

ZONING COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED RULEMAKING

Z.C. CASE NO. 14-13E

Office of Planning

(Text Amendment - Modifications and Clarifications to Penthouse and Rooftop Structure Regulations – Subtitles A-K, U, and X)

The Zoning Commission for the District of Columbia (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 § 6-641.01 (2018 Repl.), and pursuant to § 6 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c) (2016 Repl.)), hereby gives notice of its intent to amend the following provisions of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations, Zoning Regulations of 2016, to which all references are made unless otherwise specified), with the proposed text at the end of this notice:

- Subtitle A: Authority and Applicability - §§ 301, 304¹
- Subtitle B: Definitions, Rules of Measurement, and Use Categories - §§ 100, 306, 308, 310
- Subtitle C: General Rules - §§ 1001, 1003, 1006, 1008, 1304, 1305, 1307, 1311, 1315, 1500 through 1507
- Subtitle D: Residential House (R) Zones - §§ 204, 302, 303, 403, 503, 603, 703, 803, 903, 1003, 1203, 1303, 4904, 4905, 5205
- Subtitle E: Residential Flat (RF) Zones - §§ 202, 206, 303, 403, 503, 603, 4904, 4905, 5205
- Subtitle F: Residential Apartment (RA) Zones - §§ 102, 203, 204, 302, 303, 403, 503, 602, 603, 4904, 4905, 5102, 5205
- Subtitle G: Mixed-Use (MU) Zones - §§ 104, 203, 303, 403, 503, 504, 601, 603, 703, 803, 804, 903, 1102, 4903
- Subtitle H: Neighborhood Mixed Use (NC) Zones - §§ 103, 201, 203, 303, 403, 503, 603, 702, 703, 803, 903, 4902
- Subtitle I: Downtown Zones - §§ 201, 214, 503, 510, 517, 525, 532, 540, 548, 556, 563, 570, 577, 581, 618, 4902
- Subtitle J: Production, Distribution, and Repair (PDR) Zones - §§ 106, 203, 4902
- Subtitle K: Special Purpose Zones - §§ 200, 203, 215, 223, 231, 300, 305, 306, 403, 500-505, 601, 603, 611, 702, 803, 911, 920, 1000-1002, 4903, 4904
- Subtitle U: Use Permissions - §§ 100, 301
- Subtitle X: General Procedures - § 303

Setdown

On January 16, 2020, the Office of Planning (OP) filed a petition (Petition) to the Commission proposing the amendments to modify, clarify, and reorganize the requirements for penthouses and rooftop structures.

¹ Many of the provisions proposed to be amended in this text amendment are proposed to be renumbered and/or revised by Z.C. Case Nos. 20-02 and 19-27/19-27A/19-27B and will be updated to reflect any changes adopted by the Commission in those cases.

At its January 27, 2020 public meeting, the Commission requested that OP provide details of the requests for relief from the current penthouse regulations and clarify the recommendations regarding access stairwells to decks and associated small storage areas on the roofs of single-household dwellings and flats.

OP responded to the Commission's requests in a February 14, 2020, supplemental report (OP 1st Supplemental Report) that proposed additional alternative modifications to the penthouse and rooftop structure regulations.

At its February 24, 2020 public meeting, the Commission voted to set the Petition, as revised by OP's 1st Supplemental Report, with flexibility for OP to work with the Office of the Attorney General to refine the proposed text and add any conforming language as necessary, down for a public hearing.

Public Hearing

OP submitted a January 11, 2021 report (OP Hearing Report) responding to the Commission's questions at the setdown meeting as well as consultation with District agencies and members of the public. The OP Hearing Report proposed some changes but recommended against other proposed edits, including establishing a vesting provision because the Petition has been publicly noticed since the February 14, 2020, public meeting at which the Commission set it down for a public hearing.

ANC 6C filed a January 18, 2021 report (ANC 6C Report) raising the following concerns with the Petition:

- The definitions of "penthouse" and "rooftop structure" were too broad (Subtitle B § 100.2);
- The references to penthouse and rooftop structures exempt from inclusion in the calculation of floor area ratio (FAR) (proposed Subtitle C § 1505.1);
- The proposed removal of the maximum penthouse size as one third of the roof area in zones with height limits of three stories or fewer (proposed Subtitle C § 1501.1(a); and
- The Petition should be expanded to include:
 - Extending the requirement for special exception approval for a restaurant/nightclub/bar to all decks, not just penthouse roof decks as proposed by OP (proposed Subtitle C § 1501.1(c));
 - Excluding the RF zones from an exception from penthouse setback requirements to maintain intent of the recent text amendment in Z.C. Case No. 19-21 regulating changes to original architectural rooftop elements (proposed Subtitle C § 1504.2(c)-(f));
 - Regulating temporary rooftop structures;
 - Adding a new definition of "roof" or "top of roof" to encompass new roofing types; and
 - Adding a narrow exemption from screening requirements for self-contained HVAC units.

Other public comments raised the following issues and concerns with the Petition:

- Supporting proposed changes to required setback to allow larger roof decks, particularly needed during the pandemic (proposed Subtitle C § 5104.2);

- Proposing removing required setbacks for guardrail on roofs below the top roof even if extend more than ten feet from the building facade;
- Proposing to revise the Petition’s proposed increased side setbacks to not apply to buildings that front on an alley unless the other side is a zone with a lower height limit or an historic structure (proposed Subtitle C § 1504.1);
- Proposing to exempt from the new rules all building permit applications based on a zoning compliance letter from the Zoning Administrator prior to January 21, 2021, or accepted as complete by DCRA prior to June 30, 2021; and
- Opposing the Petition’s proposed change to permit limited size roof decks as a matter-of-right on detached or semi-detached dwellings, rowhouses, or flats that meet certain standards (proposed Subtitle C § 1501.1).

At its January 21, 2021 public hearing, the Commission:

- Heard testimony from OP in favor of the Petition, which responded to the written comments by:
 - Noting that it had addressed several of the issues raised by the ANC 6C Report;
 - Did not support the ANC 6C Report’s proposal to extend the requirement for special exception approval for a restaurant/nightclub/bar use to roof decks below the penthouse because this use only requires special exception approval for penthouses, which the Petition clarifies applies to penthouse roof decks;
 - Confirmed its belief that reducing the maximum penthouse height to nine feet was appropriate and did not need to be further reduced to eight feet; and
 - Justified its proposed side wall setbacks as a necessary simplification based on administration of building permits by DCRA;
- Heard from three public witnesses that represented entities that had filed comments, including ANC 6C’s authorized representative. These public witnesses reiterated their written comments as well as:
 - Proposed to lower the maximum penthouse height to eight feet, instead of the nine feet proposed in the Petition; and
 - Proposed to retain the current side wall setback if abutting building is in a zone with the same maximum matter-of-right height; and
- Asked OP to consider if screening should be required for solar panels for single or two household dwellings.

ANC 6C responded to the Commission’s questions by providing additional evidence of its concern that the Petition would require mechanical equipment that is already enclosed to be further screened and so have an unnecessary larger roof presence.

OP responded to the public comments and the Commission’s concerns in a February 18, 2021, supplemental report (OP 2nd Supplemental Report) by:

- Proposing revisions to the Petition to address some of the concerns raised by the Commission and public comments, including:
 - Although OP reiterated its belief that no screening should be required for solar panels on low density residential buildings in order to encourage installation of solar systems, it

- offered an alternative of requiring screening if the solar panels were not setback from the front façade of the building (proposed Subtitle C § 1504.2(f));
- Clarifying that the special exception for penthouses on single and two household dwellings, and on conversions of these types pursuant to Subtitle U § 3202.2 is only for the use, with relief from the size limitations available only pursuant to Subtitle C § 1506 (proposed Subtitle C § 1501.1(b));
 - Narrowing the definitions of “penthouse” and “rooftop structure” as proposed by ANC 6C (Subtitle B § 100.2);
 - Removing the reference to penthouse and rooftop structure for the exemptions from FAR calculations (proposed Subtitle C § 1505.1);
 - Proposing to remove required setbacks for guardrails on roofs below the top roof as proposed by some public comments (proposed Subtitle C § 1504.2);
 - Proposing to remove “parapet” from what is an architectural embellishment as inconsistent with the definition of “parapet” and as proposed by some public comments (proposed Subtitle B § 306.5); and
 - Proposing additional amendments consistent with the recent alley lot text amendment in Z.C. Case No. 19-13 and accessory buildings based on the recent accessory building text amendment in Z.C. Case No. 19-21 (proposed Subtitle C § 1501.1(b)); and
 - Opposing the other revisions proposed by public comments, including:
 - Retaining the proposed matter-of-right and special exception options for penthouses of limited size for single and two household dwellings and conversions of these to apartment houses because this is limited to a stairwell and small storage space to allow use of a roof (proposed Subtitle C § 1501.1);
 - Retaining the proposed nine foot maximum height as necessary to accommodate rooftop stairwells;
 - Retaining the proposed removal of side wall setbacks where the abutting building is in a zone with the same maximum height to provide more flexibility in location of stairwell penthouses; and
 - Not supporting ANC 6C’s proposals to:
 - Specifically regulate rooftop temporary structures because these are already regulated as temporary structures;
 - Add new definitions of “roof” or “roof top” to clarify the proper measuring point, because the Zoning Administrator advised that additional height measurement rules were needed;
 - Extend special exception approval for restaurant/nightclub/bar uses on roof decks below the penthouse as these uses only require special exception approval on penthouses;
 - Exempt self-enclosed HVAC systems because OP believe screening would still be appropriate, including for the examples provided by the ANC;
 - Exclude setback exemptions from the RF zones because this would be unnecessary and overly restrictive, and could limit solar installations; and
 - Retain the maximum rooftop coverage of penthouses because OP believed this provision should be deleted as an unnecessary restriction on the use of penthouses under the Height Act, since penthouse size is otherwise limited by setback and height limits.

National Capital Planning Commission (NCPC)

The Commission referred the proposed amendment to the NCPC on March 1, 2021, for the thirty (30)-day review period required by Section 492(b)(2) of the District Charter (Dec. 24, 1973, Pub. L. 93-198, title IV, § 492(b)(2)); D.C. Official Code 6-641.05 (2018 Repl.).

NCPC filed an April 1, 2021 report, stating that NCPC had determined that the Petition was not inconsistent with the federal elements of the Comprehensive Plan and would not adversely impact any identified federal interests but with the recommendation that the Commission modify the proposed Subtitle C § 1501.1(d) to require OP to refer to the U.S. Secret Service (USSS) all applications for special exception relief to authorize habitable penthouses or publicly accessible rooftop decks within the area around the White House, for consultation to mitigate USSS's security concerns.

Proposed Action

“Great Weight” to the Recommendations of OP

The Commission must give “great weight” to the recommendations of the OP pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990. ((D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.) and Subtitle Z § 405.8. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016)).)

The Commission finds persuasive OP's recommendations that the Commission adopt the Petition, with the revisions proposed by the OP 1st and 2nd Supplemental Reports but without the other changes proposed by ANC 6C and the public comments and concurs in that judgment.

“Great Weight” to the Written Report of the ANCs

The Commission must give great weight to the issues and concerns raised in the written report of an affected ANC that was approved by the full ANC at a properly noticed public meeting pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.) and Subtitle Z § 406.2. To satisfy the great weight requirement, the Commission must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. (*Metropole Condo. Ass’n v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087 (D.C. 2016).) The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978) (citation omitted).)

The Commission finds some of the issues and concerns raised by the ANC 6C Report and testimony persuasive, and concurs with OP's addressing these issues and concerns in the Petition as revised by the OP 1st and 2nd Supplemental Reports. The Commission does not find the remaining concerns persuasive and concurs with OP that:

- Temporary structures on rooftops are sufficiently regulated by the existing provisions governing temporary structures and do not require additional regulations;
- No new definition of “roof” or “roof top” is needed to clarify the current measurement of roof height;

- Restaurant/nightclub/bar uses on roof decks below penthouses are sufficiently regulated currently, and the Petition’s proposed special exception for penthouse roof decks is appropriate in ensuring that all such uses on the highest penthouse level are consistently regulated;
- Screening requirements for mechanical equipment should apply without exception for self-contained HVAC systems to ensure a consistent treatment with other mechanical equipment;
- Setback exemptions should apply in the RF zones to not disincentivize adoption of solar energy systems and since these zones have protections for original architectural rooftop elements; and
- The current limit based on the penthouse area should be deleted as unnecessary because penthouse size is sufficiently regulated by the height and setback limits.

At its February 25, 2021 public meeting, the Zoning Commission voted to take **PROPOSED ACTION** to:

- Adopt the Petition as revised by the OP 1st and 2nd Supplemental Reports and with the additional language discussed by the Commission at the February 25, 2020, public meeting on screening solar panels that are not setback from the front façade in low density residential neighborhoods (proposed Subtitle C § 1504.2(f)); and
- Authorize the publication of a Notice of Proposed Rulemaking.

Vote (February 25, 2021): 5-0-0 (Michael G. Turnbull, Peter G. May, Anthony J. Hood, Robert E. Miller, and Peter A. Shapiro)

Final rulemaking action shall be taken not less than thirty (30) days from the date of publication of this notice of proposed rulemaking in the *D.C. Register*.

All persons desiring to comment on the subject matter of this proposed rulemaking action should file comments in writing no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with Sharon Schellin, Secretary to the Zoning Commission, Office of Zoning, through the Interactive Zoning Information System (IZIS) at <https://app.dcoz.dc.gov/Login.aspx>; however, written statements may also be submitted by mail to 441 4th Street, N.W., Suite 200-S, Washington, D.C. 20001; by e-mail to zcsubmissions@dc.gov; or by fax to (202) 727-6072. Ms. Schellin may be contacted by telephone at (202) 727-6311 or by email at Sharon.Schellin@dc.gov. Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.

The complete record in the case can be viewed online at the Office of Zoning’s Interactive Zoning Information System (IZIS) at <https://app.dcoz.dc.gov/Content/Search/Search.aspx>.

PROPOSED TEXT AMENDMENT

The proposed amendments to the text of the Zoning Regulations are as follows) text to be deleted is marked in ~~bold and strikethrough~~ text; new text is shown in **bold and underline** text).

I. Proposed Amendments to Subtitle A, AUTHORITY AND APPLICABILITY

Subsection 301.5 of § 301, BUILDING PERMITS, of Chapter 3, ADMINISTRATION AND ENFORCEMENT, of Subtitle A, AUTHORITY AND APPLICABILITY, is proposed to be amended, to read as follows:

- 301.5 If an application for a type of building permit ...²
- (a) If one (1) of the building permit applications listed in Subtitle A § 301.6 ...
 - (1) Be accompanied by any fee that is required, and ...
 - (2) Be sufficiently complete to permit processing without changing ...
 - (A) Address the requirements of the Construction Codes ...
 - (B) Increase the extent to which the proposed structure ...
 - (i) Reducing lot occupancy, gross floor area, building height, penthouse **or rooftop structure** height, the number of stories or number of units; or
 - ...

Paragraph (f) of § 304.10 of § 304, DEVIATIONS AND MODIFICATIONS PERMITTED BY ZONING ADMINISTRATOR’S RULING, of Chapter 3, ADMINISTRATION AND ENFORCEMENT, of Subtitle A, AUTHORITY AND APPLICABILITY, is proposed to be amended, to read as follows:

- 304.10 For building permits that are authorized by an order of the Board of Zoning Adjustment ...
- (a) Violate any condition ...
 - ...
 - (f) Increase by more than two percent (2%) the building gross floor area, the percentage of lot occupancy, building height, or penthouse **or rooftop structure** height; provided that the permitted increase of two percent (2%) or less must be the direct result of structural or building code requirements; ...

² The use of this and other ellipses indicate that other provisions exist in the subsection being amended and that the amendment of the provisions does not signify an intent to repeal.

**II. Proposed Amendments to Subtitle B, DEFINITIONS, RULES OF MEASUREMENT,
AND USE CATEGORIES**

Subsection 100.2 of § 100, DEFINITIONS, of Chapter 1, DEFINITIONS, of Subtitle B, DEFINITIONS, RULES OF MEASUREMENT, AND USE CATEGORIES, is proposed to be amended, to read as follows:

100.2 When used in this title, the following terms and phrases shall have the meanings ascribed:

...

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

...

Nonconforming Structure: A structure lawfully existing at the time this title or any amendment to this title became effective that does not conform to all provisions of this title or such amendment, other than use, parking, loading, and penthouse **or rooftop structure** requirements. Regulatory standards that create nonconformity of structures include, but are not limited to, height of building, lot area, width of lot, floor area ratio, lot occupancy, setback, court, and residential recreation space requirements.

...

Organization, Non-Profit: An organization organized ...

Parapet: A vertical extension of a wall of a building above the roof.

Parking Area: The area of a lot ...

...

Penthouse: A structure **that has a roof and is partly to fully enclosed on all sides and is located** on or above the roof of any part of a building. ~~The term includes all structures previously regulated as “roof structures” prior to January 8, 2016 by § 411 of the 1958 Regulations. Skylights, gooseneck exhaust ducts serving kitchen and toilet ventilating systems, roof mounted antennas, and plumbing vent stacks shall not be considered as penthouses.~~

Penthouse Habitable Space: ~~An enclosed~~ **A** space within a penthouse devoted to any **residential or non-residential** use permitted in the zone, unless otherwise restricted, other than penthouse mechanical space. The term penthouse habitable space shall include, **but not be limited to, residential living space, communal recreation or amenity space, office, commercial, retail, service, eating or**

drinking establishment, or other commercial use, and associated facilities such as storage, **hallways, stairwells**, kitchen space, change rooms, ~~or~~ **and** lavatories.

Penthouse Mechanical Space: An enclosed A space within a penthouse **not** devoted to **habitable space, including but not limited to** mechanical equipment for the building, elevator over-rides, or stair towers.

...

Story: The space between the surface of two (2) successive floors in a building or between the top floor and the ceiling or underside of the roof framing as measured in accordance with § 310 of this subtitle. For the purpose of determining the maximum number of permitted stories, the term "story" shall not include cellars, ~~or~~ penthouses, **or rooftop structures**.

Story, Top: The uppermost portion of any building or structure that is used for purposes other than penthouses **or rooftop structures**. The term "top story" shall exclude architectural embellishment, **penthouse, or rooftop structure**.

...

Structure: Anything constructed, including a building, ...

Structure, Rooftop: A structure with no roof that is located on or above the roof of any part of a building, including but not limited to, unenclosed mechanical equipment (notwithstanding the definition of "structure"), screening for mechanical equipment, gooseneck exhaust ducts serving kitchen and toilet ventilating systems, roof mounted antennas, solar panels, skylights, roof hatches, trellises with unenclosed sides, trash chutes, plumbing vent stacks, rooftop platforms for swimming pools, roof decks, temporary enclosures, and guardrails.

Sustainability: To create and maintain conditions ...

...

Subsection 304.7 of § 304, RULES OF MEASUREMENT FOR GROSS FLOOR AREA (GFA), of Chapter 3, GENERAL RULES OF MEASUREMENT, of Subtitle B, DEFINITIONS, RULES OF MEASUREMENT, AND USE CATEGORIES, is proposed to be amended, to read as follows:

304.7 GFA shall include basements, elevator shafts, and stairwells at each story; floor space used for mechanical equipment (with structural headroom of six feet, six inches (6 ft., 6 in.), or more); penthouses **or rooftop structures** (unless otherwise specified); attic space (whether or not a floor has actually been laid, provided structural headroom of six feet, six inches (6 ft., 6 in.), or more); interior balconies; and mezzanines.

