



SUPPLEMENTAL REPORT

TO: District of Columbia Zoning Commission

FROM: JL Joel Lawson, Associate Director, Development Review

Jennifer Steingasser, Deputy Director Development Review & Historic Preservation

DATE: November 2, 2015

**SUBJECT: ZC 14-13, Text Amendment to the Zoning Regulations: Rooftop Penthouses
Final Supplemental Report**

I. OP RECOMMENDATION

The final draft of the proposed text amendments to penthouse regulations, as attached to this report, is not inconsistent with the Comprehensive Plan for the District of Columbia, or with the 1910 Height Act. The proposal has received extensive, detailed, and very thoughtful review by the public and by the Zoning Commission at multiple public hearings and meetings, with extended public comment periods. This draft includes many amendments responding to those comments. OP has also worked closely with the Office of the Attorney General (OAG) and Department of Consumer and Regulatory Affairs (DCRA) in the preparation of the attached final draft.

While allowing additional flexibility in terms of penthouse use and design, the proposal also provides for significant new restrictions on penthouse placement and size, particularly in low to medium density zones. The affordable housing provisions, which apply to all forms of development and to all parts of city, will build on current programs to support the provision of new affordable housing throughout the District.

As such, **OP recommends that the attached proposed amendments to the Zoning Regulations regarding penthouse provisions be approved.**

II. BACKGROUND

This case was filed in response to amendments adopted by Congress and signed into law by the President of the United States to the Height Act of 1910. The amendments are intended to provide for appropriate penthouse controls and permissions. A timeline of major Zoning Commission actions to date for this case includes:

- July 28, 2014 - Public meeting. The Zoning Commission received a report from the Office of Planning (OP) describing proposed amendments to the Zoning Regulations pertaining to rooftop penthouses.
- September 4, 2014 - Special public meeting. The Commission set down the draft text along with alternative text as requested.
- November 6, 2014 - Public Hearing.
- December 8, 2014 - Public meeting. The Zoning Commission discussed the proposals and requested that OP provide a broader “matrix” of options, for further discussion.
- February 23, 2015 - Public meeting. The Commission discussed the options noted in the matrix and other options.
- April 30, 2015 – Second public hearing.

- June 8, 2015 - Public meeting – The Zoning Commission discussed and then took **proposed action to approve** text amendments.
- October 9, 2015 – Public comment record closes.
- October 26, 2015 - Public meeting. The Zoning Commission reviewed a supplemental report from OP regarding specific public issues raised through the public comment period, and provided additional direction / confirmation. The Commission also received an OP summary of the public comments received.
- November 9, 2015 – Public meeting. The Zoning Commission is scheduled to take final action.

III. FINAL DRAFT OF PROPOSED PENTHOUSE REGULATION TEXT

This final supplemental report from OP provides a summary of the clarifications and corrections made to the text. These are based on public comments, Zoning Commission direction, and additional review by the Department of Consumer Affairs (DCRA), the Office of the Attorney General (OAG), and OP. The final draft proposed text is attached to this report, with any changes from the draft advertised as part of the Notice of Proposed Rulemaking (NPR) redlined. A list of the amendments made since the NPR follows:

1. Definitions: Clarification of the definition for “Penthouse”.
Addition of new definitions for “Penthouse mechanical space” and “Penthouse habitable space”, and corresponding amendments throughout the text to utilize these terms consistently.
2. §§ 400.5, 530.5, 770.6, 840.3, 930.3, 1307.7, 1309.8, 1402.4, 1402.5, 1534.4, 2405.1, 2809.2, and 3312.2: Change the permitted penthouse height from ten feet to twelve feet, per Zoning Commission direction at its October 26, 2015 public meeting.
3. § 400.5: Incorporate existing §400.8 into this section.
4. § 411.2: Move the text of this section to the definition for “penthouse”.
5. § 411.3: Move this existing section up from current § 411.23.
6. § 411.9: Permit the elevator over-ride to be of a separate height from other mechanical space, per Zoning Commission direction at its October 26, 2015 public meeting.
7. § 411.16: Clarification that rooftop recreation space on a residential building does not trigger an affordable housing requirement, per Zoning Commission direction at its October 26, 2015 public meeting.
8. § 411.18: Clarification that roof decks and trellises on a roof, while not considered “penthouses”, would have to provide the required setback.
9. § 411.18 (a): Clarification that a setback from a property that has a lower or equal permitted matter of right building height is required on a single family dwelling or flat in any zone (although such a penthouse is permitted only by special exception), per Zoning Commission direction at its October 26, 2015 public meeting.

10. § 411.18 (c): Reference to the Pennsylvania Avenue Development Corporation Guidelines added, for clarity only.
11. § 411.22: Move the text of this section to the definition for “penthouse”.
12. § 411.23: Move the text of this section forward, to § 411.3.
13. § 414.11: Clarification regarding off-site provision of affordable housing if the provided housing is a one-family dwelling, not requiring a certificate of occupancy.
14. § 414.15: Clarification that the housing linkage for new penthouse space on a non-residential building applies to habitable space only.
15. § 1810.1: Clarification that the affordable housing linkage requirement does not apply to a residential rental building within the Southeast Federal Center, per Zoning Commission direction at its October 26, 2015 public meeting.
16. §2405.1: Correction to the penthouse permitted height for two zones, W-1 and C-M-1, to be consistent with that permitted for other buildings of similar height.
17. §2603.10: Clarification requested by DCRA regarding the allocation of affordable units resulting from penthouse habitable space under IZ.
18. §3510.3: Addition of penthouse height and number of story provisions for the Walter Reed zones, published subsequent to initiation of this application. The proposed permissions are based on that permitted for the most relevant residential or mixed use zone permissions.

In addition to the modifications noted above, OP will continue to work with OAG on any remaining issues of formatting, clarification of text, correction of references, and consistency with Office of Documents and Administrative Issuance (ODAI) standards, as needed. OP also anticipates that further clarification and simplification will be possible through reformatting when translated into the Zoning Regulations Review (ZRR) format.

JLS/jl

PROPOSED PENTHOUSE TEXT AMENDMENTS - FINAL ACTION
November 2, 2015

Chapter 1, THE ZONING REGULATIONS, Section 199 DEFINITIONS

Penthouse – A structure on or above the roof of any part of a building. The term includes all structures previously regulated as “roof structures” by § 411 prior to [THE EFFECTIVE DATE OF THIS AMENDMENT] including ~~roof decks and~~ mechanical equipment. Skylights, gooseneck exhaust ducts serving kitchen and toilet ventilating systems, roof mounted antennas, and plumbing vent stacks shall not be considered as penthouses.

