (45) day period that begins on the date of a report made pursuant to Subtitle Z unless the Zoning Commission advises the Zoning Administrator that it concurs that the modification is minor.
- 304.7 If at any time during the forty-five (45) day period the Zoning Commission finds that the modification should not have been granted, the Zoning Administrator may not approve the building permit application, but shall advise the applicant that it must seek a modification pursuant to Subtitle Z.

## **305            PENALTIES**

305.1            As provided in § 10 of the Zoning Act, the owner or person in charge of or maintaining any building or land, or any other person who erects, constructs, reconstructs, alters, converts, maintains, or uses any building or structure, or part of a building or structure, or land in violation of the provisions of this title shall, upon conviction for that violation, be punished by a fine of not more than one hundred dollars (\$100) per day for each and every day the violation continues.

305.2            The Office of the Attorney General of the District of Columbia, or any neighboring property owner or occupant who would be specially damaged by any violation of this title, may, in addition to all other remedies provided by law, institute injunction or other appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use; or to correct or abate a violation; or to prevent the occupancy of the buildings, structure, or land.

305.3            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 these sections, pursuant to Chapter 18 of Title 2 of the District of Columbia Official Code

## **CHAPTER 4 OTHER AUTHORITIES**

### **400 ARCHITECTURAL REVIEW BY COMMISSION OF FINE ARTS**

400.1 In addition to all provisions of this title, any building or structure erected after May 12, 1958, within the area of jurisdiction of the Shipstead-Luce Act, approved May 16, 1930 (46 Stat. 366, as amended; D.C. Official Code § 6-611.01 (2001) (formerly codified at D.C. Code § 5-410 (1994 Repl.))), or within the area of jurisdiction of the Old Georgetown Act, approved September 22, 1950 (64 Stat. 903, as amended; D.C. Official Code §§ 1201 to 1207 (formerly codified at D.C. Code §§ 5-1101 to 5-1105 (1994 Repl.))), shall be subject to the architectural review established by those acts and administered by the Commission of Fine Arts

### **401 COMPREHENSIVE PLAN OF THE NATIONAL CAPITAL**

401.1 The Zoning Commission is charged with preparing, adopting, and subsequently amending the Zoning Regulations and Zoning Map in a means not inconsistent with the Comprehensive Plan for the National Capital area.

### **402 CONGRESSIONAL LIMITATION ON BUILDING HEIGHTS**

402.1 In addition to any controls established in this title, all buildings or other structures shall comply with the Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452, as amended; D.C. Official Code §§ 6-601.01 to 6-601.09 (2001) (formerly codified at D.C. Code §§ 5-401 to 5-409 (1994 Repl. and 1999 Supp.)))

### **403 HEIGHTS OF BUILDINGS ADJACENT TO PUBLIC BUILDINGS**

403.1 In addition to the requirements of this title, buildings or structures adjacent to public buildings shall be subject to the “Schedule of Heights of Buildings Adjacent to Public Buildings” as adopted by the Commissioners of the District of Columbia in conformity with § 5 of the Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452, 453, as amended; D.C. Official Code § 6-601.05(f) (2001) (formerly codified at D.C. Code § 5-405(f) (1994 Repl. & 1999 Supp.))), and published as Appendix G in the Zoning Regulation, effective May 12, 1958, as amended by the Schedule of Heights of Building Amendment Act of 1998, effective April 20, 1999 (D.C. Law 12-234, 46 DCR 4147 (May 7, 1999)), reprinted as amended in A § 403 as Appendix G.

### **404 PENNSYLVANIA AVENUE PLAN**

404.1 In addition to any controls established in this title, any building or structure within the boundaries of the Pennsylvania Avenue Sub-Area delineated in Subtitle I, Chapter 6 shall be subject to the Pennsylvania Plan [Pennsylvania Avenue Development Corporation (PADC) Plan, October 1974, as amended November 1990].

**SCHEDULE OF HEIGHTS OF BUILDINGS ADJACENT TO PUBLIC BUILDINGS, AS ADOPTED BY THE COMMISSIONERS OF THE DISTRICT OF COLUMBIA, IN CONFORMITY WITH THE ACT OF CONGRESS OF JUNE 1, 1910, AND THE AMENDMENTS OF DECEMBER 30, 1910, AND MAY 20, 1912, AND AS AMENDED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, EFFECTIVE APRIL 20, 1999.**

1. On G Street, NW, between Seventh and Ninth Streets, adjacent to the Civil Service Commission Building, no building shall be erected or altered so as to be higher than the horizontal line 90 feet above the top of the curb, at the northwest corner of Eighth and G Streets, NW. Ventilation and elevator shafts shall be set back from the side lines of the building a distance equal to the height of such shafts above the adjacent roof.
2. On F Street, NW, between Seventh and Ninth Streets, adjacent to the United States Patent Office, no building shall be erected or altered so as to be higher than the horizontal line 90 feet above the top of the curb at the southwest corner of Eighth and F Streets, NW. Ventilation and elevator shafts shall be set back from the side lines of the building a distance equal to the height of such shafts above the adjacent roof.
3. On Fifteenth Street, NW, between Pennsylvania Avenue and G Street, adjacent to the Treasury Building, the cornice line or parapet wall of any building shall not extend above a horizontal line 80 feet above the top of the curb, at the southeast corner of Fifteenth and G Streets, NW, and no part of the roof of any building shall be higher than a horizontal line 95 feet above the top of said curb, excepting ventilation and elevator shafts, which shall be set back from the side lines of the building a distance equal to the height of such shafts above the adjacent roof.
4. On Seventeenth Street, NW, between New York Avenue and G Street, confronting the State Department Building, no building shall be erected or altered so as to be higher than a horizontal line 80 feet above the top of the curb at the northwest corner of Pennsylvania Avenue and Jackson Place, excepting ventilation and elevator shafts, which shall be set back from the front and side lines of said building a distance equal to the height of such shafts above the adjacent roof.
5. On Pennsylvania Avenue, NW, in squares 167 and 221, confronting the Treasury Building and the State Department Building, no building shall be erected or altered so as to be higher than a horizontal line 80 feet above the top of the curb at the northeast corner of Pennsylvania Avenue and Madison Place for buildings to be erected or altered in square 221, and the curb at the northwest corner of Pennsylvania Avenue and Jackson Place for buildings to be erected or altered in square 167, excepting ventilation and elevator shafts, which shall be set back from the front and side lines of such building a distance equal to the height of such shafts above the adjacent roof.