Section 306, HEIGHT, of Chapter 3, GENERAL RULES OF MEASUREMENT, of Subtitle B, DEFINITIONS, RULES OF MEASUREMENT, AND USE CATEGORIES, is proposed to be amended by incorporating current Subtitle C §§ 1501.3 and 1501.5 as new §§ 306.5 and 306.6; and by adding new §§ 306.7 through 306.9 to clarify the measurement for rooftop structures and penthouse heights, roof membranes, green roofs, and roof hatches and skylights, to read as follows:

306.1 In addition to the height limitations ...
...

~~€-1501.3~~ **306.5** Architectural embellishments including, but not limited to, spires, towers, domes, minarets, and pinnacles may be erected to a greater height than any limit prescribed by these regulations or the Height Act, provided the architectural embellishment does not result in the appearance of a raised building height for more than thirty percent (30%) of each the wall on which the architectural embellishment is located.

~~€-1501.5~~ **306.6** A chimney, smokestack, or flagpole may be erected to a height in excess of that authorized in the district in which it is located when required by other municipal law or regulation.

306.7 Green roofs and their membranes shall not be included in the calculation of height.

306.8 The height of a penthouse or rooftop structure shall be as measured from the building roof upon which it sits to the top of the roof or parapet of the penthouse or rooftop structure, whichever is higher. Where the building roof is not a flat roof, the height of a penthouse or rooftop structure shall be measured from the midpoint of the base of the wall of the penthouse or rooftop structure at the lowest elevation to the highest point of the roof or parapet of the penthouse or rooftop structure.

306.9 Roof hatches and skylights shall be evaluated in a closed state for measuring height and setback requirements.

Subsection 308.1 of § 308, RULES OF MEASUREMENT FOR BUILDING HEIGHT: RESIDENTIAL ZONES AS DEFINED IN SUBTITLE A § 101.9, of Chapter 3, GENERAL RULES OF MEASUREMENT, of Subtitle B, DEFINITIONS, RULES OF MEASUREMENT, AND USE CATEGORIES, is proposed to be amended, to read as follows:

308.1 The height of buildings, not including a penthouse **or rooftop structure**, in residential zones, as defined in Subtitle A § 101.9, shall be measured in accordance with the rules provided in this section. If more than one (1) of these subsections applies to a building, the rule permitting the greater height shall apply.

Subsection 310.2 of § 310, RULES OF MEASUREMENT FOR NUMBER OF STORIES, of Chapter 3, GENERAL RULES OF MEASUREMENT, of Subtitle B, DEFINITIONS, RULES OF MEASUREMENT, AND USE CATEGORIES, is proposed to be amended, to read as follows:

310.2 For the purposes of determining the maximum number of permitted stories, the term “story” shall not include cellars or penthouses **or rooftop structures.**

III. Proposed Amendments to Subtitle C, GENERAL RULES

Subsections 1001.2, 1001.5, and 1001.6 of § 1001, APPLICABILITY, of Chapter 10, INCLUSIONARY ZONING, of Subtitle C, GENERAL RULES, are proposed to be amended, to read as follows:

1001.2 Except as provided in Subtitle C § 1001.5, the requirements of this chapter shall apply to ...

(a) A “Mandatory Inclusionary Development” – a development that meets ...

(1) Is proposing new gross floor area beyond that existing at the time of the building permit application that would result in ten (10) or more new dwelling units located in a cellar or penthouse **or rooftop structure;**

...

(3) ~~Consists of a residential~~ **A building that is partially or entirely devoted to residential use and** that has penthouse habitable space pursuant to Subtitle C § ~~1500.11~~ **1507.2;** or

(b) A “Voluntary Inclusionary Development” – any single household ...

...

1001.5 ~~Except for new penthouse habitable space as described in~~ **None of the requirements of this chapter except for** Subtitle C § ~~1500.11–1507,~~ **the requirements of this chapter shall not apply to hotels, motels, or inns, boarding houses, and single room occupancy projects within a single building.**

1001.6 The requirements of this chapter shall not apply to:

(a) Any development subject to a mandatory ...

(b) ~~Boarding houses, assisted~~ **Assisted** living facilities, community residence facilities, youth residential care homes, substance abusers’ homes, **or**

community based institutional facilities, ~~or single room occupancy projects within a single building;~~

- (c) Housing developed by or on behalf ...
- ...

Subsections 1003.1 and 1003.2 of § 1003, SET-ASIDE REQUIREMENTS, of Chapter 10, INCLUSIONARY ZONING, of Subtitle C, GENERAL RULES, are proposed to be amended to read as follows:

1003.1 An Inclusionary Development which does not employ Type 1 construction as classified in Chapter 6 of the District of Columbia Building Code (Title 12-A DCMR) to construct a majority of dwelling units and which is located in a zone with a by-right height limit, exclusive of any bonus height, of fifty feet (50 ft.) or less shall set aside for Inclusionary Zoning the sum of the following:

- (a) The greater of ten percent (10%) ...
- (b) An area equal to ten percent (10%) of the penthouse habitable space as described in Subtitle C § ~~1500.11~~ 1507.2.

This set-aside requirement ...

1003.2 An Inclusionary Development which employs Type 1 construction as classified in Chapter 6 of the District of Columbia Building Code (Title 12-A DCMR) to construct a majority of dwelling units and which is located in a zone with a by-right height limit, exclusive of any bonus height, that is greater than fifty feet (50 ft.), shall set aside for Inclusionary Zoning the sum of the following:

- (a) The greater of eight percent (8%) ...
- (b) An area equal to eight percent (8%) of the penthouse habitable space as described in Subtitle C § ~~1500.11~~ 1507.2.

This set-aside requirement ...

Subsection 1006.10 of § 1006, OFF-SITE COMPLIANCE WITH INCLUSIONARY ZONING, of Chapter 10, INCLUSIONARY ZONING, of Subtitle C, GENERAL RULES, is proposed to be deleted (renumbered as Subtitle C § 1507.5).

Subsection 1008.1 of § 1008, APPLICABILITY DATE, of Chapter 10, INCLUSIONARY ZONING, of Subtitle C, GENERAL RULES, is proposed to be amended to read as follows:

1008.1 With the exception of penthouse habitable space approved by the Zoning Commission pursuant to Subtitle C § ~~1504.3~~ 1506.3, the provisions of this chapter shall not apply to any building approved by the Zoning Commission pursuant to a

planned unit development if the approved application was set down for hearing prior to March 14, 2008.

Paragraph (f) of § 1304.1 of § 1304, ROOF-MOUNTED ANTENNAS, of Chapter 13, ANTENNAS, of Subtitle C, GENERAL RULES, is proposed to be amended, to read as follows:

- 1304.1 All roof-mounted antennas, except those regulated by Subtitle C § 1306 ...
- (a) Each part of an antenna ...
...
 - (f) Any related equipment cabinet or shelter that is not internal to the building or penthouse **or rooftop structure** shall be:
 - (1) Constructed of materials and colors that blend with the building or penthouses **or rooftop structures**; and
...

Paragraphs (d) and (e) of § 1305.1 of § 1305, BUILDING-MOUNTED ANTENNAS, of Chapter 13, ANTENNAS, of Subtitle C, GENERAL RULES, are proposed to be amended, to read as follows:

- 1305.1 All building-mounted antennas, except those regulated by Subtitle C § 1306 ...
- (a) The top of the antenna ...
...
 - (d) A building-mounted antenna placed on a **penthouse or rooftop** 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 **or rooftop structure** shall be:
 - (1) Constructed of materials and colors that blend with the building or penthouses **or rooftop structures**; and
...

Subsections 1307.1 and 1307.2 of § 1307, EXEMPTED ANTENNAS, of Chapter 13, ANTENNAS, of Subtitle C, GENERAL RULES, are proposed to be amended, to read as follows:

- 1307.1 The requirements of Subtitle C §§ 1303 through 1306 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 penthouse or rooftop structure, or an extension of penthouse or rooftop structure walls or screening; this subsection shall not be interpreted to permit ~~penthouses~~ a penthouse or rooftop structure in excess of the height limitations ~~for roof structures~~;

1307.2 For the purposes of Subtitle C § 1307.1, parapets and the walls of penthouses, and rooftop structures, ~~and parapet walls~~ ~~parapets~~ 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.

Paragraph (c) of § 1311.4 of § 1314, OFFICE OF PLANNING REPORT, of Chapter 13, ANTENNAS, of Subtitle C, GENERAL RULES, is proposed to be amended, to read as follows:

1311.4 A report from the Office of Planning is not required for:

- (a) The modification of a previously permitted collocation ...
...
- (c) Installation or maintenance of antenna-related equipment cabinets and shelters and other support structures consistent with the penthouse and rooftop structure regulations.

Paragraph (d) of § 1315.2 of § 1315, EQUIPMENT CABINET OR SHELTER, of Chapter 13, ANTENNAS, of Subtitle C, GENERAL RULES, is proposed to be amended, to read as follows:

1315.2 If an antenna equipment cabinet or shelter is provided on the roof ...

- (a) It shall be set back from all exterior walls ...
...
- (d) It shall be placed only on a roof of a principal structure and may not be permitted on a roof of any other rooftop structure or penthouse.

The title of Chapter 15, PENTHOUSES, of Subtitle C, GENERAL RULES, is proposed to be amended, to read as follows:

Chapter 15, PENTHOUSES AND ROOFTOP STRUCTURES

Section 1500, PENTHOUSE GENERAL REGULATIONS, of Chapter 15, PENTHOUSES AND ROOFTOP STRUCTURES, of Subtitle C, GENERAL RULES, is proposed to be renamed and amended to clarify the applicability of penthouse and rooftop structure

requirements in § 1500.2; to delete §§ 1500.3 and 1500.4 (relocated to new § 1501); to add a new § 1500.3; to renumber current § 1500.5 as new § 1500.4; and to delete §§ 1500.6 through 1500.10 (relocated to new § 1503) and §§ 1500.11 and 1500.12 (relocated to new §§ 1507.1 and 1507.2), to read as follows:

1500 ~~PENTHOUSE GENERAL REGULATIONS~~ INTRODUCTION

1500.1 A penthouse or rooftop structure, when not in conflict with the Height Act or otherwise restricted, may be erected to a height in excess of the building height authorized by the zone district, in accordance with the conditions specified in this section.

~~1500.2 Except for compliance with the setbacks required by Subtitle C § 1502 and as otherwise noted in this section, a penthouse that is less than four feet (4 ft.) in height above a roof or parapet wall shall not be subject to the requirements of this section.~~

1500.2 The requirements of this chapter shall apply to:

(a) Penthouses; and

(b) Rooftop structures that are four feet (4 ft.) or more in height above the roof upon which they sit.

Subsections 1500.3 and 1500.4 are proposed to be renumbered as new § 1501.

1500.3 A rooftop structure that is less than four feet (4 ft.) in height above the roof upon which it sits shall not be subject to the requirements of this chapter, except it must comply with the setback requirements of Subtitle C § 1504.

~~1500.5~~ 1500.4 For the administration of this section, mechanical equipment shall not include telephone equipment, radio, television, electronic equipment of a type not necessary to the operation of the building or structure, or solar canopies on top of a parking garage. Antenna equipment cabinets and antenna equipment shelters shall be regulated by Subtitle C, Chapter 13.

Subsections 1500.6 through 1500.10 are proposed to be renumbered as new § 1503.

Subsection 1500.11 is proposed to be renumbered as new § 1507.2.

Subsection 1500.12 is proposed to be renumbered as new § 1507.1.

Section 1501 is proposed to be renumbered as new § 1502.

A new § 1501, USES, is proposed to be added to Chapter 15, PENTHOUSES AND ROOFTOP STRUCTURES, of Subtitle C, GENERAL RULES, incorporating and amending current §§ 1500.3 and 1500.4, to read as follows:

1501 **USES**

~~1500.3~~ **1501.1** A penthouse **or rooftop structure** may house mechanical equipment or any use permitted within the zone, except **that penthouse habitable space shall be restricted** as follows:

- ~~(a)~~ **Penthouse habitable space on a detached dwelling, semi-detached dwelling, rowhouse, or flat shall be limited pursuant to Subtitle C § 1500.4**
- ~~(b)~~ **Within residential zones in which the building is limited to thirty-five feet (35 ft.) or forty feet (40 ft.) maximum, the penthouse use shall be limited to penthouse mechanical space and ancillary space associated with a rooftop deck, to a maximum area of twenty percent (20%) of the building roof area dedicated to rooftop unenclosed and uncovered deck, terrace, or recreation space;**
- (a) Penthouse habitable space shall only be permitted on the roof of a single household dwelling or flat in any zone, or on the roof of an apartment house converted pursuant to Subtitle U § 320.2, if it:**
 - (1) Is not located on an alley lot;**
 - (2) Is located entirely within the matter of right permitted height for the building;**
 - (3) Is a maximum of nine feet (9 ft.) in height and one (1) story; and**
 - (4) Contains only stair or elevator access to the roof plus a maximum of thirty square feet (30 sq. ft.) of space ancillary to a rooftop deck or terrace;**
- (b) Penthouse habitable space that satisfies the requirements of paragraph (a) of this subsection except that it would be partially or entirely above the matter-of-right permitted height for the building shall only be permitted if approved by the Board of Zoning Adjustment as a special exception under Subtitle X, Chapter 9;**
- (c) A nightclub, bar, cocktail lounge, or restaurant use An eating and drinking establishment located within a penthouse habitable space, or on a rooftop deck on the highest roof of the building, shall only be**

permitted ~~as a special exception~~ if approved by the Board of Zoning Adjustment as a special exception under Subtitle X, Chapter 9; or

- (d) ~~Penthouse habitable space is not permitted on~~ On any building within an area bound by I Street, N.W., to the north; Constitution Avenue, N.W., to the south; 19th Street, N.W., to the west, and 13th Street, N.W., to the east, penthouse habitable space or a publicly accessible rooftop deck on the highest roof of the building, shall be permitted only if approved by the Board of Zoning Adjustment as a special exception under Subtitle X, Chapter 9, provided that the application includes:

(1) A statement detailing the applicant's consultation with the U.S. Secret Service to address any potential security concerns; and

(2) A certificate of service demonstrating that the applicant served the application on the U.S. Secret Service at the time of filing of the application.

~~1500.4 Notwithstanding Subtitle C § 1500.3, a penthouse, other than screening for rooftop mechanical equipment or a guard-rail required by Title 12 of the DCMR, D.C. Construction Code for a roof deck, shall not be permitted on the roof of a detached dwelling, semi-detached dwelling, rowhouse or flat in any zone; however, the Board of Zoning Adjustment may approve a penthouse as a special exception under Subtitle X, Chapter 9, provided the penthouse:~~

~~(a) Is no more than ten feet (10 ft.) in height and contains no more than one (1) story; and~~

~~(b) Contains only stair or elevator access to the roof, and a maximum of thirty square feet (30 sq. ft.) of storage space ancillary to a rooftop deck.~~

Section 1502 is proposed to be renumbered as new § 1504.

Section 1501, PENTHOUSE HEIGHT, of Chapter 15, PENTHOUSES AND ROOFTOP STRUCTURES, of Subtitle C, GENERAL RULES, is proposed to be renumbered as new § 1502 and renamed and amended, including by deleting and relocating current §§ 1501.3 and 1501.5 to new Subtitle B §§ 306.5 and 306.6, to read as follows:

~~1501~~ 1502 PENTHOUSE HEIGHT

~~1501.1~~ 1502.1 ~~Permitted penthouse~~ Except as otherwise limited in this Chapter, height and number of stories permitted for a penthouse or rooftop structure shall be as prescribed in the development standards for the applicable zone.

~~1501.2~~ 1502.2 ~~Permitted penthouse~~ The height and number of stories permitted for a penthouse or rooftop structure for a building constructed pursuant to ~~the a~~

planned unit development (PUD) shall be as prescribed for the PUD standards for the applicable zone, pursuant to Subtitle X, Chapter 3.

Section 1501.3 is proposed to be renumbered as Subtitle B § 306.5.

1501.4 1502.3 Pursuant to § 5 of the Height Act, a penthouse or rooftop structure may be erected to a height in excess of that permitted therein if authorized by the Mayor or his or her designee and subject to the setback and other restrictions stated in the Act.

Section 1501.5 is proposed to be renumbered as new Subtitle B § 306.6.

Section 1503 is proposed to be renumbered as new § 1505.

A new § 1503, ENCLOSING WALLS, of Chapter 15, PENTHOUSES AND ROOFTOP STRUCTURES, of Subtitle C, GENERAL RULES, is proposed to be added by incorporating and amending Subtitle C §§ 1500.6 through 1500.10, to read as follows:

1503 ENCLOSING WALLS

1500.6 1503.1 All penthouses and mechanical equipment shall be placed in one (1) enclosure, except that the following may be contained within a separate enclosure:

(a) Penthouse and mechanical equipment located on the roof of a public school, public recreation center, or public library; or

(b) A rooftop egress stairwell or elevator enclosure not containing any other form of habitable or mechanical space may be contained within a separate enclosure, and shall harmonize that harmonizes with the main penthouse in architectural character, material, and color.

1500.7 1503.2 When roof levels vary by one (1) floor or more or when separate elevator cores are required, there may be one (1) enclosure for each elevator core at each roof level.

1500.8 1503.3 When consisting solely of mechanical equipment, the equipment shall be enclosed fully as prescribed in Subtitle C §§ ~~1500.6 and 1500.7~~ **1503.1 and 1503.2** except that louvers may be provided. A roof over a cooling tower need not be provided when the tower is located at or totally below the top of enclosing walls.

1500.9 1503.4 ~~Enclosing walls of the~~ **Walls enclosing a penthouse or rooftop structure, including screening around uncovered mechanical equipment,** shall ~~be of equal, uniform~~ **comply with the following height requirements,** as measured from ~~the~~ **roof upon which the penthouse or rooftop structure sits, except that and shall be provided as follows:**

- (a) ~~Enclosing walls of~~ Walls enclosing penthouse habitable space ~~may shall~~ be of a single, ~~different~~ uniform height ~~than walls enclosing penthouse mechanical space;~~
- (b) ~~For a penthouse containing no habitable space, enclosing walls of~~ Walls enclosing penthouse mechanical space shall be of a single, uniform height; except that walls enclosing an elevator override may be of a ~~separate~~ different single, uniform height; ~~and~~
- (c) Required screening ~~walls~~ around uncovered mechanical equipment ~~may shall~~ be of a single, ~~different~~ uniform height; ~~and~~
- (d) Walls enclosing a stairwell penthouse need not be of a single, uniform height.

~~1500.10 Enclosing walls of a penthouse from roof level shall rise vertically to a roof, with a slope not exceeding twenty percent (20%) from vertical.~~

Section 1504 is proposed to be renumbered as new § 1506.