Penthouse mechanical space – enclosed space within a penthouse devoted to mechanical equipment for the building, elevator over-rides, or stair towers.

Penthouse habitable space – enclosed space within a penthouse devoted to any use permitted in the zone, unless otherwise restricted, other than penthouse mechanical space. The term habitable penthouse space shall include communal recreation space and associated facilities such as storage, kitchen space, change rooms, or lavatories.

The Height Act - Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452, as amended; D.C. Official Code §§ 6-601.01 to 6-601.09).

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. The number of stories shall be counted at the point from which the height of the building is measured.

For the purpose of determining the maximum number of permitted stories, the term "story" shall not include cellars or penthouses.

Story, top - the uppermost portion of any building or structure that is used for purposes other than penthouses. The term "top story" shall exclude architectural embellishment.

Chapter 4, RESIDENCE DISTRICT: HEIGHT, AREA, AND DENSITY REGULATIONS

Section 400, HEIGHT OF BUILDINGS OR STRUCTURES (R):

400.1 Except as specified in this chapter and in chapters 20 through 25 of this title, the height of buildings or structures, not including the penthouse, in a Residence District shall not exceed that given in the following table:

ZONE DISTRICT	MAXIMUM HEIGHT (Feet)	MAXIMUM HEIGHT (Stories)
R-1-A, R-1-B, R-2, R-3, R-5-A	40	3
R-5-B	50	no limit
R-5-C	60	no limit
R-5-D	90	no limit
R-5-E	90	no limit
R-4 ZONE DISTRICT		
New construction of 3 or more immediately adjoining one- or two-family row dwellings built concurrently on separate record lots	40	3
All other structures	35	3

400.2 Except as provided in § 2510, the height of buildings or structures specified in § 400.1 may be exceeded as provided in §§ 400.3 through 400.13 and § 400.23.

400.3 A spire, tower, dome, pinnacle, minaret serving as an architectural embellishment, or antenna may be erected to a height in excess of that which this section otherwise authorizes in the district in which it is located.

400.4 A chimney or smokestack 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.

400.7-5 A penthouse may be erected to a height in excess of that authorized in the district in which it is located. The height of a ~~rooftop~~ penthouse, except as restricted in §400.6 and as prohibited on the roof of a detached dwelling, semi-detached dwelling, rowhouse or flat in any zone in §411.5, as measured from the surface of the roof upon which the penthouse is located, shall not exceed that given in the following table:

ZONE DISTRICT	Maximum Penthouse Height (Feet)	Maximum Penthouse Stories
R-1-A, R-1-B, R-2, R-3, R-4, R-5-A	40-12'	1
R-5-B	40-12' except 15' for <u>penthouse mechanical space equipment, stairway, and elevator overrides</u>	1; second story permitted for <u>penthouse mechanical space equipment</u>
R-5-C	40-12' , except 18'-6" for <u>penthouse mechanical space equipment, stairway, and elevator overrides</u>	1; second story permitted for <u>penthouse mechanical space equipment</u>
R-5-D	20'	1 plus mezzanine; second story permitted for <u>penthouse mechanical space equipment</u>
R-5-E	20'	1 plus mezzanine; second story permitted for <u>penthouse mechanical space mechanical equipment</u>

- 400.~~86~~ A non-residential building constructed pursuant to §§ 400.7 - 400.12 shall be permitted a penthouse of eighteen foot six inches (18'-6") in height maximum.
- 400.~~75~~ A building or other structure may be erected to a height not exceeding ninety feet (90 ft.); 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 natural grade.
- 400.~~86~~ A church may be erected to a height of sixty feet (60 ft.); provided, that it shall not exceed the number of stories permitted in the district in which it is located.
- 400.7 — If housing for mechanical equipment or a stairway or elevator penthouse is provided on the roof of a building or structure, it shall be erected or enlarged as follows:
- (a) — It shall meet the requirements of § 411;
 - (b) — It shall be set back from all exterior walls a distance at least equal to its height above the roof upon which it is located; and
 - (c) — It shall not exceed eighteen feet, six inches (18 ft., 6 in.), in height above the roof upon which it is located. Mechanical equipment shall not extend above the permitted eighteen foot, six inch (18 ft., 6 in.), height of the housing.
- ~~400.8 — Housing for mechanical equipment, a stairway, or elevator penthouse may be erected to a height in excess of that authorized in the district in which it is located.~~
- 400.9 An institutional building or structure may be erected to a height not exceeding ninety feet (90 ft.); 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 district in which it is located.
- 400.10 In an R-1, R-2, R-3, and R-4 District, a public school building or structure may be erected to a height not exceeding sixty feet (60 ft.).

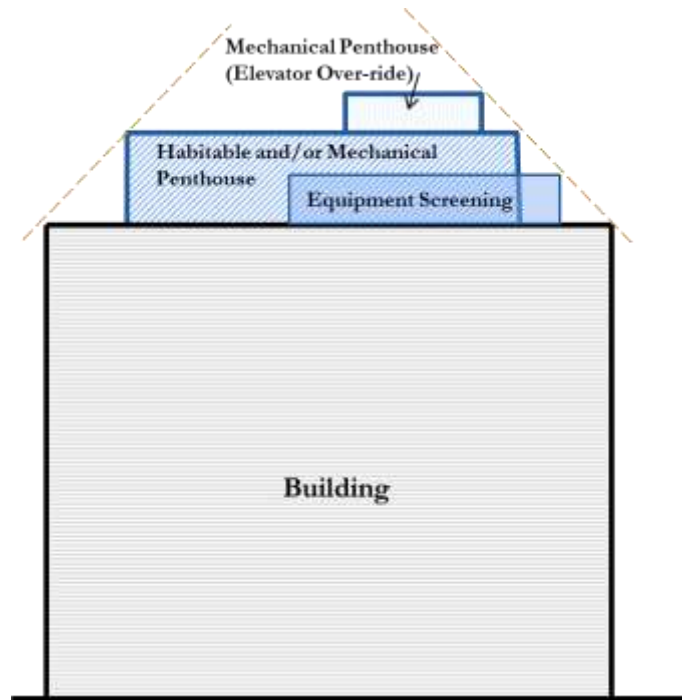
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Section 411, ROOF STRUCTURES (R), is retitled Section 411 PENTHOUSES (R) and is amended to read as follows:

- 411.1 A penthouse permitted in this title shall comply with the conditions specified in this section.
- 411.2 ~~RESERVED For the purposes of this section, the term "mechanical space" refers to any enclosed penthouse space used for mechanical equipment, elevator over-run, or stairway; and the term "habitable space" refers to any enclosed penthouse space used for any purpose other than mechanical space as defined above.~~
- 411.3 ~~RESERVED. Except 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.~~

- 411.4 A penthouse may house mechanical ~~space equipment~~ or any use permitted within the zone, except as follows:
- (a) ~~Habitable-Penthouse habitable~~ space ~~within a penthouse~~ on a detached dwelling, semi-detached dwelling, rowhouse or flat shall be limited pursuant to § 411.5 below;
 - (b) Within residential zones and the Capitol Interest Overlay in which the building is limited to 40 feet maximum, a 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;
 - (c) A nightclub, bar, cocktail lounge, or restaurant use shall only be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104; and
 - (d) ~~Habitable-Penthouse habitable~~ space ~~within the penthouse~~ is not permitted on any building within an area bound by I Street NW to the north; Constitution Avenue NW to the south; 19th Street NW to the west and 13th Street NW to the east.
- 411.5 Notwithstanding § 411.4, a penthouse, other than screening for rooftop mechanical equipment or a guard-rail required by Title 12 of the DCMR (CONSTRUCTION CODE SUPPLEMENT OF 2013) for a roof deck~~for a roof deck required by the Building Code~~, 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 § 3104, provided the penthouse:
- (a) Is no more than 10 feet in height and contains no more than one story;
 - (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.
- 411.6 All penthouses ~~and mechanical equipment~~ shall be placed in one (1) enclosure, and shall harmonize with the main structure in architectural character, material, and color; except that a rooftop egress stairwell enclosure not containing any other form of habitable or mechanical space may be contained within a separate enclosure.
- 411.7 Mechanical equipment shall be enclosed fully, except that louvers for the enclosing walls 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.
- 411.8 When roof levels vary by one (1) floor or more or when separate elevator ~~eores~~ penthouses are required, there may be one (1) enclosure for each elevator ~~eore~~ penthouse at each roof level.
- 411.9 Enclosing walls of ~~habitable space within~~ the penthouse shall be of equal, uniform height as measured from roof level, except that:

- (a) Enclosing walls of penthouse habitable space may be of a single different height than walls enclosing penthouse mechanical space;
- (b) For a penthouse containing no habitable space, enclosing walls of penthouse mechanical space shall be of a single uniform height except walls enclosing an elevator override may be of a separate uniform height; and
- (c) ~~within the penthouse may of the same height as the enclosing walls of habitable space, or may be of a single, different uniform height, and r~~Required screening walls around uncovered mechanical equipment may be of a single, different uniform height.



- 411.10 Enclosing walls of a penthouse from roof level shall rise vertically to a roof, with a slope not exceeding 20% from vertical.
- 411.11 The Board of Zoning Adjustment may grant special exceptions under § 3104 from §§ 411.6 through 411.10, even if such structures do not meet the normal setback requirements of §§ 411.18, upon a showing that:
- (a) Operating difficulties such as meeting building code requirements for roof access and stairwell separation or elevator stack location to achieve reasonable efficiencies in lower floors; size of building lot; or other conditions relating to the building or surrounding area make full compliance unduly restrictive, prohibitively costly or unreasonable;
 - (b) The intent and purpose of this chapter and this title will not be materially impaired by the structure; and

- (c) The light and air of adjacent buildings will not be affected adversely.
- 411.12 Penthouses shall not exceed one-third (1/3) of the total roof area upon which the penthouse sits in the following areas:
- (a) Zones where there is a limitation on the number of stories other than the C-3-B zone; and
 - (b) Any property fronting directly onto Independence Avenue SW between 12th Street SW and Second Street SW.
- 411.13 For the purposes of calculating floor area ratio for the building, the aggregate square footage of all space on all penthouse levels or stories measuring six and one-half feet (6 1/2 ft.) or more in height shall be included in the total floor area ratio permitted for the building, with the following exceptions:
- (a) Penthouse Mechanical-mechanical space;
 - (b) Habitable space devoted exclusively to communal rooftop recreation space;
 - (c) Penthouse Habitable-habitable space other than as exempted in § 411.13 (b) within a penthouse with a floor area ratio of less than four-tenths (0.4); and
 - (d) Mechanical equipment owned and operated as a roof-structurepenthouse by a fixed right-of-way public mass transit system.
- 411.14 Areas within curtain walls or screening 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 § 411.12.
- 411.15 The gross floor area of habitable-penthouse habitable space within a penthouses shall be included in calculations to determine the amount of off-street vehicle parking, bicycle parking, and loading as required elsewhere in this title; except that communal recreation space for residents or tenants of the building, or other ancillary space associated with a rooftop deck shall not be included.
- 411.16 For residential buildings, the construction of penthouse habitable spaceGFA, including all forms of habitable spaceexcept penthouse habitable space devoted exclusively to communal rooftop recreation or amenity space for the primary use of residents of the residential building, is subject to the Inclusionary Zoning set-aside provisions of Chapter 26.
- 411.17 For non-residential buildings, the construction of habitable-penthouse habitable spaceGFA, including all forms of habitable space, shall trigger the affordable housing requirement as set forth in § 414.
- 411.18 Penthouses for mechanical or habitable space, 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:

- (a) A distance equal to its height from the following:
 - (1) Front building wall of the roof upon which it is located;
 - (2) Rear building wall of the roof upon which it is located;
 - (3) Side building walls of the roof upon which it is located in the R-1 through R-4 zones, or on a one- family dwelling or flat in any zone, that are adjacent to a property that has a lower or equal permitted matter of right building height;
 - (4) Side building walls of the roof upon which it is located in zones and for uses other than those listed in § 411.18 (a)(3), other than the R-1 through R-4 zones that are adjacent to a property that has a lower permitted matter-of-right building height; and
 - (5) Adjacent property that is 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;
- (b) A distance equal to one-half (~~0.5~~1/2) 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 paragraph (a)(3) through (5); or
- (c) A distance equal to two times (2 X) its height from any building wall of the roof upon which it is located which fronts onto Independence Avenue SW between 12th Street SW and 2nd Street SW, or fronting onto Pennsylvania Avenue NW between 3rd Street NW and 15th Street NW, subject to any penthouse constraints contained within adopted PADC Guideline documents.