6. On North Capitol Street, in square 625, confronting the City Post Office Building, no building shall be erected or altered to be higher than a horizontal line 90 feet above the top of the curb at the northwest corner of North Capitol Street and Massachusetts Avenue, excepting ventilation and elevator shafts, which shall be set back from the front and side lines of said building a distance equal to the height of such shafts above the adjacent roof.
7. On the north side of Maryland Avenue, NE, between First and Second Streets, adjacent to the Supreme Court Building, no building shall be erected or altered so as to be higher than a horizontal line 60 feet above the top of the curb at the northeast corner of the intersection of First Street and Maryland Avenue, NE. Ventilation and elevator shafts shall be set back from the front and side lines of the building at a distance equal to the height of such shafts above the adjacent roof.
8. On the east side of Second Street, NE, between East Capitol Street and Constitution Avenue, adjacent to the Supreme Court Building, no building shall be erected or altered so as to be higher than a horizontal line 60 feet above the top of the curb at the northeast corner of the intersection of Second and A Streets, NE. Ventilation and elevator shafts shall be set back from the front and side lines of the building a distance equal to the height of such shafts above the adjacent roof.
9. On the east side of Third Street, SE, between East Capitol Street and Pennsylvania Avenue, adjacent to the new Library of Congress Annex, no building shall be erected or altered so as to be higher than a horizontal line 70 feet above the top of the curb at the northeast corner of Third and A Streets, SE. Ventilation and elevator shafts shall be set back from the front and side lines of the building a distance equal to the height of such shafts above the adjacent roof.
10. On the south side of Pennsylvania Avenue, SE, between Second and Third Streets, adjacent the Library of Congress Annex, no building shall be erected or altered so as to be higher than the horizontal line 70 feet above the top of the curb at the southeast corner of the intersection of Second Street and Pennsylvania Avenue, SE. Ventilation and elevator shafts shall be set back from the front and side lines of the building a distance equal to the height of such shafts above the adjacent roof.
11. On the south side of Independence Avenue, SE, between First and Second Streets, adjacent to the Library of Congress, no building shall be erected or altered so as to be higher than a horizontal line 70 feet above the top of the curb at the southeast corner of First Street and Independence Avenue, SE. Ventilation and elevator shafts shall be set back from the front and side lines of the building a distance equal to the height of such shafts above the adjacent roof.
12. On the east side of First Street, SE, between Independence Avenue and C Street, adjacent to the House Office Building, no building shall be erected or altered so as to be higher than a horizontal line 70 feet above the top of the curb at the southeast corner of First

Street and Independence Avenue, SE. Ventilation and elevator shafts shall be set back from the front and side lines of the building a distance equal to the height of such shafts above the adjacent roof.

13. On the south side of C Street, SE, between First and South Capitol Streets, SE, and between South Capitol Street and Delaware Avenue, SW, adjacent to the House Office Building and Annex, no building shall be erected or altered so as to be higher than a horizontal line 90 feet above the top of the curb at the southeast corner of South Capitol and C Streets, SE. Ventilation and elevator shafts shall be set back from the front and side lines of the building a distance equal to the height of such shafts above the adjacent roof.
14. On Fourteenth Street, SW, between D and Water Streets, confronting the Bureau of Printing and Engraving, no building shall be erected or altered so as to be higher than a horizontal line 80 feet above the top of the curb at the southeast corner of Fourteenth and D Streets, SW, excepting ventilation and elevator shafts, which shall be set back from the front and side lines of such buildings a distance equal to the height of such shafts above the adjacent roof. This restriction shall not apply to any structure that is set back from the 14th Street property line to a line that is continuous with the facade of the adjacent Bureau of Engraving and Printing annex building that is located along 14th Street, SW, between C and D Streets, SW. The height of a structure described in the preceding sentence shall be established in accordance with the requirements of An Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452, as amended; D.C. Official Code §§ 6-601.01 to 6-601.09 (formerly codified at D.C. Code §§ 5-401 to 5-409 (1994 Repl. & Supp. 1999))), and the Zoning Regulations.
15. On the north side of C Street, NE, between First and Second Streets adjacent to the Senate Office Building Annex, no building shall be erected or altered so as to be higher than a horizontal line 70 feet above the top of the curb at the northeast corner of First and C Streets, NE. Ventilation and elevator shafts shall be set back from the side lines of the building a distance equal to the height of such shafts above the adjacent roof.