A new § 1504, SETBACKS, of Chapter 15, PENTHOUSES AND ROOFTOP STRUCTURES, of Subtitle C, GENERAL RULES, is proposed to be added by incorporating and amending § 1502 to clarify the setback requirements for penthouses and rooftop structures, to read as follows:

1502 1504 SETBACKS

~~1502.1~~ 1504.1 ~~Penthouses, screening around unenclosed mechanical equipment, rooftop platforms for swimming pools, roof decks, trellises, and any guard rail on a roof shall be setback from the edge of the roof upon which it is located as follows~~ Except as exempted by Subtitle C §§ 1504.2 to 1504.4, a penthouse or rooftop structure shall be set back from the edge of the roof upon which it is located, measured from a point where a line extending from the top of the roof intersects with the outside face of the building enclosing wall, as follows:

- (a) A distance equal to its height from the front building wall of the roof upon which it is located;
- (b) A distance equal to its height from the rear building wall of the roof upon which it is located;
- (c) A distance equal to its height from ~~the a~~ side building wall of the roof upon which it is located if:
 - ~~(1) In any zone, it is on a building used as a detached dwelling, semidetached dwelling, rowhouse or flat, that is:~~

- (A) ~~Adjacent to a property that has a lower or equal permitted matter-of-right building height, or~~
- (B) ~~On a corner lot adjacent to a public or private street or alley right-of-way or a public park;~~
- (1) The side building wall is not located on a property line;**
- ~~(2) In the R-1 through R-3 and RF zones, it is on any building not described in Subtitle C § 1502.1(e)(1) that is:~~
- ~~(A) Adjacent to a property that has a lower or equal permitted matter-of-right building height, or~~
- ~~(B) On a corner lot adjacent to a public or private street or alley right-of-way or a public park;~~
- (2) The side building wall faces a public or private street or alley right-of-way, or a public park;**
- ~~(3) For zones not listed in paragraph Subtitle C § 1502.1(e)(2), it is on a building not described in paragraph Subtitle C § 1502.1(e)(1) that is located adjacent to a property that has a lower permitted matter-of-right building height;~~
- (3) The adjacent property along the shared side lot line has a lower permitted matter-of-right building height; or**
- ~~(4) For any zone, it is on a building adjacent to a property improved with a designated landmark or contributing structure to a historic district that is built to a lower height regardless of the permitted matter-of-right building height; and~~
- (4) The adjacent property along the shared side lot line is improved with a building that is a designated landmark or contributing structure to a historic district with a height at least ten feet (10 ft.) below the maximum height permitted in its zone;**
- (5) (d) For any zone, it is on a A distance equal to its height from building with walls that border any all sides of an open court ~~other than closed courts on the property; or~~**
- ~~(d) A distance equal to one-half (0.5) of its height from any side building wall of the roof upon which it is located that is not adjoining another building wall and not meeting the conditions of paragraphs Subtitle C §§ 1502.1(e)(1) through (5); or~~
- (e) A distance equal to two (2) times its height from any building wall of the roof upon which it is located which fronts onto Independence Avenue, S.W. between 12th Street, S.W. and 2nd Street, S.W., or fronting onto Pennsylvania Avenue, N.W. between 3rd Street, N.W and 15th Street, N.W., subject to any **penthouse** constraints **on penthouses or rooftop structures** contained within adopted PADC Guideline documents.

1504.2 The front, rear, side, and open court setback requirements of Subtitle C §§ 1504.1(a)-(d) shall not apply to features meeting the following conditions:

- (a) Parapets;**
- (b) Roof membranes, and green roof mediums that do not exceed a height of two feet, measured from the surface of the roof upon which they sit;**
- (c) Roof decks, platforms, or other rooftop features that do not exceed a height of twelve inches (12 in.) maximum above the roof, measured from the surface of the roof upon which they sit;**
- (d) On the roof of a one family dwelling or flat, or an accessory building to those uses, solar panels not attached to or hanging down from the side of a penthouse, rooftop structure, or parapet, that do not exceed:**
 - (1) For rooftop-mounted panels, a two feet (2 ft.) maximum height above the roof, measured from the surface of the roof upon which they sit; or**
 - (2) For parapet-mounted panels, a one foot (1 ft.) maximum height above the top of the side wall parapet.**
- (e) On the roof of any other building or structure, solar panels not attached to or hanging down from the side of a penthouse, rooftop structure, or parapet, that do not exceed a height of four feet (4 ft.) maximum above the roof, measured from the surface of the roof upon which they sit;**
- (f) Notwithstanding paragraphs (d) and (e) of this subsection, solar panels not set back one-to-one (1:1) from the front building wall shall provide visual screening, consisting of non-reflective solid or translucent panels fixed below the underside of the panels, of any structural members supporting the solar panels along the edge of the solar panel system facing the front façade of the building;**
- (g) Guardrails required by the building code for a deck not located on the highest roof of a building;**
- (h) Guardrails or privacy fences on the top of a one story accessory building, provided the total height of the building including the guardrail or privacy fence does not exceed the height permitted for an accessory building in the zone; or**
- (i) Mechanical equipment or screening for mechanical equipment on the roof of a public school, recreation center, or library.**

1504.3 **In addition to the exemptions of Subtitle C § 1504.2, the rear, side, and open court setback requirements of Subtitle C §§ 1504.1(b)-(d) shall not apply to features meeting the following conditions:**

- (a) **For a rooftop deck on the highest roof a building, guardrails required by the building code that do not exceed a height of three feet, six inches (3 ft., 6 in.), when the façade is not facing a public or private street or a public park;**
- (b) **Gooseneck exhaust ducts serving kitchen and toilet ventilating systems, roof mounted antennas, trash chutes, plumbing vent stacks, HVAC compressors, or other similar mechanical equipment;**
- (c) **Roof hatches that do not exceed a height of four feet (4 ft.), measured from the surface of the roof upon which they sit; or**
- (d) **Skylights that do not exceed a height of two feet (2 ft.), measured from the surface of the roof upon which they sit.**

1504.4 **The open court setback requirements of Subtitle C § 1504.1(d) shall further not apply to a rooftop access stairwell or elevator.**

Section 1505 is proposed to be renumbered as new § 1507.

Section 1503, PENTHOUSE AREA, of Chapter 15, PENTHOUSES AND ROOFTOP STRUCTURES, of Subtitle C, GENERAL RULES, is proposed to be renumbered as new § 1505 and renamed and amended, to read as follows:

1503 **1505** **PENTHOUSE ENCLOSED AREA**

1503.1 **1505.1** For the purposes of calculating floor area ratio for the building, the aggregate square footage of all ~~penthouse~~ levels or stories **of a penthouse** measuring six and one-half feet (6.5 ft.) or more in height shall be included in the gross floor area contributing to the total floor area ratio permitted for the building, with the following exceptions:

- (a) Penthouse mechanical space;
- (b) Communal recreation or amenity space for residents or **non-residential** tenants of the building;
- (c) Penthouse habitable space, other than as exempted in ~~Subtitle C § 1503.1(b)~~ **paragraph (b) of this subsection**, with a floor area ratio of less than four-tenths (0.4); and

- (d) Mechanical equipment owned and operated as a ~~penthouse~~ by a fixed right-of-way public mass transit system.

~~1503.2~~ **1505.2** For any property fronting directly onto Independence Avenue, S.W. between 12th and 2nd Streets, S.W., penthouses ~~Penthouses~~ or rooftop structures, including any combination of mechanical or habitable ~~penthouse~~ space, shall not exceed one-third (1/3) of the total roof area upon which the penthouse ~~or rooftop structure~~ sits ~~in the following areas:~~

- ~~(a) — Zones or portions of zones where there is a limitation on the number of stories of three (3) or less; and~~
- ~~(b) — Any for any property fronting directly onto Independence Avenue, S.W. between 12th Street, S.W. and 2nd Street, S.W.~~

~~1503.3~~ **1505.3** Areas within curtain walls without a roof used where needed to give the appearance of one (1) structure shall not be counted in floor area ratio, but shall be computed as a penthouse to determine if they comply with Subtitle C § ~~1503.2~~ **1505.2**.

Section 1504, RELIEF FROM PENTHOUSE REQUIREMENTS, of Chapter 15, PENTHOUSES AND ROOFTOP STRUCTURES, of Subtitle C, GENERAL RULES, is proposed to be renumbered as new § 1506 and renamed and amended, to read as follows:

1504 1506 RELIEF FROM PENTHOUSE OR ROOFTOP STRUCTURE REQUIREMENTS

~~1504.1~~ **1506.1** Relief ~~to from~~ the requirements of Subtitle C §§ ~~1500.6 – 1500.10 and 1502~~ **1503 and 1504** may be granted as a special exception by the Board of Zoning Adjustment subject to:

- (a) The special exception requirements of Subtitle X, Chapter 9;**
- (b) The applicant’s demonstration that reasonable effort has been made for the housing for mechanical equipment, stairway, and elevator penthouses to be in compliance with the required setbacks; and**
- (c) The applicant’s demonstration of at least one (1) of the following considerations:**
 - ~~(a)~~ **(1)** The strict application of the requirements of this chapter would result in construction that is unduly restrictive, prohibitively costly, or unreasonable, or is inconsistent with building codes;
 - ~~(b)~~ **(2)** The relief requested would result in a better design of the **penthouse or rooftop** structure without appearing to be an extension of the building wall;

(e) ~~(3)~~ The relief requested would result in a **penthouse or rooftop** structure that is visually less intrusive; **or**

~~(d)~~ **(4)** Operating difficulties such as meeting D.C. Construction Code, Title 12 DCMR requirements for roof access and stairwell separation or elevator stack location to achieve reasonable efficiencies in lower floors; size of Subtitle ~~C-115~~ **C § 115** building lot; or other conditions relating to the building or surrounding area make full compliance unduly restrictive, prohibitively costly or unreasonable;

~~(e)~~ **Every effort has been made for the housing for mechanical equipment, stairway, and elevator penthouses to be in compliance with the required setbacks; and**

~~(f)~~ **The intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely.**

~~1504.2~~ **1506.2** Relief shall not be granted to the setback requirements of Subtitle C § ~~1502~~ **1504** for a penthouse or rooftop structure located on a building constructed to the maximum height allowed by the Height Act.

~~1504.3~~ **1506.3** A request to add penthouse habitable space to a building approved by the Zoning Commission **prior to January 8, 2016**, as a planned unit development or through the design review ~~requirements of Subtitle X, Chapters 3 and 6 prior to January 8, 2016 process~~, may be filed as a minor modification for placement on the Zoning Commission consent calendar, pursuant to Subtitle Z § 703, provided:

~~(a)~~ **The penthouse does not require relief from any other penthouse regulation;**

~~(a)~~ **(b)** The item shall not be placed on a consent calendar for a period of thirty (30) days minimum following the filing of the application; and

~~(b)~~ **(c)** The Office of Planning shall submit a report with **a** recommendation a minimum of seven (7) days in advance of the meeting.

~~1504.4~~ **1506.4** In addition to meeting the **special exception** requirements of Subtitle X, ~~Chapter 9 § 901~~, an application made pursuant to Subtitle C § ~~1504.3~~ **1506.3**, shall include:

(a) A fully dimensioned copy of the approved and proposed roof-plan and elevations as necessary to show the changes;

(b) A written comparison of the proposal to the Zoning Regulations; and

- (c) Verification that the affected Advisory Neighborhood Commission has been notified of the request.

Section 1505, AFFORDABLE HOUSING PRODUCTION REQUIREMENT GENERATED BY CONSTRUCTION ON A NONRESIDENTIAL BUILDING OF PENTHOUSE HABITABLE SPACE, of Chapter 15, PENTHOUSES AND ROOFTOP STRUCTURES, of Subtitle C, GENERAL RULES, is renumbered as new § 1507 and renamed and amended by deleting §§ 1505.1 and 1505.2, adding new §§ 1507.1 and 1507.2, revising § 1505.3, deleting §§ 1505.4 through 1505.15, revising § 1505.16 and adding new §§ 1507.6 through 1507.8 and 1507.10, to read as follows:

~~1505~~ 1507 AFFORDABLE HOUSING PRODUCTION REQUIREMENT GENERATED BY CONSTRUCTION ON ~~A~~ NONRESIDENTIAL BUILDING OF PENTHOUSE HABITABLE SPACE

~~1505.1~~ ~~The owner of a non-residential building proposing to construct penthouse habitable space shall produce or financially assist in the production of residential uses that are affordable to low-income households, as those households are defined by Subtitle C, Chapter 10, in accordance with this section.~~

~~1505.2~~ ~~The requirements of this section shall be triggered by the filing of a building permit application that, if granted, would result in the provision of penthouse habitable space exceeding one thousand square feet (1,000 sq. ft.).~~

~~1500.12~~ 1507.1 ~~For non-residential buildings, the~~ The construction of penthouse habitable space, ~~including all forms of habitable space, on a building that is devoted to entirely non-residential or lodging use shall trigger the affordable housing requirement as set forth in Subtitle C § 1505 shall contribute funds to the Housing Trust Fund in accordance with the procedures and requirements of Subtitle C §§ 1507.6 to 1507.10.~~

~~1500.11~~ 1507.2 ~~For residential buildings, the~~ The construction of penthouse habitable space, ~~except penthouse habitable space devoted exclusively to communal rooftop recreation or amenity space for the primary use of residents of the residential building, on a building that is partially or entirely devoted to residential use~~ is subject to the Inclusionary Zoning set-aside provisions of Subtitle C, Chapter 10, Inclusionary Zoning, at 50% MFI in accordance with Subtitle C §§ 1003.7 and 1507.5, except for:

(a) Penthouse space on a multi-family building devoted exclusively to communal rooftop recreation or communal amenity space for the primary use of residents of the building; or

(b) Penthouse space on the roof of single household dwelling or flat.

- ~~1505.3~~ 1507.3 The requirements of this section shall not apply to properties owned by the District government or the Washington Metropolitan Area Transit Authority and used for government or public transportation purposes.
- ~~1505.4~~ ~~Qualifying residential uses include single dwelling units, flats, multiple dwelling units, including apartment houses, rooming houses, and boarding houses, but shall not include transient accommodations, all as defined in Subtitle B.~~
- ~~1505.5~~ ~~If the owner constructs or rehabilitates the required housing, the provisions of Subtitle C §§ 1505.6 through 1505.11 shall apply.~~
- ~~1505.6~~ ~~The gross square footage of new or rehabilitated housing shall equal:~~
- ~~(a) Not less than one-fourth (1/4) of the proposed penthouse habitable space if the required housing is situated on an adjacent property;~~
 - ~~(b) Not less than one-third (1/3) of the proposed penthouse habitable space if the location of the required housing does not comply with paragraph (a) of this subsection, but is nonetheless within the same Advisory Neighborhood Commission area as the property, or if it is located within a Housing Opportunity Area as designated in the Comprehensive Plan; and~~
 - ~~(c) Not less than one-half (0.5) of the proposed penthouse habitable space if the location of the required housing is other than as approved in paragraphs (a) and (b) above.~~
- ~~1505.7~~ ~~If the housing is provided as new construction, the average square feet of gross floor area per dwelling or per apartment unit shall be not less than eight hundred and fifty square feet (850 sq. ft.); provided, that no average size limit shall apply to rooming houses, boarding houses, or units that are deemed single-room occupancy housing~~
- ~~1505.8~~ ~~For purposes of this section, the word “rehabilitation” means the substantial renovation of housing for sale or rental that is not habitable for dwelling purposes because it is in substantial violation of the Housing Regulations of the District of Columbia (14 DCMR).~~
- ~~1505.9~~ ~~In the case of rental housing, the required housing shall be maintained as affordable dwelling units for not less than twenty (20) years beginning on the issuance date of the first certificate of occupancy for the residential development, or if for a single dwelling unit, the effective date of the first lease agreement.~~
- ~~1505.10~~ ~~If the required housing is provided for home ownership, it shall be maintained as affordable dwelling units for not less than twenty (20) years beginning on the issuance date of the first certificate of occupancy for the residential development, or if for a single dwelling unit, the effective date of the first sales agreement.~~
- ~~1505.11~~ ~~No certificate of occupancy shall be issued for the owner’s building to permit the occupancy of penthouse habitable space until a certificate of occupancy has been issued for the housing required pursuant to this section, or in the case of a residential unit for which a certificate of occupancy is not required, prior to the final building inspection.~~

~~1505.12~~ — ~~If the owner instead chooses to contribute funds to a housing trust fund, as defined in Subtitle B, the provisions of Subtitle C §§ 1505.13 through 1505.16 shall apply.~~

~~1505.13~~ — ~~The contribution shall be equal to one-half (0.5) of the assessed value of the proposed penthouse habitable space.~~

~~1505.14~~ — ~~The assessed value shall be the fair market value of the property as indicated in the property tax assessment records of the Office of Tax and Revenue no earlier than thirty (30) days prior to the date of the building permit application to construct the penthouse habitable space.~~

~~1505.15~~ — ~~The contribution shall be determined by dividing the assessed value per square foot of land that comprises the lot upon which the building is or will be located by the maximum permitted non-residential FAR and multiplying that amount times the penthouse habitable space to be constructed.~~

1507.4 The penthouse habitable space set-aside shall be calculated as gross floor area but shall mean “net residential floor area” for purposes of Subtitle C § 1003.

~~1006.10~~ 1507.5 Inclusionary units resulting from the set-aside required for penthouse habitable space as described in Subtitle C § ~~1500.11~~ 1507.2 shall be provided within the building, except that the affordable housing requirement may be achieved by providing a contribution to ~~a housing trust fund~~ the Housing Production Trust Fund; consistent with the provisions of Subtitle C §§ ~~1505.13 through 1505.16~~ 1507.6 through 1507.10, ~~except provided~~ that the calculation of ~~Subtitle C § 1505.15~~ the contribution shall be based on the maximum permitted residential FAR; when:

- (a) The new penthouse habitable space is being provided as an addition to an existing building which is not otherwise undergoing renovations or additions that would result in a new or expanded Inclusionary Zoning requirement within the building;
- (b) The penthouse habitable space is being provided on an existing or new building not otherwise subject to Inclusionary Zoning requirements; or
- (c) The building is not otherwise required to provide Inclusionary Units for eligible households earning equal to or less than fifty percent (50%) of the MFI if the amount of penthouse habitable space would result in a net floor area set-aside less than the net floor area of the smallest dwelling unit within the building.

1507.6 When the construction of penthouse habitable space results in a contribution to the Housing Trust Fund, the contribution amount and timing shall be in accordance with the provisions of Subtitle C §§ 1507.7 through 1507.10.

1507.7 The required amount of the Housing Trust Fund contribution shall be determined as follows:

- (a) First multiply the land area upon which the building is or will be located by the maximum by-right permitted FAR for the proposed use of the building to determine the maximum permitted gross square feet of development on the site;
- (b) Second, divide the assessed value of land upon which the building is or will be located by the maximum permitted gross square feet of development to determine a value per square foot;
- (c) Third, multiply the value per square foot by the total gross floor area of the penthouse habitable space to be constructed; and
- (d) Finally, multiply this sum by fifty percent (50%) to determine the contribution.

1507.8 For the purposes of the calculation of Subtitle C § 1507.7:

- (a) The land area upon which the building is or will be located shall include the entire record lot or combination of all tax and air lots comprising the entire record lot regardless of ownership;
- (b) The maximum permitted by-right FAR shall be based on the existing or, when applicable, the approved zoning designations, and shall not include any bonuses, credits, zoning relief or flexibility granted, planned unit development density increases, or grandfathered conditions, and shall be determined as follows:
 - (1) For an entirely non-residential or lodging building, the maximum permitted non-residential FAR shall be used, regardless of the use of the habitable space;
 - (2) For buildings that are partially or entirely devoted to residential use, the maximum permitted residential FAR shall be used, regardless of the use of the habitable space;
 - (3) For the Downtown (D) zones, if not otherwise specified, the maximum permitted residential FAR permitted shall be 10 FAR; and
 - (4) In R and RF zones, projects with a maximum permitted lot occupancy of 40% or less shall use an equivalent of 1.2 FAR, and projects with a maximum permitted lot occupancy of 60% shall use an equivalent of 1.8 FAR;

- (c) The assessed value of land shall be the fair market value of the land as indicated in the property tax assessment records of the Office of Tax and Revenue (OTR), at the time the payment is due to be submitted pursuant to Subtitle C §§ 1507.9 and 1507.10; and**
- (d) The total gross floor area of the penthouse habitable space shall be determined as follows:**
- (1) For entirely non-residential or lodging buildings, all forms of habitable space shall be included in the total gross floor area of the penthouse habitable space;**
 - (2) For buildings that are partially or entirely devoted to residential use, all forms of habitable space, except space devoted exclusively to communal rooftop recreation or amenity space for the primary use of residents of the building, shall be included in the total gross floor area of the penthouse habitable space; and**
 - (3) For purposes of (i) and (ii), total gross floor area of the penthouse habitable space includes enclosed hallways, vestibules, washrooms, and other service space serving any habitable or non-habitable space.**

1505.16 1507.9 Except as described in Subtitle C § 1507.10, not less than one-half (0.5) of the required total financial contribution shall be made prior to the issuance of a building permit for construction of the penthouse habitable space, and the balance of the total financial contribution shall be made prior to the issuance of a certificate of occupancy for any or all of the building's penthouse habitable space.