411.19 Except as required in §411.~~12-18~~above, no setback is required from any side building wall that is adjoining another building wall with an equal or greater ~~matter~~matter_of_right height.

411.20 For purposes of applying penthouse setbacks:

- (a) Walls of buildings that border any courtyard other than closed courtyards shall be deemed to be exterior walls;
- (b) Setbacks shall be applied to adjoining walls when the adjacent property has a lower matter-of-right height; and
- (c) Setbacks shall be applied when the adjacent property is improved with a designated landmark or contributing structure to a historic district.

411.21 For the administration of this section, mechanical equipment shall not include telephone equipment, radio, television, or electronic equipment of a type not necessary to the operation of the building or structure. Antenna equipment cabinets and antenna equipment shelters shall be regulated by chapter 27 of this title.

411.22 ~~RESERVED~~For purposes of this section, skylights, gooseneck exhaust ducts serving kitchen and toilet ventilating systems, and plumbing vent stacks shall not be considered as penthouse structures.

411.23 ~~RESERVED~~Except as otherwise noted in this Section, penthouse structures less than four feet (4 ft.) in height above a roof or parapet wall shall not be subject to the requirements of this section.

411.24 A request to add penthouse habitable space to a building approved by the Zoning Commission as a planned unit development or through the design review requirements of Chapters 16, 18, 28, or 29 prior to (**EFFECTIVE DATE OF THIS AMENDMENT**) may be filed as a minor modification for placement on the Zoning Commission consent calendar, pursuant to § 3030 provided:

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

411.25 In addition to meeting the requirement of § 3030, an application made pursuant to § 411.24 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 ANC has been notified of the request;

411.26 Pursuant to Section 5 of the Height Act, D.C. Official Code § 601.05 (h), a penthouse 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 back and other restrictions stated in the Act.

414 AFFORDABLE HOUSING PRODUCTION REQUIREMENT GENERATED BY CONSTRUCTION ON A NON-RESIDENTIAL BUILDING OF PENTHOUSE HABITABLE SPACE ~~PENTHOUSE GROSS FLOOR AREA~~

414.1 The owner of a non-residential building proposing to construct ~~habitable~~ penthouse habitable gross floor area ("GFA")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 § 2601.1, in accordance with this section.

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

- 414.3 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.
- 414.4 Qualifying residential uses include one-family dwellings, flats, multiple-family dwellings, including apartment houses, rooming houses, and boarding houses, but shall not include transient accommodations, all as defined in § 199.1.
- 414.5 If the owner constructs or rehabilitates the required housing, the provisions of §§ 414.7 through 414.11 shall apply,
- 414.6 The gross square footage of new or rehabilitated housing shall equal:
- (a) Not less than one-fourth (1/4) of the proposed ~~habitable-penthouse-penthouse~~ habitable space~~gross square footage~~ if the required housing is situated on an adjacent property;
 - (b) Not less than one-third (1/3) of the proposed ~~habitable-penthouse~~ habitable space ~~gross square footage~~ 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 (1/2) of the proposed ~~habitable-penthouse~~ habitable space ~~gross square footage~~ if the location of the required housing is other than as approved in paragraphs (a) and (b) above.
- 414.7 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.
- 414.8 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).
- 414.9 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 one-family dwelling the effective date of the first lease agreement.
- 414.10 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 one-family dwelling the effective date of the first sales agreement.

- 414.11 No certificate of occupancy shall be issued for the owner's building to permit the occupancy of ~~habitable~~-penthouse habitable space~~gross floor area~~ 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.
- 414.12 If the owner instead chooses to contribute funds to a housing trust fund, as defined in § 2499.1, the provisions of §§ 414.14 through 414.17 shall apply.
- 414.13 The contribution shall be equal to one-half (1/2) of the assessed value of the proposed ~~habitable~~-penthouse habitable space~~gross floor area for office use.~~
- 414.14 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 ~~habitable~~ penthouse habitable space~~gross floor area.~~
- 414.15 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 ~~non-residential gross square feet~~ to be constructed.
- 414.16 Not less than one-half (1/2) of the required total financial contribution shall be made prior to the issuance of a building permit for construction of the habitable penthouse space~~gross floor area~~, 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 ~~habitable~~-penthouse habitable space~~gross floor area.~~

Chapter 5, SPECIAL PURPOSE DISTRICTS

Section 530, HEIGHT (SP):

- 530.1 Except as specified in §§ 530 through 537 and in chapters 20 through 25 of this title, the height of buildings or structures, not including a penthouse, in an SP District shall not exceed the height set forth in the following table:
- 530.4 Spires, towers, domes, pinnacles or minarets serving as architectural embellishments, penthouses, ventilator shafts, antennas, chimneys, smokestacks, or fire sprinkler tanks may be erected to a height in excess of that which this section otherwise authorizes. This section shall not be interpreted to bypass otherwise required special exception reviews.
- 530.5 A penthouse may be erected to a height in excess of that which this section otherwise authorizes but shall not exceed the height, as measured from the surface of the roof upon which the penthouse is located, in the following table:

ZONE DISTRICT	Maximum Penthouse Height (Feet)	Maximum Penthouse Stories
SP-1	40²12' , except 18'-6" for <u>penthouse mechanical space equipment, stairway, and elevator overrides</u>	1; second story permitted for <u>penthouse mechanical- space equipment</u>
SP-2	20'	1 plus mezzanine; second story permitted for <u>penthouse mechanical space-equipment</u>

Subsection 530.6 is repealed.

Section 537, PENTHOUSES (SP):

537.1 The provisions of § 411 shall also regulate penthouses in SP Districts.

Subsection 537.2 is repealed.

Chapter 6, MIXED USE, COMMERCIAL RESIDENTIAL) DISTRICTS

Section 630, HEIGHT (CR):

630.1 Except as provided in this section, the height of buildings and structures, not including a penthouse, shall not exceed ninety feet (90 ft.).

630.4 A penthouse may be erected to a height in excess of that which this section otherwise authorizes, but shall not exceed a height of twenty feet (20 ft.) or one story, as measured from the surface of the roof upon which the penthouse sits. A mezzanine for habitable or mechanical space is permitted; and a second story is permitted for penthouse mechanical equipment-space only.

Subsection 630.5 is repealed.

Section 639, PENTHOUSES (CR):

639.1 The provisions of § 411 shall also regulate penthouses in CR Districts.

Subsection 639.2 is repealed.