1507.10 **Where the proposed penthouse habitable space or the building on which it is located is subject to a Planned Unit Development, or is located on property for which the Zoning Commission approved a Map Amendment no more than five (5) years prior to the filing of the building permit application to construct the penthouse or building, the Housing Production Trust Fund payment required pursuant to Subtitle C §§ 1507.6 through 1507.8, shall be as follows:**

- (a) Prior to the issuance of a building permit for any penthouse space, not less than one-half (1/2) of the required total Housing Production Trust Fund contribution shall be made in accordance with the calculation of Subtitle C § 1507.7, based on the fair market value of the land as indicated in the property tax assessment records of the OTR at the time that the building permit application is accepted as complete by the Department of Consumer and Regulatory Affairs; and**
- (b) Prior to the issuance of a certificate of occupancy for any penthouse space, the calculations of Subtitle C § 1507.7 shall be repeated based on**

the fair market value of the land as indicated in the property tax assessment records of the OTR at the time of certificate of occupancy issuance; and the balance of the required total contribution, minus the amount paid pursuant to the contribution of Subtitle C § 1507.7(a), shall be made.

IV. Proposed Amendments to Subtitle D RESIDENTIAL HOUSE (R) ZONES

The title of § 204, PENTHOUSES, of Chapter 3, RESIDENTIAL HOUSE ZONES – R-1-A, R-1-B, R-2, AND R-3, of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, is proposed to be amended, to read as follows:

204 PENTHOUSES AND ROOFTOP STRUCTURES

Subsection 204.1 of § 204, PENTHOUSES AND ROOFTOP STRUCTURES, of Chapter 3, RESIDENTIAL HOUSE ZONES – R-1-A, R-1-B, R-2, AND R-3, of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, is proposed to be amended, to read as follows:

204.1 Penthouses **or rooftop structures** shall be subject to the regulations of Subtitle C, Chapter 15 and the height and story limitations specified in each zone of this subtitle.

Subsection 302.2 of § 302, DENSITY – LOT DIMENSIONS, of Chapter 3, RESIDENTIAL HOUSE ZONES – R-1-A, R-1-B, R-2, AND R-3, of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, is proposed to be amended, to read as follows:

302.2 Except for new penthouse habitable space as described in Subtitle C § ~~1500.11~~ **1507.2**, the Inclusionary Zoning requirements and modifications of Subtitle C, Chapter 10, shall not apply to the R-1-A and R-1-B zones, or to that portion of the Anacostia Historic District within the R-3 zone.

Subsections 303.1 and 303.2 of § 303, HEIGHT, of Chapter 3, RESIDENTIAL HOUSE ZONES – R-1-A, R-1-B, R-2, AND R-3, of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, are proposed to be amended, to read as follows:

303.1 The maximum permitted building height, not including the penthouse **or rooftop structure**, in the R-1-A, R-1-B, R-2, and R-3 zones shall not exceed forty feet (40 ft.) and the number of stories shall not exceed three (3) stories.

303.2 The maximum permitted height of a penthouse **or rooftop structure**, except as permitted in Subtitle D § 303.3 and ~~as prohibited on~~ **as limited in Subtitle C § 1501, on** the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat, ~~in Subtitle C § 1500.4~~ shall be twelve feet (12 ft.) and one (1) story.

Subsections 403.1 and 403.2 of § 403, HEIGHT, of Chapter 4, TREE AND SLOPE PROTECTION RESIDENTIAL HOUSE ZONES – R-6 AND R-7, of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, are proposed to be amended, to read as follows:

- 403.1 The maximum permitted building height, not including the penthouse or rooftop structure, in the R-6 and R-7 zones shall be forty feet (40 ft.) and three (3) stories.
- 403.2 The maximum permitted height of a penthouse or rooftop structure, except as permitted in Subtitle D § 403.3 and ~~as prohibited on~~ as limited in Subtitle C § 1501 on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat, ~~in Subtitle C § 1500.4~~ shall be twelve feet (12 ft.) and one (1) story.

Subsections 503.1 and 503.2 of § 503, HEIGHT, of Chapter 5 FOREST HILLS TREE AND SLOPE RESIDENTIAL HOUSE ZONES – R-8, R-9, AND R-10, of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, are proposed to be amended, to read as follows:

- 503.1 The maximum permitted building height, not including the penthouse or rooftop structure, in the R-8, R-9, and R-10 zones shall be forty feet (40 ft.) and three (3) stories.
- 503.2 The maximum permitted height of a penthouse or rooftop structure, except as permitted in Subtitle D § ~~207.6~~ 503.3 and ~~as prohibited on~~ as limited in Subtitle C § 1501 on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat, ~~in Subtitle C § 1500.4~~ shall be twelve feet (12 ft.) and one (1) story.

Subsections 603.1, 603.2, and 603.3 of § 603, HEIGHT, of Chapter 6, NAVAL OBSERVATORY/TREE AND SLOPE RESIDENTIAL HOUSE ZONE – R-11, of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, are proposed to be amended to read, to read as follows:

- 603.1 The maximum permitted building height, not including the penthouse or rooftop structure, in the R-11 zone shall be forty feet (40 ft.) and three (3) stories.
- 603.2 An institutional building or structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse or rooftop structure, provided that the building or structure shall be removed from all lot lines of its lot a distance of not less than one foot (1 ft.) for each foot of height in excess of that authorized in the zone in which it is located.
- 603.3 The maximum permitted height of a penthouse or rooftop structure, except as permitted in Subtitle D § ~~207.6~~ 603.4 and ~~as prohibited on~~ as limited in Subtitle C § 1501 on the roof of a detached dwelling, semi-detached dwelling, rowhouse or flat, ~~in Subtitle C § 1500.4~~ shall be twelve feet (12 ft.) and one (1) story.

Subsections 703.1, 703.2, and 703.3 of § 703, HEIGHT, of Chapter 7, NAVAL OBSERVATORY RESIDENTIAL HOUSE ZONES – R-12 AND R-13, of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, are proposed to be amended, to read as follows:

- 703.1 The maximum permitted building height, not including the penthouse or rooftop structure, in the R-12 and R-13 zones shall be forty feet (40 ft.) and three (3) stories.
- 703.2 An institutional building or structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse or rooftop structure, provided that the building or structure shall be removed from all lot lines of its lot a distance of not less than one foot (1 ft.) for each foot of height in excess of that authorized in the zone in which it is located.
- 703.3 The maximum permitted height of a penthouse or rooftop structure, except as permitted in Subtitle D § ~~207.6~~ **703.4** and ~~as prohibited on~~ as limited in Subtitle C § 1501 on the roof of a detached dwelling, semi-detached dwelling, rowhouse or flat, ~~in Subtitle C § 1500.4~~ shall be twelve feet (12 ft.) and one (1) story.

Subsections 803.1 and 803.2 of § 803, HEIGHT of Chapter 8, WESLEY HEIGHTS RESIDENTIAL HOUSE ZONES – R-14 AND R-15, of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, are proposed to be amended, to read as follows:

- 803.1 The maximum permitted building height, not including the penthouse or rooftop structure, in the R-14 and R-15 zones shall be forty feet (40 ft.) and three (3) stories.
- 803.2 The maximum permitted height of a penthouse or rooftop structure, except as permitted in Subtitle D § ~~207.6~~ **803.3** and ~~as prohibited on~~ as limited in Subtitle C § 1501 on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat, ~~in Subtitle C § 1500.4~~ shall be twelve feet (12 ft.) and one (1) story.

Subsections 903.1 and 903.2 of § 903, HEIGHT, of Chapter 9, SIXTEENTH STREET HEIGHTS RESIDENTIAL HOUSE ZONE – R-16, of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, are proposed to be amended, to read as follows:

- 903.1 The maximum permitted building height, not including the penthouse or rooftop structure, in the R-16 zone shall be forty feet (40 ft.) and three (3) stories.
- 903.2 The maximum permitted height of a penthouse or rooftop structure, except as permitted in Subtitle D § ~~207.6~~ **903.3** and ~~as prohibited on~~ as limited in Subtitle C § 1501 on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat, ~~in Subtitle C § 1500.4~~ shall be twelve feet (12 ft.) and one (1) story.

Subsections 1003.1 and 1003.2 of § 1003, HEIGHT, of Chapter 10, FOGGY BOTTOM RESIDENTIAL HOUSE ZONES – R-17, of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, are proposed to be amended, to read as follows:

- 1003.1 The maximum permitted building height, not including the penthouse or rooftop structure, in the R-17 zone shall be forty feet (40 ft.) and three (3) stories.
- 1003.2 The maximum permitted height of a penthouse or rooftop structure, except as permitted in Subtitle D § ~~207.6~~ 1003.3 and ~~as prohibited on~~ as limited in Subtitle C § 1501 on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat, ~~in Subtitle C § 1500.4~~ shall be twelve feet (12 ft.) and one (1) story.

Subsections 1203.1, 1203.5, and 1203.6 of § 1203, HEIGHT, of Chapter 12, GEORGETOWN RESIDENTIAL HOUSE ZONES – R-19 AND R-20, of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, are proposed to be amended, to read as follows:

- 1203.1 The maximum permitted building height, not including the penthouse or rooftop structure, in the R-19 and R-20 zones shall be thirty-five feet (35 ft.) and three (3) stories.
- 1203.5 In the R-19 and R-20 zones, any pergola, railing, or similar rooftop structure or penthouse shall not exceed the permitted building height by more than four feet (4 ft.).
- 1203.6 An institutional building or structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse or rooftop structure, provided that the building or structure shall be removed from all lot lines of its lot a distance of not less than one foot (1 ft.) for each foot of height in excess of that authorized in the zone in which it is located.

Subsections 1303.1 and 1303.2 of § 1303, HEIGHT, of Chapter 13, CHAIN BRIDGE ROAD/UNIVERSITY TERRACE RESIDENTIAL HOUSE ZONE – R-21, of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, are proposed to be amended, to read as follows:

- 1303.1 The maximum permitted building height, not including the penthouse or rooftop structure, in the R-21 zone shall be forty feet (40 ft.) and three (3) stories.
- 1303.2 The maximum permitted height of a penthouse or rooftop structure, except as permitted in Subtitle D § ~~207.6~~ 1303.3 and ~~as prohibited on~~ as limited in Subtitle C § 1501 on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat, ~~in Subtitle C § 1500.4~~ shall be twelve feet (12 ft.) and one (1) story.

Section 4904, HEIGHT, of Chapter 49, PUBLIC SCHOOLS, of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, is proposed to be amended, to read as follows:

4904.1 Public schools shall be permitted a maximum building height, not including the penthouse or rooftop structure, as set forth in the following table:

TABLE D § 4904.1: MAXIMUM HEIGHT FOR PUBLIC SCHOOLS

Zone	Maximum Height, Not Including Penthouse or Rooftop Structure (ft.)	Maximum Number of Stories
R-11, R-12, R-13	40	No Limit
All other R zones	60	No Limit

The title of § 4905, PENTHOUSES, of Chapter 49, PUBLIC SCHOOLS, of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, is proposed to be amended, to read as follows:

4905 PENTHOUSE OR ROOFTOP STRUCTURES

Section 4905, PENTHOUSES OR ROOFTOP STRUCTURES, of Chapter 49, PUBLIC SCHOOLS, of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, is proposed to be amended, to read as follows:

4905.1 Penthouses or rooftop structures shall be subject to the regulations of Subtitle C, Chapter 15, and to the height and story limitations specified in each zone of this subtitle; provided that public schools shall be permitted a mechanical penthouses to a maximum height of eighteen feet, six inched (18 ft., 6 in.) or the permitted mechanical penthouse height in the zone, whichever is greater.

Section 5205, SPECIAL EXCEPTION FROM PENTHOUSE AND ROOTOP STRUCTURE PROVISIONS, of Chapter 52, RELIEF FROM REQUIRED DEVELOPMENT STANDARDS (R), of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, is proposed to be amended, to read as follows:

5205.1 The Board of Zoning Adjustment may grant special exception relief from the penthouse or rooftop structure requirements of this subtitle pursuant to Subtitle C §§ ~~1504.1 and 1504.2~~ 1506.

V. Proposed Amendments to Subtitle E RESIDENTIAL HOUSE (RF) ZONES

The title of § 202, PENTHOUSES, of Chapter 2, GENERAL DEVELOPMENT STANDARDS (RF), of Subtitle E, RESIDENTIAL HOUSE (RF) ZONES, is proposed to be amended, to read as follows:

202 PENTHOUSES OR ROOFTOP STRUCTURES

Subsection 202.1 of § 202, PENTHOUSES OR ROOFTOP STRUCTURES, of Chapter 2, GENERAL DEVELOPMENT STANDARDS (RF), of Subtitle E, RESIDENTIAL HOUSE (RF) ZONES, is proposed to be amended, to read as follows:

202.1 Penthouses **or rooftop structures** shall be subject to the regulations of Subtitle C, Chapter 15 and the height and story limitations specified in each zone of this subtitle.

The title of § 206, ROOF TOP OR UPPER FLOOR ADDITIONS, of Chapter 2, GENERAL DEVELOPMENT STANDARDS (RF), of Subtitle E, RESIDENTIAL HOUSE (RF) ZONES, is proposed to be amended, to read as follows:

206 ~~ROOF TOP~~ ROOFTOP OR UPPER FLOOR ADDITIONS

Subsection 206.3 of § 206, ROOFTOP OR UPPER FLOOR ADDITIONS, of Chapter 2, GENERAL DEVELOPMENT STANDARDS (RF), of Subtitle E, RESIDENTIAL HOUSE (RF) ZONES, are proposed to be amended, to read as follows:

206.3 Any new building, alteration, or addition to an existing building, including a **rooftop** structure or penthouse (the “proposed construction”) at the time of application, shall not significantly interfere with the operation of a solar energy system on an abutting property, unless agreed to by the owner of the solar energy system, subject to ...

Subsections 303.1 and 303.4 through 303.7 of § 303, HEIGHT, of Chapter 3, RESIDENTIAL FLAT ZONE – RF-1, of Subtitle E, RESIDENTIAL HOUSE (RF) ZONES, are proposed to be amended, to read as follows:

303.1 Except as specified elsewhere in this section, the maximum permitted height of buildings or structures and any additions thereto not including the penthouse **or rooftop structure**, in an RF-1 zone shall not exceed thirty-five feet (35 ft.) and three (3) stories.

...

303.4 The maximum permitted building height for a place of worship, not including the penthouse **or rooftop structure**, in the RF-1 zone shall be sixty feet (60 **feet ft.**) and three (3) stories.

303.5 A building or other structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse **or rooftop structure**; provided that the building or structure shall be removed from all lot lines of its lot for a distance equal to the height of the building or structure above the adjacent natural or finished grade, whichever is the lower in elevation.

303.6 An institutional building or structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse **or rooftop structure**; provided, that the building or structure shall be removed from all lot lines of its lot a distance of not less than one foot (1 ft.) for each foot of height in excess of that authorized in the zone in which it is located.

303.7 The maximum permitted height of a penthouse or rooftop structure, except as permitted in Subtitle E § 303.8, and ~~as prohibited on~~ as limited in Subtitle C § 1501 on the roof of a detached dwelling, semi-detached dwelling, rowhouse, ~~or~~ flat, or apartment house converted pursuant to Subtitle U § 320.2, in Subtitle C § 1500.4, shall be twelve feet (12 ft.) and one (1) story.

Subsections 403.1 and 403.7 of § 403, HEIGHT, of Chapter 4, DUPONT CIRCLE RESIDENTIAL FLAT ZONE – RF-2, of Subtitle E, RESIDENTIAL HOUSE (RF) ZONES, are proposed to be amended, to read as follows:

403.1 Except as specified elsewhere in this section, the maximum permitted height of buildings or structures and any additions thereto, not including the penthouse or rooftop structure, in an RF-2 zone shall not exceed thirty-five feet (35 ft.) and three (3) stories.

...

403.4 The maximum permitted building height for a place of worship, not including the penthouse or rooftop structure, in the RF-2 zone shall be sixty feet (60 ft.) and three (3) stories.

403.5 A building or other structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse or rooftop structure; provided that the building or structure shall be removed from all lot lines of its lot for a distance equal to the height of the building or structure above the adjacent natural or finished grade, whichever is the lower in elevation.

403.6 An institutional building or structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse or rooftop structure; provided, that the building or structure shall be removed from all lot lines of its lot a distance of not less than one foot (1 ft.) for each foot of height in excess of that authorized in the zone in which it is located.

403.7 The maximum permitted height of a penthouse or rooftop structure, except as permitted in Subtitle E § 403.8, and ~~as prohibited on~~ as limited in Subtitle C § 1501 on the roof of a detached dwelling, semi-detached dwelling, rowhouse, ~~or~~ flat, or apartment house converted pursuant to Subtitle U § 320.2, in Subtitle C § 1500.4, shall be twelve feet (12 ft.) and one (1) story.

Subsections 503.1 and 503.5 of § 503, HEIGHT, of Chapter 5, CAPITOL PRECINCT RESIDENTIAL FLAT ZONE – RF-3, of Subtitle E, RESIDENTIAL HOUSE (RF) ZONES, are proposed to be amended, to read as follows:

503.1 In the RF-3 zone, building height, not including the penthouse or rooftop structure, shall be measured from the existing grade at the mid-point of the building façade of the principal building that is closest to a street lot line.

503.5 The height of buildings or structures as specified in Subtitle E §§503.2 through 503.4 may be exceeded in the following instances:

- (a) A spire, tower, dome, minaret, pinnacle, ~~or~~ penthouse, or rooftop structure may be erected to a height in excess of that authorized in Subtitle E §§ 503.2 through 503.4; and
- (b) The maximum permitted height of a penthouse or rooftop structure, except as permitted in Subtitle E § 503.6, and ~~as prohibited on~~ as limited in Subtitle C § 1501 on the roof of a detached dwelling, semi-detached dwelling, row dwelling, ~~or~~ flat, or apartment house converted pursuant to Subtitle U § 320.2, in Subtitle C § 1500.4, shall be ten feet (10 ft.) and one (1) story.

Subsections 603.1, 603.2, and 603.4 through 603.6 of § 603, HEIGHT, of Chapter 6 RESIDENTIAL FLAT ZONE – RF-4 AND RF-5, of Subtitle E, RESIDENTIAL HOUSE (RF) ZONES, are proposed to be amended, to read as follows:

603.1 Except as specified elsewhere in this section, the The maximum permitted building height in the RF-4, not including the penthouse or rooftop structure, shall be forty feet (40 ft.) and three (3) stories.

603.2 The maximum permitted building height in the RF-5, not including the penthouse or rooftop structure, shall be:

- (a) Forty feet (40 ft.) and three (3) stories for detached and semi-detached dwellings; and
- (b) Fifty feet (50 ft.) and four (4) stories for row dwellings and flats and all other structures.

...

603.4 A building or other structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse or rooftop structure; provided that the building or structure shall be removed from all lot lines of its lot for a distance equal to the height of the building or structure above the adjacent natural or finished grade, whichever is the lower in elevation.

603.5 An institutional building or structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse or rooftop structure; provided, that the building or structure shall be removed from all lot lines of its lot a distance of not less than one foot (1 ft.) for each foot of height in excess of that authorized in the zone in which it is located.

603.6 The maximum permitted height of a penthouse or rooftop structure, except as permitted in Subtitle E § 603.7, and ~~as prohibited on~~ as limited in Subtitle C §

1501 on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat, ~~in Subtitle C § 1500.4,~~ shall be twelve feet (12 ft.) and one (1) story.