Chapter 7, COMMERCIAL DISTRICTS

Section 770, HEIGHT OF BUILDINGS AND STRUCTURES (C):

770.1 Except as provided in this section and in chapters 17 and 20 through 25 of this title, the height of a building or structure, not including a penthouse, in a Commercial District shall not exceed that set forth in the following table:

770.3 Spires, towers, domes, pinnacles or minarets serving as architectural embellishments, penthouses, ventilator shafts, antennas, chimneys, smokestacks, or fire sprinkler tanks may be erected to a height in excess of that which this sections otherwise authorizes. This section shall not be interpreted to bypass otherwise required special exception reviews.

770.6 A penthouse may be erected to a height in excess of that which this section otherwise authorizes but shall not exceed the height, as measured from the surface of the roof upon which the penthouse is located, in the following table:

ZONE DISTRICT	Maximum Penthouse Height (Feet)	Maximum Penthouse Stories
C-1, C-2-A	40²12' except 15' for penthouse mechanical space equipment, stairway, and elevator overrides	1; second story permitted for penthouse mechanical space equipment
C-2-B, C-3-A	40²12' , except 18'-6" for penthouse mechanical space equipment, stairway, and elevator overrides	1; second story permitted for penthouse mechanical space equipment
C-2-B-1, C-3-B	20'	1; second story permitted for penthouse mechanical space equipment
C-2-C; C-3-C; C-4; C-5	20'	1 plus mezzanine; second story permitted for penthouse mechanical space equipment

Subsections 770.7 and 770.8 are repealed.

Section 777 PENTHOUSES (C):

777.1 The provisions of § 411 shall also regulate penthouses in the Commercial Districts.

Subsection 777.2 is repealed.

Chapter 8, INDUSTRIAL DISTRICTS

Section 840, HEIGHT OF BUILDINGS AND STRUCTURES (C-M, M):

- 840.1 Except as provided in § 840.2 and in chapters 20 through 25 of this title, the height of buildings or structures, not including a penthouse, in an Industrial District shall not exceed that given in the following table:
- 840.2 Spires, towers, domes, pinnacles or minarets serving as architectural embellishments, penthouses, ventilator shafts, antennas, chimneys, smokestacks, or fire sprinkler tanks may be erected to a height in excess of that which this section otherwise authorizes. This section shall not be interpreted to bypass otherwise required special exception reviews.
- 840.3 A penthouse may be erected to a height in excess of that which this section otherwise authorizes but shall not exceed the height, as measured from the surface of the roof upon which the penthouse is located, in the following table:

ZONE DISTRICT	Maximum Penthouse Height (Feet)	Maximum Penthouse Stories
CM-1	40 12' except 15' for <u>penthouse mechanical space equipment, stairway, and elevator overrides</u>	1; second story permitted for <u>penthouse mechanical space equipment</u>
CM-2	40 12', except 18'-6" for <u>penthouse mechanical space equipment, stairway, and elevator overrides</u>	1; second story permitted for <u>penthouse mechanical space equipment</u>
CM-3, M	20'	1 plus mezzanine; second story permitted for <u>penthouse mechanical space equipment</u>

Subsections 840.4 and 840.5 are repealed.

Section 845 PENTHOUSES (C-M, M):

- 845.1 Section 411 shall be applicable to penthouses in the Industrial Districts.

Subsection 845.2 is repealed.

Chapter 9, WATERFRONT DISTRICTS

Section 930, HEIGHT OF BUILDINGS AND STRUCTURES (W):

- 930.1 Except as provided in this section, the height of buildings and structures, not including a penthouse, shall not exceed the maximum height in the following table:
- 930.2 Spires, towers, domes, pinnacles or minarets serving as architectural embellishments, penthouses, ventilator shafts, antennas, chimneys, smokestacks, or fire sprinkler tanks may be erected to a height in excess of that which this section otherwise authorizes. This section shall not be interpreted to bypass otherwise required special exception reviews or mayoral approvals.
- 930.3 A penthouse may be erected to a height in excess of that which this section otherwise authorizes but shall not exceed the height, as measured from the surface of the roof upon which the penthouse is located, in the following table:

ZONE DISTRICT	Maximum Penthouse Height (Feet)	Maximum Penthouse Stories
W-0; W-1	40' 12' except 15' for <u>penthouse mechanical space equipment, stairway, and elevator overrides</u>	1; second story permitted for <u>penthouse mechanical space equipment</u>
W-2	40' 12' , except 18' -6" for <u>penthouse mechanical space equipment, stairway, and elevator overrides</u>	1; second story permitted for <u>penthouse mechanical space equipment</u>
W-3	20'	1 plus mezzanine; second story permitted for <u>penthouse mechanical space equipment</u>

Subsection 930.4 is repealed.

Section 936 PENTHOUSES (W):

- 936.1 The provisions of § 411 shall apply to penthouses in the Waterfront Districts.

Subsection 936.2 is repealed

Chapter 12, CAPITOL INTEREST OVERLAY DISTRICT

Section 1203, HEIGHT, AREA, AND BULK REGULATIONS:

- 1203.2 The height of buildings or structures as specified in § 1203.1 may be exceeded in the following instances:
- (a) A spire, tower, dome, minaret, pinnacle, or penthouse may be erected to a height in excess of that authorized in § 1203.1; and
 - (b) If erected or enlarged, a penthouse may be erected to a height in excess of that authorized in the zone district in which located; provided that:
 - (1) It meets the requirements of § 411; and
 - (2) It does not exceed ten feet (10 ft.) or one story in height above the roof upon which it is located.

Subsection 1203.4 is repealed.

Chapter 13, NEIGHBORHOOD COMMERCIAL OVERLAY DISTRICT

Section 1305, PLANNED UNIT DEVELOPMENT GUIDELINES:

- 1305.1 In the NC Overlay District, the matter-of-right height, penthouse, and floor area ratio limits shall serve as the guidelines for Planned Unit Developments.

Section 1307, WOODLEY PARK NEIGHBORHOOD COMMERCIAL OVERLAY DISTRICT:

- 1307.7 A penthouse within the WP/C-2-A or WP/C-2-B Overlay Districts may be erected to a height in excess of that authorized in the zone district in which located; provided, that:
- (a) The maximum permitted height shall be ~~ten-twelve~~ feet (~~10²12'~~) above the roof upon which it is located, except that the maximum permitted height for a penthouse ~~for mechanical space equipment, stairway, and elevator overrides~~ shall be fifteen feet (15'); and
 - (b) The maximum permitted number of stories within the penthouse shall be one (1) except that a second story for mechanical equipment only shall be permitted.