Section 4904, HEIGHT, of Chapter 49, PUBLIC SCHOOLS, of Subtitle E, RESIDENTIAL FLAT (RF) ZONES, is proposed to be amended, to read as follows:

4904.1 Public schools shall be permitted a maximum building height, not including the penthouse or rooftop structure, as set forth in the following table:

TABLE D § 4904.1: MAXIMUM HEIGHT FOR PUBLIC SCHOOLS

Zone	Maximum Height, Not Including Penthouse <u>or Rooftop Structure</u> (ft.)	Maximum Number of Stories
RF-1, RF-2	60	No Limit
RF-3	40	No Limit
RF-4, RF-5	90	No Limit

The title of § 4905, PENTHOUSES, of Chapter 49, PUBLIC SCHOOLS, of Subtitle E, RESIDENTIAL FLAT (RF) ZONES, is proposed to be amended, to read as follows:

4905 PENTHOUSE OR ROOFTOP STRUCTURES

Section 4905, PENTHOUSES OR ROOFTOP STRUCTURES, of Chapter 49, PUBLIC SCHOOLS, of Subtitle E, RESIDENTIAL FLAT (RF) ZONES, is proposed to be amended, to read as follows:

4905.1 Penthouses or rooftop structures shall be subject to the regulations of Subtitle C, Chapter 15, and to the height and story limitations specified in each zone of this subtitle; provided that public schools shall be permitted a mechanical penthouses to a maximum height of eighteen feet, six inched (18 ft., 6 in.) or the permitted mechanical penthouse height in the zone, whichever is greater.

The title of § 5207, SPECIAL EXCEPTION CRITERIA ROOF TOP OR UPPER FLOOR ELEMENTS, of Chapter 52, RELIEF FROM DEVELOPMENT STANDARDS (RF), of Subtitle E, RESIDENTIAL FLAT (RF) ZONES, is proposed to be amended, to read as follows:

5205 SPECIAL EXCEPTION CRITERIA ~~ROOF TOP~~ ROOFTOP OR UPPER FLOOR ELEMENTS

VI. Proposed Amendments to Subtitle F RESIDENTIAL APARTMENT (RA) ZONES

Subsection 102.2, of § 102, USE PERMISSIONS, of Chapter 1, INTRODUCTION TO RESIDENTIAL APARTMENT (RA) ZONES, of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, is proposed to be amended, to read as follows:

102.2 Use permissions within a penthouse or rooftop structures are as specified in Subtitle C § ~~1500.3~~ 1501.

Subsection 203.2 through 203.4 of § 203, HEIGHT, of Chapter 2, GENERAL DEVELOPMENT STANDARDS (RA) ZONES, of Subtitle F, RESIDENTIAL HOUSE (RA) ZONES, are proposed to be amended, to read as follows:

203.2 A place of worship may be erected to a height not exceeding sixty feet (60 ft.) and three (3) stories, not including the penthouse or rooftop structure.

203.3 An institutional building or structure may be erected to a height no exceeding ninety feet (90 ft.), not including the penthouse, or rooftop structure, provided that the building or structure shall be removed from all lot lines of its lot a distance of not less than one foot (1 ft.) for each one foot (1 ft.) of height in excess of that authorized in the district in which it is located.

203.4 Except as provided in Subtitle F §§ 203.2 and 203.3, a building or other structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse or rooftop structure, provided that the building or structure shall be removed from all lot lines of its lot for a distance equal to the height of the building or structure above the adjacent natural or finished grade, whichever is the lower in elevation.

The title of § 204, PENTHOUSES, of Chapter 2, GENERAL DEVELOPMENT STANDARDS (RA), of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, is proposed to be amended, to read as follows:

204 PENTHOUSES OR ROOFTOP STRUCTURES

Subsection 204.1 of § 204, PENTHOUSES OR ROOFTOP STRUCTURES, of Chapter 2, GENERAL DEVELOPMENT STANDARDS (RA), of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, is proposed to be amended, to read as follows:

204.1 Penthouses or rooftop structures shall be subject to the regulations of Subtitle C, Chapter 15 and the height and story limitations specified in each zone of this subtitle.

Subsection 302.1 of § 302, DENSITY – FLOOR AREA RATIO (FAR), of Chapter 3, RESIDENTIAL APARTMENT ZONES – RA-1, RA-2, RA-3, RA-4, AND RA-5, of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, are proposed to be amended, to read as follows:

302.1 Except as provided in other provisions of this subtitle and in Subtitle C, Chapter 15, Penthouses and Rooftop Structures, the maximum permitted FAR in the RA-1 through RA-5 zones shall be as set forth in the following table ...

Subsections 303.1 and 303.2 of § 303, HEIGHT, of Chapter 3, RESIDENTIAL APARTMENT ZONES – RA-1, RA-2, RA-3, RA-4, AND RA-5, of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, are proposed to be amended, to read as follows:

303.1 Except as permitted in Subtitle F § 203, the maximum permitted building height, not including the penthouse or rooftop structure, in the RA-1 through RA-5 zones shall be as set forth in the following table: ...

303.2 The maximum permitted height of a penthouse or rooftop structure, except as permitted in Subtitle F § 204.2, and ~~as prohibited on~~ as limited in Subtitle C § 1501 on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat, ~~in Subtitle C § 1500.4~~, shall be as set forth in the following table:

TABLE F § 303.2: MAXIMUM PERMITTED PENTHOUSE OR ROOFTOP STRUCTURE HEIGHT AND STORIES

Zone	Maximum Penthouse Height (ft.)	Maximum Penthouse Stories
...

Subsections 403.1 and 403.3 of § 403, HEIGHT, of Chapter 4, NAVAL OBSERVATORY RESIDENTIAL APARTMENT ZONE – RA-6, of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, are proposed to be amended, to read as follows:

403.1 ~~The~~ Except as permitted in Subtitle F § 203, the maximum permitted building height in the RA-6 zone, not including the penthouse or rooftop structure, shall be forty feet (40 ft.) and three (3) stories.

...

403.3 The maximum permitted height of a penthouse or rooftop structure, except as permitted in Subtitle F § 204.2, and ~~as prohibited on~~ as limited in Subtitle C § 1501 on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat ~~in Subtitle C § 1500.4~~, shall be twelve feet (12 ft.) except fifteen feet (15 ft.) for penthouse mechanical space, and one (1) story.

Section 503, HEIGHT, of Chapter 5, CAPITOL PRECINCT RESIDENTIAL APARTMENT ZONE - RA-7, of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, is proposed to be amended, to read as follows:

503.1 ~~The~~ Except as permitted in Subtitle F § 203, the maximum permitted building height, not including the penthouse or rooftop structure, in the RA-7 zone shall be forty feet (40 ft.) and three (3) stories.

503.2 The maximum permitted height of a penthouse or rooftop structure, except as permitted in Subtitle F § 204.2, and ~~as prohibited on~~ as limited in Subtitle C § 1501 on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat, ~~in Subtitle C § 1500.4~~, shall be ten feet (10 ft.) and one (1) story.

Subsection 602.1 of 602, DENSITY – FLOOR AREA RATIO (FAR), of Chapter 6, DUPONT CIRCLE RESIDENTIAL APARTMENT ZONES – RA-8, RA-9, AND RA-10, of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, is proposed to be amended, to read as follows:

602.1 Except as provided in other provisions of this subtitle and in Subtitle C, Chapter 15, Penthouses **and Rooftop Structures**, the maximum permitted FAR in the RA-8, RA-9, and RA-10 zones shall be as set forth in the following table ...

Section 603, HEIGHT, of Chapter 6, DUPONT CIRCLE RESIDENTIAL APARTMENT ZONES – RA-8, RA-9, AND RA-10, of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, is proposed to be amended, to read as follows:

603.1 Except as permitted in Subtitle F § 203, the maximum permitted building height, not including the penthouse **or rooftop structure**, in the RA-8, RA-9, and RA-10 zones shall be as set forth in the following table: ...

603.2 The maximum permitted height of a penthouse **or rooftop structure**, except as permitted in Subtitle F § 204.2, and ~~as prohibited on as limited in Subtitle C § 1501 on~~ the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat, ~~in Subtitle C § 1500.4~~, shall be as set forth in the following table:

TABLE F § 603.2: MAXIMUM PERMITTED PENTHOUSE OR ROOFTOP STRUCTURE HEIGHT AND STORIES

Zone	Maximum Penthouse Height (ft.)	Maximum Penthouse Stories
...

Section 4904, HEIGHT, of Chapter 49, PUBLIC SCHOOLS, of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, is proposed to be amended, to read as follows:

4904.1 Public schools shall be permitted a maximum building height of ninety feet (90 ft.), not including the penthouse **or rooftop structure**.

The title of § 4905, PENTHOUSES, of Chapter 49, PUBLIC SCHOOLS, of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, is proposed to be amended, to read as follows:

4905 PENTHOUSE OR ROOFTOP STRUCTURES

Section 4905, PENTHOUSES OR ROOFTOP STRUCTURES, of Chapter 49, PUBLIC SCHOOLS, of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, is proposed to be amended, to read as follows:

4905.1 Penthouses **or rooftop structures** shall be subject to the regulations of Subtitle C, Chapter 15, and to the height and story limitations specified in each zone of this subtitle; provided that public schools shall be permitted a mechanical penthouses

to a maximum height of eighteen feet, six inches (18 ft., 6 in.) or the permitted mechanical penthouse height in the zone, whichever is greater.

Section 5102, HEIGHT, of Chapter 51, ALLEY LOT REGULATIONS (RA), of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, are proposed to be amended, to read as follows:

5102.1 The maximum height and stories of building on alley lots in RA zones shall be twenty feet (20 ft.) and two (2) stories, including the penthouse or rooftop structure.

Section 5205, SPECIAL EXCEPTION FROM PENTHOUSE AND ROOFTOP STRUCTURE PROVISIONS, of Chapter 52, RELIEF FROM REQUIRED DEVELOPMENT STANDARDS FOR RA ZONES, of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, is proposed to be amended, to read as follows:

5205.1 The Board of Zoning Adjustment may grant special exception relief from the penthouse or rooftop structure requirements of this subtitle pursuant to Subtitle C §§ ~~1504.1 and 1504.2~~ 1506.

VII. Proposed Amendments to Subtitle G, MIXED USE (MU) ZONES

Section 104, INCLUSIONARY ZONING, of Chapter 1, INTRODUCTION TO MIXED-USE (MU) ZONES, of Subtitle G, MIXED USE (MU) ZONES, is proposed to be amended, to read as follows:

104.1 The Inclusionary Zoning (IZ) requirements, and the available IZ modifications and bonus density, shall apply to all MU zones, except for the portion of the MU-13 zone in the Georgetown Historic District and the MU-27 zone, as specified in Subtitle C, Chapter 10, Inclusionary Zoning, and in the zone-specific development standards of this subtitle, provided that new penthouse habitable space, as described in Subtitle C § ~~1500.11~~ 1507.2, that is located in the portion of the MU-13 zone in the Georgetown Historic District or in the MU-27 zone shall be subject to the IZ requirements.

The title of § 203, PENTHOUSES, of Chapter 2, GENERAL DEVELOPMENT STANDARDS FOR MU ZONES, of Subtitle G, MIXED USE (MU) ZONES, is proposed to be amended, to read as follows:

203 PENTHOUSES OR ROOFTOP STRUCTURES

Subsection 203.1 of § 203, PENTHOUSES OR ROOFTOP STRUCTURES, of Chapter 2, GENERAL DEVELOPMENT STANDARDS FOR MU ZONES, of Subtitle G, MIXED USE (MU) ZONES, is proposed to be amended, to read as follows:

203.1 Penthouses **or rooftop structures** shall be subject to the regulations of Subtitle C, Chapter 15 and the height and story limitations specified in each zone of this subtitle.

Section 303, HEIGHT, of Chapter 3, MIXED-USE ZONES - MU-1 AND MU-2, of Subtitle G, MIXED USE (MU) ZONES, is proposed to be amended, to read as follows:

303.1 The maximum permitted building height, not including the penthouse **or rooftop structure**, in the MU-1 and MU-2 zones shall be as set forth in the following table:
...

303.2 The maximum permitted height of a penthouse **or rooftop structure**, except as ~~prohibited on~~ **limited in Subtitle C § 1501 on** the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat, ~~in Subtitle C § 1500.4~~ shall be as set forth in the following table:

TABLE G § 303.2: MAXIMUM PERMITTED PENTHOUSE OR ROOFTOP STRUCTURE HEIGHT AND STORIES

Zone	Maximum Penthouse Height (ft.)	Maximum Penthouse Stories
...

Subsections 403.1 and 403.3 of § 403, HEIGHT, of Chapter 4, MIXED-USE ZONES - MU-3, MU-4, MU-5, MU-6, MU-7, MU-8, MU-9, MU-10, AND MU-30, of Subtitle G, MIXED USE (MU) ZONES, are proposed to be amended, to read as follows:

403.1 The maximum permitted building height, not including the penthouse **or rooftop structure**, in the MU-3 through MU-10 zones and the MU-30 zone shall be as set forth in the following table, except as provided in Subtitle G § 403.2: ...
...

403.3 The maximum permitted height of a penthouse **or rooftop structure**, except as ~~prohibited on~~ **limited in Subtitle C § 1501 on** the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat, ~~in Subtitle C § 1500.4~~ shall be as set forth in the following table:

TABLE G § 403.3: MAXIMUM PERMITTED PENTHOUSE OR ROOFTOP STRUCTURE HEIGHT AND STORIES

Zone	Maximum Penthouse Height (ft.)	Maximum Penthouse Stories
...

Section 503, HEIGHT, of Chapter 5, MIXED-USE ZONES - MU-11, MU-12, MU-13, AND MU-14, of Subtitle G, MIXED USE (MU) ZONES, are proposed to be amended, to read as follows:

503.1 The maximum permitted building height, not including the penthouse **or rooftop structure**, in the MU-11 through MU-14 zones shall be as set forth in the following table, except as provided in Subtitle G § 503.3: ...

503.2 The maximum permitted height of a penthouse or rooftop structure, except as ~~prohibited on~~ limited in Subtitle C § 1501 on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat, ~~in Subtitle C § 1500.4,~~ shall be as set forth in the following table:

TABLE G § 503.2: MAXIMUM PERMITTED PENTHOUSE OR ROOFTOP STRUCTURE HEIGHT AND STORIES

Zone	Maximum Penthouse Height (ft.)	Maximum Penthouse Stories
...

503.3 In the MU-11 zone, the following conditions apply:

- (a) A building or structure located on, in, or over the water ...
- (b) Penthouses or rooftop structures less than ten feet (10 ft.) in height above a roof or parapet wall of a structure on Kingman Island shall not be subject to the requirements of Subtitle G, Chapters 11 and 12 of this subtitle when the top of the penthouse or rooftop structure is below the maximum building height prescribed for the MU-11 zone.

Subsection 504.3 of § 504, LOT OCCUPANCY, of Chapter 5, MIXED-USE ZONES - MU-11, MU-12, MU-13, AND MU-14, of Subtitle G, MIXED USE (MU) ZONES, is proposed to be amended, to read as follows:

504.3 Except for new penthouse habitable space as described in Subtitle C § ~~1500.11~~ 1507.2, the Inclusionary Zoning requirements and modifications of Subtitle C, Chapter 10, shall not apply to the portion of the MU-13 zone in the Georgetown Historic District.

Section 601.2 of § 601, DEVELOPMENT STANDARDS, of Chapter 6, DUPONT CIRCLE MIXED-USE ZONES - MU-15, MU-16, MU-17, MU-18, MU-19, MU-20, MU-21, AND MU-22, of Subtitle G, MIXED USE (MU) ZONES, is proposed to be amended, to read as follows:

601.2 The matter-of-right building height, floor area ratio, and penthouse and rooftop structure height limits shall serve as the maximum permitted building height, floor area ratio, and penthouse and rooftop structure height for a planned unit development.

Section 603, HEIGHT, of Chapter 6, DUPONT CIRCLE MIXED-USE ZONES - MU-15, MU-16, MU-17, MU-18, MU-19, MU-20, MU-21, AND MU-22, of Subtitle G, MIXED USE (MU) ZONES, is proposed to be amended, to read as follows:

603.1 The maximum permitted building height, not including the penthouse or rooftop structure, in the MU-15 through MU-22 zones shall be as set forth in the following table: ...

603.2 The maximum permitted height of a penthouse or rooftop structure, except as ~~prohibited on~~ limited in Subtitle C § 1501 on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat, ~~in Subtitle C § 1500.4~~, shall be as set forth in the following table:

TABLE G § 603.2: MAXIMUM PERMITTED PENTHOUSE OR ROOFTOP STRUCTURE HEIGHT AND STORIES

Zone	Maximum Penthouse Height (ft.)	Maximum Penthouse Stories
...

Subsections 703.1, 703.3, and 703.4 of § 703, HEIGHT, of Chapter 7, CAPITOL INTEREST AND CAPITOL HILL COMMERCIAL MIXED USE ZONES – MU-23, MU-24, MU-25, AND MU-26, of Subtitle G, MIXED USE (MU) ZONES, are proposed to be amended, to read as follows:

703.1 The maximum permitted building height, not including the penthouse or rooftop structure, in the MU-23, MU-24, and MU-26 zones shall be forty feet (40 ft.) and three (3) stories.

...

703.3 The maximum permitted height of a penthouse or rooftop structure, except as ~~prohibited on~~ limited in Subtitle C § ~~1500.4~~, 1501 on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat, shall be ten feet (10 ft.), and the maximum number of stories ~~within the penthouse~~ shall be one (1) in the MU-23, MU-24, and MU-26 zones.

703.4 The maximum permitted height of a penthouse or rooftop structure, except as ~~prohibited on~~ limited in Subtitle C § 1501 on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat, ~~in Subtitle C § 1500.4~~, shall be twelve feet (12 ft.), except fifteen feet (15 ft.) shall be permitted for penthouse mechanical space, and the maximum number of stories ~~within the penthouse~~ shall be one (1), except a second story shall be permitted for penthouse mechanical space in the MU-25 zone.

Section 803, HEIGHT, of Chapter 8, NAVAL OBSERVATORY MIXED-USE ZONE – MU-27, of Subtitle G, MIXED USE (MU) ZONES, is proposed to be amended, to read as follows:

803.1 The maximum permitted building height, not including the penthouse or rooftop structure, in the MU-27 zone shall be forty feet (40 ft.), measured as follows: ...

803.2 The maximum permitted height of a penthouse or rooftop structure, except as ~~prohibited on~~ limited in Subtitle C § 1501 on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat, ~~in Subtitle C § 1500.4~~, shall be twelve feet (12 ft.) except fifteen feet (15 ft.) shall be permitted for penthouse mechanical space, and the maximum number of stories ~~within the penthouse~~ shall be one (1).

803.3 A penthouse **or rooftop structure** permitted by this section shall contain no form of habitable space, other than ancillary space associated with a rooftop deck ~~to a maximum area of twenty percent (20%) of the building roof area dedicated to rooftop deck, terrace, or recreation space.~~

Subsection 804.2 of § 804, LOT OCCUPANCY, of Chapter 8, NAVAL OBSERVATORY MIXED-USE ZONE – MU-27, of Subtitle G, MIXED USE (MU) ZONES, is proposed to be amended, to read as follows:

804.2 Except for new penthouse habitable space as described in Subtitle C § ~~1500.11~~ **1507.2**, the Inclusionary Zoning requirements and modification of Subtitle C, Chapter 10 shall not apply to the MU-27 zone.

Subsections 903.1 through 903.3 of § 903, HEIGHT, of Chapter 9, FORT TOTTEN MIXED USE ZONES – MU-28 AND MU-29, of Subtitle G, MIXED USE (MU) ZONES, are proposed to be amended, to read as follows:

903.1 The maximum permitted building height, not including the penthouse **or rooftop structure**, in the MU-28 and MU-29 zones shall be as set forth in the following table:

...

903.2 The maximum permitted height of a penthouse **or rooftop structure**, except as ~~prohibited on~~ **limited in Subtitle C § 1501 on** the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat, ~~in Subtitle C § 1500.4~~, shall be as set forth in the following table:

TABLE G § 903.2: MAXIMUM PERMITTED PENTHOUSE OR ROOFTOP STRUCTURE HEIGHT AND STORIES

Zone	Maximum <u>Penthouse</u> Height (ft.)	Maximum <u>Penthouse</u> Stories
...

903.3 Buildings proposed to have a height in excess of sixty-five feet (65 ft.) shall provide special architectural features, roof parapet detailing, and design consideration of ~~roof top and penthouse~~ **penthouses and rooftop** structures to ensure that the views and vistas from the historic fortification of Fort Totten are not degraded or obstructed.