Section 1309, EIGHTH STREET SOUTHEAST NEIGHBORHOOD COMMERCIAL OVERLAY DISTRICT:

- 1309.8 A penthouse within the ES Overlay District may be erected to a height in excess of that authorized in the zone district in which located; provided, that:
- (a) The maximum permitted height shall be ~~ten-twelve~~ feet (~~10'12'~~) above the roof upon which it is located, except that the maximum permitted height for a penthouse ~~for-mechanical space equipment, stairway, and elevator overrides~~ shall be fifteen feet (15'); and
 - (b) The maximum permitted number of stories within the penthouse shall be one (1).

Chapter 14, REED-COOKE OVERLAY DISTRICT

Section 1402, HEIGHT AND BULK PROVISIONS:

- 1402.2 For the purpose of this chapter, no Planned Unit Development shall exceed the matter-of-right building height, bulk, and area requirements or penthouse provisions of the underlying district.
- 1402.4 If erected or enlarged as provided in § 411, a penthouse within the RC/C-2-A or RC/R-5-B Overlay Districts may be erected to a height in excess of that authorized in the zone district in which located; provided, that
- (a) The maximum permitted height shall be ~~ten-twelve~~ feet (~~10'12'~~) above the roof upon which it is located, except that the maximum permitted height for a penthouse ~~for-mechanical space equipment, stairway, and elevator overrides~~ shall be fifteen feet (15');
 - (b) The maximum permitted number of stories within the penthouse shall be one (1); and
 - (c) It 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
- 1402.5 A penthouse within the RC/C-2-B Overlay District may be erected to a height in excess of that authorized in the zone district in which located; provided, that
- (a) The maximum permitted height shall be ~~ten-twelve~~ feet (~~10'12'~~) above the roof upon which it is located, except that the maximum permitted height for a penthouse ~~for-mechanical space equipment, stairway, and elevator overrides~~ shall be fifteen feet (15');
 - (b) The maximum permitted number of stories within the penthouse shall be one (1), except that a second story for mechanical equipment only shall be permitted.

Chapter 15, MISCELLANEOUS OVERLAY DISTRICTS

Section 1503, PLANNED UNIT DEVELOPMENT (DC):

1503.1 In the DC Overlay District, the matter-of-right building height, penthouse height, and floor area ratio limits shall serve as the maximum permitted building height, penthouse height, and floor area ratio for a planned unit development.

Section 1524, PLANNED UNIT DEVELOPMENT (FB):

1524.1 In the FB Overlay District, the matter-of-right building height, penthouse height, and floor area ratio limits shall serve as the maximum permitted building height, penthouse height, and floor area ratio for planned unit developments.

Section 1534, HEIGHT, AREA, AND BULK REGULATIONS (NO):

1534.4 Except as limited in § 411.5, a penthouse within the NO Overlay District may be erected to a height in excess of that authorized in the zone district in which located; provided, that

- (a) The maximum permitted height shall be ~~ten-twelve~~ feet (~~10'12'~~) above the roof upon which it is located, except that the maximum permitted height for a penthouse ~~for mechanical space equipment, stairway, and elevator overrides~~ shall be fifteen feet (15');
- (b) The maximum permitted number of stories within the penthouse shall be one (1); and
- (c) It 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.

Section 1563, HEIGHT, BULK, AND USE PROVISIONS (FT):

1563.4 The maximum bulk and height of a new building for a newly established use in the underlying CR District shall be 5.0 floor area ratio and eighty-feet (80 ft.) in height, inclusive of a penthouse, which shall be limited to one story maximum. .

Section 1572, HEIGHT AND FLOOR AREA RATIO RESTRICTIONS (CHC):

1572.5 A penthouse within the CHC Overlay District shall conform to the height and use provisions in the underlying Commercial District.

Chapter 16, CAPITOL GATEWAY OVERLAY DISTRICT

Section 1601, BONUS DENSITY AND HEIGHT (CG):

1601.7 The provisions of § 411 shall apply to penthouses in the CG Overlay.

Chapter 18, SOUTHEAST FEDERAL CENTER OVERLAY DISTRICT

Section 1806, PLANNED UNIT DEVELOPMENT:

1806.1 The matter-of-right height, penthouse height, and floor area ratio limits shall serve as the maximums permitted building height, penthouse height, and floor area ratio for a planned unit development ("PUD") in the SEFC Overlay District.

1810 PENTHOUSES

1810.1 The provisions of § 411 shall apply to penthouses in the SEFC Overlay, except that the provisions of 411.16, governing the application of Chapter 26 of this title, shall not apply to residential rental buildings.

Chapter 19, UPTOWN ARTS-MIXED USE (ARTS) OVERLAY DISTRICT

Section 1902, HEIGHT AND BULK:

1902.1 (a) No penthouse permitted by this title shall exceed a height of eighty-three and one-half feet (83 1/2 ft.) above the measuring point used for the building, or exceed one (1) story; and

Chapter 24, PLANNED UNIT DEVELOPMENT PROCEDURES

Section 2405, PUD STANDARDS:

2405.1 Except as limited by an overlay, no building or structure shall exceed the maximum height permitted in the least restrictive zone district within the project area as indicated in the following table; and no penthouse shall exceed the maximum height

permitted; provided, that the Commission may authorize minor deviations for good cause pursuant to § 2405.3:

ZONE DISTRICT	MAXIMUM HEIGHT (feet)	MAXIMUM PENTHOUSE HEIGHT
R-1-A, R-1-B, R-2, R-3, C-1, W-0	40	40-12' / 1 story
R-4, R-5-A, R-5-B, W-1, C-M-1	60	15' / 1 story; second story permitted for <u>penthouse</u> mechanical <u>space equipment</u>
W-1, C-M-1 , W-2	60	18'-6" / 1 story; second story permitted for <u>penthouse</u> mechanical <u>space equipment</u>
C-2-A	65	18'-6" / 1 story; second story permitted for <u>penthouse</u> mechanical <u>space equipment</u>
R-5-C, SP-1	75	20' / 1 story; second story permitted for <u>penthouse</u> mechanical <u>space equipment</u>
R-5-D, R-5-E, SP-2, C-2-B, C-2-B-1, C-2-C, C-3-A, C-3-B, W-3, C-M-2, C-M-3, M	90	20' / 1 story plus mezzanine; second story permitted for <u>penthouse</u> mechanical <u>space equipment</u>
CR	110	20' / 1 story plus mezzanine; second story permitted for <u>penthouse</u> mechanical <u>space equipment</u>
C-3-C, C4, C-5 (PAD)	130	20' / 1 story plus mezzanine; second story permitted for <u>penthouse</u> mechanical <u>space equipment</u>
C-5 (PAD) (Where permitted by the Building Height Act of 1910, D.C. Official Code § 6-601.05(b) (formerly codified at D.C. Code §5-405(b) (1994 Repl.)), along the north side of Pennsylvania Avenue)	160	20' / 1 story plus mezzanine; second story permitted for <u>penthouse</u> mechanical <u>space equipment</u>