Section 1102, HEIGHT, of Chapter 11, ALLEY LOT REGULATIONS FOR MU ZONES – MU-28 AND MU-29, of Subtitle G, MIXED USE (MU) ZONES, are proposed to be amended, to read as follows:

1102.1 The maximum height and stories of the building in MU-6, MU-8, MU-9, MU-10, MU-19, MU-20, MU-21, MU-22, and MU-29 zones shall be thirty feet (30 ft.) and three (3) stories, including the penthouse **or rooftop structure**.

1102.2 The maximum height and stories of the building in all other MU zones shall be twenty feet (20 ft.) and two (2) stories, including the penthouse **or rooftop structure**.

The title of § 4903, PENTHOUSES, of Chapter 49, PUBLIC SCHOOLS, of Subtitle G, MIXED USE (MU) ZONES, is proposed to be amended, to read as follows:

4903 PENTHOUSES OR ROOFTOP STRUCTURES

Section 4903, PENTHOUSES OR ROOFTOP STRUCTURES, of Chapter 49, PUBLIC SCHOOLS, of Subtitle G, MIXED USE (MU) ZONES, is proposed to be amended, to read as follows:

4903.1 Penthouses **and rooftop structures** shall be subject to the regulations of Subtitle C, Chapter 15, and to the height and story limitations specified in each zone of this subtitle; provided that public schools shall be permitted a mechanical penthouses to a maximum height of eighteen feet, six inched (18 ft., 6 in.) or the permitted mechanical penthouse height in the zone, whichever is greater.

VIII. Proposed Amendments to Subtitle H NEIGHBORHOOD MIXED USE (NC) ZONES

Section 103, INCLUSIONARY ZONING, of Chapter 1, INTRODUCTION TO NEIGHBORHOOD MIXED-USED (NC) ZONES, of Subtitle H, NEIGHBORHOOD MIXED USE (NC) ZONES, is proposed to be amended, to read as follows:

103.1 The Inclusionary Zoning (IZ) requirements, and the available IZ modifications and bonus density shall apply to all NC zones except the NC-6 zone, as specified in Subtitle C, Chapter 10, Inclusionary Zoning, and in the zone-specific development standards of this subtitle; provided that new penthouse habitable space as described in Subtitle C § ~~1500.11~~ **1507.2** in the NC-6 zone shall be subject to the IZ requirements.

Subsection 201.2 of § 201, DENSITY – FLOOR AREA RATIO (FAR), of Chapter 2, INTRODUCTION TO NEIGHBORHOOD MIXED-USED (NC) ZONES, of Subtitle H, NEIGHBORHOOD MIXED USE (NC) ZONES, is proposed to be amended, to read as follows:

201.2 The matter-of-right height, penthouse **and rooftop structure**, and density limits shall serve as the guidelines for planned unit developments except if specifically stated otherwise.

The title of § 203, PENTHOUSES, of Chapter 2, GENERAL DEVELOPMENT STANDARDS, of Subtitle H, NEIGHBORHOOD MIXED USE (NC) ZONES, is proposed to be amended, to read as follows:

203 PENTHOUSES OR ROOFTOP STRUCTURES

Section 203, PENTHOUSES OR ROOFTOP STRUCTURES, of Chapter 2, GENERAL DEVELOPMENT STANDARDS, of Subtitle H, NEIGHBORHOOD MIXED USE (NC) ZONES, is proposed to be amended, to read as follows:

203.1 Penthouses or rooftop structures shall be subject to the regulations of Subtitle C, Chapter 15 and the height and story limitations specified in each zone of this subtitle.

Section 303, HEIGHT, of Chapter 3, MACOMB-WISCONSIN NEIGHBORHOOD MIXED-USE ZONE — NC-1, of Subtitle H, NEIGHBORHOOD MIXED USE (NC) ZONES, is proposed to be amended, to read as follows:

303.1 The maximum permitted building height, not including the penthouse or rooftop structure, in the NC-1 zone shall be forty feet (40 ft.) and three (3) stories.

303.2 The maximum permitted height of a penthouse or rooftop structure, except as ~~prohibited on~~ limited in Subtitle C § 1501 on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat, ~~in Subtitle C § 1500.4~~ shall be twelve feet (12 ft.) except fifteen feet (15 ft.) shall be permitted for penthouse mechanical space, and the maximum number of stories ~~within the penthouse~~ shall be one (1), except a second story shall be permitted for penthouse mechanical space.

Section 403, HEIGHT, of Chapter 4, TAKOMA NEIGHBORHOOD MIXED-USE ZONE — NC-2, of Subtitle H, NEIGHBORHOOD MIXED USE (NC) ZONES, is proposed to be amended, to read as follows:

403.1 The maximum permitted building height, not including the penthouse or rooftop structure, in the NC-2 zone shall be fifty feet (50 ft.) (fifty-five feet [55 ft.] with IZ).

403.2 The maximum permitted height of a penthouse or rooftop structure, except as ~~prohibited on~~ limited in Subtitle C § 1501 on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat, ~~in Subtitle C § 1500.4~~, shall be twelve feet (12 ft.) except fifteen feet (15 ft.) shall be permitted for penthouse mechanical space, and the maximum number of stories ~~within the penthouse~~ shall be one (1), except a second story shall be permitted for penthouse mechanical space.

Section 503, HEIGHT, of Chapter 5, CLEVELAND PARK NEIGHBORHOOD MIXED-USE — NC-3, of Subtitle H, NEIGHBORHOOD MIXED USE (NC) ZONES, is proposed to be amended, to read as follows:

503.1 The maximum permitted building height, not including the penthouse or rooftop structure, in the NC-3 zone shall be forty feet (40 ft.) (forty-five feet [45 ft.] with IZ).

503.2 The maximum permitted height of a penthouse or rooftop structure, except as ~~prohibited on~~ limited in Subtitle C § 1501 on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat, ~~in Subtitle C § 1500.4~~, shall be twelve feet (12 ft.) except fifteen feet (15 ft.) shall be permitted for penthouse mechanical space, and the maximum number of stories ~~within the penthouse~~ shall be one (1), except a second story shall be permitted for penthouse mechanical space.

Section 603, HEIGHT, of Chapter 6, WOODLEY PARK NEIGHBORHOOD MIXED-USE ZONES — NC-4 AND NC-5, of Subtitle H, NEIGHBORHOOD MIXED USE (NC) ZONES, is proposed to be amended, to read as follows:

603.1 The maximum permitted building height, not including the penthouse or rooftop structure, in the NC-4 and NC-5 zones shall be as set forth in the following table:
...

603.2 The maximum permitted height of a penthouse or rooftop structure, except as ~~prohibited on~~ limited in Subtitle C § 1501 on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat, ~~in Subtitle C § 1500.4~~, shall be twelve feet (12 ft.) except fifteen feet (15 ft.) shall be permitted for penthouse mechanical space, and the maximum number of stories ~~within the penthouse~~ shall be one (1), except a second story shall be permitted for penthouse mechanical space.

Subsection 702.2 of § 702, DENSITY – FLOOR AREA RATIO (FAR), of Chapter 7, EIGHTH STREET SOUTHEAST NEIGHBORHOOD MIXED-USE ZONE — NC-6, of Subtitle H, NEIGHBORHOOD MIXED USE (NC) ZONES, is proposed to be amended, to read as follows:

702.2 Except for new penthouse habitable space as described in Subtitle C § ~~1500.11~~ 1507.2, the Inclusionary Zoning requirements, modifications, and bonus density of Subtitle C, Chapter 10 shall not apply to the NC-6 zone.

Section 703, HEIGHT, of Chapter 7, EIGHTH STREET SOUTHEAST NEIGHBORHOOD MIXED-USE ZONE — NC-6, of Subtitle H, NEIGHBORHOOD MIXED USE (NC) ZONES, is proposed to be amended, to read as follows:

703.1 The maximum permitted building height, not including the penthouse or rooftop structure, in the NC-6 zone shall be forty-five feet (45 ft.).

703.2 The maximum permitted height of a penthouse or rooftop structure, except as ~~prohibited on~~ limited in Subtitle C § 1501 on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat, ~~in Subtitle C § 1500.4~~, shall be twelve feet (12 ft.) except fifteen feet (15 ft.) shall be permitted for penthouse mechanical space, and the maximum number of stories ~~within the penthouse~~ shall be one (1).

Section 803, HEIGHT, of Chapter 8, GEORGIA AVENUE NEIGHBORHOOD MIXED-USE ZONES — NC-7 AND NC-8, of Subtitle H, NEIGHBORHOOD MIXED USE (NC) ZONES, is proposed to be amended, to read as follows:

803.1 The maximum permitted building height, not including the penthouse or rooftop structure, in the NC7 and NC-8 zones shall be as set forth in the following table:
...

803.2 The maximum permitted height of a penthouse or rooftop structure, except as ~~prohibited on~~ limited in Subtitle C § 1501 on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat, ~~in Subtitle C § 1500.4~~, shall be as set forth in the following table:

TABLE H § 803.2: MAXIMUM PERMITTED PENTHOUSE OR ROOFTOP STRUCTURE HEIGHT AND STORIES

Zone	Maximum Penthouse Height (ft.)	Maximum Penthouse Stories
...

Section 903, HEIGHT, of Chapter 9, H STREET NORTHEAST NEIGHBORHOOD MIXED-USE ZONES — NC-9 THROUGH NC-17, of Subtitle H, NEIGHBORHOOD MIXED USE (NC) ZONES, is proposed to be amended, to read as follows:

903.1 The maximum permitted building height, not including the penthouse or rooftop structure, in the NC-9 through NC-17 zones shall be as set forth in the following table:
...

903.2 The maximum permitted height of a penthouse or rooftop structure, except as ~~prohibited on~~ limited in Subtitle C § 1501 on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat, ~~in Subtitle C § 1500.4~~, shall be as set forth in the following table:

TABLE H § 903.2: MAXIMUM PERMITTED PENTHOUSE OR ROOFTOP STRUCTURE HEIGHT AND STORIES

Zone	Maximum Penthouse Height (ft.)	Maximum Penthouse Stories
...

The title of § 4902, PENTHOUSES, of Chapter 49, PUBLIC SCHOOLS, of Subtitle H, NEIGHBORHOOD MIXED USE (NC) ZONES, is proposed to be amended, to read as follows:

4902 PENTHOUSES OR ROOFTOP STRUCTURES

Section 4902, PENTHOUSES OR ROOFTOP STRUCTURES, of Chapter 49, PUBLIC SCHOOLS, of Subtitle H, NEIGHBORHOOD MIXED USE (NC) ZONES, is proposed to be amended as follows:

4902.1 Penthouses **and rooftop structures** shall be subject to the regulations of Subtitle C, Chapter 15, and to the height and story limitations specified in each zone of this subtitle; provided that public schools shall be permitted a mechanical penthouse to a maximum height of eighteen feet, six inches (18 ft., 6 in.), or the permitted mechanical penthouse height in the zone, whichever is greater.

IX. Proposed Amendments to Subtitle I, DOWNTOWN (D) ZONES

Subsection 201.1 of § 201, HEIGHT, of Chapter 2, GENERAL DEVELOPMENT STANDARDS FOR DOWNTOWN (D) ZONES, of Subtitle I, DOWNTOWN (D) ZONES, is proposed to be amended, to read as follows:

201.1 Unless otherwise noted in Subtitle I § 201.4, the maximum permitted building height, not including the penthouse **or rooftop structure**, shall be that specified in the **applicable** zone ~~in which it is located~~.

The title of § 214, PENTHOUSES, of Chapter 2, GENERAL DEVELOPMENT STANDARDS FOR DOWNTOWN (D) ZONES, of Subtitle I, DOWNTOWN (D) ZONES, is proposed to be amended, to read as follows:

214 PENTHOUSES OR ROOFTOP STRUCTURES

Subsection 214.1 of § 214, PENTHOUSES OR ROOFTOP STRUCTURES, of Chapter 2, GENERAL DEVELOPMENT STANDARDS FOR DOWNTOWN (D) ZONES, of Subtitle I, DOWNTOWN (D) ZONES, is proposed to be amended, to read as follows:

214.1 Penthouses **and rooftop structures** shall be subject to the regulations of Subtitle C, Chapter 15, and the height and story limitations specified in each zone of this subtitle.

Subsections 503.1 and 503.3 through 503.5 of § 503, HEIGHT (D-1-R), of Chapter 5, REGULATIONS SPECIFIC TO PARTICULAR DOWNTOWN (D) ZONES, of Subtitle I, DOWNTOWN (D) ZONES, are proposed to be amended, to read as follows:

503.1 The maximum permitted building height, not including the penthouse **or rooftop structure**, in the D-1-R zone shall be ninety feet (90 ft.).

...

503.3 The maximum permitted building height, not including the penthouse **or rooftop structure**, in the D-1-R zone shall be limited to ninety feet (90 ft.) on the portion of the site occupied by a historic landmark or a contributing building within a historic district.

503.4 The maximum permitted height of a penthouse or rooftop structure shall be twenty feet (20 ft.). The maximum permitted number of stories for penthouse habitable space shall be one (1) plus a mezzanine, except a second story shall be permitted for penthouse mechanical space.

503.5 The maximum permitted building height, not including the penthouse or rooftop structure, of a building without frontage on a street with a right-of-way width of at least ninety feet (90 ft.), and not subject to Subtitle I § 503.3, shall be the width of the street right-of-way, plus twenty feet (20 ft.).

Section 510, HEIGHT (D-2), of Chapter 5, REGULATIONS SPECIFIC TO PARTICULAR DOWNTOWN (D) ZONES, of Subtitle I, DOWNTOWN (D) ZONES, is proposed to be amended, to read as follows:

510.1 The maximum permitted building height, not including the penthouse or rooftop structure, in the D-2 zone shall be one hundred feet (100 ft.) for a building subject to Inclusionary Zoning by Subtitle C, Chapter 10, and ninety feet (90 ft.) for all other buildings.

510.2 The maximum permitted building height, not including the penthouse or rooftop structure, in the D-2 zone shall be limited to ninety feet (90 ft.) on the portion of the site occupied by a historic landmark or a contributing building within a historic district.

510.3 The maximum permitted height of a penthouse or rooftop structure shall be twenty feet (20 ft.). The maximum permitted number of stories for penthouse habitable space shall be one (1) plus a mezzanine, except a second story shall be permitted for penthouse mechanical space.

510.4 The maximum permitted building height, not including the penthouse or rooftop structure, of a building without frontage on a street with a right-of-way width of at least ninety feet (90 ft.), and not subject to Subtitle I § 510.2, shall be the width of the street right-of-way, plus twenty feet (20 ft.).

Section 517, HEIGHT (D-3), of Chapter 5, REGULATIONS SPECIFIC TO PARTICULAR DOWNTOWN (D) ZONES, of Subtitle I, DOWNTOWN (D) ZONES, is proposed to be amended, to read as follows:

517.1 The maximum permitted building height, not including the penthouse or rooftop structure, in the D-3 zone shall be one hundred ten feet (110 ft.), subject to review and restrictions pertinent to the Capitol Security Sub-Area regulated by Subtitle I § 605, for Squares 574, 577, 579, 581, 582, 625, 626, 628, 630, 631, 574, 577, 579, 581, 582, 640, and 64; and for a building with frontage on North Capitol Street, to

the requirements ~~for~~ of the North Capitol Street Sub-Area regulated by Subtitle I § 617.

517.2 The maximum permitted building height, not including the penthouse or rooftop structure, in the D-3 zone shall be limited to ninety feet (90 ft.) on the portion of the site occupied by a historic landmark or a contributing building within a historic district.

517.3 The maximum permitted height of a penthouse or rooftop structure shall be twenty feet (20 ft.). The maximum permitted number of stories for penthouse habitable space shall be one (1) plus a mezzanine, except a second story shall be permitted for penthouse mechanical space.

517.4 The maximum permitted building height, not including the penthouse or rooftop structure, of a building without frontage on a street with a right-of-way width of at least ninety feet (90 ft.), and not subject to Subtitle I § ~~510.2~~ 517.2, shall be the width of the street right-of-way, plus twenty feet (20 ft.).

Subsections 525.1, 525.3, and 525.5 of § 525, HEIGHT (D-4), of Chapter 5, REGULATIONS SPECIFIC TO PARTICULAR DOWNTOWN (D) ZONES, of Subtitle I, DOWNTOWN (D) ZONES, are proposed to be amended, to read as follows:

525.1 With the exception of a building meeting the requirements of Subtitle I § 525.2, the maximum permitted building height, not including the penthouse or rooftop structure, in the D-4 zone shall be ninety feet (90 ft.), unless the building does not have frontage on a street with a right-of-way width of at least ninety feet (90 ft.), in which case the maximum permitted building height, not including the penthouse or rooftop structure, shall be the width of the street right-of-way, plus twenty feet (20 ft.).

...

525.3 The maximum permitted building height, not including the penthouse or rooftop structure, in the D-4 zone shall be limited to ninety feet (90 ft.) on the portion of the site occupied by a historic landmark or a contributing building within a historic district.

...

525.5 The maximum permitted height of a penthouse or rooftop structure shall be twenty feet (20 ft.). The maximum permitted number of stories for penthouse habitable space shall be one (1) plus a mezzanine, except a second story shall be permitted for penthouse mechanical space.

Subsections 523.1, 532.4, and 532.5 of § 532, HEIGHT (D-4-R), of Chapter 5, REGULATIONS SPECIFIC TO PARTICULAR DOWNTOWN (D) ZONES, of Subtitle I, DOWNTOWN (D) ZONES, are proposed to be amended, to read as follows:

532.1 The maximum permitted building height, not including the penthouse or rooftop structure, in the D-4-R zone shall be as follows:

Street Right-of-Way Width	Maximum Permitted Building Height, Not Including Penthouse <u>or Rooftop Structure</u>
...	...

...

532.4 The maximum permitted building height, not including the penthouse or rooftop structure, in the D-4-R zone shall be limited to ninety feet (90 ft.) on the portion of the site occupied by a historic landmark or a contributing building within a historic district.

532.5 The maximum permitted height of a penthouse or rooftop structure shall be twenty feet (20 ft.). The maximum permitted number of stories for penthouse habitable space shall be one (1) plus a mezzanine, except a second story shall be permitted for penthouse mechanical space.

Subsections 540.1, 540.3, and 540.5 of § 540, HEIGHT (D-5), of Chapter 5, REGULATIONS SPECIFIC TO PARTICULAR DOWNTOWN (D) ZONES, of Subtitle I, DOWNTOWN (D) ZONES, are proposed to be amended, to read as follows:

540.1 The maximum permitted building height, not including the penthouse or rooftop structure, in the D-5 zone shall be as follows:

Street Right-of-Way Width	Maximum Permitted Building Height, Not Including Penthouse <u>or Rooftop Structure</u>
...	...

...

540.3 The maximum permitted building height, not including the penthouse or rooftop structure, in the D-5 zone shall be limited to ninety feet (90 ft.) on the portion of the site occupied by a historic landmark or a contributing building within a historic district.

...

540.5 The maximum permitted height of a penthouse or rooftop structure shall be twenty feet (20 ft.). The maximum permitted number of stories for penthouse habitable space shall be one (1) plus a mezzanine, except a second story shall be permitted for penthouse mechanical space.

Subsections 548.1, 548.3, and 548.4 of § 548, HEIGHT (D-5-R), of Chapter 5, REGULATIONS SPECIFIC TO PARTICULAR DOWNTOWN (D) ZONES, of Subtitle I, DOWNTOWN (D) ZONES, are proposed to be amended, to read as follows:

548.1 The maximum permitted building height, not including the penthouse or rooftop structure, in the D-5-R zone shall be as follows:

Street Right-of-Way Width	Maximum Permitted Building Height, Not Including Penthouse <u>or Rooftop Structure</u>
...	...

...

548.3 The maximum permitted building height, not including the penthouse or rooftop structure, in the D-5-R zone shall be limited to ninety feet (90 ft.) on the portion of the site occupied by a historic landmark or a contributing building within a historic district.

548.4 The maximum permitted height of a penthouse or rooftop structure shall be twenty feet (20 ft.). The maximum permitted number of stories for penthouse habitable space shall be one (1) plus a mezzanine, except a second story shall be permitted for penthouse mechanical space.

Subsections 556.1 and 556.3 of § 556, HEIGHT (D-6), of Chapter 5, REGULATIONS SPECIFIC TO PARTICULAR DOWNTOWN (D) ZONES, of Subtitle I, DOWNTOWN (D) ZONES, are proposed to be amended, to read as follows:

556.1 The maximum permitted building height, not including the penthouse or rooftop structure, in the D-6 zone shall be as follows:

Street Right-of-Way Width	Maximum Permitted Building Height, Not Including Penthouse <u>or Rooftop Structure</u>
...	...

...

556.3 The maximum permitted height of a penthouse or rooftop structure shall be twenty feet (20 ft.). The maximum permitted number of stories for penthouse habitable space shall be one (1) plus a mezzanine, except a second story shall be permitted for penthouse mechanical space.

Subsections 563.1 and 563.3 of § 563, HEIGHT (D-6-R), of Chapter 5, REGULATIONS SPECIFIC TO PARTICULAR DOWNTOWN (D) ZONES, of Subtitle I, DOWNTOWN (D) ZONES, are proposed to be amended, to read as follows:

563.1 The maximum permitted building height, not including the penthouse **or rooftop structure**, in the D-6-R zone shall be as follows:

Street Right-of-Way Width	Maximum Permitted Building Height, Not Including Penthouse <u>or Rooftop Structure</u>
...	...

...

563.3 The maximum permitted height of a penthouse **or rooftop structure** shall be twenty feet (20 ft.). The maximum permitted number of stories for penthouse habitable space shall be one (1) plus a mezzanine, except a second story shall be permitted for penthouse mechanical space.

Subsections 570.1, 570.2, and 570.4 of § 570, HEIGHT (D-7), of Chapter 5, REGULATIONS SPECIFIC TO PARTICULAR DOWNTOWN (D) ZONES, of Subtitle I, DOWNTOWN (D) ZONES, are proposed to be amended, to read as follows:

570.1 The maximum permitted building height, not including the penthouse **or rooftop structure**, in the D-7 zone on a lot fronting on Pennsylvania Avenue, N.W. between 10th and 15th Streets, N.W. shall be one hundred sixty feet (160 ft.), subject to the Pennsylvania Avenue ~~sub-area~~ **Sub-Area** regulations in Subtitle I § 608.

570.2 The maximum permitted building height, not including the penthouse **or rooftop structure**, in the D-7 zone shall be one hundred-thirty feet (130 ft.) on a lot fronting on Pennsylvania Avenue, N.W. between 9th and 10th Streets, N.W. shall be hundred -thirty feet (130 ft.), subject to the Pennsylvania Avenue ~~sub-area~~ **Sub-Area** regulations in Subtitle I § 608.

...

570.4 Subject to any provisions of the Pennsylvania Avenue Development Corporation General Guidelines and Uniform Standards of 1974 as amended, where applicable, the maximum permitted height of a penthouse **or rooftop structure** shall be twenty feet (20 ft.). The maximum permitted number of stories for penthouse habitable space shall be one (1) plus a mezzanine, except a second story shall be permitted for penthouse mechanical space.

Subsections 577.1, 577.2 and 577.4 of § 577, HEIGHT (D-8), of Chapter 5, REGULATIONS SPECIFIC TO PARTICULAR DOWNTOWN (D) ZONES, of Subtitle I, DOWNTOWN (D) ZONES, are proposed to be amended, to read as follows:

577.1 The maximum permitted building height, not including the penthouse **or rooftop structure**, in the D-8 zone shall be as follows:

Street Right-of-Way Width	Maximum Permitted Building Height, Not Including Penthouse <u>or Rooftop Structure</u>
...	...

577.2 The maximum permitted building height, not including the penthouse **or rooftop structure**, for a project that includes land within a street right-of-way that has been closed by action of the Council of the District of Columbia and that has not been incorporated into the District of Columbia official highway plan shall be one hundred ten feet (110 ft.) unless otherwise permitted by the Zoning Commission as provided for in Subtitle I § 581.

...

577.4 The maximum permitted height of a penthouse **or rooftop structure** shall be twenty feet (20 ft.). The maximum permitted number of stories for penthouse habitable space shall be one (1) plus a mezzanine, except a second story shall be permitted for penthouse mechanical space.

Subsections 581.2 and 581.3 of § 581, SPECIAL EXCEPTIONS (D-8), of Chapter 5, REGULATIONS SPECIFIC TO PARTICULAR DOWNTOWN (D) ZONES, of Subtitle I, DOWNTOWN (D) ZONES, are proposed to be amended, to read as follows:

581.2 The reviewing body shall consider whether the proposed project – including the siting, architectural design, site plant, landscaping, sidewalk treatment, and operation – will help achieve the objectives of the Maryland Avenue Small Area Plan approved June 26, 2012, and its related or successor plans. The objectives to be considered include:

(a) Building height, mass, and siting ...

...

(g) ~~Rooftop structures, architectural~~ **Architectural** embellishments, ~~and penthouses, and rooftop structures,~~ should be carefully located and designed to not compete with the architectural features of the Smithsonian Institution’s original building when viewed from its center point on the National Mall and from 10th Street, S.W.

581.3 Construction or substantial renovation of a building or structure that would include an area restricted by Subtitle I § 575.2 may be permitted only if the Zoning Commission has given approval as a special exception under Subtitle X, Chapter 9, subject to the following determinations:

(a) The exclusion of the property, right-of-way, or ...

...

- (c) The proposed building, and any height in excess of one hundred ten feet (110 ft.), not including a penthouse **or rooftop structure**, would be consistent with the criteria established for review in Subtitle I § 581.3:

- ~~(3)~~ **(1)** Contain(s) only residential uses or arts uses ...

- ~~(4)~~ **(2)** Is consistent with the criteria established ...

...

Paragraph (c) of § 618.5 of § 618, INDEPENDENCE AVENUE, of Chapter 5, LOCATION-BASED REGULATIONS FOR DOWNTOWN SUB-AREAS AND DESIGNATED STREET SEGMENTS, of Subtitle I, DOWNTOWN (D) ZONES, are proposed to be amended, to read as follows:

618.5 A building or structure with frontage on Independence Avenue, S.W. in the sub-area:

- (a) Shall have a building setback of ...

...

- (c) Shall setback any penthouse **or rooftop structure** at a two-to-one (2:1) ratio from each exterior wall of the roof upon which it is located;

...

The title of § 4902, PENTHOUSES, of Chapter 49, PUBLIC SCHOOLS, of Subtitle I, DOWNTOWN (D) ZONES, is proposed to be amended, to read as follows:

4902 PENTHOUSES OR ROOFTOP STRUCTURES

Section 4902, PENTHOUSES OR ROOFTOP STRUCTURES, of Chapter 49, PUBLIC SCHOOLS, of Subtitle I, DOWNTOWN (D) ZONES, is proposed to be amended, to read as follows:

4902.1 Penthouses **and rooftop structures** shall be subject to the regulations of Subtitle C, Chapter 15, and to the height and story limitations specified in each zone of this subtitle; provided that public schools shall be permitted a mechanical penthouse to a maximum height of eighteen feet, six inches (18 ft., 6 in.), or the permitted mechanical penthouse height in the zone, whichever is greater.

X. Proposed Amendments to Subtitle J PRODUCTION, DISTRIBUTION, AND REPAIR (PDR) ZONES

The title of § 106, PENTHOUSES, of Chapter 1, INTRODUCTION TO PRODUCTION, DISTRIBUTION, AND REPAIR (PDR) ZONES, of Subtitle J, PRODUCTION, DISTRIBUTION, AND REPAIR (PDR) ZONES, is proposed to be amended, to read as follows:

106 PENTHOUSES AND ROOFTOP STRUCTURES

Subsection 106.1 of § 106, PENTHOUSES AND ROOFTOP STRUCTURES, of Chapter 1, INTRODUCTION TO PRODUCTION, DISTRIBUTION, AND REPAIR (PDR) ZONES, of Subtitle J, PRODUCTION, DISTRIBUTION, AND REPAIR (PDR) ZONES, is proposed to be amended, to read as follows:

106.1 Penthouses and rooftop structures shall be subject to the regulations of Subtitle C, Chapter 15 and the height and story limitations specified in each zone of this subtitle.

Subsections 203.1, 203.3 through 203.6 of § 203, HEIGHT, of Chapter 2, DEVELOPMENT STANDARDS, of Subtitle J, PRODUCTION, DISTRIBUTION, AND REPAIR (PDR) ZONES, are proposed to be amended, to read as follows:

203.1 The maximum permitted building height, not including the penthouse or rooftop structure, in the PDR zones shall be as set forth in the following table:

TABLE J § 203.1: MAXIMUM PERMITTED BUILDING HEIGHT

Zone	Maximum Height (Feet) (ft.)
...	...

...

203.3 A building or other structure may be erected to a height not exceeding ninety feet (90 ft.) not including the penthouse or rooftop structure, provided that the building or structure shall be removed from all lot lines of its lot for a distance equal to the height of the building or structure above the adjacent natural or finished grade, whichever is low in elevation.

203.4 An institutional building or structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse or rooftop structure, provided that the building or structure shall be removed from all lot lines of its lot a distance of not less than one foot (1 ft.) for each foot of height in excess of that authorized in the zone in which it is located.

203.5 In the PDR-6 or PDR-7 zone, any building proposed to exceed sixty-five feet (65 ft.) in height, not including the penthouse or rooftop structure, shall be approved by the Board of Zoning Adjustment pursuant to the special exception criteria of

Subtitle X, Chapter 9. The applicant for a special exception under this subsection shall demonstrate that the building will not degrade or obstruct views and vistas from the historic fortification of Fort Totten.

203.6 The maximum permitted height of a penthouse or rooftop structure shall be as set forth in the following table:

TABLE J § 203.6: MAXIMUM PERMITTED PENTHOUSE OR ROOFTOP STRUCTURE HEIGHT AND STORIES

Zone	Maximum Penthouse Height (ft.)	Maximum Penthouse Stories
...

The title of § 4902, PENTHOUSES, of Chapter 49, PUBLIC SCHOOLS, of Subtitle J, PRODUCTION, DISTRIBUTION, AND REPAIR (PDR) ZONES, is proposed to be amended, to read as follows:

4902 PENTHOUSES OR ROOFTOP STRUCTURES

Section 4902, PENTHOUSES OR ROOFTOP STRUCTURES, of Chapter 49, PUBLIC SCHOOLS, of Subtitle J, PRODUCTION, DISTRIBUTION, AND REPAIR (PDR) ZONES, is proposed to be amended, to read as follows:

4902.1 Penthouses and rooftop structures shall be subject to the regulations of Subtitle C, Chapter 15, and to the height and story limitations specified in each zone of this subtitle; provided that public schools shall be permitted a mechanical penthouse to a maximum height of eighteen feet, six inches (18 ft., 6 in.), or the permitted mechanical penthouse height in the zone, whichever is greater.

XI. Proposed Amendments to Subtitle K, SPECIAL PURPOSE ZONES

Subsections 200.11 through 200.13 of § 200, GENERAL PROVISIONS (SEFC), of Chapter 2, SOUTHEAST FEDERAL CENTER ZONES - SEFC-1 THROUGH SEFC-4, of Subtitle K, SPECIAL PURPOSE ZONES, are proposed to be amended, to read as follows:

200.11 Penthouses and rooftop structures shall be subject to the regulations of Subtitle C, Chapter 15, and the height and story limitations specified in each zone of this chapter.

200.12 The Inclusionary Zoning (IZ) requirements, and the available IZ modifications and bonus density, shall apply to the SEFC zones except for:

- (a) Properties subject to a land disposition or other agreement with the District of Columbia that mandates the provision of affordable housing; provided that these properties shall be subject to IZ requirements for new penthouse habitable space as described in Subtitle C § ~~1500.11~~ 1507.2; and

(c) Penthouses and rooftop structures in residential rental buildings.

200.13 The matter-of-right height, penthouse and rooftop structure height, and floor area ratio limits shall serve as the maximums permitted building height, penthouse and rooftop structure height, and floor area ratio for a planned unit development (PUD) for each SEFC zone.

Subsections 203.1 and 203.4 of § 203, HEIGHT (SEFC-1), of Chapter 2, SOUTHEAST FEDERAL CENTER ZONES - SEFC-1 THROUGH SEFC-4, of Subtitle K, SPECIAL PURPOSE ZONES, are proposed to be amended, to read, to read as follows:

203.1 The maximum permitted building height, not including the penthouse or rooftop structure, in the SEFC-1 zones shall be one hundred and ten feet (110 ft.), except that:

(a) The maximum permitted building height ...

(b) An additional twenty feet (20 ft.) of building height ...

...

~~203.3~~ ~~[DELETED]~~

~~203.4~~ 203.3 The maximum permitted height of a penthouse or rooftop structure shall be twenty feet (20 ft.) and the maximum number of stories ~~within the penthouse~~ shall be one (1) plus a mezzanine, except that a second story for penthouse mechanical space shall be permitted.

Subsections 215.1 and 215.4 of § 215, HEIGHT (SEFC-2), of Chapter 2, SOUTHEAST FEDERAL CENTER ZONES - SEFC-1 THROUGH SEFC-4, of Subtitle K, SPECIAL PURPOSE ZONES, are proposed to be amended, to read as follows:

215.1 The maximum permitted building height, not including the penthouse or rooftop structure, in the SEFC-2 zone shall be one-hundred and ten feet (110 ft.).

...

215.4 The maximum permitted height of a penthouse or rooftop structure shall be twenty feet (20 ft.) and the maximum number of stories ~~within the penthouse~~ shall be one (1) plus a mezzanine, except that a second story for penthouse mechanical space shall be permitted.

Subsections 223.1 and 223.4 of § 223, HEIGHT (SEFC-3), of Chapter 2, SOUTHEAST FEDERAL CENTER ZONES - SEFC-1 THROUGH SEFC-4, of Subtitle K, SPECIAL PURPOSE ZONES, is proposed to be amended, to read as follows:

223.1 The maximum permitted building height, not including the penthouse or rooftop structure, in the SEFC-3 zone shall be ninety feet (90 ft.).

...

223.4 The maximum permitted height of a penthouse or rooftop structure shall be twenty feet (20 ft.) and the maximum number of stories ~~within the penthouse~~ shall be one (1) plus a mezzanine, except that a second story for penthouse mechanical space shall be permitted.

Subsections 231.1 and 231.3 of § 231, HEIGHT (SEFC-4), of Chapter 2, SOUTHEAST FEDERAL CENTER ZONES - SEFC-1 THROUGH SEFC-4, of Subtitle K, SPECIAL PURPOSE ZONES, are proposed to be amended, to read as follows:

231.1 The maximum permitted building height, not including the penthouse or rooftop structure, in the SEFC-2 zone shall be forty feet (40 ft.).

...

231.3 The maximum permitted height of a penthouse or rooftop structure shall be twelve feet (12 ft.) except that a height of fifteen feet (15 ft.) **shall be permitted** for penthouse mechanical space; and the maximum number of stories ~~within the penthouse~~ shall be one (1) plus a mezzanine, except that a second story for penthouse mechanical space shall be permitted.

Paragraph (c) of § 300.1 of § 300, GENERAL PROVISIONS (USN), of Chapter 3, UNION STATION NORTH ZONE - USN, of Subtitle K, SPECIAL PURPOSE ZONES, is proposed to be amended, to read as follows:

300.1 The purposes of the USN zone are to:

(a) Implement the Comprehensive Plan ...

...

(c) Provide a suitable visual relationship to surroundings by ensuring the provision of exemplary architecture for any building in the USN zone, and encouraging upper story setbacks and minimized penthouses and rooftop structures;

...

Subsection 305.1 of § 305, HEIGHT (USN), of Chapter 3, UNION STATION NORTH ZONE - USN, of Subtitle K, SPECIAL PURPOSE ZONES, is proposed to be amended, to read as follows:

305.1 The maximum permitted building height, not including the penthouse or rooftop structure, shall not exceed one hundred thirty feet (130 ft.), except that:

(a) The maximum permitted building height, not including the penthouse or rooftop structure, of any portion of a building or structure that is both north of the centerline of Eye Street and east of a north-south line located two

hundred feet (200 ft.) west of the eastern boundary of Lot 7002 in Square 717 shall not exceed ninety feet (90 ft.);

...

- (d) The maximum permitted building height, not including the penthouse **or rooftop structure**, of any portion of a building or structure that is both north of the southern property line of Lot 7000 in Square 720 and south of a parallel line one hundred fifty feet (150 ft.) from the southern property line (as that area is depicted in Figure K § 305.1) shall not exceed ninety feet (90 ft.);

...

- (e) The maximum permitted building height, not including the penthouse **or rooftop structure**, of any portion of a building or structure that is both north of a line parallel to and one hundred fifty feet (150 ft.) from the southern property line of Lot 7000 in Square 720 and south of a parallel line three hundred feet (300 ft.) from the southern property line (as that area is depicted in Figure K § 305.1) shall not exceed one hundred ten feet (110 ft.);

...

The title of § 306, PENTHOUSES (USN), of Chapter 3, UNION STATION NORTH ZONE - USN, of Subtitle K, SPECIAL PURPOSE ZONES, is proposed to be amended, to read as follows:

306 PENTHOUSES AND ROOFTOP STRUCTURES USN

Section 306, PENTHOUSES AND ROOFTOP STRUCTURES (USN), of Chapter 3, UNION STATION NORTH ZONE - USN, of Subtitle K, SPECIAL PURPOSE ZONES, is proposed to be amended, to read as follows:

306.1 Penthouses **and rooftop structures** shall be subject to the regulations of Subtitle C, Chapter 15, and the height and story limitations specified in Subtitle K § 306.2.

306.2 The maximum permitted height of a penthouse **or rooftop structure** shall be twenty feet (20 ft.), and the maximum number stories within the penthouse **or rooftop structure** shall be one (1) plus a mezzanine, except that a second story for penthouse mechanical space shall be permitted.

Subsections 403.5 of § 403, HEIGHT (HE), of Chapter 4, HILL EAST ZONES - HE-1 THROUGH HE-4, of Subtitle K, SPECIAL PURPOSE ZONES, are proposed to be amended, to read as follows:

403.4 Penthouses **and rooftop structures** shall be subject to the regulations of Subtitle C, Chapter 15, and the height and story limitations specified in Subtitle K § 403.5.

403.5 The maximum permitted height of a penthouse or rooftop structure, except as ~~prohibited on~~ limited in Subtitle C § 1501 on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat, ~~in Subtitle C § 1500.4~~, shall be as set forth in the following table:

TABLE K § 403.5: MAXIMUM PERMITTED PENTHOUSE OR ROOFTOP STRUCTURE HEIGHT AND STORIES

Zone District	Maximum Penthouse Height (ft.)	Maximum Penthouse Stories
...

403.6 The matter-of-right height shall serve as the maximum permitted height, penthouse and rooftop structure height, and floor area ratio for a PUD.

Subsection 500.5 of § 500, GENERAL PROVISIONS (CG), of Chapter 5, CAPITOL GATEWAY ZONES – CG-1 THROUGH CG-7, of Subtitle K, SPECIAL PURPOSE ZONES, are proposed to be amended, to read as follows:

500.5 Penthouses and rooftop structures shall be subject to the regulations of Subtitle C, Chapter 15, and the height and story limitations specified in each zone of this subtitle.