2405.3

The Commission may authorize the following increases; provided, that the increase is essential to the successful functioning of the project and consistent with the purpose and evaluation standards of this chapter, or with respect to FAR, is for the purpose of a convention headquarters hotel on square 370:

- (a) Not more than five percent (5%) in the maximum building height but not the maximum penthouse height; or
- (b) Not more than five percent (5%) in the maximum floor area ratio.

Chapter 26, INCLUSIONARY ZONING

Section 2602, APPLICABILITY:

- 2602.1 Except as provided in § 2602.3, the requirements and incentives of this chapter shall apply to developments that:
- (a) Are mapped within the R-2 through R-5-D, C-1 through C-3-C, USN, CR, SP, StE, and W-1 through W-3 Zone Districts, unless exempted pursuant to § 2602.3;
 - (b) Have ten (10) or more dwelling units (including off-site inclusionary units); and
 - (c) Are either:
 - (1) New multiple-dwellings;
 - (2) New one-family dwellings, row dwellings, or flats constructed concurrently or in phases on contiguous lots or lots divided by an alley, if such lots were under common ownership at the time of construction;
 - (3) An existing development described in subparagraph (i) or (ii) for which a new addition will increase the gross floor area of the entire development by fifty percent (50%) or more; ~~and or~~
 - (d) ~~Is Consists of~~ a residential building, other than a one-family dwelling or flat, that has ~~penthouse~~ habitable ~~space penthouse gross floor area~~ pursuant to § 411.16.
- 2602.3 Except for new ~~habitable~~ penthouse ~~habitable gross floor area space~~ as described in § 2602.1(d), this chapter shall not apply to:
- (a) Hotels, motels, or inns, except for new habitable penthouse gross floor area as described in § 2602.1(d);
 - (b) Dormitories or housing developed by or on behalf of a local college or university exclusively for its students, faculty, or staff;
 - (c) Housing that is owned or leased by foreign missions exclusively for diplomatic staff;
 - (d) Rooming houses, boarding houses, community-based residential facilities, single room occupancy developments; or

- (e) Except for new ~~habitable~~-penthouse ~~habitable gross floor areospace~~ as described in § 2602.1(d); properties located in any of the following areas:
- (1) The Downtown Development or Southeast Federal Center Overlay Districts;
 - (2) The Downtown East, New Downtown, North Capitol, Southwest, or Capitol South Receiving Zones on February 12, 2007;
 - (3) The W-2 zoned portions of the Georgetown Historic District;
 - (4) The R-3 zoned portions of the Anacostia Historic District; and
 - (5) The C-2-A zoned portion of the Naval Observatory Precinct District.
 - (6) The Eighth Street Overlay.

Section 2603, SET-ASIDE REQUIREMENTS:

- 2603.1 Except as provided in § 2603.8, an inclusionary development for which the primary method of construction does not employ steel and concrete frame structure located in an R-2 through an R-5-B District or in a C-1, C-2-A, W-0 or W-1 District shall devote the greater of 10% of the gross floor area being devoted to residential use including ~~habitable~~-penthouse ~~habitable gross floor areospace~~ as described in § 2602.1(d), or 75% of the bonus density being utilized for inclusionary units.
- 2603.2 An inclusionary development of steel and concrete frame construction located in the zone districts stated in § 2603.1 or any development located in a C-2-B, C-2-B-1, C-2-C, C-3, CR, R-5-C, R-5-D, R-5-E, SP, USN, W-2 or W-3 District shall devote the greater of 8% of the gross floor area being devoted to residential use including floor area devoted to ~~habitable~~-penthouse ~~habitable gross floor areospace~~ as described in § 2602.1(d), or 50% of the bonus density being utilized for inclusionary units.
- 2603.3 Except as provided in §§ 2603.9 and 2603.10, inclusionary developments located in R-3 through R-5-E, C-1, C-2-A, StE, W-0, and W-1 Zone Districts shall set aside fifty percent (50%) of inclusionary units for eligible low-income households and fifty percent (50%) of inclusionary units for eligible moderate-income households. The first inclusionary unit and each additional odd number unit shall be set aside for low-income households.
- 2603.4 Except as provided in § 2603.10, developments located in CR, C-2-B through C-3-C, USN, W-2 through W-3, and SP Zone Districts shall set aside one hundred percent (100%) of inclusionary units for eligible moderate-income households.

...

2603.510 Notwithstanding §§ 2603.3 and 2603.4, one hundred percent (100%) of inclusionary units resulting from the set aside required for ~~habitable~~-penthouse ~~habitable gross floor areaspace~~ shall set aside for eligible low income households. Inclusionary units set aside pursuant to this provision shall be set-aside independently from the standard otherwise applicable in this subsection.

Section 2607, OFF-SITE COMPLIANCE:

2607.9 Inclusionary Units resulting from the set-aside required for habitable penthouse gross floor area as described in o §2602.1(d) shall be provided within the building, except that the affordable housing requirement may be achieved by providing a contribution to a housing trust fund, consistent with the provisions of §§ 414.13 – 414.16 when:

- (a) The new ~~habitable~~-penthouse ~~habitable gross floor areaspace~~ 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 ~~habitable~~-penthouse ~~habitable gross floor areaspace~~ 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 low income households and the amount of ~~habitable~~-penthouse ~~habitable gross floor areaspace~~ would result in a gross floor area set-aside less than the gross floor area of the smallest dwelling unit within the building.

Section 2608, APPLICABILITY DATE:

2608.2 With the exception of ~~habitable~~-penthouse ~~habitable gross floor areaspace~~ approved by the Zoning Commission pursuant to §411.24 the provisions of this Chapter shall not apply to any building approved by the Zoning Commission pursuant to Chapter 24 if the approved application was set down for hearing prior to March 14, 2008.