Subsections 501.4 and 501.5 of § 501, DEVELOPMENT STANDARDS (CG-1), of Chapter 5, CAPITOL GATEWAY ZONES – CG-1 THROUGH CG-7, of Subtitle K, SPECIAL PURPOSE ZONES, are proposed to be amended, to read as follows:

501.4 The maximum permitted building height, not including the penthouse or rooftop structure, in the CG-1 zone shall be ninety feet (90 ft.). Subtitle K § 510 contains design-related conditions on height and upper story setbacks for South Capitol Street, a designated street of Subtitle K § 508.

501.5 The maximum permitted height of a penthouse or rooftop structure in the CG-1 zone shall be twenty feet (20 ft.), and the maximum number of stories ~~within the penthouse~~ shall be one (1) plus a mezzanine, except that a second story for penthouse mechanical space shall be permitted.

Subsections 502.4 and 502.5 of § 502, DEVELOPMENT STANDARDS (CG-2), of Chapter 5, CAPITOL GATEWAY ZONES – CG-1 THROUGH CG-7, of Subtitle K, SPECIAL PURPOSE ZONES, are proposed to be amended, to read as follows:

502.4 The maximum permitted building height, not including the penthouse or rooftop structure, in the CG-2 zone shall be ninety feet (90 ft.) or one hundred and ten feet (110 ft.) if permitted by the Inclusionary Zoning regulations set forth in Subtitle C, Chapter 10. Subtitle K § 510 contains design-related conditions on height and upper story setbacks for South Capitol Street, a designated street of Subtitle K § 508.

502.5 The maximum permitted height of a penthouse **or rooftop structure** in the CG-2 zone shall be twenty feet (20 ft.), and the maximum number of stories **within the penthouse** shall be one (1) plus a mezzanine, except that a second story for penthouse mechanical space shall be permitted.

Subsections 503.4 and 503.5 of § 503, DEVELOPMENT STANDARDS (CG-3), of Chapter 5, CAPITOL GATEWAY ZONES – CG-1 THROUGH CG-7, of Subtitle K, SPECIAL PURPOSE ZONES, are proposed to be amended, to read as follows:

503.4 The maximum permitted building height, not including the penthouse **or rooftop structure**, in the CG-3 zone shall be ninety feet (90 ft.). Subtitle K § 510 contains design-related conditions on height and upper story setbacks for South Capitol Street, a designated street of Subtitle K § 508.

503.5 The maximum permitted height of a penthouse **or rooftop structure** in the CG-3 zone shall be twenty feet (20 ft.), and the maximum number of stories **within the penthouse** shall be one (1) plus a mezzanine, except that a second story for penthouse mechanical space shall be permitted.

Subsections 504.4 and 504.5 of § 504, DEVELOPMENT STANDARDS (CG-4), of Chapter 5, CAPITOL GATEWAY ZONES – CG-1 THROUGH CG-7, of Subtitle K, SPECIAL PURPOSE ZONES, are proposed to be amended, to read as follows:

504.4 The maximum permitted building height in the CG-4 zone shall be as follows:

(a) The maximum permitted building height, not including the penthouse **or rooftop structure**, in the CG-4 zone shall be ninety feet (90 ft.) and one-hundred feet (100 ft.) with **Inclusionary Zoning (IZ)**; and

(b) ~~Maximum~~ **The maximum** permitted building height, not including the penthouse **or rooftop structure**, shall be that permitted under the Height Act for any site utilizing the residential bonus density of Subtitle K § 504.3(b); or receiving combined lot density pursuant to Subtitle K § 504.3(f) but only to the extent necessary to accommodate any additional density received from another parcel:

(1) Subtitle K § 510 contains design-related conditions ...

...

504.5 The maximum permitted height of a penthouse **or rooftop structure** in the CG-4 zone shall be twenty feet (20 ft.), and the maximum number of stories **within the penthouse** shall be one (1) plus a mezzanine, except that a second story for penthouse mechanical space shall be permitted.

Subsections 505.4 and 505.5 of § 505, DEVELOPMENT STANDARDS (CG-5), of Chapter 5, CAPITOL GATEWAY ZONES – CG-1 THROUGH CG-7, of Subtitle K, SPECIAL PURPOSE ZONES, are proposed to be amended, to read as follows:

505.4 Height requirements for the CG-5 zone are as follows:

- (a) The maximum permitted building height, not including the penthouse or rooftop structure, in the CG-5 zone shall be sixty feet (60 ft.) and eighty feet (80 ft.) with Inclusionary Zoning (IZ);

...

505.5 The maximum permitted height of a penthouse or rooftop structure in the CG-5 zone shall be twelve feet (12 ft.), except that a height of fifteen feet (15 ft.) shall be permitted for penthouse mechanical space; and the maximum number of stories ~~within the penthouse~~ shall be one (1) plus a mezzanine, except that a second story for penthouse mechanical space shall be permitted.

Subsection 601.3 of § 601, DEVELOPMENT STANDARDS (STE), of Chapter 6, SAINT ELIZABETHS EAST CAMPUS ZONES – STE-1 THROUGH STE-19, of Subtitle K, SPECIAL PURPOSE ZONES, is proposed to be amended, to read as follows:

601.3 Except as provided in this chapter, the density, height of a building, or structure, not including the penthouse or rooftop structure, lot occupancy, front setback, and rear yard in a StE zone shall not exceed or be less than that set forth in Subtitle K §§ 602 through 606.

Section 603, HEIGHT (STE), of Chapter 6, SAINT ELIZABETHS EAST CAMPUS ZONES – STE-1 THROUGH STE-19, of Subtitle K, SPECIAL PURPOSE ZONES, is proposed to be amended, to read as follows:

603.1 The maximum permitted building height, not including the penthouse or rooftop structure, as well as the maximum permitted penthouse or rooftop structure height and number of stories, in the StE zones shall be given in the following table:

TABLE K § 603.1: MAXIMUM PERMITTED BUILDING HEIGHT, PENTHOUSE AND ROOFTOP STRUCTURE HEIGHT, AND PENTHOUSE AND ROOFTOP STRUCTURE STORIES

Zone	Maximum Building Height (ft.)	Maximum Penthouse or Rooftop Structure Height (ft.)	Maximum Penthouse or Rooftop Structure Stories
...

603.2 ~~Maximum~~ The maximum permitted building height and penthouse and rooftop structure height within the StE-7 zone is as follows:

- (a) For a distance of two hundred fifty feet (250 ft.) measured from the north property line bounding Cypress Street, S.E., the maximum permitted

building height, not including the penthouse or rooftop structure, shall be eighty feet (80 ft.) and the maximum permitted height of the penthouse or rooftop structure shall be twenty feet (20 ft.), and the maximum number of stories ~~within the penthouse~~ shall be one (1), except that a second story for penthouse mechanical space shall be permitted; and

- (b) For the remainder of this parcel, the maximum permitted height shall be fifty feet (50 ft.); and the maximum permitted height of a penthouse or rooftop structure shall be twelve feet (12 ft.), except that a height of fifteen feet (15 ft.) shall be permitted for penthouse mechanical space; and the maximum number of stories ~~within the penthouse~~ shall be one (1), except that a second story for penthouse mechanical space shall be permitted.

603.3 The maximum permitted building height, not including the penthouse or rooftop structure, for any portion of a building shall be as follows based on the building's distance from the property's distance from the property line along Martin Luther King Jr. Avenue:

- (a) For a distance of two hundred thirty feet (230 ft.) or less, the maximum permitted building height, not including the penthouse or rooftop structure, shall be forty feet (40 ft.);
- (b) For a distance of more than two hundred thirty feet (230 ft.) and less than five hundred sixty feet (560 ft.), the maximum permitted building height, not including the penthouse or rooftop structure, shall be eighty feet (80 ft.); and
- (c) For a distance of five hundred sixty feet (560 ft.) or more, the maximum permitted building height, not including the penthouse or rooftop structure, shall be ninety feet (90 ft.).

The title of § 611, PENTHOUSES (STE), of Chapter 6, SAINT ELIZABETHS EAST CAMPUS ZONES – STE-1 THROUGH STE-19, of Subtitle K, SPECIAL PURPOSE ZONES, is proposed to be amended, to read as follows:

611 PENTHOUSES OR ROOFTOP STRUCTURES (STE)

Section 611, PENTHOUSES OR ROOFTOP STRUCTURES (STE), of Chapter 6, SAINT ELIZABETHS EAST CAMPUS ZONES – STE-1 THROUGH STE-19, of Subtitle K, SPECIAL PURPOSE ZONES, is proposed to be amended, to read as follows:

611.1 Penthouses or rooftop structures shall be subject to the regulations of Subtitle C, Chapter 15, and the height and story limitations specified in each zone of this subtitle.

The title of § 702, HEIGHT AND PENTHOUSE REGULATIONS (RC), of Chapter 7, REED-COOKE ZONES - RC-1 THROUGH RC-3, of Subtitle K, SPECIAL PURPOSE ZONES, is proposed to be amended, to read as follows:

702 HEIGHT AND PENTHOUSE AND ROOFTOP STRUCTURE REGULATIONS (RC)

Section 702, HEIGHT AND PENTHOUSE AND ROOFTOP STRUCTURE REGULATIONS (RC), of Chapter 7, REED-COOKE ZONES - RC-1 THROUGH RC-3, of Subtitle H, NEIGHBORHOOD MIXED USE (NC) ZONES, are proposed to be amended, to read as follows:

- 702.1 The maximum permitted building height, not including the penthouse or rooftop structure, in a RC zone shall not exceed that given in the following table: ...
- 702.2 In the RC-3 zone, a building shall be permitted a maximum height of fifty feet (50 ft.), not including the penthouse or rooftop structure, provided fifty percent (50%) of the additional gross floor area made possible by the height bonus is devoted to Inclusionary Units.
- 702.3 Penthouses or rooftop structures shall be subject to the regulations of Subtitle C, Chapter 15, and the height and story limitations specified in Subtitle K § 702.4.
- 702.4 The maximum permitted height of a penthouse or rooftop structure, except as ~~prohibited on~~ limited in Subtitle C § 1501 on the roof of a detached dwelling, semi-detached dwelling, rowhouse, or flat, ~~in Subtitle C § 1500.4~~, shall be as set forth in the following table:

TABLE K § 702.4: MAXIMUM PERMITTED PENTHOUSE OR ROOFTOP STRUCTURE HEIGHT AND STORIES

Zone	Maximum Penthouse Height (ft.)	Maximum Penthouse Stories
...

The title of § 803, HEIGHT AND PENTHOUSE REGULATIONS (ARTS), of Chapter 8, MIXED-USE-UPTOWN ARTS ZONES - ARTS-1 THROUGH ARTS-4, of Subtitle H, NEIGHBORHOOD MIXED USE (NC) ZONES, is proposed to be amended, to read as follows:

803 HEIGHT AND PENTHOUSE AND ROOFTOP STRUCTURE REGULATIONS (ARTS)

Subsections 803.1 and 803.3 through 803.5 of § 803, HEIGHT AND PENTHOUSE AND ROOFTOP STRUCTURE REGULATIONS (ARTS), of Chapter 8, MIXED-USE-UPTOWN ARTS ZONES - ARTS-1 THROUGH ARTS-4, of Subtitle K, SPECIAL PURPOSE ZONES, are proposed to be amended, to read as follows:

803.1 Except as provided in this section, the maximum permitted building height, not including the penthouse **or rooftop structure**, shall be as set for in the following table: ...

...

803.3 In the underlying ARTS-3 zone, a building may be constructed in excess of the height limit of sixty-five feet (65 ft.), up to a maximum height of seventy-five (75 ft.), provided:

- (a) No penthouse **or rooftop structure** permitted by this title shall exceed a height of eighty-three and one-half feet (83.5 ft.) above the measuring point used for the building; and
- (b) If a lot abuts either a R, RF, or RA zone or an alley that serves ...

803.4 In the ARTS-4 zone, if a building is located on a lot that abuts a street, an alley, or a zone district boundary with a R, RF, or RA zone, no part of the building, including the penthouse **or rooftop structure**, shall project above a plane drawn at a forty-five degree (45°) angle from a line located sixty-five feet (65 ft.) directly above the property line on each such street, alley, or zone district boundary line.

803.5 Penthouses **or rooftop structures** shall be subject to the regulations of Subtitle C, Chapter 15 and the height and story limitations set forth in the following table:

TABLE K § 803.5: MAXIMUM PERMITTED PENTHOUSE OR ROOFTOP STRUCTURE HEIGHT AND STORIES

Zone	Maximum <u>Penthouse</u> Height (ft.)	Maximum <u>Penthouse</u> Stories
...

The title of § 911, HEIGHT AND PENTHOUSES (WR) of Chapter 9, WALTER REED ZONES – WR-1 THROUGH WR-8, of Subtitle K, SPECIAL PURPOSE ZONES, is proposed to be amended, to read as follows:

911 HEIGHT AND PENTHOUSES AND ROOFTOP STRUCTURES (WR)

Subsections 911.3 and 911.4 of § 911, HEIGHT AND PENTHOUSES AND ROOFTOP STRUCTURES (WR), of Chapter 9, WALTER REED ZONES – WR-1 THROUGH WR-8, of Subtitle K, SPECIAL PURPOSE ZONES, are proposed to be amended, to read as follows:

911.3 Penthouses **or rooftop structure** shall be subject to the regulations of Subtitle C, Chapter 15, and the height and story limitations specified in Subtitle C § 911.4.

911.4 A penthouse **or rooftop structure** constructed in accordance with the provisions of Subtitle C, Chapter 15 may be erected to a height in excess of that permitted, but shall not exceed the height, as measured from the surface of the roof upon which the penthouse **or rooftop structure** sits, in the following table:

TABLE K § 911.4: TABLE OF PENTHOUSE OR ROOFTOP STRUCTURE STANDARDS

Zone District	Maximum Penthouse Height (ft.)	Maximum Penthouse Stories
...

Subsections 920.1 and 920.13 of § 920, HEIGHT AND PENTHOUSES AND ROOFTOP STRUCTURES (WR), of Chapter 9, WALTER REED ZONES – WR-1 THROUGH WR-8, of Subtitle H, NEIGHBORHOOD MIXED USE (NC) ZONES, are proposed to be amended, to read as follows:

920.1 Affordable housing shall be provided as described in this section. The provisions of Subtitle C, Chapter 10, shall not apply, with the exception of the relevant penthouse habitable space affordable housing provisions pursuant to Subtitle C § ~~1500.11~~ 1507.2.

...

920.13 Affordable units, in addition to the other requirements of this section, arising from penthouse affordable space pursuant to Subtitle C §§ ~~411.16 and 411.17~~ 1507.1 and 1507.2 shall be provided in accordance with the relevant provisions of Subtitle C, Chapter 10, for residential penthouse habitable space or Subtitle C § ~~414~~ 1507 for non-residential penthouse space, except that such unit may be located anywhere within the area covered by any WR zone.

Subsection 1000.5 of § 1000, GENERAL PROVISIONS (NHR), of Chapter 10, NORTHERN HOWARD ROAD (NHR) ZONE, of Subtitle K, SPECIAL PURPOSE ZONES, are proposed to be amended, to read as follows:

1000.5 Penthouses and rooftop structures shall be subject to the regulations of Subtitle C, Chapter 15, and the height and story limitations specified in this chapter.

Subsections 1001.4 and 1001.5 of § 1001, DEVELOPMENT STANDARDS (NHR), of Chapter 10, NORTHERN HOWARD ROAD (NHR) ZONE, of Subtitle K, SPECIAL PURPOSE ZONES, are proposed to be amended, to read as follows:

1001.4 The maximum permitted building height, not including the penthouse or rooftop structure, in the NHR zone shall be:

Street Right of Way Width	Maximum Permitted Building Height, Not Including <u>Penthouse or Rooftop Structure</u>
...	...

1001.5 The maximum permitted height of a penthouse of rooftop structure in the NHR zone shall be twenty feet (20 ft.); and the maximum number of stories ~~within the penthouse~~ shall be one (1), plus a mezzanine, except that a second story for penthouse mechanical space shall be permitted.

Subsections 1002.6 of § 1002, INCLUSIONARY ZONING (NHR), of Chapter 10, NORTHERN HOWARD ROAD (NHR) ZONE, of Subtitle K, SPECIAL PURPOSE ZONES, are proposed to be amended, to read as follows:

1002.6 Any non-residential penthouse habitable space shall be subject to the affordable housing production requirements of Subtitle C § ~~1505~~ 1507.1.

Section 4903, HEIGHT, of Chapter 49, PUBLIC SCHOOLS, of Subtitle K, SPECIAL PURPOSE ZONES, is proposed to be amended, to read as follows:

4903.1 The maximum permitted building height, not including the penthouse or rooftop structure, shall be as set forth in the following table: ...

The title of § 4904, PENTHOUSES, of Chapter 49, PUBLIC SCHOOLS, of Subtitle K, SPECIAL PURPOSES ZONES, is proposed to be amended, to read as follows:

4904 PENTHOUSES OR ROOFTOP STRUCTURES

Section 4904, PENTHOUSES OR ROOFTOP STRUCTURES, of Chapter 49, PUBLIC SCHOOLS, of Subtitle K, SPECIAL PURPOSE ZONES, is proposed to be amended, to read as follows:

4904.1 Penthouses and rooftop structures shall be subject to the regulations of Subtitle C, Chapter 15, and to the height and story limitations specified in each zone of this subtitle; provided that public schools shall be permitted a mechanical penthouse to a maximum height of eighteen feet, six inches (18 ft., 6 in.), or the permitted mechanical penthouse height in the zone, whichever is greater.

XII. Proposed Amendments to Subtitle U, USE PERMISSIONS

Subsection 100.5 of § 100, GENERAL USE PROVISION, of Chapter 1, USE PERMISSIONS, of Subtitle U, USE PERMISSIONS, is proposed to be amended, to read as follows:

100.5 Uses permitted within a penthouse or rooftop structure shall be in accordance with Subtitle C § ~~1500.3~~ 1501.

Section 301, MATTER-OF-RIGHT USES (RF), of Chapter 3, USE PERMISSIONS (RF) ZONES, of Subtitle U, USE PERMISSIONS, is proposed to be amended, to read as follows:

301.1 The following uses shall be permitted as a matter-of-right in an RF zone subject to any applicable conditions:

(a) Any use permitted in the R zones ...

...

- (g) A multiple dwelling in Squares 2580, 2581, 2582, 2583, 2584, 2586W, 2587, 2589, in existence as of December 14, 2015, with a valid certificate of occupancy, or a building permit application that was officially accepted by DCRA as being complete prior to December 14, 2015, provided that the multiple dwelling shall not be expanded in gross floor area, lot occupancy, number of stories, building height, penthouse **or rooftop structure** height, or number of units. Said multiple dwelling, however, may be repaired, renovated, remodeled, or structurally altered.

...

XIII. Proposed Amendments to Subtitle X GENERAL PROCEDURES

Subsections 303.7 and 303.18 of § 303, PLANNED UNIT DEVELOPMENT FLEXIBILITY, of Chapter 3, PLANNED UNIT DEVELOPMENTS, of Subtitle X, GENERAL PROCEDURES, is proposed to be amended, to read as follows:

303.7 Except as permitted for a penthouse **or rooftop structure** pursuant to Subtitle X § 303.18, no building or structure shall exceed the maximum PUD height permitted in the least restrictive zone district within the PUD site as set forth in the following table; provided, that the Zoning Commission may authorize the deviations permitted pursuant to Subtitle X § 303.10: ...

...

303.10 The Zoning Commission may authorize the following increases; provided, that the increase is essential to the successful functioning of the project and consistent with the purposes and evaluation standards of this chapter:

- (a) An increase of not more than five percent (5%) in the maximum building height but not the maximum penthouse **or rooftop structure** height; or
- (b) An increase of not more than ...

...

303.18 The matter-of-right penthouse **or rooftop structure** height and number of story limits shall serve as the maximum permitted penthouse **or rooftop structure** height and stories for a PUD except in the following zones: ...

TABLE X § 303.18: MAXIMUM PUD PENTHOUSE OR ROOFTOP STRUCTURE HEIGHT AND STORIES

Zone	Maximum Penthouse Height (ft.)	Maximum Penthouse Stories
...