Chapter 27, REGULATIONS OF ANTENNAS, ANTENNA TOWERS, AND MONOPOLES

Section 2707, EXEMPTED ANTENNAS:

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

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

- (b) Entirely enclosed on all sides by a penthouse, or an extension of penthouse walls; this subsection shall not be interpreted to permit penthouses in excess of the permitted height above the roof upon which it is located;
- (c) Located entirely behind and no taller than the parapet walls; or
- (d) No taller than eighteen inches (18 in.) in height and necessary for the implementation of expanded 911 or emergency communications.

Chapter 28, HILL EAST (HE) DISTRICT

Section 2809 PENTHOUSES:

2809.1 The provisions of § 411 shall apply to penthouses in the HE District.

2809.2 The height of a rooftop penthouse as measured from the surface of the roof upon which the penthouse is located shall not exceed that given in the following table:

ZONE DISTRICT	Maximum Penthouse Height (Feet)	Maximum Penthouse Stories
HE-1	40' 12' except 15' for <u>penthouse mechanical space equipment, stairway, and elevator overrides</u>	1; second story permitted for <u>penthouse mechanical space equipment</u>
HE-2	20'	1; second story permitted for <u>penthouse mechanical space equipment</u>
HE-3, HE-4	20'	1 plus mezzanine; second story permitted for <u>penthouse mechanical space equipment</u>

Chapter 29, UNION STATION NORTH (USN) DISTRICT

Section 2906 PENTHOUSES:

2906.1 The provisions of §§ 411 shall apply to penthouses in the USN District.

2906.2 A penthouse may be erected to a height in excess of that permitted in § 2905 but shall not exceed the height, as measured from the surface of the roof upon which the penthouse is located, in the following table:

ZONE DISTRICT	Maximum Penthouse Height (Feet)	Maximum Penthouse Stories
USN	20'	1 plus mezzanine; second story permitted for <u>penthouse</u> mechanical <u>space equipment</u>

Subsections 2906.3 and 2906.4 are repealed.

Chapter 30, ZONING COMMISSION RULES OF PRACTICE AND PROCEDURE

Section 3030, CONSENT CALENDAR§ 3030.1:

3030.1 The purpose of this section is to create an expedited procedure to be known as the "Consent Calendar." The procedure shall allow the Commission, in the interest of efficiency, to make, without public hearing, minor modifications and technical corrections to previously approved final orders, rulemaking, or other actions of the Commission, including corrections of inadvertent mistakes. The procedure also permits the Commission to consider a request to add penthouse space pursuant to § 411.24.

Chapter 31, BOARD OF ZONING ADJUSTMENT RULES OF PRACTICE AND PROCEDURE

Section 3104 SPECIAL EXCEPTIONS:

TYPE OF SPECIAL EXCEPTION	ZONE DISTRICT	SECTIONS IN WHICH THE CONDITIONS ARE SPECIFIED
Nightclub, bar, cocktail lounge or restaurant within a penthouse	Any District where use permitted within a building.	411.4
Penthouses - above a single family dwelling or flat	Any District	411.5
Penthouses - location, design, number, and all other regulated aspects	Any District	§§ 411.11

Chapter 33, SAINT ELIZABETHS EAST CAMPUS (StE) DISTRICT

Section 3301 FLOOR-AREA-RATIO (FAR), HEIGHT, LOT OCCUPANCY, REAR YARD SETBACK, MINIMUM LOT AREA, AND SETBACKS:

3301.1 Except as provided in this section, the FAR, height of a building or structure, not including a penthouse, lot occupancy and rear yard in a StE District shall not exceed or be less than that set forth in the following table:

Section 3312, PENTHOUSES:

3312.1 The provisions of §§ 411 shall apply to penthouses in the StE Districts.

3312.2 A penthouse may be erected to a height in excess of that permitted in § 3301 but shall not exceed the height, as measured from the surface of the roof upon which the penthouse sits, in the following table:

ZONE DISTRICT	Maximum Penthouse Height (Feet)	Maximum Penthouse Stories
StE-1, StE-4, StE-8, StE-10, StE-11, StE-14 StE-7 pursuant to §3301.4(b)	40' 12' except 15' for penthouse mechanical space equipment, stairway, and elevator overrides	1; second story permitted for penthouse mechanical space equipment
StE-2, StE-5, StE-9	40' 12' , except 18'-6" for penthouse mechanical space equipment, stairway, and elevator overrides	1; second story permitted for penthouse mechanical space equipment
StE-3, StE-12, StE-15, StE-17 StE-7 pursuant to §3301.4(a)	20'	1; second story permitted for penthouse mechanical space equipment
StE-6, StE-13, StE-18	20'	1 plus mezzanine; second story permitted for penthouse mechanical space equipment

Chapter 35, WALTER REED (WR) DISTRICT

Section 3510, HEIGHT AND PENTHOUSES (WR):

3510.1 For the purposes of applying general zoning requirements of this title:

- (a) The WR-1, WR-7, and WR-8 zones shall be considered Residence zones and shall be subject to § 411; and
- (b) The WR-2, WR-3, WR-4, WR-5, and WR-6 zones shall be considered Mixed Use or Commercial Zones and shall be subject to §§ 770.6-770.9 and 777.

3510.2 In the WR zone, the point chosen for measurement of height shall conform to the other provisions of this title, except that the point may be on either a public or private street.

3510.3 A penthouse constructed in accordance with the provisions of § 411 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 sits, in the following table:

<u>ZONE DISTRICT</u>	<u>Maximum Penthouse Height (Feet)</u>	<u>Maximum Penthouse Stories</u>
<u>WR-1, WR-6</u>	<u>Pursuant to §411.5</u>	<u>Pursuant to §411.5</u>
<u>WR-4, WR-5, WR-7</u>	<u>12' except 15' for penthouse mechanical space</u>	<u>1; second story permitted for penthouse mechanical space</u>
<u>WR-8</u>	<u>12', except 18'-6" for penthouse mechanical space</u>	<u>1; second story permitted for penthouse mechanical space</u>
<u>WR-3</u>	<u>20'</u>	<u>1; second story permitted for penthouse mechanical space</u>
<u>WR-2</u>	<u>20'</u>	<u>1 plus mezzanine; second story permitted for penthouse mechanical space</u>
<u>R-5-B</u>	<u>12' except 15' for penthouse mechanical space</u>	<u>1; second story permitted for penthouse mechanical space</u>
<u>R-5-C</u>	<u>12', except 18'-6" for penthouse mechanical space</u>	<u>1; second story permitted for penthouse mechanical space</u>